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# Refugees or Illegal Immigrants: The Problem of the Group in Refugee Protection

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This research excavates the case of Jewish refugees in Cyprus between 1946 and 1948. I argue that this case is formative of the development not just of the refugee, but—perhaps more interestingly—of the concept of “illegal immigration,” which relies on the constructed impossibility of group-based refugee protection. I contend that there is a paradox residing at the heart of the 1951 Refugee Convention definition of a refugee that produces the refugee as a singular victim while supporting the very conditions that create that victimhood—that is, persecution targeted at an identity group where the persecution is motivated by the shared identity (defined in the Refugee Convention by race, religion, nationality, membership of a particular social group, or political opinion). As the architecture of international human rights was built, the refugee definition was drafted in a way that embedded group-based exclusion in the design of the definition. I exemplify this through the case of Jewish refugees attempting to reach British Mandate Palestine in the 1940s, who were intercepted and detained in Cyprus. The case is worthy of attention because it exposes the absence of group protection in the refugee definition and the effect of that absence: a group is constituted as a threat and cannot be defined collectively as refugees. Instead, they become “illegal immigrants.” This case study of Jewish detention in Cyprus provides a key empirical example of oppression residing inside a historically liberal movement and in the resulting conditions of refugee protection.

Cette recherche explore le cas des réfugiés juifs à Chypre entre 1946 et 1948. Je soutiens que ce cas est formateur non seulement concernant le développement du concept de réfugié, mais aussi—peut-être plus intéressant—de celui « d’immigration clandestine » qui repose sur l’impossibilité construite d’une protection des réfugiés basée sur un groupe. J’affirme qu’un paradoxe réside au cœur de la définition de réfugié de la Convention sur les réfugiés de 1951 qui présente le réfugié comme une victime singulière tout en s’appuyant sur les conditions mêmes qui créent ce statut de victime—c’est-à-dire, la persécution ciblée sur un groupe identitaire, cette persécution étant motivée par une identité partagée (définie dans la Convention sur les réfugiés par race, religion, nationalité, appartenance à un certain groupe social ou opinion politique). Au fil de la construction de l’architecture des droits de l’homme internationaux, la définition de réfugié a été ébauchée de manière à intégrer l’exclusion basée sur un groupe dans sa conception. J’illustre cela par le cas des réfugiés juifs tentant d’atteindre la Palestine sous mandat britannique dans les années 40 qui étaient interceptés et détenus à Chypre. Ce cas mérite notre attention car il expose l’absence de protection de groupe dans la définition de réfugié et l’effet de cette absence: un groupe est constitué comme une menace et ne peut être défini collectivement comme réfugiés. Au lieu de cela, ils deviennent des « immigrants clandestins ». Cette étude de cas de la détention des Juifs à Chypre offre un exemple empirique clé de l’oppression résidant dans un mouvement historiquement libéral et dans les conditions de protection des réfugiés qui en résultent.

Esta investigación analiza el caso de los refugiados judíos en Chipre entre 1946 y 1948. Sostengo que este caso constituye la base del desarrollo no solo del refugiado, sino también, y quizás sea lo más interesante, del concepto de “inmigración ilegal,” que se basa en la imposibilidad construida de la protección de los refugiados por grupos. Considero que existe una paradoja que reside en el seno de la definición de refugiado de la Convención sobre el Estatuto de los Refugiados de 1951, que presenta al refugiado como una víctima singular, al tiempo que apoya las mismas condiciones que crean esa condición de víctima, es decir, la persecución dirigida a un grupo de identidad donde la persecución está motivada por la identidad compartida (definida en la Convención de Refugiados por raza, religión, nacionalidad, pertenencia a un grupo social particular u opinión política). A medida que se fue construyendo la estructura de los derechos humanos internacionales, la definición de refugiado se redactó de manera que la exclusión singular, al tiempo que quedara integrada en el diseño de la definición. Lo ejemplifico con el caso de los refugiados judíos que intentaban llegar al Mandato Británico de Palestina en la década de 1940, que fueron interceptados y detenidos en Chipre. El caso es digno de atención porque pone en evidencia la falta de protección de grupo en la definición de refugiado, y el efecto de esa ausencia es: un grupo constituye una amenaza y no puede definirse colectivamente como refugiados. En su lugar, se convierten en “inmigrantes ilegales.” Este estudio de caso sobre la detención de judíos en Chipre proporciona un ejemplo empírico clave de la opresión que reside en el interior de un movimiento históricamente liberal y en las consecuencias de la protección de los refugiados.

## Introduction

At the end of World War II, huge numbers of displaced persons across Europe sought repatriation or resettlement. This of course included Jewish refugees, who were displaced from former homes in Europe and who had survived the persecution and genocide of the Holocaust. Many Jewish refugees made their way toward Palestine, which was then under British mandate rule while territorial boundaries, sovereignty, and settlement were negotiated. Britain did

not want to risk the mandate in Palestine and the negotiations for partition by permitting the landing of large numbers of Jewish refugees in Palestine<sup>1</sup>; yet alternative resettlement proved problematic. Instead, Britain detained Jewish refugees in camps on the island of Cyprus, then a British Crown Colony. These camps inhibited freedom of movement and quickly became overcrowded prisons where Jewish

<sup>1</sup>This was discussed in correspondence between the UN delegation for the United Kingdom and the Foreign Office in October 1947, FO 371/61894.

refugees were detained indefinitely, behind barbed wire and armed patrols, awaiting a resolution (Goldman 2015). It was not uncommon for Jewish refugees (and other refugees and persons displaced as a result of World War II) to be housed in detention camps across Europe in the late 1940s. Despite the forced nature of their displacement and the evidenced persecution of Jews in Europe, Britain adopted the language of “illegal immigration” in the context of detention camps that apprehended the movement of Jewish refugees. The documentary evidence from the British Colonial Office and the Foreign Office in the case of Cyprus demonstrates the emphasis on preventing unlawful boat landings and immigration into Palestine. The recourse to the law in this case can be understood as a means of rhetorically justifying indefinite detention and a lack of access to habeas corpus at a time when the promulgation of universal human rights was dominating the international stage.

This research excavates this case of Jewish refugees in Cyprus post-World War II, between 1946 and 1948. I argue that this case is formative of the development not just of the refugee, but—perhaps more interestingly—of the concept of “illegal immigration,” which relies on the constructed impossibility of group-based refugee protection. I contend that there is a paradox residing at the heart of the 1951 Refugee Convention definition of a refugee that produces the refugee as a singular victim while supporting the very conditions that create that victimhood—that is, persecution targeted at an identity group where the persecution is motivated by the shared identity (defined in the Refugee Convention by race, religion, nationality, membership of a particular social group, or political opinion).

This research considers how the refugee is produced as a victim while the conditions that create that victimhood are maintained within the Refugee Convention definition and its use. I exemplify this through the case of Jewish refugees attempting to reach British Mandate Palestine in the 1940s, who were intercepted and detained in Cyprus. The case is worthy of attention because it exposes the absence of group protection in the refugee definition and the effect of that absence: a group is constituted as a threat and cannot be defined collectively as a group of refugees. Instead, they become “illegal immigrants.” This labeling evokes the idea of the law and rhetorically justifies detention or imprisonment by establishing such immigrants as unlawful and therefore needing to be contained as a matter of security. The renaming of the group is necessary because the idea of refugee protection allows liberal states to see themselves as protecting universal human rights and offering refuge and access to rights for persecuted people. This case study of Jewish detention in Cyprus provides a key empirical example of oppression residing inside a historically liberal movement and in the resulting conditions of refugee protection.

This article proceeds as follows: I first consider how the refugee fits into the context of international human rights. I make a case for the significance of the problem of “the group” in the development of the refugee definition before turning to the case study. In this case study, I demonstrate how British internment camps for Jewish refugees in Cyprus between 1946 and 1948 illustrate the problem of the group and how the refugee definition only protects individual victims of persecution, while supporting the conditions that produce that victimhood. The group itself in this case becomes officially cast as a group of “illegal immigrants” who must be contained and who can be detained indefinitely because they have undertaken unlawful action of migrating without permission.

## Human Rights and Refugees: The Problem of the Group

The definition of a refugee established in 1951 is as follows:

As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it (UN General Assembly 1951).

Generally speaking, we understand the 1951 Refugee Convention to serve the purpose of protecting refugees that were created during World War II. Indeed, the Convention definition of a refugee included the specification that refugees were identified only “as a result of events occurring before 1 January 1951” with the subsequent clarification that this actually means “events occurring in Europe before January 1951”; however, it is notable that most signatories to the 1951 Convention chose to declare a more expansive definition of “in Europe or elsewhere.” However, states were able to safely choose the geographically expanded definition because of the protections afforded to them in the design and application of the definition. The wording of the definition limited opportunities for refugees to be guaranteed status, leaving the power to determine who is deserving of protection solely with the awarding state (Hathaway 1997, 2005; Goodwin-Gill and McAdam 2007). Furthermore, the term “persecution” is defined by the convention as the persecution of an individual. That is, it explicitly does not cover groups fleeing war, or mass movements of people who are collectively victim to natural or environmental disaster. More pertinently, the convention does not offer protection for groups “suffering from some type of incessant prejudice” (McFadyen 2012). Thus, access to protection from persecution under the Refugee Convention is substantially limited.

Universal human rights are promulgated in international law, most expansively in the *International Covenant on Civil and Political Rights* and in the *International Covenant on Social, Economic, and Cultural Rights*. State signatories to these Covenants guarantee human rights for their citizens. Thus, the state, holding sovereignty over territory and population, is the key defender of human rights. Yet, an oft-cited paradox of human rights law and institutions suggests that the state is both the key defender of human rights, while simultaneously the worst offender of human rights (Donnelly 1999; Vincent 2010). There are unavoidably some gaps in protection where humans cannot rely on the protection of their state: they might be outside of the jurisdiction of their state but not offered protection by their host, or they might be stateless persons who are unable to avail themselves of the protection of any state. The Refugee Convention is one of the few pieces of legislation that is designed to counteract that paradox by calling on states to offer protection to people who are not their citizens, along with the Protocol Relating to the Status of Stateless Persons, the Genocide Convention, and, more recently, the commitment to the “Responsibility to Protect.”

Mayblin (2017) and Krause (2021) argue that the 1951 Refugee Convention was dominated by the power interests of colonial and imperial states, and refugees outside of Europe were marginalized. This was not because they were unknown to the convention, but because to acknowledge

them did not serve the interests of the dominant colonial and imperial states (Krause 2021; also, see Odhiambo-Abuya 2005 and Ballinger 2016). Mayblin asserts that, the “colonial order” in the post-war transition period “was ultimately successful in making human rights exclusive to certain territories and consequently excluding large numbers of the world’s population” (Mayblin 2017, 143). She cites government documents that suggest “a genuine belief that colonised and previously colonised peoples were like children . . . and insufficiently developed to deserve human rights” (Mayblin 2017). Hence, the limited application of the human rights to seek asylum from persecution, which was further policed as decolonization continued. Mayblin contends:

“the distinction between the need to protect desirable and deserving refugees and the need to keep ‘coloured’ people out of the country followed the in-here/out-there distinction of the Old Empire. All subjects of the Empire were legally equal, but when non-white subjects sought a home in Great Britain, great effort was made to limit their number” (Mayblin 2017, 145).

Some of this effort is embedded in the drafting of the Refugee Convention and so applies not just to Britain, but also internationally. In addition to the geographic and temporal constraints on the definition of a refugee, refugees were given only the right to *ask* for protection from persecution and the right to be protected, in certain circumstances, from forced return to their country of habitual residence, but they were not given the right to enter and settle in a host state. This remains a benefit a state can choose to bestow.

It follows from the individualistic definition of persecution in the Refugee Convention that only individuals are eligible for refugee status and resettlement, and cases are assessed on an individual basis. This norm has solidified in legal precedent over time (Musalo Moore, and Boswell 2007). Groups and collectives too easily represent a threat to a state. The Convention definition of a refugee requires that an individual is outside of their home country and that they are fleeing persecution that is targeted at them as a particular person. In this way, it does not have to account for harms done to individuals through colonial oppressions or their legacies, which might involve restrictions on freedom of movement and almost certainly involve discriminatory and arbitrary practices in the application of justice. Indeed, it does not have to account for any group-based harms such as cases of genocide or ethnic cleansing. Western interpretations of the definition in refugee and asylum law as it has been adopted by individual states and by the European Union reflect the emphasis on the individual; for example, it is not enough for an individual seeking asylum to prove they belong to a particular religious group that is persecuted in a given country, but they must also credibly testify that they have been individually targeted and have reason to believe that they will be targeted again (Musalo Moore, and Boswell 2007). The legal emphasis on individuals means that a person who travels in a group must prove their distinction from the group. In other words, the refugee definition protects *individuals* from suffering persecution for which they are targeted as a result of their group-based characteristics, that is, race, religion, nationality, membership of a particular social group, or political opinion. It specifically does not protect the group itself. It is worth noting that, by separating the individual experiencing persecution from the group, the definition inoculates the state against protecting groups from persecution, and leaves the state free to abandon, ex-

clude, and discriminate against—indeed, persecute—entire groups in defense of state interests. This reality is embedded in the experience of Jewish refugees post-World War II whose very group status constructed them as a problem.

The idea of the virtuous refugee individual, who can be extracted from a threatening group, belies the reluctance of states to admit any refugee or asylum seeker. It relies on controlling the “group,” the perception of an influx of migrants, in order to allow benevolent liberal states to welcome the deserving individual. Consequently, the ‘illegal immigrant’ becomes the deviant, whose demise is an unfortunate consequence of his own misadventure. The very act of making individual assessment of persecution that is itself targeted, by definition, at a group always already permits exclusion. As Mayblin argued, cited above, this exclusion derives from “the distinction between the need to protect desirable and deserving refugees and the need to keep ‘coloured’ people out” (Mayblin 2017, 145). The need to offer protection is key to the liberal narrative of equality and human rights, while the tandem need to maintain racialized restrictions on that protection reflects the hierarchies of colonialism whereby colonized people were excluded, by design, from international human rights (Mayblin 2017; Whyte 2019).

The Refugee Convention took place in the context of anti-colonial movements and decolonization. Taking into account the legacies of colonialism and the practices of decolonization that have fed into existing rights regimes reinforces evidence for the limitations inherent in the Western liberal attitude to human rights. For example, Jessica Whyte argues that the powerful and wealthy states sought to limit access to social and economic rights when establishing international human rights legislation. She asserts that while these limitations were couched in the language of avoiding economic planning and opening a gateway to communism, they were actually a means of protecting the welfare state in wealthy states, which relied on processes of colonial extraction (Whyte 2019; see also Duffield 2007). By requiring an open market and privileging private enterprise over state economic planning, the structural inequalities that were wrought by colonialism would not be corrected and therefore would permit continued extraction to sustain wealth in the Global North. Indeed, Britain in particular was leery of the universal application of social and economic rights because it still held crown colonies that provided the wealth to maintain social welfare in the British Isles. Agreeing that all humans had the same right to social and economic welfare in the 1940s would have compromised Britain’s ability to provide it (Whyte 2019).

The Refugee Convention of course dealt with a parallel problem: that of restricting incomers to those individuals fleeing immediate danger of targeted persecution. Nadine El-Enany addresses the colonial and racial architecture of British immigration law, demonstrating that “Britain has always been an internally bordered, hostile environment for migrants, with access to welfare made contingent on legal status” (El-Enany 2020, 70). Thus, legal status was and is heavily restricted, and the restrictions were formed with a racial logic at their core. El-Enany traces the development of postcolonial British citizenship, initially preserving the right in law of all British colonial citizens to reside in the British Isles and so instead constructing barriers to leaving colonial territories in practice. A creeping eradication of that legal right over each immigration act from 1962 onward culminated in the 1981 Act, which “crafted as white supremacist a Britain as possible, short of introducing a ‘White Britain’ policy” (El-Enany 2020, 130). Nevertheless, refugee protection, or what Thatcher described as “compassionate cases”

(El-Enany 2020, 135) has been a longstanding rhetorical exception to immigration restrictions. The need to preserve the exception is posed adjacent to the logic of increasing restrictions: that is that people will get tired of welcoming incomers if too many incomers arrive. Thus, emerges the fallacy that to allow only those demonstrating the most intense and unavoidable persecution will preserve protection. This is a fallacy because the logic—that too many people will compromise any goodwill toward them—has actually been used to *eradicate* protection over time. The welcome has eroded preemptively. Mayblin (2017) systematically demonstrates this eradication of protection over time from the inception of asylum policy in the 1990s and situates British asylum policy in the colonial history of the refugee definition. She argues that the so-called rise of asylum seeking is constituted as a problem *in itself*, producing in response policies that erode the right to asylum. However, properly charting the colonial history of refugee protection “bring[s] to the fore histories of inequalities, which may have led to contemporary exclusions” (Mayblin 2017, 29). This history of inequalities is relevant in this context because the inequalities in question refer to whole groups of people. Hence, groups of refugees and asylum seekers correspond to historically unequal groups but are not provided for in refugee protection. As the case study demonstrates, rejecting groups on the grounds that they do not have a legitimate claim to refugee status is part of the founding logic of refugee protection.

### Methodology

There has been very little study of the Jewish camps in Cyprus in the latter half of the 1940s. The notable exceptions include Rappas (2019) whose study observes the shift in language and perception of the Jewish refugees, from refugee to illegal immigration. This acknowledgment is embedded in a broader study of how the camps related to the relationship between the colonial administration and the Cypriot population. His argument looks to the legitimation of the political agency of colonized people with regard to territorial sovereignty in colonized territories. The main contribution here is an assertion as to what this naming means for Cypriot political agency and imperial governance more broadly. I build on this to consider what the language of “illegal immigration” means in particular for refugees and for the broader implications of the refugee definition.

A second notable study of the Cyprus camps is Teutsch's (2019) “Essential Research Guide” to the Cyprus detention camps. This guide seeks to catalog all the available information about Jewish landings in Cyprus, the camps, conditions inside them, and how they have been recorded officially and memorialized in popular culture. This admirable effort provides significant information about the camps, bringing together disparate sources and challenging “lost” information. Additionally, Goldman and Walsh (2009) and Goldman's (2015) research adds to documentary historical evidence of the camps and the conditions therein. This research engages the perspective and experience of the refugees—particularly those who traveled on the ships *Pan Crescent* and *Pan York*—to make a significant contribution to knowledge of life in the camps for Jewish refugees. Nevertheless, despite these exceptions, further analytical attention to these camps at this significant historical moment in the development of human rights and particularly refugee protection is warranted.

The historical case study draws on the colonial records archived at the UK National Archives. Drawing on the his-

torical documents from the Colonial Office and Foreign Office, which includes all the official correspondence and reports of the camps allows insight into the varying positions held and the developments over time with regard to the negotiations as to the need for the camps, location of the camps, and the capacity of the camps. These internal debates illustrate the varying positions of the different offices. The discussions are also positioned against negotiations at the United Nations for the partition of Palestine, which is reflected in the records. The details were not public and were labeled “top secret;” thus in my analysis, I do not consider it to be a language designed with a public audience in mind. The language decisively produces the refugees as “illegal immigrants” and the context from reports and correspondence allows inference as to what this means in the context of human rights and refugee protection set against the backdrop of the colonial administration in Cyprus.

I carried out a systematic electronic search of UK archival documents: the initial keyword search included the names “Xylotymbou” and “Karaolos” as the named location of the camps. I expanded the search to include documents that referenced information about Jewish refugees and immigrants in Cyprus. An initial scoping of documents produced eight folders (three Colonial Office, two Foreign Office, one Ministry of Defence and two Foreign and Commonwealth Office folders) that I then reviewed closely at the archives. Within these records there were fifty-five separate excerpts relating to the issue of Jewish refugees in Cyprus or diverted to Cyprus and housed in the camps at Xylotymbou or Karaolos. These folders spanned the years 1938–1952.

At the National Archives, I read and made a record of excerpts from the texts, using photographs of the relevant text. These included fragments of colonial office reports regarding Jewish immigrants to Cyprus prior to and during World War II; the colonial context of British Mandate Palestine in relation to refugee influxes; and the negotiations surrounding the camp construction, planning, economic management, and disbanding. I analyzed the excerpts and coded them thematically. The dominant themes that emerged were as follows: (1) Economic interests: the colonial office reports were interested in both the cost of maintaining the camps and how these camps were relevant to the bargaining power of Cypriot smallholding farmers. (2) Cypriot politics: there were significant protests against the colonial occupation of Cyprus during the 1940s and the unpopularity of the Jewish camps was noted in relation to this dissent. (3) Antisemitism: the colonial report of local press in Cyprus cited antisemitism in Cyprus in the 1930s and advised against Jewish resettlement in Cyprus, which later played into the logic of containing refugees. (4) Responsibility: several archived memos and telegrams denied British responsibility for the well-being of Jewish refugees, demonstrating a hierarchy in which Britain is responsible first for its own national interest, and second for maintaining peace and support in the Cypriot colony. (5) Illegal immigration: between 1946 and 1948 when Jewish refugees were interned in camps in Cyprus, the documents refer to them almost exclusively as “illegal immigrants” locating what is often thought of as a contemporary distinction between refugees and illegal immigrants in the 1940s. Of these five themes, the first three themes provide background information about colonial Cyprus and the conception of the camps for Jewish refugees. The latter two themes, responsibility and illegal immigration respectively, offer scope for analysis of the significance of this case in the context of refugee protection more broadly. Accordingly, the following discussion proceeds to contextualize the camps and then provide an analytical reading of

their significance to understand the problem of the “group” in refugee protection, with particular focus on excerpts regarding “illegal immigration.”

### Jewish Refugees in Cyprus 1946–1948

Jewish refugees of Europe are the very group of people the Refugee Convention is so often cited as intending to protect. Antisemitism was rife across Europe prior to and during World War II; indeed, the British response to Jewish refugees of World War II was characterized by visa refusals and internment (London 2001). The establishment of the United Nations and international human rights legislation rewrote the narrative of European fascism, retroactively framing fascism as rising in the 1930s in response to the Great Depression and ending in 1945 at the end of World War II. However, as Saucier and Woods (2014) argue, fascism was always and already present in Europe, evidenced in colonial and imperial policies, and the Holocaust was the moment at which it was explicitly and undeniably geographically evident *within* Europe. Antisemitism continued to frame the British response to Jewish refugees beyond 1945. I consider the period immediately following World War II, between 1946 and 1948 during which Britain imprisoned Jewish refugees in purpose-built containment camps, maintaining and reproducing a belief that the Jewish population of Europe was a “problem to be solved.” This moment in history represents a void in the conventional accounts of European liberalism and human rights. I argue that this overlooked history provides powerful evidence that refugees, asylum seekers, and uninvited migrants are constituted as a problem to be solved, rather than humans in possession of rights. This case is particularly powerful because the very group that is cast as a problem and labeled “illegal immigrants” is the group that was explicitly victimized and persecuted in the preceding years that led to this foundational movement for universal human rights, that is, the Jewish population of Europe. Moreover, because the means of solving the problem of refugees relies on extracting harmless individuals from threatening groups, the ability to oppress and exclude the group itself is preserved and observable, justified by the idea of incoming groups of migrants as a threat to security.

#### *Colonial Cyprus*

Cyprus was under British rule between 1878 and 1960, although it only officially became a crown colony in 1925; prior to that, the territory was annexed by Britain from the Ottoman Empire and then, in 1914 unilaterally annexed, or occupied, by Britain before being officially colonized. Cyprus has a long history of foreign occupation and the colonial experience under Britain was ambivalent. British rule was welcomed both as more “tolerant” than the Ottoman regime and as a route to the unification of Cyprus with Greece as there was precedent to assume Britain would cede the territory (Katsourides 2014, 31). Katsourides finds in his evaluation of political cleavages in colonial Cyprus between 1925 and 1960 that despite ethnic cleavage, class cleavage, and a cleavage regarding the form anti-colonialism should take, there was a shared “common strategic goal of removing the British and ending Cyprus’s colonial status” (Katsourides 2014, 42). Thus, the position of the British was tenuous despite a lack of cohesion in the anti-colonial and anti-imperial movements. Demetriou situates this timeline of anti-British and pro-*enosis* (unification with Greece) political actions as gathering force in 1921 and continuing “in fits

and spurts” until the end of the Second World War at which point it started to gain momentum (Demetriou 2007, 175). The years of interest to this case study represent a political climate of growing dissent toward British rule, which explicates British caution toward a new and potentially destabilizing group of incomers in the form of Jewish refugees.

Despite the opposition to British rule, the second half of the 1940s was a period of economic growth and development particularly in the East of the island. Investment in military infrastructure stimulated economic growth with road construction and the enlargement of the port. In particular, the city of Famagusta grew and as the population increased so did the demand for housing, creating more jobs and further stimulating the economy (Goldman 2015; Varnava 2015; Innes 2020). Part of the construction boom in the area surrounding Famagusta included the camps that would house Jewish refugees who were apprehended on their way to Palestine.

#### *British Internment Camps for Jewish Refugees: 1946–1948*

Jewish immigration to British Mandate Palestine (1918–1948) started to increase following the Balfour Declaration of 1917 and continued in the years preceding and during World War II. Immediately following World War II, as a consequence of the massive Jewish refugee numbers in Europe, there was a new influx of Jewish immigration toward Palestine. Britain had augmented efforts to limit this immigration during the war years as it sought to maintain Arab support and the Arab population was opposed to the number of Jewish incomers. At the end of the war, Palestinian Jews strengthened efforts to bring Jewish refugees from across Europe to British Mandate Palestine. Britain continued to control the number of incomers to Palestine to maintain the support of Palestinian Arabs. Following a 1946 attack on the King David Hotel in Jerusalem by the Jewish Resistance movement, Britain adopted the policy objective of stopping Jewish immigration to Palestine altogether, and thus began intercepting ships in the Mediterranean that were traveling toward Palestine and redirecting them to the closest British crown colony: Cyprus (Goldman 2015).

The UK Foreign Office records logged concern, in response to alarmist reports in local media, about Jewish immigration into Cyprus in the latter half of the 1930s (FCO 141/2618, 1938–1952). In the first half of the 1930s, Cyprus was considered a possible location for resettlement of the European Jewish population, due to the identified and then unexploited economic potential of the island, and its proximity to Palestine (Rappas 2019). Nevertheless, as Jewish applications for resettlement in Cyprus grew in tandem with land purchases, the Cypriot press began to express trepidation. The colonial Press Office’s report in August of 1938 summarized the concern articulated by several local newspapers regarding Jewish incomers to Cyprus (FCO 141/2618, 1938–1952). The main concern of the British was that local unrest might threaten stable governance of the island; such stability had already been called to question in 1931 when the Governor’s mansion in Nicosia was burned in protest against British rule, leading to the British establishing an authoritarian grip on the island with far greater restrictions on political autonomy than was habitual in similar colonies (Holland 1998). The British records offer no challenge to the idea of a potential threat posed by Jewish resettlement, reflecting the status quo of antisemitism that characterized the era. An extract from the Press Officer’s report for August 1938 refers to the “continuous fear of a Jewish penetration of Cyprus” (FCO 141/2618, 1938–1952). Most of the media

nces referred to the concern that Jewish immigration would threaten local jobs and resources. This concern at the beginning of the War was not alleviated in intervening years; yet, for the British colonial government, the disruption in Palestine attributed to incoming Jewish refugees seeking resettlement in the territory provoked more serious concerns after the War. Nevertheless, Britain was not prepared, despite the persecution and genocide of World War II, to risk unrest in Cyprus or Palestine in order to provide settlement for Jewish refugees in either of these territories. It can be inferred that temporary or permanent resettlement of Jewish refugees in Cyprus was not considered to be a workable option for the British government because of the potential for instability in the colony. British interests outweighed the needs of stateless refugees.

The potential for instability and the precedent of objection to Jewish immigration to Cyprus meant that, while British policy was to detain refugees in Cyprus, the incomers were carefully managed by the British in the 1940s. Britain's policy of containing and imprisoning Jewish refugees can be understood as a strategy to avoid accepting responsibility for the refugees. Refugees were intercepted on journeys to Palestine and taken to Cyprus, while assuaging local Cypriot fears that resettlement in Cyprus was being substituted for resettlement in Palestine. The camps were temporary holding centers during negotiations for the partition of Palestine; yet despite its temporariness, the detention did not have a fixed endpoint and so was indefinite. The action of detaining refugees allowed Britain to abdicate responsibility for them. In a Foreign Office telegram from 1947, it was made clear that as long as "H.M.G. exercise authority in Palestine, they must enforce immigration laws." (FO 371/61894, 1947). In correspondence of December 1948, diplomat John Beith recalls that Jewish detainees in Cyprus were being held, while the United Nations came to determine the plan for Palestine. In correspondence with a Mr Martin on the 21st of December 1948, Beith calls for a decision to be taken on the camps because "The Assembly has now done its best (or worst) about Palestine" (CO 537/4058, 1948). Britain had been holding Jewish refugees in an interim period without accepting responsibility for their well-being. Rather, Britain had produced a temporary solution to the problem of Jewish resettlement, and the period for which this solution of containment would be employed was indeterminate. Britain was not willing or able to resolve the "problem" of the refugees and was waiting for the appropriate moment to abdicate responsibility for Palestinian immigration law. Given that these Jewish refugees were Holocaust survivors, many of whom had experienced first-hand internment in Nazi concentration camps, the willingness to employ detention in this way not only shows, of course, an astounding lack of empathy, but also evidences the extent of antisemitism and the reality that Jewish refugees were, as stateless people, denied any access to human rights. The refugee convention was conceived in this context: the group presented a problem. States were unwilling or unable to guarantee resettlement for whole groups of refugees who could be constituted politically as a security threat, and this particular case can be taken as exemplary. The group of Jewish refugees could not be accommodated because of the potential threat to stability in colonial Cyprus or mandate Palestine. Thus, the group was contained. As indicated above, there was already dissent toward the colonial government within the Cypriot population, including movements both for *enosis*—unification—with Greece and for independence from Britain (Holland 1998; Katsourides 2014). This resulted in a much stricter and more centralized form of

colonial governance in Cyprus than in other colonial territories. In the context of Jewish refugees, Britain did not want to risk *further* dissatisfaction and dissent by offering a form of Jewish resettlement that permitted basic freedoms. British colonial interests remained the predominant concern in this case.

#### *Camps as the "Solution" to the "Problem"*

According to Teutsch's (2019) account, which draws on local media reports, the British authorities brought 800 German prisoners of war to Cyprus in order to build the camp in Xylotymbou forest, in which the Jewish refugees would be imprisoned. The British authorities arranged the construction of a total of twelve camps with the capacity to house 24,000 people. Over 52,000 people were brought to Cyprus and resided there between 1946 and 1948, leaving the camps overcrowded at almost double their capacity as a direct result of British policy decisions discussed at length in correspondence between and among officers in the Colonial Office, the Colonial Governor's administration on the island, and the UK delegation to the United Nations. For example, in a 1947 instruction, the Colonial Office directed that "illegal immigrants should, if necessary, be put into accommodation for 8000 without regard for the immediate availability of beds (FO 371/61894, 1947)." In June 1947, the camp holdings on the island were increased from 30,000 to 34,000, which involved "encroachment on space now devoted to recreational facilities and reduc([ing] living space to the minimum justifiable," with further expansions being ruled out due to the lack of available water supply (FO 371/61894, 1947). The British pushed occupation of the camps to the absolute maximum capacity possible while still avoiding direct risk of death as a result of the conditions. Jewish refugees were not welcomed as victims of persecution to be afforded human rights. Rather, they were imprisoned in inhumane and undignified conditions while Britain determined how to resolve the issue of this group.

As referenced above, the Jewish refugees were housed in two main camp locations—Karaolos and Xylotymbou. These were undeniably detention camps that were designed specifically to prevent freedom of movement of a population that the British correspondence referred to as "illegal immigrants." The camps were comprised of rows of huts and tents along the main thoroughfare. They were subject to controls on movement and activity. They were fenced with barbed wire. There was poor sanitation and poor nutrition inside the camps. Goldman records the description of the camps given by Golda Meir in 1947, painting a bleak picture of conditions:

[...] more depressing than expected, in a way worse than the camps for Displaced Persons [...]. They looked like prison camps, ugly clusters of huts and tents, with watchtowers [...] and nothing green or growing anywhere in sight. There wasn't nearly enough water for drinking and even less for bathing, despite the heat (Goldman 2015, 215, citing Meir 1975).

The point to underscore here is that these were without mistake *detention camps* designed to house a specific population that was unwanted and that no one knew what to do with. The camps were run by the military complete with watchtowers and armed guards. Indeed, in response to calls to expand the camps, the reluctant Colonial Governor in Cyprus elaborated that not only would a greater number of immigrants stretch resources, but also the island would have to

accommodate the military troops “needed to guard and service them,” amounting to “one battalion per 15,000 illegal immigrants (CO 537/2485, 1947).”

It is clear that the camps were controversial among British colonial administrators not due to concern about the physical and psychological welfare of refugees, but due to concern about British economic and political interests. Jewish refugees remained a threatening group rather than individuals who might be in possession of liberal rights. The priority of economic interests is evident in correspondence sent to Arthur Creech-Jones, including a report from Government House Cyprus that details the scarcity of fresh produce and water (CO 537/2485, 1947). The colonial office report on the economic situation attributes scarcity of foodstuffs, in particular oil, to the “peasantry” and smallhold farmers of the island elevating prices and withholding supplies (CO 537/2485, 1947). Yet the colonial office clarified that the same population, who are apparently benefitting from the economic stretching of the British colonial authorities, are unlikely to accept greater numbers of Jewish refugees, and upsetting the balance would be politically disastrous for the British governance of the crown colony. Of course, this is happening in the context of Cypriot uprisings against British rule. Ultimately, as the overcrowded camps became more and more untenable, and as local Cypriots started to make efforts to help Jewish refugees escape the camps, the solution proposed by the UK delegation to the United Nations was one of abandonment. The Jewish refugees would no longer be a *British* problem once Britain had ended mandate authority over Palestine; hence, the resolution proposed for Britain is a staged withdrawal from the Palestinian territory, specifically: “first stage might include for instance abandonment of area along coast from Caesarea to Tel Aviv, involving cessation of landings on this coast (FO 371/61894, 1947).” It is worth noting that this is not a solution that refers to Jewish refugees, the Cypriot population, or Palestinian Arabs. British interests only are at the core of this suggestion, and the identified interest was to abdicate any responsibility for the “landings,” which referred to refugee boats.

#### *Illegal Immigrants*

Nevertheless, refugees were traveling toward Palestine and being detained in Cyprus in the context of a growing international interest in human rights. It is notable that Jewish refugees were referred to as “illegal immigrants” in almost all examples of correspondence between the relevant units of the British government between 1946 and 1949. Rappas marks this shift in language as first happening as early as 1939, when Britain backed away from responsibility for this group of migrants, with an official in the colonial office stating:

“we owe a greater duty to our Cypriot citizens than to alien Jews many of whom are not even attempting to escape from persecution. If disease breaks out on these ships it will no doubt be a terrible thing, but presumably the crew will dump their cargo into the sea and I cannot see that any responsibility can be attached to us because the immigrants fail to survive what they well know to be a dangerous adventure (Rappas 2019, citing CO 67/302/14, 1939).”

The rejection of responsibility, placing it instead on the individual for setting out on a dangerous journey, echoes liberal individualist logic. The referral to “cargo” that is apparently disposable dehumanizes the Jewish refugees and raises the

specter of the 1781 Zong massacre, when the crew of a slave shipped dumped their “cargo” of slaves into the sea, tracing a continuity in the racialized and dehumanizing practices of British colonialism and demonstrating antisemitism in practice. What is particularly significant, though, in the case of refugee law and policy, is the way this use of language further characterizes the distinction between the group and the individual. In 1939, when European Jews were persecuted and were a collective under threat, the persecution still had to be *individually targeted* to qualify them for protection. The language suggesting many of the Jews were “not even attempting to escape from persecution” suggests that all Jews were not in fact in danger, and many were exploiting the persecution of others as a means of pursuing a new life. The idea that people pretend to be persecuted in order to pursue desirable migration has endured and, given what we know about the Holocaust, this example in particular highlights the absurdity of this line of thought.

In the aftermath of World War II, Jewish refugee numbers were critical, and in 1946 when Britain introduced much larger-scale detention in camps in Cyprus their designation as “illegal immigrants” became crucial; as Rappas (2019) argues, Britain’s liberal political identity could not account for the detention of refugees who had survived Nazi concentration camps. Particularly throughout 1947 in correspondence between the Foreign Office, the Colonial Office, Government House Cyprus, and the UK delegation at the United Nations, the occupants of the camps were described only as “illegal immigrants.” For example, correspondence discussing the potential to extend the camps in June 1947 repeatedly refers to the number of military personnel required per 15,000 “illegal immigrants” (CO 537/2485, 1947); a telegram dated June 26, 1947, from Lord Winster in Cyprus to the Secretary of State for the Colonies was titled “Illegal Immigrants” and detailed the increase in camp capacity that would encroach on the recreational space (FO 371/61894, 1947). A report from Government House Cyprus to the Colonial Office lodged the same year makes an economic case for reducing the size of the military and “illegal immigrant” population (CO 537/2485, 1947). An outward telegram from the Foreign Office on October 14, 1947, reprises the idea that “the only alternative to the policy of internment of illegal immigrants is to repel them by naval action” (FO 371/61894, 1947). A telegram citing “Foreign Office opinion on official level” dated October 20, 1947, is entitled “Illegal Immigration” and discusses the camps in Cyprus, providing the UK delegation to the United Nations the most recent information of discussion between the Foreign Office and the Colonial Office on the state of camps in Cyprus (FO 371/61894, 1947). Jewish detainees are repeatedly referred to as illegal immigrants in these documents. Indeed, the Colonial Office files containing the detailed information about the camps in Cyprus are titled “Jewish Camps: detention of illegal immigrants in Cyprus” (CO 537/4058, 1948 and CO 537/4983, 1949).

In 1949, Israel lodged a case against Britain’s continued detention of military-age men in Cyprus. The judgment entered in response perhaps offers the most clarity as to Britain considering the inhabitants of the camps to be illegal immigrants. The judgment established that the men were detained as illegal immigrants. It was irrelevant, according to Judge Griffith Williams, whether Britain had changed policy regarding men of military age; they were detained under immigration laws and therefore “the government was perfectly justified under those laws in releasing such of the illegal immigrants it wanted to release and to continue to detain those whom it wanted to detain . . . the applicants

are lawfully detained under the Detention (Illegal Immigration) Laws 1946–48 and are not entitled to the writ of Habeas Corpus they ask for” (CO 537/4983, 1949). The occupants of the camps were unequivocally considered to be illegal immigrants and, therefore, under the relevant immigration law, not entitled to Habeas Corpus. The rule of law not only bestows rights, but also prevents access to rights.

Recognizing the Jewish refugees as such was not considered or even posed as an option for the British government. A Foreign Office report of 1947, cited above, held that “the only alternative to the policy of interning illegal immigrants is to repel them by naval action and we do not think the risk of serious loss of life could be accepted” (FO 371/61894, 1947). This logic and the language and legal identity of the refugees as illegal immigrants expose the paradox of the group: the choice proposed is to either intern the refugees or allow them to die at sea. They cannot be refugees, because refugees are deserving of protection. Instead, as a group of “illegal immigrants,” they are a problem that requires a solution. The redeemable individual refugee can only exist once separate from the group.

#### *The Paradox of Protection*

The case of Jewish refugees in Cyprus in the latter half of the 1940s clearly demonstrates the problem of the group for the United Kingdom. The case is a crucial but overlooked context for the development of refugee law and policy. The group was potentially politically destabilizing in a small and already internally contested colony. Britain refused to risk upsetting the delicate balance of colonial governance in Cyprus by offering protection—even temporarily—for Jewish refugees. Instead, the refugees were recast as illegal immigrants and their lives were suspended as they were contained indefinitely in camps where they had no basic freedoms. This context reveals a general principle as to why group protections are not offered in the refugee convention. States are wary of the potentially destabilizing properties of groups.

However, what remains is the question as to how the conditions of oppression are maintained at the group level. People who qualify for refugee status do so because they have suffered persecution due to a group-based identity characteristic—race, religion, nationality, membership of a particular social group, or political opinion. Yet, the group itself is not offered protection. Therefore, if a whole group is being persecuted it is very difficult for an individual to extract themselves from the group and they become subsumed in a category that is considered threatening and undeserving of protection. It is enshrined in refugee law that groups of people are persecuted and paradoxically, also, that persecuted groups cannot be protected.

#### **Conclusion**

The mechanisms that blur ways, forms, and categories of migration work as a continuation of the racializing logic that functions to contain a group while maintaining an ideology of universal human rights. This remains evident in the contemporary context: for example, echoing the distinction between “Jewish refugees” and “illegal immigrants” of the 1940s, a distinction was made between Syrian refugees of 2015 and the larger group. The group was and is all people who fall into a broader category of “migrant” who are also variously labeled as undocumented, irregular, or illegal. This is the threatening group that is not afforded access to rights and protections. This group is contained in camps or informal statuses with little or no access to social and eco-

nomic protection or civic participation. As the case of Jewish refugees in 1940s Cyprus demonstrates, the need to contain the group and the *impossibility* of providing rights to the group was established simultaneously with the promulgation of some of the core documents of international human rights, including the Refugee Convention. Detaining and restraining the freedom of a group that is constructed as threatening to dominant power interests become *justifiable* actions. The mechanism by which the group is contained is enshrined and protected in core human rights documents. The disqualification of certain bodies from access to rights is a result of colonial, racializing, and dehumanizing logics and practices that echo the internment of Jewish refugees in the second half of the 1940s.

This article has situated the convention definition of a refugee in the context of post-war Europe, and specifically in the actions of the British colonial government of Cyprus. These actions are tied to the interests of Britain in maintaining the crown colony. As extant literature has demonstrated, colonial interests were meaningful in the development of international human rights, and protection for refugees is no exception to this. This case is particularly evocative because it examines a group of people who should represent the very core of the refugee definition: victims of persecution who have been displaced due to events before 1951 in Europe. Yet, their status as a group denies them protection because as a group they are perceived as threatening political stability. The refugee convention offers protection from persecution motivated by group-based characteristics yet replicates the very conditions in which those group-based persecutions take place.

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