

APORIAS OF WORLD POLITICS: THE UNREPRESENTED
NATIONS AND PEOPLES
ORGANIZATION

by

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A DISSERTATION

Submitted in partial fulfillment of the requirements
for the degree of Doctor of Philosophy
in the Department of Political Science
in the Graduate School of
The University of Alabama

TUSCALOOSA, ALABAMA

2023

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ABSTRACT

This dissertation explores political representation and its intersection with human rights and transnational advocacy through the Unrepresented Nations and Peoples Organization. I make two major arguments: first, that many people cannot be discursively represented domestically and/or internationally – that they have no space in which to ‘appear’ and thus occupy a liminal status with respect to particular regimes of recognition. Second, that international law and global governance oriented predominantly around states render certain forms of recognition a primarily political, rather than legal process.

Keywords: Unrepresented Nations and Peoples Organization, UNPO, Political Representation, Human Rights, International Law, Transnational Advocacy

DEDICATION

Dedicated to the memory of those my family lost while I wrote this dissertation, and to the village of family and friends that supported me along the way. Everything I do is for you,

I love you!

LIST OF ABBREVIATIONS AND SYMBOLS

APB	Association for the Promotion of the Batwa
ASEAN	Association of Southeast Asian Nations
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	The Committee on the Elimination of Racial Discrimination
CAURWA	Communauté des Autochtones du Rwanda
COPORWA	Community of Rwandan Potters
ECOSOC	United Nations Economic and Social Council
ETIM	East Turkestan Islamic Movement
HRC	United Nations Human Rights Council (see also UNHRC)
ILO	International Labor Organization
KGB	Soviet Committee for State Security, or Komitet Gosudarstvennoy Bezopasnost
NGO	Non-governmental Organization
NURC	National Unity and Reconciliation Commission
OHCHR	Office of the United Nations High Commissioner for Human Rights
RPF	Rwandan Patriotic Front
UAE	United Arab Emirates
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNESCO	The United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees

UNHRC	United Nations Human Rights Council
UNPO	Unrepresented Nations and Peoples Organization
UPR	Universal Periodic Review
WUC	World Uyghur Congress

ACKNOWLEDGEMENTS

This dissertation was written during a time of global disruption. The Covid-19 pandemic upended our lives at both a personal and professional level. This is – to me – an unsatisfactory but necessary attempt to express the gratitude I feel.

Happiness can be a fleeting thing, but I feel fortunate in that I am surrounded by people (and animals) who bring so much joy, both in my personal and professional journeys.

This begins with my family: my mother Jennifer who raised me as a single mother until meeting the love of her life and my father Jeff, who has taught me how to support a family with gentleness; my siblings who inspire and amuse me, each of whom has grown into an incredible human being; and especially, my soon-to-be-spouse Braxton, the most adventurous and kind-hearted person in the world – you fill me with light.

I also owe tremendous debts of gratitude to my dissertation chair, Dr. Daniel Levine, whose brilliance and kindness were always an inspiration; my committee, Dr. Noora Lori, Dr. Waleed Hazbun, Dr. Elif Kalaycioglu, and Dr. Utz McKnight – all of whom have contributed much to this project, even if I have not contacted them as much as I should have; Dr. Holger Albrecht, Dr. Dina Bishara, and Dr. Kevin Koehler who have been tremendous professional mentors; all the people who have generously invited me to collaborate on various research projects; and all those who have commented on and read these chapters on their own or at conferences (including, Dr. Jack Amoureux, Dr. Paul Beaumont, Dr. Amanda Edgell, Dr. Lisel Hintz, Dr. Alice Kang, Dr. Zahir Kolia, Dr. Bilgesu Sümer, and Dr. Andrew Szjerejko). Fellow graduate students also deserve special mention, especially my friends (Dr.'s, Dr.'s to be, or

J.D.'s to be) Amanda Bennett, Michael Bufano, Brenda Hansen, Erin Little, Tamba Mondeh, and Nicholas Sobecki, who have heard many ideas pitched to them on too little sleep. I would also like to thank Dr. Omar Ba, Dr. Lina Benabdallah, Dr. Amanda Edgell, Dr. Stefanie Fishel, Dr. Nicholas Kerr, Dr. Andrew Szjerejko, and Dr. Leah Windsor for showing me a kinder version of academia than people often encounter. I must also reserve a special place for everyone at my undergraduate institution, but especially Dr. Donna Lybecker – graduate school was only possible because of her mentorship. Idaho State University, where I received my undergraduate degree, also reserves a special place in my heart, especially ISU Housing, where I learned kindness and responsibility, and where I met the beginning of my family: Ansley and Bryce Archer, and Haylee Van Patten. I must also thank the friends in Utah, Idaho, Alabama, and Virginia who have supported me through all of this, especially (and omitting those already mentioned) Kaleb, Carley, Jeff, Allie, Max, Robert, Donnie, Katie, Brittany, Christian, Eddie, and Ben. Whether it was D&D, Sea of Thieves, Apex Legends, or some other shenanigans that helped us stay in touch over the years, you have truly made me a happy person.

I also want to reserve a special place to thank my grandparents, some of whom passed during the writing of this dissertation. To my grandparents, Larry and Barbara Evans, for teaching me the meaning of justice and that “great things rarely come easy.” To my grandparents, Don and Marion Taylor, for teaching me what a healthy, loving relationship looks like in easy and hard times. To my grandparents, Denny and Jane Schutz, for loving me when I have struggled. To my grandpa, Ben Orvin, for being so singularly dedicated to family, and

showing me what personal growth looks like. My boyfriend's family also deserves special thanks for their immense support, especially his mother, Julia Satterfield.

I must also thank individuals and institutions who have provided funding to complete this project. These include: the Department of Political Science at the University of Alabama for providing me GTAships from 2016-2021, the Graduate School at the University of Alabama for providing a \$22,000 grant to support me during the 2021-22 school year, the Blount Scholars Program for naming me a Junior Teaching Fellow for the 2022-23 school year, and Holger Albrecht, Doug Gibler, Elif Kalaycioglu, and Kevin Koehler for various research assistantships which enabled me to focus on my academic work. I also want to thank the staff at the Tuscaloosa Pet Supplies Plus for working around academic deadlines and providing a second home, as well as many ferrets to play with.

I also would like to mention my AP US Government teacher, Mr. Robert Doering, who first made me interested in Political Science. A special thanks goes to my teachers at Columbia High School, especially (in addition to Mr. Doering) Kathy Groothuis, as well as the anonymous teachers and staff who paid for my AP exams – I will never forget that my education was possible because of you.

There are so many people other people I would like to thank, and if I haven't mentioned you, and you have shown me any kindness, that includes you. Finally, I want to thank my loyal research assistant, Blossom Aspen Meadows (@wooferella on Instagram) who has sat by my side as I worked. I am glad our study sessions gave you the opportunity to chew through innumerable toys, and that your constant need for belly rubs and brief-but-intense walks gave me the mental breaks I needed.

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CHAPTER 1: THE UNREPRESENTED NATIONS AND PEOPLES ORGANIZATION

"Statelessness, the newest mass phenomenon in contemporary history, and the existence of an ever-growing new people comprised of stateless persons, is the most symptomatic group in contemporary politics" (Arendt 1958, 277).

Introduction

In July 1990, across the street from the Tartu KGB headquarters activists laying the groundwork for an independent Estonian state were in the process of helping to create a new international organization for “leaders of captive nations who believed in the importance of solidarity in advancing broad agendas that affected all struggling stateless peoples and nations” (van Praag 2011, 1). Together with leaders from other independence oppressed peoples’ movements, they would co-found the Unrepresented Nations and Peoples Organization (UNPO) on February 11, 1991.

Forming an international organization may not seem an obvious step for an independence movement, or for movements devoted to other kinds of self-determination. Yet, from its founding 16 members, the organization has grown to 46, with 58 former members. The latter includes six former members – Armenia, East Timor, Estonia, Georgia, Latvia, and Palau – who have, with their accession to the UN, acquired global recognition as states; while Kosovo enjoys recognition from over 100 states. While statehood is the most obvious endpoint for peoples seeking political autonomy, only a minority of the UNPO’s membership, both current and former, have sought this. Instead, many seek some other set of institutional configurations that combine cultural recognition, robust regional autonomy, and domestic, international, and/or transnational recognition or representation.

This dissertation helps make the recourse to transnational advocacy by communities claiming the right to self-determination interpretable within interlocking systems of domestic and global governance. I argue that governance institutions place populations under various states of erasure, limiting their paths to be represented by their own government, and to describe themselves and their suffering through language available in law and institutions. This is compounded by the structure of international law itself, whose categories of identity contain omissions, ambiguities, and contradictions which make recognition a necessarily political process – these omissions are what I call the aporias of world politics.

In what follows, I describe the origins and function of the Unrepresented Nations and Peoples Organization (UNPO) – including just *how* civil society groups representing oppressed nations and peoples found themselves in Tartu. I then detail why the UNPO is needed, and why and how I set about studying it. In so doing, this chapter answers two questions. First, why did activists meet in Estonia when they did? And second, why was (and is) an organization like the Unrepresented Nations and Peoples Organization needed?

What is the UNPO, and what does it do?

In what follows, I set out the UNPO's organization and purpose along two lines. The first is broadly descriptive: what the organization understands itself to be doing, as set out on its website and its annual activity reports. The second is analytical and emerges from interviews with activists and professionals currently or formerly associated with it. Here, I draw both on what those individuals say, and take a degree of interpretive 'license' in drawing out key themes.

Sources of data are diverse. These range from reports produced by the UNPO, interviews with members of the UNPO by the author and others which are publicly available, United Nations reports, and reports from other governmental, nongovernmental, regional, and intergovernmental organizations. Throughout this process care has been taken to analyze and

reanalyze materials in light of new revelations, to unravel the metaphorical ‘ball of string’ until certain tensions repeat themselves across sources (DeVault and McCoy 2003, 194-195).

In addition to archival materials, I conducted four interviews for this project via zoom. Interviews 1-3 occurred in 2021 (September 28, October 6, and November 24) while interview 4 occurred in 2022 (December 13). Interview data was anonymized to the extent that it was possible. These interviews were unstructured, in the sense that I came with a list of possible questions, but directionally the conversation was steered by the content that came up in our interactions. Interviews were conducted with former and current members of the UNPO General Assembly and Secretariat.

What is the UNPO?

The Unrepresented Nations and Peoples Organization (UNPO) was founded on February 11, 1991, by a contingent of 15 nations and peoples¹ to provide a forum for those “whose ... needs are not adequately addressed in existing international bodies” (Earth Island 1991, 11).

The organization was created “to represent the increasing number of peoples disenfranchised by the emerging nation-state structure” and “secure inclusion of its Members in the United Nations (UN) as equals,” especially with the rapid transition of former Soviet republics into independent states (*ibid.*).

At its founding, members of the UNPO committed to four core principles which defined both their goals, and how they were to achieve them: “self-determination, non-violence, human rights and environmental protection” (*ibid.*). The organization provided several services to its members, including “United Nations representation and access, diplomacy training, conflict

¹ “Present at this founding meeting were representatives from Tibet, Taiwan, Kurdistan, East Turkestan, Latvia, Tatarstan, Palau (Belau), Australian Aboriginals, Cordillera, West Papua, Estonia, Armenia, Georgia, the Greek Minority in Albania and the Crimean Tatars” (UNPO 2011, 19).

resolution, international conferences for participants, election monitoring, research services, cultural preservation and promotion programs, as well as environmental protection projects”

(*ibid.*). All of this was undergirded by a core philosophy that:

“It is the UNPO’s fundamental position that human rights, including group rights, are not issues exclusively within the domestic jurisdiction of states and that they cannot be denied to groups of individuals that constitute nations and peoples” (*ibid.*).

The current UNPO Covenant offers a similar account of the organization’s founding. Its core principles are democracy, self-determination, non-violence, environmental protection, and gender equality.

Structurally, the organization includes a General Assembly (steered by a Presidency, elected from among its members) and, a Secretariat (steered by a General Secretary and Treasurer, who are not required to be from member organizations but are elected).

The General Assembly and Presidency

The General Assembly is composed of organizations representing the nations and peoples in the UNPO. Some member organizations are directly affiliated with governments (whether recognized [e.g. Guam] or unrecognized [e.g. Somaliland]). Others are civil society organizations based in the states where their primary communities live (e.g. The Community of Rwandan Potters, discussed at greater length in see chapter 3). Still others are or formed out of *emigré* and/or refugee communities (e.g. The World Uyghur Congress – see chapter 2). The General Assembly meets every 18 months to elect a new Presidency, which elects, alongside the president, two Vice Presidents, and an 8-person Presidential Committee, all drawn from different member organizations. This structure helps aggregate concerns about *how* the UNPO should represent and assist its members. The Presidential Committee collaborates with the Secretariat to steer activities of the organization, and is responsible for monitoring members for compliance with the UNPO charter, in particular their commitment to non-violence.

The Role of the Secretariat

The Secretariat includes an elected General Secretary, as well as a small contingent of support staff. The Secretariat manages the daily operations of the UNPO. This includes its financial operations, and its various activities: organizing conferences, workshops and training programs, elections and conflict monitoring, and representing the organization and its members in various global and public forums. The Secretariat also develops a strategic plan for the organization's short- and long-term goals.

The Secretariat organizes several conferences and workshops every year, from which much of the empirical material for this dissertation is drawn. Proceedings of these conferences are published and made publicly available on the UNPO's website (unpo.org). These meetings deal with a range of issues of interest to its members: for example, a series of conferences on self-determination that will be discussed in chapter 4 of this dissertation. Others take up concerns particular to specific members, or a subset of them. For example, on May 11, 2022, the UNPO co-organized an event on minority rights in Iran (UNPO 2022).

The UNPO also organizes elections monitoring in several contexts. They have organized elections monitoring several times for Abkhazia – a region claiming independence from The Republic of Georgia – and monitored provincial elections in Iraq in 2009 (UNPO 2009).

Conflict and post-conflict monitoring, and other fact-finding missions have also been a key activity organized by the Secretariat. Chapter 3 of this dissertation discusses the UNPO's 1994 mission to Rwanda, but they have conducted fact-finding missions across the world. Most recently, this has included a series of three fact-finding missions to Iraq investigating treatment of minorities in the country (UNPO 2017), and a mission to Mauritania to investigate enslavement of Black minority groups in the country (UNPO 2014).

The UNPO is also very active in submitting and facilitating the submission of stakeholder and special reports to various human rights monitoring mechanisms and NGOs. This has been especially true since the creation of the Universal Periodic Review Process (UPR), a UN mechanism whereby all states in the UN receive human rights reviews every four years. This process, and how the UNPO and its members engage with it are discussed in detail in chapter 4. The UNPO has also been active in submitting stakeholder reports to The Convention on the Eliminate of All Forms of Discrimination Against Women (CEDAW), and The Committee on the Elimination of Racial Discrimination (CERD), among others.

Participating in the UNPO

In interviews with people formerly and currently associated with the UNPO, interviewees stated that the organization fostered collaboration on common issues and allowed them to pool resources for engaging with the international community including through formal mechanisms that require high levels of specialist expertise. In effect, the UNPO is a site for transnational solidarity building, efficient resource allocation, and status-seeking. Members join because they need assistance in engaging with institutions of global governance – whether this assistance be training, or specific expertise related to compiling and submitting reports to international human rights monitoring mechanisms. For many people(s), the ability to engage with these institutions is mediated by the availability of financial resources, expertise in the processes of international institutions, and even language requirements for various international processes.

Membership in the UNPO, to some extent, reduces the cost of engaging in international advocacy across several fronts, and resolves coordination problems on broader issues that might affect all members, but are not as pressing as other needs. As one interviewee frames it:

“There's always a tension or difficulty for groups like these, between prioritizing their situation and spending time and resources in collaboration with others for greater goals. But I think that having an organization like the UNPO made that possible, because there

was an organization that was taking responsibility for doing part of that and for doing it in such a way that each of the members could advance their cause while at the same time working for a larger agenda” (interview 4, 2022).

Expertise related to navigating international institutions is the primary service provided by the Secretariat, but they also help raise awareness of issues through hosting conferences and other educational events requested by their members and facilitate fact-finding missions and elections monitoring in certain cases (see chapter 3).

Regarding international advocacy, interviewees expressed that “the UNPO play(s) a really important role for us, because they [train] us,” (interview 1, 2021) and furthermore that they help members prepare documents for submission to various United Nations and Human Rights monitoring bodies (see chapter 4). One member explains the process of preparing a submission to bodies like the Committee on the Elimination of all forms of Discrimination (CERD) and the United Nations Universal Periodic Review (UPR) process like this:

“I’m the one writing – I’m the one collecting information from back home. When we see human rights violation our media team will contact them [and] interview them. Before we call them to interview they [are] scared, but now our people are not scared. They bravely tell who they are and give us more...that makes our report more solid, right? Because they consent for us to record and then the UNPO – and because my English, I’m not using the correct terms – the information I present is not really appealing, they need more evidence, so the UNPO [is] guiding me along that end goal. And then I give them the report and they will write [another] report, [using] the information in my report ... things like that. So, that’s how we work together” (interview 1, 2021).

UNPO members recognize these services as important in engaging with the international community – both state representatives and global civil society more broadly – but even with pooled resources there is only so much that the Secretariat can do:

“the problem is, the UNPO has a small capacity – in principle, and by the bylaws of the UNPO – the UNPO must be involved with all members equally. But because of the human resource problem, and the staff problem – they cannot catch everything, because we have 46 members. 46 members and every member has different problems ... that’s one of the big challenges of the UNPO” (interview 2, 2021).

In sum, the services the Secretariat provides are important to members, even if there are hopes of increased resources and services (for example, one member suggested that the UNPO would be a credible organization to help mediate intrastate conflicts, interview 3, 2021). The importance and nature of this assistance will become clearer in subsequent chapters.

How and why was the UNPO created?

I have given a snapshot of a moment in the founding of the UNPO: meeting across the street from KGB headquarters in Tartu to draft the organization’s charter. But, how did this meeting happen, and what was the path that led to the formation of the UNPO?

Converging in this meeting were two major streams of advocacy. The first was oppressed people in China – led by, especially, Tibetan and Uyghur activists – and the second was ethnic and national groups in the Soviet Union seeking durable solutions resulting in meaningful autonomy. In the latter case, several groups sought to become independently recognized states (including representatives of what would become Armenia, Estonia, Georgia, Latvia, and Lithuania).

Meeting in the USSR was not an encounter that occurred by chance, activists – including Linnart Mäll (Estonia), Erkin Alptekin (East Turkestan), Lodi Gyari (Tibet), and Michael van Walt van Praag (legal advisor for Dalai Lama), had been actively working to raise issues in various United Nations forums, and thus there were already links between them (Gyari 2022, chapter 13). Activists from East Turkestan, Inner Mongolia, and Tibet had also formed an earlier organization, “The Allied Committee of East Turkestan, Inner Mongolia, and Tibet” (see chapter 2) which helped inform the idea of creating a broader activist organization (Gyari 2022, chapter 16).²

² Lodi Gyari, then Minister of Foreign Affairs of the Tibetan Government in Exile, recalls about the transition from the Allied Committee to the UNPO: “in the early 1990s we decided to create

There were trips to the Soviet Union prior to the idea of an international organization.

These trips were meant to strengthen ties between activist networks, and discover what might be possible in a seemingly new world:

“At first the trips to Moscow – what was then called Leningrad – and to Estonia were not specifically to create this organization. In other words, that's just one of the parallel streams... We were there to seek relations with people in those places because the situation had changed very much. It was under Gorbachev's time during the first visit, so there were real opportunities to start talking to people” (interview 4, 2022).

The infrastructural groundwork for the organization started with a conference in Great Britain, in July of 1990, on the issue of Tibet (Alptekin 2011, 28-30, *infra* UNPO 2011). Representatives from East Turkestan, Estonia, Latvia, Lithuania, Pakistan, and Tibet were invited to the conference to discuss their situations (interview 4, 2022; Hansard 1990). The conference was the third in a series that focused on the international legal situation in Tibet. Sir Bernard Brain described the background of the conference as such:

“Two weeks ago an international conference on self-determination for Tibet was held at the London business school. It was sponsored by the all-party human rights group and the all-party Tibet group of both Houses of Parliament and the United States congressional human rights foundation. It drew together 126 parliamentarians and experts in international law and human rights from 41 countries to look at nothing else than the worst case of genocide and violation of human rights against a people and their homeland since the second world war” (Hansard 1990).

That summer, an office was set up in San Francisco to begin coordinating the formation of an international organization (what would become the UNPO). As part of this process, a series of meetings would be set up in Tartu, Estonia, coordinated by Linnert Mäll, an Estonian scholar of Buddhism and member of the Estonian Congress (which laid the groundwork for an Estonian state).

a wider alliance so that our combined voices would have more resonance to the international community” (2022, chapter 16).

These meetings took place in a building across the street from KGB headquarters, with representatives of several nations and peoples in the Soviet Union, including from what would become Armenia, Estonia, Georgia, Lithuania, and Latvia, in addition to Chechens, Crimean Tartars, Greeks in Albania, and other ethnic and cultural groups. Not all these groups would join the UNPO – particularly of note, representatives of Lithuania (interview 4, 2022). My interviewee recalls the members of these early meetings in this way:

“In Estonia, the organization that was most active in the independence movement and very effective was the Congress of Estonia. So, the Congress of Estonia was in effect the kind of parallel Parliament to the official establishment. In other words, an organization that existed to represent what they considered to be the real feelings of the Estonian people and their aspirations.

And there were leading individuals from the intellectual world and from the political world who later ended up filling positions in the government once Estonia became independent. They became Parliamentarians, they became Foreign Ministers and President, European Parliamentarians, etc. So, they – many of the people who were in the Congress of Estonia – ended up having very long political lives in independent Estonia and they played a very important role.

So, this is the organization that hosted our meetings. It's the organization that became a member of the UNPO and that introduced us, for example, to the parallel organization, the Congress of Latvia, which also became a member, and Lithuania. Lithuania got internationally the most attention for its very bold independence movements. In Lithuania, this occurred primarily through the existing Parliament, and you may... you must have come across the name [Vytautas] Landsbergis, who was the at the time, was the President of the Parliament who took a very strong cause for independence for Lithuania.

Landsbergis felt it would not be wise for Lithuania to become a member because they were making strides in their independence, and he was afraid that that would somehow create obstacles. But, at the time and later they were very supportive of the UNPO – but we were somewhat disappointed that Lithuania did not join at the time.

But yes, it was a Congress of Estonia that really took a lot of initiative, and Linnert Mäll personally was extremely well connected with the – if you like non-Russian Republics within the Soviet Union – but also the various autonomous regions, the various self-determination movements within the former Soviet Union: many of which had followed the kind of model or structure of the Congress of Estonia.

So, there were different kinds of representative organizations or congresses in different parts of the Soviet Union, and he could bring them to Estonia, which was still part of the Soviet Union, so there was no travel restrictions within the Soviet Union, so these people could travel freely to Estonia, which made it a very good place for us to meet” (interview 4, 2022).

Out of these meetings, a draft charter was written and tentatively agreed upon in Tartu, while a home for a permanent office for the organization was secured. This home ended up being in the Hague – because of its desire at the time to “develop a reputation as the city of Peace and Justice,” and because it offered a space and financial resources to start the organization (interview 4, 2022).

Why the UNPO is needed?

In this section, I give a brief explanation of the theoretical foundations of this dissertation, which aims to explain *why* the UNPO is needed by its members. The argument of this dissertation is twofold. First, many people cannot be discursively represented domestically and/or internationally – that they have no space in which to ‘appear’ and thus occupy a liminal status with respect to particular regimes of recognition. Second, the state-centric structure of international law and governance makes certain kinds of recognition a predominantly political, rather than legal process. In the sections that follow, I introduce language to describe these problems. The first problem, I claim, is an issue of *discursive representation*; the second, the *aporias* of world politics. Having introduced this language, I illustrate these dynamics through Hannah Arendt’s *Origins of Totalitarianism* (1958) and Noora Lori’s *Offshore Citizenship: Permanent Temporary Status in the Gulf* (2019).

Discursive Representation

Political representation is typically thought of as an activity or relationship between a group (constituents) and agent(s) who act for the wellbeing of their constituents (Mansbridge 2003, 2011; Rehfeld 2009, 2011; Saward 2006, 2010; Disch 2012). Most of the literature on political

representation builds off of Hanna Pitkin's work on the subject (1964 a,b; 1967, 2004), in particular descriptive (correspondence between the qualities of representative and constituent), promissory (the relationship between promises made, promises kept, and citizen demands), and substantive (acting in the interests of constituents) representation. In so doing, they often (and for good and understandable reasons) omit Pitkin's claimed aims. These were, first, to understand the different concepts and relationships of political representation in the world; and second, to try and determine a kind of representation that political communities ought to be satisfied with. The former omission is most problematic if we are hoping to comprehensively understand political representation as a phenomenon.

Pitkin considers representation as a phenomenon where there is a "rather complicated, convoluted, three-dimensional structure in the middle of a dark enclosure" with theories giving "flash-bulb photographs of the structure taken from different angles" yet treating each "partial view as the complete structure" (10). These concepts of representation often emerge from 'the problems and questions' theorists hope to answer (60). Pitkin separates concepts of political representation contemporaneous with her work into two general rubrics: 'acting for,'³ and

³ In 'acting for' senses of representation, the representative does something for the represented. She identifies two common notions of 'acting for' representation: authorization, and accountability. In the authorization view, the representative is given the authority to act within a certain sphere of action, and within that sphere, any action the representative takes is as if the represented had done it (39). In the accountability view, the representative derives their authority to act not from being given the authority *ab initio*, but instead from the very fact that they will be 'held to account' for any actions they take – for example, through elections (55). There are many reasons why an individual thinker might choose one of these conceptualizations of representation, but for Pitkin the universe of 'acting for' senses of representation has a large problem: they do not tell us what constitutes 'good' representation – good, not in the sense of representation that satisfies constituents, but in the sense that it ought to satisfy them (or they ought to be satisfied) (9).

‘standing for.’⁴ She also introduces a notion of ‘substantive representation’ where representatives act consistent with constituent interests, except when constituent interests are opposed to constituent good. This is the type of representation, according to Pitkin, which constituents ought to be satisfied with: representation where their needs and desires are present in the action of representing, even if they are not always satisfied.⁵

⁴ ‘Standing for’ senses of representation expect that representatives represent their constituency “by virtue of a correspondence or connection between them, a resemblance or reflection” (60). These senses of representation are less concerned with what representatives do, than who representatives are (61). Pitkin lays out two forms of ‘standing for’ representation: descriptive, and symbolic. Descriptive representation assumes that the kind of representation which is best – which best reflects the wills of the people, or best conveys the desires of the people – is the kind in which bodies of representatives, such as legislatures, have a correspondence or correlation to who they represent (whether this be the proportion of parties, presence of minority groups, representation of women, etc.) or best reflect the desires of who they represent (e.g. a Trump voter is not likely to be demographically similar to him at all, but they may believe ‘he says what I think,’ and in that sense he does represent them through correspondence). Symbolic representation refers to the affective and psychological sense of representation: to symbolically represent is to “elicit the right tones” (108) often through ceremonial and ‘non-partisan’ functions. In this sense, a representative may be representing when they inspire, mobilize, or induce emotional responses – they represent because they make me feel proud of my country (think of political slogans: Obama’s “change we can believe in,” and Trump’s “make America Great Again”). Yet while these senses of representation describe the kind of representative constituents might seek (one who is like them, or one who inspires them) it still does not tell us what is involved in good representing, says Pitkin.

⁵ When summarizing her main qualm with these two major groups of representation – that none of these kinds of representation describes what it means to represent well – Pitkin suggests that we ought to look for a kind of representation where “the represented thing or person is present in the action rather than in the characteristics of the actor, or how he is regarded, or the formal arrangements which precede or follow the action” (144). In this sense, the role of the represented does not just precede the role of representing as it does in, especially, descriptive representation – but rather each act of representing involves acting in such a way that constituent interests are seriously considered such that the represented are present (but not literally, as representing is the making present of something which is, in actuality, absent) in the action of representing itself. This would involve the representative attempting to act consistently with constituent desire except when the representative believes that constituent desires are counter to constituent good – and in those cases, the representative ought to account for why they deviated from constituent desires. She calls this kind of representation ‘substantive representation.’

I discuss Pitkin here, because her work is foundational to thought and empirical studies on political representation, even today. However, most studies collapse her framework: looking at descriptive representation of specific groups, finding ways to measure ‘substantive’ representation, or looking at the dynamic relationship between promises made and (not) kept within the representative-constituent matrix. I refer to these forms of representation, which focus on the relationship between representative and constituent, as *institutional representation*. There are reasons to study representation in these ways, but I believe there are other important ways to think about representation, including ones that are not present in Pitkin’s work, or which are implied but not fully explored.

To this end, I propose a concept that helps recover the complexity and importance of representation outside of the representative-constituent relationship: *discursive representation*. The furthest she explores representation outside of the representative-constituent relationship is through some aspects of her discussion of symbolic representation (1967, chapter 5), where she remarks on a kind of representation where a ‘symbol’ stands for something to which it only corresponds through feeling or affect – a kind of representation that originates in “working on the minds of people to accept it” (101).⁶ What she does not discuss, and what I assert is an important aspect of representation, is how words and concepts can become institutionalized to enable or oppress certain people(s), activities, or ways of life. In effect, while she implies that there is something symbolic representation permits by way of the inculcation of an affect or way of thinking, this process saturates other aspects of socio-political life. For example, law acts as a regulative script which circumscribes permissible and punishable activities – furthermore, law

⁶ On the function of symbolic representation, Pitkin says “a ruler is a representative to the extent that those he rules and represents believe in him; representing means being-believed-in or accepted-as a symbol of the nation represented” (104).

can regulate access not just to certain kinds of activity or forums, but also forms of recognition. Put differently, law can enable and/or constrain certain kinds of political advocacy by recognizing as legitimate certain activities, identities, and ways of life. Similar can be said of other discursive regimes (e.g., normative regimes, popular imaginaries, religious texts, and language more broadly), and a more robust theory of discursive representation (and underrepresentation) will be presented in chapter 2.

Regarding discursive representation, Chapter 3 of this dissertation gives the example of Batwa in Rwanda. The Batwa⁷ are the third largest ethnic group in Rwanda and were both victims and (less commonly) perpetrators of violence during the Rwandan genocide. A significant proportion of Batwa in Rwanda – possibly one third (approximately 10,000 to 12,000 people) – were killed or went missing in the genocide. The post-genocide regime in Rwanda decided on a nation-building project that emphasized being Rwandan – not Batwa, not Hutu, nor Tutsi – to the point that political advocacy *qua* Batwa is illegal, outlawed as ‘genocide rhetoric’ and ‘sectarianism.’ However, Batwa have very real and specific needs, as a group that has been historically discriminated against. Within Rwanda, they cannot appear as Batwa, but in transnational political advocacy this *representation* can be made. That is, there are differences in the kinds of discursive representations which are possible in different forums. For some groups, international forums present an opportunity to do and say things that are not possible domestically.

Discursive representation can also be problematic, internationally. Many groups in the UNPO are not *de jure* stateless, meaning they do not lack legal citizenship in a state, but they

⁷ I use the term “Batwa” rather than Twa because this is the term used by COPORWA and the UNPO in UPR submissions regardless of context. The prefix “ba-“ refers to a group of people (Hintjens 1999, 241).

might live in a state which does not represent them (discursively or institutionally), that represses them, or that is even now perpetrating a genocide against them (see chapter 2 on the World Uyghur Congress and Uyghur genocide). These people may not appear as stateless, nor as refugees, and they occupy liminal statuses that are difficult to resolve through the operations of international law even when there are grave violations of human rights (i.e., there are no legal categories through which they can unproblematically ‘appear’).

These issues of discursive representation are made more complicated by the structure of international law and global governance. Take Ben Meiches *Politics of Annihilation* (2019), as an example. In it, he makes a distinction between ‘genocide as politics,’ and ‘the politics of genocide.’ The former is using mass killings as a form of politics, while the latter is about the rhetoric surrounding genocide – specifically, about when instances of mass violence get *recognized as* genocide. Becoming recognizable as a victim of genocide is a political process, subject to consensus by state representatives over ‘what’ and ‘who’ counts. This is in many situations where recognition of status (legal status, rights violations, etc.) is a central question. This involves what I call ‘the aporias of world politics.’

Aporias of World Politics

The *aporias of world politics* refer to structural ambiguities, omissions, and contradictions contained in categories available in global governance, especially surrounding identity. We can think of aporias as moments where the thinking or doing of ‘something’ is undermined by the very rituals and thoughts which make that ‘something’ possible: where concepts, systems of ethics, or feelings of self-coherence contain fundamental contradictions or absences that, *once acknowledged*, rupture notions of wholeness or possibility (Derrida 1993, Kolia 2016).

My argument here is especially oriented toward to the qualities of global governance: certainly, there are aporetic aspects of discursive representation in domestic institutions,

ambiguities, omissions, and contradictions which would collapse concepts central to political life in the polity inward if acknowledged. As chapter 2 will show, sometimes even when there *are* categories which might describe a people or their suffering, the very edifice upon which those categories are built undermines the promise of recognition. My point regarding aporias, is that international law – by centering itself on the state as its authorizing agent – produces queer subjectivity by placing people(s) into states of erasure. Specifically, I characterize members of the UNPO as “queer,” in the sense that they exceed or remain illegible to certain regimes of representation, and that to be made legible, they often ‘de-queer’ themselves, i.e., fit themselves into a particular discursive ‘box.’

The answer to problems of international recognition is not law, but politics, and law merely becomes a snapshot of a certain politics at a certain time – a rubric for how politics *might* proceed, if you will, a script. What I mean to suggest here is not that international law, especially as it pertains to recognition, is unimportant – but rather its importance lies in how it acts as a boundary condition for certain kinds of politics. Nor is my point that *all* international law functions this way (although certainly there are other aspects of international law that do), but merely that law involving recognition often does. For example, as chapter 4 will show, there is no rubric by which a ‘people’ is recognized as such under international law, only political performances meant to – riffing from Pitkin – ‘work on the minds of agents to recognize them.’

To further highlight how political representation (discursive and institutional) and the aporias of world politics interlock, I turn to Hannah Arendt’s *Origins of Totalitarianism* (1958) and Noora Lori’s *Offshore Citizenship: Permanent Temporary Status in the Gulf* (2019).

The Right to have Rights

"The case of the unfortunate Captain Dreyfus had shown the world that in every Jewish nobleman and multimillionaire there still remained something of the old-time pariah, who has no

country, for whom human rights do not exist, and whom society would gladly exclude from its privileges" (Arendt 1958, 117).

"That's the fundamental thing – the right to have rights, they must have – and when they have the full rights to say what they want, then at that time they will determine what they want" – (Interview 1, 2021).

"Since 2016, Xi Jinping took off his mask, and openly moved from assimilation. The Chinese government abandoned assimilation and moved to a policy of genocide" – (Interview 2, 2021).

Arendt's *Origins of Totalitarianism* represents perhaps the most well-known exploration of aporias in global politics (works analyzing Arendt through the concept of aporias include: Menke et al. 2007, Gündogdu 2011, Schaap 2011, Jurkevics 2017). She proceeds in three parts to describe the background conditions of totalitarianism – which she defines as a type of rule where "terror is no longer used as a means to exterminate and frighten opponents, but as an instrument to rule the masses of people who are perfectly obedient" (6) – in both Nazi Germany and Soviet Russia, followed by a discussion of the essential nature of totalitarian political systems.

This, however, is not the only story embedded in *Origins*, as it also traces the historical process by which European Jews went from pariahs to, under the Nazi regime, people who were no longer locatable within the boundaries of the law.⁸ Denationalization rendered German Jews juridically dead even before they might occupy that liminal space of the camp where they seemingly "no longer existed, as if whatever happened to them were of no interest to anybody as if they were already dead and some evil spirit gone mad were amusing himself by stopping them for a while between life and death before admitting them to eternal peace" (445). To wage a genocide, this erosion of political membership and dignity was a necessary step along the path.

⁸ In "The Jew as a Pariah: A Hidden Tradition," (1944) Arendt argues for the impossibility of any longer claiming the place of the pariah if European Jews were to continue living. The social isolation of a pariah people (and we could assume, the separation of nations unto themselves inherent in the 'nation-state') does not allow for the conditions necessary for a "commonly controlled humanity" (122).

How does *she* explain this transformation? First, she locates the need for the Nazi movement to consign the Weimar Republic and the German State itself to the dustbin of history. There was a general skepticism of Jews that varied in intensity during the 19th and early 20th centuries because of the conspiratorial emphasis on the centrality of Jewish financiers to the survival of the state and the location of the Jew as always outside the national community, as a transnational nation which owed allegiance to no nation-state. Arendt traces the historical relationship of elite Jewish financiers to various European monarchies, but the importance for the Nazi regime was not any real history, but rather the ‘discovery’ in Nazi propaganda of an ideological position for ‘the Jew’ as “the supranational because intensely national Jew” [sic] The forerunner of the German master of the world” i.e., the figure whose place as the power behind power that Nazi Germany would root out (360). Here, the Jew was not just doubly exterior to the nation-state, as the shadowy hand that financed the state and a transnational nationality which could switch allegiance at any time, but their precarity also showed the power antisemitism had to mobilize the ‘mob.’ Hence why the Dreyfus affair showed that even elite Jews were still in some sense ‘the old-fashioned pariah’ (117).

Second, she identifies the process by which civil society is hollowed out through the twin forces of imperialism and capitalism (143). Imperialism promises the bourgeoisie ever-expanding riches. Out of this, the bourgeoisie turns the state into a tool for private interests – the accumulation of capital (336). With the state effectively oriented toward serving narrow class interests, there is produced ‘superfluous people,’ the detritus of class society who are ruled by a minority whose stake is in the imperial project. Not benefiting from imperial expansion, the ‘mob’ becomes politically indifferent and atomized (meaning that they lack a sense of group-identity, 312), making it possible for the ideology of totalitarianism – which gives the mob an

exalted place in history – to bestow an identity upon the whole of society that totalitarian movements seek to include (331). The all-pervasive drive for power and influence held by the bourgeoisie permeated the whole of society creating even more fertile ground for totalitarianism to take root, and the bureaucratic infrastructure of the imperial state created the experience necessary to realize a totalitarian movement (250) and the psyche to embrace it (221).

What, however, is the Jew's role in this part of Arendt's story? First, is the identification the Nazi movement made between German Jews and the survival of the German State. Second, the systematizing of racism as a political project under imperialism reduced the barriers to the kind of racial ideology that would be advanced by the Nazi movement (195). Jews were (in her eyes) the only social group whose existence could 'seriously clash with the pan-movements' claim to chosenness' (240) due to their perceived transnational unity. Furthermore, within the 'racial ideology' which proposed Germans as 'the embodiment of Germanness,' the very identification of even secular Jews as Jews meant that they were innately and irredeemably different (238-239). In sum, imperialism and capitalism eroded social ties in society, producing 'superfluous people' who were ripe to be captured by the racial ideology of Naziism which gave them both purpose, and extended promise that they too could become 'factory owners' (361). This promise, however, required a racialized other as its counter, and mobilized the 'mob' against this other.

Third, and finally, the ability to perpetuate factory-style killing, the literal 'manufacture of corpses' (447) verifies and reinscribes the absolute victory of totalitarianism to 'make everything possible' (437). In this account, Jews were selected for death because of their transnational nationality *and* their historical support of the German State – symbolically and literally the killing of Jews was also the destruction of that which impeded German mastery

(which, because it was foretold, meant that the killing of Jews was simply the doing of that which was already ‘done’ because it was a natural step of the process which would have occurred anyway, see pp. 466) – but also because the ritual of mass killing established that ‘men were entirely dominated’ (459). In this stage incorporation of atomized individuals into the movement becomes so total that “all further opposition is impossible” (440) and the operation of sovereignty functions through the police and rule by terror (a situation where moral choices become impossible, where noncompliance means the death of everyone even incidentally associated with you, and compliance means the death of others, see pp. 440). Where in the first step the ‘juridical man’ in the German Jew was extinguished (where they became discursively unrecognizable as political subjects), now the juridical man in all men ceases to exist, all of humanity under totalitarian rule becomes a series of replaceable and replicated parts, which is reflected in the infinite replication of sovereign functions across organs associated with the movement and the state. The utter expendability of everyone subsumed to the movement means that anyone can be sacrificed should, as a matter of utility, they be determined to be superfluous or threatening in any way.

In tracing the figure of the ‘pariah,’ Arendt points out the irony that the very structure which resulted in the initial exclusion of Jews – the nation-state – is at the same time the only solution to rightlessness they can be offered in the wake of the Shoah. *This is the aporia*. As a result, “like virtually all other events of our century, the solution of the Jewish question merely produced a new category of refugees, the Arabs, thereby increasing the number of the stateless and rightless by another 700,000 to 800,000 people” (290). Within this problem it is important to note that she argues that this is essentially a replication of statelessness, refugees and displaced persons were not categories of people experiencing a different problem than the stateless,

instead, they were de facto stateless or ‘half-stateless’ (276-279) and the expansion of categories was merely a political tool to ‘liquidate statelessness itself by ignoring its existence’ (279). She then argues that the solution to the issue is that “the right to have rights, or the right of every individual to belong to humanity, should be guaranteed by humanity itself” [rather than guaranteed by the nation-state], but that it “is a contingent project with no certainty as to its possibility” (298).

Menke et al. (2007) argue that Arendt’s primary contention is that ‘Human Rights’ as such do not exist, because the Universal Declaration of Human Rights only declares rights which exist when man is in community. Outside of the community, man receives no rights by way of being human – put differently, rights can only be ensured by states. This means that the Declaration itself is “of the order of an “ought,” to which no “can” corresponds: no capacity for action or realization” (743). Arendt deconstructs human rights to show that “the idea of human rights is a contradiction in terms” – rights had always been expressed through being in community not by being human (746). The crux of the problem is thus that “by only articulating the rights of those who are already members, these recent attempts remain ignorant to the profoundly disturbing challenge posed by those many who are not members and who are growing in number” (748). In separating out rights that come from being in community, Arendt locates the right *to a community* as the fundamental right, the one which gives access to the possibility of negotiating equality (748). Arendt’s solution to this aporia according to this account, is that the supranational right which all nations ought to agree on and enforce, is the right of people(s) to a community which would then create the conditions of possibility for legal equality and negotiated rights (750-753). Complacency toward this tension, then, leaves us in the

position of continuing to assert abstract rights when the necessary thrust of thought ought to be directed toward addressing the issues faced by the *rightless*.

Arendt calls on us then, not to hope for the further systematizing of abstract human rights, but the creation of human community which could create rights in the positive legalistic sense through negotiation – as all impediments to human dignity are historically contingent, not intrinsically irresolvable (Gündogdu 2011, 15). Thus, while rights might be fragile, and while there can be ‘no certainty’ of ‘humanity itself guaranteeing human rights’ (Arendt 1958, 298) it is nevertheless a worthwhile *political* project to dispense with philosophical opining about ‘objective’ natural rights and instead focus on *how* rights are negotiated including what measures at the supranational level might facilitate human thriving (e.g. ensuring that all people have effective citizenship).⁹ Interpreting Arendt’s words for my purposes, she identifies the project of protecting humanity as a predominantly social, rather than legal project (i.e., forming a community where law can actually confer rights). Furthermore, as Gündogdu points out, Arendt holds some hope that things *could* be different, that we *could* strive to address rightlessness as we realize the myriad of ways it is produced.

⁹ I derive this from Günter Gaus’ interview of Hannah Arendt (1964) in which she argued that she was not a political philosopher, because “there is a tension between politics and philosophy. Between man as a thinking being and man as an acting being. There’s a tension that does not exist in natural philosophy. Just like everyone else, the philosopher can be objective with regard to nature. When he says what he thinks he speaks for all mankind. But he can’t be neutral with regard to politics. Not since Plato. There is a kind of enmity against politics in most philosophers... This enmity is important for the whole problem. It’s not a personal question, it lies in the nature of the subject ... I want no part of this enmity, I want to look at politics.” In a sense, philosophy by looking at politics as objective, by stabilizing something such as human nature, is unable to look at politics which is – because it involves man as an acting being – inherently unstable and contingent. The same could be said for rights derived from human nature, in making this stabilization and maintaining it as ‘true,’ we overlook the actual politics of rights which could – if we focused on them instead – result in real improvements to the human (and nonhuman) condition.

The Precariousness of Citizenship

The dynamics highlighted by Arendt still haunt contemporary politics. Take, by way of example, Noora Lori's (2019) work on *precarious citizenship* which she uses "to refer to people who are unable to gain access to secure citizenship rights and instead inhabit limbo statuses for protracted periods" (29).¹⁰ On Lori's account, migrants and their descendants in the United Arab Emirates experience a phenomenon which *approaches* de jure statelessness but does not *formally* replicate it. The UAE has different membership regimes within the emirates that compose it, but the final arbiter of who becomes a full citizen of the UAE is the government in Abu Dhabi. This means, for example, that an emirate (say, Dubai) can consider someone a citizen of Dubai, and recommend that they be recognized as a resident at the federal level by authorities in Abu Dhabi, but that this status will be withheld instead of rejected.¹¹ Rather than explicitly undermine the other emirates, the regime in Abu Dhabi gives people waiting for citizenship Union of Comoros passports as part of a temporary status (164, 196).¹² How someone gets recognized as a citizen is a complex process, related to being able to trace tribal lineage to before 1925 – thus making anyone who came after and lacked citizenship elsewhere, or whose lineage was uncertain, only traceable matrilineally, or non-Arab, effectively stateless. People can become citizens through

¹⁰ She identifies two kinds of precarious citizens: first, "migrants who cannot accrue citizenship rights even after a protracted period of residency" and second, "internal "others" who are not recognized by the states in which they reside" (29-30).

¹¹ "Specifically, citizenship had to be conferred at the emirate level first, and after the naturalization department in a specific emirate had issued an approval for a candidate's citizenship case, a committee from the MOI in Abu Dhabi had to provide the final approval of Emirati nationality" (91).

¹² As Lori says, "a key tactic of Abu Dhabi's strategy during its negotiations with the other emirates on citizenship and immigration policies ... [is] deferral. Instead of either compromising its stance on immigration and citizenship or outwardly rejecting compromise with the other Trucial State rulers on these issues, the leadership of Abu Dhabi evaded the dilemma by postponing the question instead. Behind the formal façade of unity, the immigration and citizenship affairs in Abu Dhabi would continue as they were prior to the union" (90).

naturalization, but as Lori says, “naturalization does not hinge on whether an individual has met certain “objective” criteria ... the single most important factor in determining whether an individual could be a citizen is their allegiance (*walā'*) to the UAE” (93). Thus, there is a large group of people in the UAE who lack formal legal citizenship, existing in a liminal space of *waiting* for citizenship. In this case, the primary mode by which people get resettled by the UNHCR is when their case is *denied* and the government recommends them for resettlement (163). This is analogous to Arendt’s argument that ‘the convict’ has more rights than someone who is stateless: in this case, someone who is denied nationality by the UAE has a better chance to resolve their legal status than someone who is left waiting.

This can have large material impacts on people who find themselves waiting – they may become tied to an employer sponsor to maintain their status in the UAE and be vulnerable to labor exploitation, they may miss work or school to go to meetings on the path to (often not) get citizenship, and they may not have access to government programs like educational assistance or healthcare. As Lori shows, these people have been considered *not* stateless for several reasons in the past: sometimes Emirate passports (which do not indicate *de jure* nationality) are considered equal to citizenship (168); at other times, people waiting for an answer (who are not explicitly told, “no”) are considered in the process of gaining nationality (170). This lack of resolution offers the state power in two ways: first, it avoids elite conflict because the emirates’ policies are never directly overturned; second, it places precarious citizens into a state of limbo, where they must comply, where they must follow the ritual required of citizens-in-waiting, lest an outcome hoped for be withheld.

Resolving statelessness is a difficult problem, both because few states have ratified the associated conventions, and because *de jure* statelessness of displaced persons is not the only

form of ‘statelessness’ (Belton 2015). In particular, de facto statelessness¹³ of populations internal to the state – such as in the UAE – is difficult to resolve because there are constraints on international institutions and the stateless themselves. There is no fiat power for the United Nations to force states to confer a nationality onto people(s), nor to ensure that all citizens are treated equally under the law, despite the right to nationality being a core part of the Universal Declaration of Human Rights (article 15). How to resolve statelessness is generally left to the states in which stateless people find themselves, and application procedures for nationality – such as those in the UAE – are not automatic violations of the conventions, assuming, of course, that states have adopted them (with the UAE not having done so) (van Waas 2014). How are people to appear, then, when their form of ‘statelessness’ is not *the form* of statelessness that conventions are able to address (e.g., if their statelessness is ‘de facto’ and they are not refugees)? If they cannot invoke their status as ‘stateless’, states can both avoid meeting international obligations owed to stateless individuals and avoid conferring nationality to those outside the imagined community of the state (Anderson 2006) while the stateless themselves are left without recourse.

¹³ “De facto stateless people are nationals of some state by law but are not treated as citizens. No agreed upon definition of de facto statelessness exists” (Belton 2015, 32). Massey (2010), Manly (2014), and van Waas (2014) call this an ‘expanded’ definition of de facto statelessness, which was usually meant to describe situations where nationals abroad were denied consular protection of states, and had reasonable fear of being persecuted upon entry. Thus, de facto statelessness was a form of refugee status. Massey (2010), in particular, argues that the expanded term of ‘de facto statelessness’ is of limited utility because “under human rights law, the right to nationality is distinct from the rights attached to nationality ... and the violation of one does not necessarily entail the violation of another” (33). As the UNHCR *Handbook on the Protection of Stateless Persons* (2014) notes, the 1954 convention does not recognize nor guarantee protections to de facto stateless persons, and the 1961 convention’s protections are ‘limited and nonbinding’ (5, see also UNHCR 2010). I use de facto statelessness in its broader sense, to refer to what others might call ‘ineffective nationality’, but which others show in many cases is tantamount to statelessness (van Schendel 2002, Shewly 2013, Lori 2019, Farinha 2022).

What is clear in Lori's work and is very visible in the case of the UNPO, is that people experiencing the same or similar kinds of oppression can have very different outcomes, and thus resolving statelessness (whether *de facto* or *de jure*) may not solve the underlying issues that produce it. Resolving *status*es which are symptomatic of underlying issues, like statelessness, is certainly an important thing for the international community to work toward. However, it leaves people who occupy 'in between' spaces that are not easily identifiable or visible through these categories without the same kind of remedy. As Lori shows, in many cases the people(s) able to get the most direct help can do so because they have resources or relationships that other people in their community lack, or that they were simply 'luckier' than someone else.

Motivations and Methods

What can studying this organization teach us about world politics? I have three answers to this general line of inquiry, although there are certainly more reasons to believe that being aware of and understanding UNPO and UNPO member activities are important.

First, in the interest of justice – members of the UNPO have faced trials including lack of political representation in state governments, violent repression, surveillance, loss of homeland, environmental degradation, and genocide. These are issues which global citizens – and academics in my field – ought to care about: as such, an international organization that seems to have a critical mass of nations and peoples facing these issues ought to be studied, both to raise awareness about what they are doing, and to understand processes in global politics which affect some of the most marginalized.

Second, as representative of a broad political phenomenon, similar to what Hannah Arendt called statelessness (but somewhat distinct from contemporary conceptions of statelessness as mere lack of legal citizenship). The crux of this issue is that there are many people in the world who effectively lack legal protection within their state of residence and/or

origin. This includes people(s) who lack formal legal citizenship (stateless people), people(s) who exist in an interstitial category between full citizenship and statelessness (what Noora Lori calls precarious citizenship, 2019), and people(s) whose rights are routinely violated (or can't be protected) by the states in which they live or originate.

Third, as a site that illustrates how difficult it is for civilians to participate in regimes of global governance and international law that are organized around states, rather than humanity as-such. As the first President of the UNPO Michael van Walt van Praag puts it:

“There are individuals in the UN, including its very senior leaders such as Kofi Annan, Francesco Vendrell and Frederico Mayor—to name but a few—who have tried to open up the organisation to the people. But many governments are determined not to allow this to happen, even while they pay lip service to such ideals” (van Praag 2011, 3).

The UNPO and its members illustrate the need for institutions of global governance to, minimally, increase the opportunities for individuals and groups to meaningfully participate in global governance. This is important because as several interviewees noted, participation in various United Nations functions is limited by powerful states, even when processes (like gaining Consultative Status within ECOSOC) are meant to be bureaucratic (interviews 1, 2, 3).

In sum, my hope is that this work can expand the ways in which the violations of human rights can be framed, while also helping to clarify the political processes (whether intentional or unintentional) which make this need for descriptive power salient. Having explained my motivations for undertaking this project, I think it is important to address my methodological approach.

Seeing the World

Social scientists are taught standard methodologies which can be exported from one project to another, each one of them has a particular logic of how it accesses ‘the truth,’ or an understanding of what ‘truth’ it can access. There are various divisions of these methodologies,

most of which are based on philosophical understandings about what researchers can actually ‘observe in the world’ (Harding 1987, 2; Jackson 2016), and varying positions about the difference between observing ‘nature’ and ‘society’ (Fredrichs and Kratochwil 2009, 710). Ultimately, however, each methodological approach relies on a certain measure of faith in its ability to reliably narrate the social world – and with that, I believe, a requirement for humility about its limitations (Connolly 2004).

People become adherents of any ‘tradition’ for various reasons, perhaps: they agree with the sub-disciplinary story of any particular methodology, and assume it gives unique access to the truth; or they believe that certain logics of inquiry are appropriate for different kinds of questions; or they were taught a specific approach to social science and that approach serves their purposes well enough.

For the sake of this dissertation, I will demarcate three ‘sketches’ of qualitative methodology which are influential in Political Science and show why I have chosen one approach over the others. As I will make clear, I have not chosen this approach for any epistemic reasons, nor because of its unique ability to access a certain ‘kind’ of social world, rather that my goal was to be sensitive to what UNPO members said they faced, and to make those needs a central aspect of my research project, insofar as I understood them.

Sketches of Qualitative Research in Political Science

Rather than work through a philosophically oriented division of research methodologies, I focus on how research methods for the analysis of empirical data are taught in the discipline to explain my choice of approaches. While my choice of methods was animated less by concerns about the superiority of any particular methodology for arriving at the ‘truth,’ and more by ethical considerations, there are still reasons why my approach is both appropriate for the available empirical data and can distill useful insights from it.

First, it is important to understand exactly what is meant by a methodology – as opposed to a method – in social science research. Vucetic (2011) defines methodology as “a theory on how research is or should be done, given the assumptions regarding the status of reality (ontology) and/or its place in a knowledge domain (epistemology)” (1,297). This signals that methodologies are broad approaches to doing research based on how knowledge can be produced. I believe it is useful to move away from some of the rigidities often present in definitions regarding methodologies (and research methods, generally), so I prefer to think of methodologies as logics of generating knowledge under specific conditions of data access and/or generation.

Political Science departments, in general, provide training in primarily quantitative methods (Emmons and Moravcsik 2020). These quantitative methods each have their own logic of knowledge production, and many of them have incommensurable assumptions. But, at their core, these approaches must share some common assumptions about data generation. First, they must assume that reality can be usefully reduced into a structure amenable to quantification (translation into numbers). Second, they must undergo certain procedures to eliminate bias in the data to show relationships between variables (e.g., to show that x causing y cannot be rejected).

Approached from a pragmatic and pluralist perspective, the first assumption is critical: is the social world we hope to learn about amenable to quantification? In many cases, this can produce useful insights, but when the content of interest is – for example – about how people perceive or understand a phenomenon, quantification can result in a kind of flattening of the social which makes statistical tests inappropriate. Alternatively, the results of a quantitative model might not tell us anything meaningful, or why an effect size matters – for example, how meaningful is a 30-point decrease on a 100-point scale? The answer is: it might depend on what

the scale is measuring! In some cases, having a quantifiable measure of satisfaction might give useful insights, but in others it is more important to have thick, ‘qualitative’ data on an issue. For my project, the thick, descriptive data central to qualitative research was of interest – and as the project centers on the interpretation of global politics and international law, quantification was an inappropriate strategy.

Emmons and Moravcsik (2020) find that only 60 percent of departments ranked in the top 25 of *US News and World Reports* offer training in qualitative methods, and that none of these departments *require* training in qualitative methods. What this number does not reveal, however, is the *substance* of the qualitative methods they do offer (a useful illustration of my last point). Separating out topics covered by qualitative syllabi – for example: case studies, counterfactual analysis, discourse analysis, ethnography, and process tracing (262) – gives limited insight as to *what kind* of qualitative methodologies students are learning about. I raise this point because there are multiple ways of generating and using qualitative data, or rather, multiple ways of generating knowledge using qualitative data. Allow me to give three examples using highly cited qualitative methods texts.

King, Koehane, and Verba in *Designing Social Inquiry* (1994, often simply referred to as “KKV” or “DSI”) argue that qualitative methods should seek to identify ‘observable implications’ of some theory or hypothesis which remains fixed throughout the research process (46-47). Their goal is to find ‘causal effects’ – “the difference between the systematic component made when the explanatory variable takes one value and the systematic component of comparable observations when the explanatory variable takes on another value” (81-82). Put more simply, they define the goal of qualitative research as determining the difference in y (the outcome of interest) when x (the key independent variable) takes on different values (for

example, they use the example of ‘stability’ between presidential and parliamentary systems in post-Soviet states) (84). They reduce other approaches to qualitative research as contributing to explanations that use causal effects. For example, they claim that causal mechanisms are useful in that ‘they build support for a theory and are useful operational procedures,’ but that mechanisms can only be identified once causal effects are determined to exist (86). The ideal research design, from their perspective, involves ‘unit homogeneity’ – units that are similar across a range of variables except the variable of interest – and ‘conditional independence,’ i.e., that the process setting the ‘value’ of the independent variable is not the same process that also sets or affects the ‘value’ of the dependent variable (91-97).

Brady, Collier, and Seawright (2010: 5-18) argue that KKV uses a ‘quantitative template’, and propose a different way of thinking about qualitative methods in *Rethinking Social Inquiry*. Philosophically, their volume still seeks to generate ‘causal inferences’ – “the study of causes and consequences” (3) – but instead of attempting to replicate the strengths of quantitative approaches, they emphasize the unique properties of qualitative data through ‘causal process observations’ (CPOs). CPOs are “about context, process, or mechanism,” and ‘their strength lies not in breadth of coverage, but in depth of insight’ (24). In particular, they argue that “knowledge of cases and context leads to valid observations” (25). Andrew Bennett, in the same volume, describes two advantages of CPOs: first, they allow investigators to determine a causal direction between x and y , because qualitative research allows us to find “the sequencing of who knew what, when, and what they did in response.” Second, CPOs help avoid the issue of spuriousness (that some third variable causes both x and y) by ‘helping to establish whether there is a causal chain of steps connecting x to y ’ (208-209). In sum, *Rethinking Social Inquiry* argues against the overarching model of research design advocated by KKV as ‘the’ model of

qualitative research, but remains focused on causal inference and the establishment of ‘shared standards’ of qualitative research. Furthermore, while they argue for the importance of induction and theory development through research and empirical analysis, their focus remains on the production of deductive research through hypothesis testing. The kinds of causal stories ‘regressions’ and ‘process tracing’ tell might have important differences, but they also have deep similarities in hewing to an almost Popperian model of science whose goal is to ‘support or overturn alternative explanatory hypotheses’ (Collier et al. 2010, 201).

Schwartz-Shae and Yanow in *Interpretive Research Design: Concepts and Processes* (2013) argue for a different kind of qualitative methodology, one where knowledge is aggregated through abduction as “the researcher starts with what he knows, as encapsulated in the initial design, but his investigation builds on itself in a reiterative, recursive fashion” (73). Interpretive research assumes that data is ‘cogenerated,’ that “the researcher is not outside that which is under study” (80). As Vucetic (2011) puts it, interpretive research is particularly good at illuminating the “political construction of reality” (1,304). Schwartz-Shae and Yanow (2013) reframe this in terms of ‘constitutive causality’ – as opposed to the causality central to causal inference – that interpretive research “engages how humans conceive of their worlds, the language they use to describe them, and other elements constituting their social world, which makes possible or impossible the interactions they pursue” (52). They further clarify this difference by claiming “the goal [of interpretive research] is not to ascertain the singular truth of the “research world” but its multiple “truths” as understood by the human actors under study (or as expressed through their various artifacts) – including the potential for conflicting and contradictory “truths”” (81).

These sketches of qualitative research are very different, and I hope underscore the point I wish to make: there are many methodological approaches in social science research which give

access to knowledge in different ways, and choosing any approach constrains the kind of story that can be told. Schwartz-Shae and Yanow (2013) give primarily onto-epistemological reasons for choosing interpretive research, however focusing on the issue of ‘tradeoffs’, there are other ways of deciding what methods to use. Below, I explain the ethical and methodological considerations of this project which led me to prefer interpretive methods over other kinds of qualitative inquiry. I do not present this as a claim that my approach gives me unique and sole access to the ‘truth,’ nor to argue that one methodological approach is universally superior to another.

Ethical and Empirical foundations of Interpretive Methods

The sketch of methods presented above, too, lacks depth. Qualitative methodologies are presented as coming in three different varieties, without much attention paid to the content of those methodologies, nor how they came to be. Focusing on interpretive methods, the label generally encompasses a variety of approaches to producing knowledge. I want to focus on a cluster of methodological approaches which consider identity and absences.

Schwartz-Shae and Yanow are explicit about feminist research methods informing and being incorporated in their schema of interpretive methods. Feminist methods do not consider gender alone, but rather are in conversation with methodological approaches specifically oriented around issues of identity, including race, sexuality, and ability status. This cluster of methodologies often grapple with questions of absence - for example Julio Capó’s *Welcome to Fairyland: Queer Miami Before 1940* must specifically analyze what is often *not* present. As Capó writes, discussing the ‘queer archive’:

“To speak plainly, one of the greatest challenges remains how to recover voices the state systematically sought to suppress, eradicate, or overlook... We must “queer” the archives by paying equal notice—if not giving greater emphasis—to the archive’s silences and voids” (47-48).

Capó pays particular attention to the construction of norms of deviance “through the matrix of gender, sexuality, class, race, ethnicity, nationality, age, and (dis)ability” (46). Articulations of these norms help inform an understanding of the operations of power, even when particular voices might not be present.

Fuentes (2016) encounters a similar problem in researching enslaved Black women in Bridgetown, Barbados:

“How do we narrate the fleeting glimpses of enslaved subjects in the archives and meet the disciplinary demands of history that requires us to construct unbiased accounts from these very documents? How do we construct a coherent historical accounting out of that which defies coherence and representability? How do we critically confront or reproduce these accounts to open up possibilities for historicizing, mourning, remembering, and listening to the condition of enslaved women?” (10).

She attempts to recover some aspect of the lives and voices of enslaved women by placing the archival fragments in which they ‘appear’ within the context of the Bridgetown these women would have encountered. She poses what they may have thought about or done when encountering sites like the “cage”, where enslaved people were held and punished for various infractions – or by placing them in a broader social context. For example, in her first story about Jane, Fuentes explains that when fleeing slavery, she would have fled to Bridgetown rather than to the countryside because it would have been easier to fade into anonymity. These small details provide more information than might first appear, even when they are illustrating what is lacking.

If the goal of social science research is pure objectivity, as texts like KKV might imply – does this mean that we are doing ‘worse’ social science by paying attention to what is “*not*” there? Or by orienting research around questions because they are ethically important? I agree with Harding (1987) that “introducing this “subjective” element into the analysis in fact increases the objectivity of research and decreases the “objectivism” which hides this kind of

evidence from the public” (9). Historically, it was not considered important to document the thoughts of enslaved Black women in Bridgetown, or queer men of color in pre-1940 Miami, or – in the case of Harding’s text – women, generally. Yet, in deciding that these stories *are* important, we can recover information that reveals the nuanced operations of power which objectify (as in, eliminates the ability to be represented *as a subject*) marginalized people.

In the context of the UNPO, the size of the available archive – both in terms of possible interview participants *and* accessible materials – is much smaller than were I researching an organization like the United Nations. However, it provides an important story which illuminates possible failings of our contemporary system of global governance, especially in encounters with marginalized people(s). Understanding how people(s) encounter global governance is central to learning how it functions and may reveal things that would be counterintuitive otherwise. Furthermore, because “the right to establish “the facts” is central to the exercise of power,” (DeVault 1999, 1) it is important to *at least* consider marginalized knowledge within a discipline which claims to study global governance, interstate politics, and their consequences – even if it conflicts with standard narratives and widely held beliefs, even, in fact, if particular subjective understandings of global politics are only partially accurate.

Some difficulty may occur for social scientists when trying to understand just what interpretive and feminist methods ‘are.’ A volume like Schwartz-Shae and Yanow does not so much propose methods of inquiry, as outline a broad orientation to synthesizing knowledge (a *methodology*). As Marjorie DeVault (1999) puts it: “the notion of “feminist method” suggests to many a kind of “how-to” manual with prescriptions for action, rather than broader commitments guiding research practice” (21). Instead of research being driven by the need for replicability, and concomitant procedures for generating replicable and valid observations, the onus is instead

on an ethical responsibility to learn information from marginalized groups that would otherwise go ignored (31 – I move away from the term ‘excavation’ which implies a kind of static lack of agency, see Liboiron 2021).

Feminist and interpretive methods emphasize the intersubjective production of knowledge, that researchers do not simply find facts grazing in the wild. This means that feminist and interpretive methods, rather than having a ‘researcher-subject’ relationship in the sense of experimental research, instead involves the co-production of knowledge, with the understanding that authors wield asymmetrical interpretive power. This co-production proceeds systematically, as researchers track back and forth between observation and writing, revising as new knowledge emerges or when initial assumptions fail to match observations (or begin to appear unimportant compared to ‘field realities’). DeVault and McCoy (2003) describe the production of knowledge in interpretive methods as:

“rather like grabbing a ball of string, finding a thread, and then pulling it out; that is why it is difficult to specify in advance exactly what the research will consist of. IE [Institutional Ethnography, a form of feminist interpretive methods] researchers know what they want to explain, but only step by step can they discover whom they need to interview or what texts and discourses they need to examine” (194-195).

Central to interpretive methods, too, is how concepts tend to be understood, and the internal contradictions of these understandings (Epstein 2011). In particular, this set of methods is attuned to dissonance between how concepts are understood by actors at the locus of productive power and those at the margins (Weber 2016, Pahuja 2011). From this perspective, things like ‘international order’ may no longer exist as structural conditions that background global

governance, but instead be the consequence of agentic decisions to maintain orders themselves (Weber 2010, Lorca 2014).¹⁴

In sum, the methodological approach of this dissertation emphasizes:

- (1) abduction
- (2) the intersubjective construction of knowledge by author and research participant
- (3) the experiences of both author/participant which structure knowledge
- (4) the responsibility of the author to ethically narrate human experience
- (5) the asymmetrical ability of the author to narrate interpretations of events, and
- (6) the dissonance between understandings of concepts and political processes at ‘centers’ and ‘peripheries.’

Outline

This dissertation proceeds in three additional chapters.

Chapter 2 focuses on the Uyghur members of the Unrepresented Nations and Peoples Organization, represented by the World Uyghur Congress. In this chapter, I argue that Uyghurs only became intelligible as victims worth caring about in institutions of global governance once they could compellingly claim to be victims of genocide, despite sustained activism by Uyghur activists since the 1980s. More broadly, I argue that this is the result of two interlocking problems that many members of the UNPO face in different guises: lack of discursive representation, and the aporias of world politics. Lack of discursive representation describes the kind of marginality that they face, that they cannot ‘appear’ in forums of global governance unless they are made ‘visible’ by being mapped onto particular categories (that have the potential to do discursive violence to their experiences). The aporias of world politics describe the indeterminacy, contradictions, and tensions of international law that makes recognition a

¹⁴ Ikenberry (2009, 2011) argues that these agentic decisions are always in operation, and that there is a moral imperative for particular actors to create a robust international order hostile to illiberal takeover.

primarily political, rather than ‘objective-bureaucratic’ process. To make this argument, I expand on Ben Meiches’ *Politics of Annihilation* (2019).

Chapter 3 highlights the activities of the Rwandan Batwa as represented by COPORWA (Communauté des Potiers du Rwanda). The Batwa are the third largest cultural group in Rwanda, constituting approximately one percent of Rwanda’s population pre-genocide. Histories of Rwanda recognize Batwa as a historically important part of Rwandan culture and socio-political dynamics, yet post-genocide research, activism, and aid work has largely ignored the Batwa. These conditions necessitated a fact-finding mission by the Unrepresented Nations and Peoples Organization (UNPO), as requested by the predecessor of COPORWA, to discover the fate of the Rwandan Batwa after the genocide. Specifically, this chapter illustrates the issue of discursive representation through the post-genocide (re)construction of Rwandan national identity, which has deemphasized the importance of ethnic identification to the point of outlawing political activism performed on behalf of a particular ethnic community. This has had specific and severe repercussions for the Rwandan Batwa, who even before the genocide were maligned within Rwandan society. Empirically, this paper builds from reports generated by COPORWA engagement with international and regional organizations, specifically the African Union, and the United Nations through the Universal Periodic Review (UPR) process.

Chapter 4 focuses on how members of the Unrepresented Nations and Peoples Organization (UNPO) represent themselves as peoples – i.e., as both legitimate subjects before the law and bearers of rights such as self-determination. This self-representation is needed because of the political quality of international law: states use and define law instrumentally, which often makes it appear more as a ‘procedural framework’ or ‘language of legitimation’ than a set of ‘determinative legal standards.’ Members of the UNPO adopt a formalist narrative

structure where they assert their status as a people ('emplot peoplehood') with references to three sources: taxonomical qualities, historical recognition of peoplehood by the state they live in/originate from, and/or historical recognition of peoplehood by the international community – e.g., through treaties. This is evident in the UNPO's own statements about peoplehood and self-determination, their internal reports on self-determination, and in their submissions to the United Nations Universal Periodic Review Process (UPR). This chapter additionally points out a possible political tradeoff generated by the position of UNPO members, namely that in focusing on formalist narratives UNPO biographies are often ambiguous about how one becomes a member of *this people* rather than *that people*. This quality can give their claims the appearance of exclusion and instrumentality; however, I argue that alternative strategies of self-representation would come with their own tradeoffs that may prove a greater challenge in making a claim to peoplehood.

CHAPTER 2: CHINA'S 'LONG GENOCIDE' OF UYGHURS

“The Uyghur who live in East Turkestan [have] no way... no opportunity, no chance to speak at all, it is expressly forbidden. So only Uyghur organizations and exiles of the Uyghur community – only they can be the voice of the Uyghur people.” – Author Interview (2021)

Introduction

On the steps of Dachau, a sign reads “Never Again” in Yiddish, French, English, German, and Russian. This “never again” refers to the “odious scourge” of genocide outlawed in the *Convention on the Prevention and Punishment of the Crime of Genocide* which entered into force on January 12, 1951. Yet, as a recent publication from the UN Office of the High Commissioner of Human Rights recognizes, “never again has become time and again” (UNOHCHR 2018).¹⁵ The treatment of the Uyghur people in East Turkestan¹⁶ is now recognized

¹⁵ Indeed, this has become a common sentiment and refrain. The following examples illustrate this point: “On 13 January 1992, British Foreign Secretary, Douglas Hurd suggested that “now the Cold War is over, the UN, and particularly the Security Council, is working as the founding fathers intended.” If the founding fathers had intended for the UN to stand idle as the perpetration of brutal atrocities shattered the lives of hundreds of thousands of victims around the world, then it certainly was” (Maddox 2015: 48). “Rather than ‘never again’, however, it has sometimes since then seemed almost the opposite – not so much ‘never again’ as ‘over and over again’” (Spencer 2012: xviii). “When, last May, the writer Elie Wiesel, himself a former prisoner in Buchenwald, accompanied President Barack Obama and Chancellor Angela Merkel to the site of the camp, he said that he had always imagined that he would return some day and tell his father's ghost that the world had learned from the Holocaust and that it had become a “sacred duty” for people everywhere to prevent it from recurring. But, Wiesel continued, had the world actually learned anything, “there would be no Cambodia, and no Rwanda and no Darfur and no Bosnia.” (Rieff 2011). “In spite of the strength of the effort to prevent genocide, though, the phenomenon of genocide has continued and even intensified in recent years” (Cushman 2003: 526).

¹⁶Also known as Xinjiang Province, China. Throughout this dissertation, I will use the placenames given to me by UNPO members.

as one such instance¹⁷ by many activists and scholars (Sigal 2022, Finley 2021, Turdush and Fiskesjö 2021, Pamuk and Brunnstrom 2021, Russer and Liebold 2021, Zenz 2020), yet NGOs and the United Nations recognize only ‘crimes against humanity’ (AI 2021, OHCHR 2022, HRW 2021) with Human Rights Watch noting that:

“Human Rights Watch has not documented the existence of the necessary genocidal intent at this time. Nonetheless, nothing in this report precludes such a finding and, if such evidence were to emerge, the acts being committed against Turkic Muslims in Xinjiang—a group protected by the 1948 Genocide Convention—could also support a finding of genocide” (2021, 2).

If what is happening there shows all the signs of genocide, why is there still contestation over whether it is occurring? We could ask, echoing Burke’s comments on ‘security’ (2002), ‘what is a genocide? Should we even need to ask? Surely we know’ (1).¹⁸

There is another issue at play here. As this chapter will show, Uyghur civil society organizations have been making claims about human rights abuses since at least the foundation of the Allied Committee in 1984 (with Yusuf Alptekin recounting a meeting with the Dalai Lama

¹⁷ The United Nations and other nongovernmental organizations have been careful not to call China’s treatment of the Uyghurs genocide, with the UN finding that China has committed ‘serious human rights violations;’ HRW claiming that while they did not have the proof to establish ‘genocidal intent,’ nothing in their report ‘precluded such a finding;’ and Amnesty International finds that China “has committed at least the following crimes against humanity: imprisonment, torture, and persecution” (AI 2021). UN (See also Chotiner, 2022): “Serious human rights violations have been committed in XUAR in the context of the Government’s application of counter-terrorism and counter-“extremism” strategies. The implementation of these strategies, and associated policies in XUAR has led to interlocking patterns of severe and undue restrictions on a wide range of human rights. These patterns of restrictions are characterized by a discriminatory component, as the underlying acts often directly or indirectly affect Uyghur and other predominantly Muslim communities” (OHCHR 2022: 41). HRW: “The United States State Department and the parliaments of Canada and the Netherlands have determined that China’s conduct also constitutes genocide under international law. Human Rights Watch has not documented the existence of the necessary genocidal intent at this time. Nonetheless, nothing in this report precludes such a finding and, if such evidence were to emerge, the acts being committed against Turkic Muslims in Xinjiang—a group protected by the 1948 Genocide Convention—could also support a finding of genocide” (2021).

¹⁸ See later discussion on politics of genocide.

on April 14, 1960 about oppressed people(s) in China coordinating their advocacy; Common Voice 1988, iii), but they have not received substantial international attention in institutions of global governance until now (and by ‘now’, I mean a post-Urumqi-riot Xinjiang). Together, these things are puzzling. The Chinese government is committing crimes against humanity that *look like genocide*, yet it is not called genocide; but also, what the government is doing now looks like a natural ‘evolution’ of what Uyghur activists have been claiming they were doing stretching as far back as the 1970s, and in some cases, the 1950s. Thus, the central question of this chapter is “why have human rights abuses perpetrated against Uyghurs only now emerged as an important issue within institutions of global governance?”

The provisional answer to this question, is that there was little purchase for Uyghurs to make a claim that *their* oppression mattered enough to become a priority that superseded (in some ways) the interests of China’s government. That is, Uyghurs became intelligible as victims worth caring about *only* when they could compellingly claim to be victims of genocide. Even then, they do not emerge primarily *as Uyghurs*, but as *victims of genocide*.

Briefly, I argue that there are two interlocking problems Uyghur activists face. First, historically they lacked available institutional and legal categories through which they could ‘appear’ as victims of human rights abuses in institutions of global governance. Second, the indeterminacy and competing tensions in international law make recognition of legal status a primarily political, rather than legal-bureaucratic process. Together these processes mean that groups ‘emerge’ when they can find and ‘compellingly’ claim to *fit* a particular ‘category’ that institutions of global governance care about. Both the finding and claiming can be fraught processes.

I make this argument with reference to Uyghur members of the Unrepresented Nations and Peoples Organization (UNPO) and illustrate how Uyghur transnational activism has changed over time through the activities of the World Uyghur Congress (WUC) – a civil society organization representing many Uyghurs in diaspora – and the UNPO, a transnational organization composed of nations and peoples seeking self-determination. I draw on archival materials from the UNPO, data from Xinjiang released in an international effort to raise awareness of the genocide, and interviews with four participants of this study. Interview data was anonymized to the extent that it was possible.¹⁹ These interviews were unstructured, in the sense that I came with a list of possible questions, but directionally the conversation was steered by the content that came up in our interactions. Documents come from several sources, including the Unrepresented Nations and Peoples Organization, submissions to the United Nations Universal Periodic Review Process (UPR), the Xinjiang Files, and the Xinjiang Victims Database. These data will be discussed in more detail in the empirical section of this chapter.

Discursive Representation

In the prior chapter, I introduced the idea of ‘discursive representation.’ Within Pitkin’s (1967) formulation of ‘representation,’ we see those kinds of representation where an actor acts on someone’s behalf (authorization, accountability), ‘stands in’ for someone they represent (descriptive, symbolic), or ‘both’ (substantive) [forms of representation I collectively refer to as ‘institutional representation’]. What *The Concept of Representation* does is provide a template for how political scientists understand the institutionalization and/or activity of political representation where a representative acts/stands for someone who ‘is not literally present.’

¹⁹ Participants often deanonymized themselves through organizational newsletters informing members they had participated.

However, there are forms of representation(s) that do not rely on this kind of relationship. Pitkin shows this in her discussion of symbolic representation, where she claims that part of representation involves the *feeling* of being represented. Symbols *represent* when they are believed in when politicians or governments ‘representing’ people ‘work on the minds of the people to accept’ a symbol (101). She claims that this kind of representation “emerges most clearly in regard to the head of state in his symbolic, ceremonial functions,” but that “such a leader may endanger his status as a symbol and the embodiment of the whole people if he becomes involved in active, partisan politics” (102). Here, however, she focuses her discussion of representation on the relationship between representative and constituent. I argue there are forms of representation *outside* of this relationship *which nevertheless* affect it.

We can imagine that representation does not just involve the institutionalized relationship between representative and constituent, or the *feeling* of being represented, but also *the ability to be recognized through categories available in a discourse community*.²⁰ It may seem that this being the case, simply *explaining* oneself or situation ought to be enough to *emerge* within institutions of governance that enforce ostensibly human rights. However, language doesn’t always work this way – people have asymmetrical power over ‘what’ something ‘means,’ or what categories are legitimate (as objects of knowledge, as particular kinds of entities, etc.; Foucault 1978, Ish-Shalom 2019).²¹ As I will argue in this section, one of the difficulties

²⁰ How does this affect institutional representation? Reframed in the terms of Disch (2012) and Saward (2010), how can a group become a ‘constituency’ if their full participation as a group is legally or politically foreclosed? Political representation *assumes* the circumscription of what/who constitutes the ‘demos’ or a ‘constituency,’ and descriptive representation acts as a boundary condition for *who* or *what* is encompassed.

²¹ My argument about discursive representation is not the same as Bourdieu’s argument about symbolic representation, even if it shares some similarities. Bourdieu claims that “the political field is the site in which, through the competition between the agents involved in it, political products, issues, programmes, analyses, commentaries, concepts and events are created –

imposed by an international legal order and the institutionalization which undergirds it, is that there are not many ‘places’ or ‘boxes’ in which groups can fit themselves. To ‘emerge,’ you must appear in a way that ‘states’ care about. Sometimes this requires the creation of a concept (a difficult process), while at others (and perhaps more commonly) it requires actors to make themselves ‘fit’ a particular concept, to don the mask, perform, emplot (see chapter 4), or de-queer. Ben Meiches (2019) illustrates how Jewish victims of the Shoah were unintelligible without a category of violence which made their suffering interpretable, and subsequently, how other victims of violence have attempted to make themselves similarly visible (11). It is to his work, and work surrounding ‘the politics of law’ and ‘the politics of concepts’ that I now turn.

The Language ‘Game’ of International Politics

Ben Meiches’ *Politics of Annihilation* (2019) draws a distinction between ‘the politics of genocide’ and ‘genocide as politics.’ The former focuses on the rhetorical ‘games’ surrounding genocide and those who presume to arbitrate the question: “At what point does an act of violence affect a group severely enough to become genocide?” (79). The latter asks how mass killing *itself* functions as a form of politics. My argument, like Meiches’, concerns the effects of a lack of recognition on victims of mass violence (see also Meiches 2019, chapter 1) and *how people(s) lacking recognition mobilize transnationally* to contest this lack of representation – i.e., where they cannot represent their identity or particular kind of marginality through domestic and/or international law.

products between which ordinary citizens, reduced to the status of ‘consumers’, have to choose, thereby running a risk of misunderstanding that is all the greater the further they are from the place of production” (172). I do not go so far as to liken the ‘political field’ to a market where people are reduced to ‘consumers’ choosing between ‘political products,’ I think there is more agency in marginal places that he gives credit. However, I agree that law and public discourse create boundary conditions that constrain/enable actors to do or say particular things (173). We also have different goals in our analyses, as Bourdieu focuses on why citizens become uncritical followers of a political party/program, even taking on that party/program as a collective identity within atomized capitalist societies.

Meiches shows, through ‘the politics of genocide,’ that concepts can only be applied in international legal forums and among states after a certain kind of consensus has been met. There is a politics behind labeling something as genocide, and there is a politics behind labeling, broadly.

The ‘politics of concepts,’ ‘politics of labeling,’ or ‘politics of law/legal concepts’ are fruitful areas of research in and out of international relations scholarship. Chapter 4 of this dissertation deals explicitly with the politics of law (Koskeniemi 1999, 2009, 2011; Hurd 2017; Carmichael 2021), especially through the concept of ‘peoplehood’ (Makkonen 2000, Summers 2014). We can, however, see this archaeological indexing of international legal concepts elsewhere, including Meiches (2019) on genocide, and Getachew (2019) on self-determination. Law is particularly interesting because of the visibility of its “double-hermeneutic problem” – the way we think about, understand, and analyze concepts is mutually constitutive with processes in the world (Jackson 2009, Ish-Shalom 2006). Law is an example of regimes of concepts (and their interpretations) that regulate human relations in important ways, so interpretations or understandings of law, especially as they become hegemonic or consolidated, can be particularly weighty.

There is also literature on the politics of concepts, broadly, much of which has at its center ‘essentially contested concepts’ – moments where contestation over the meaning of concepts has particular political import (Gallie 1956, Hobson and Kurki 2012, Rodriguez 2015, Ish-Shalom 2019, Hobson 2021) – and considers the dynamic (double-hermeneutic) relationship between academia and socio-political life (Ish-Shalom 2006; Jackson 2006a, Jackson 2009). We can see this ‘politics of concepts’ play out in academic debates, for example (pertinently for this dissertation): political representation (Eulau et al. 1959; Miller and Stokes 1963; Pitkin 1964,

1967, 2004; Mansbridge 1999, 2003, 2011; Dovi 2002, 2007; Saward 2006, 2010; Urbinati and Warren 2008; Rehfeld 2009, 2011; Disch 2012; Montanaro 2012; Celis et al. 2014; James 2015; Kuyper 2016; Przeworski 2020; see chapter 1).²²

The political nature of international legal concepts and the ‘rhetorical commonplaces’ – rhetoric and concepts commonly understood by a particular set of interlocuters and/or within particular ‘spaces’ or ‘forums’, but that do not find their meaning until ‘configured’ in particular ways (Jackson 2006a,b) – can make it difficult for activists to successfully ‘lobby’ representatives of states, whether their own or others, to take up a call to action. This is especially true when there are particular meanings attached to concepts that are, for better or worse, intersubjectively agreed or settled upon within a discourse community – what Piki Ish-Shalom calls ‘decontested concepts’ (2019) – or which are open or contradictory in ways that are difficult or impossible to resolve.

Regarding abuses of human rights (and other ‘crimes’), the configuration of discourses offers states a technique of power: to approach the precipice without making a fateful leap in the

²² In fact, not only does the politics of labeling matter in ‘political life,’ but this politics also appears to be a core part of the vocation of Political Science. Piki Ish-Shalom argues (2006) academic attempts to theoretically define concepts can shape policy preferences and global politics as an outcome when theories get transferred into the public and political sphere as political convictions (often transformed dramatically from their origins). These political convictions can also become naturalized, as ‘just the way things are’ in two ways. First, a process called ‘decontesting’, where the meaning of concepts is settled, or accepted as given (Hobson and Kurki 2012, 5; Ish-Shalom 2019); second, through reification, where assumptions about the world are naturalized as the world proper (Levine and Barder 2012, Levine 2012), and indeed, these reifications may have real impacts on the kind of world that is possible so long as they are sustained (Walker 1993, Smith 2004, Levine 2013). The porosity between academia and political life, as well as the process which leads concepts to being ‘decontested,’ or ‘reified,’ helps explain the call for reflexivity, reflexivism, or sustainable critique in social science research (in International Relations, see Jackson 2009, Hamati-Ataya 2010, Hamati-Ataya 2011, Levine 2011).

‘eyes of the law,’ if there were ever such an objectively detached thing as these eyes.²³ There are clear prohibitions against genocide and denationalizing²⁴ citizens, yet states can do things that produce those effects, as it were, ‘in all but name.’ That, in turn, is part of why so many observers dismiss international law as a tool of the powerful.²⁵

The high evidentiary ‘requirements’ for establishing an instance of genocide, mean that if a state can ‘hide’ from international observation, or exhaust the reproduction of a people without killing them *en masse*, they can achieve similar effects without the kind of repudiation they would receive if they engaged in ‘genocide.’ Put differently, genocide is a contested concept and thus is difficult to ‘prove’ in various contexts (Straus 2001) – the international legal definition being:

“In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such : (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group” (Article 15, UN General Assembly 1948).

Straus (2001) points out that the ambiguity of genocide often happens at four levels: (1) who can commit a genocide, (2) who can be a target of genocide, (3) what intent is, and (4) what constitutes destruction. Within this matrix there is much room for victims and acts of violence to disappear – even at the moment of an ongoing genocide where the international community

²³ With respect to genocide, this appears in practice through what Ben Meiches calls the ‘*hegemonic understanding of genocide*’: “The hegemonic understanding of genocide is not a single definition of the concept per se, but a form of discursive practice within the politics of genocide, which operates as if the concept of genocide may be defined by more or less objective criteria, has stable political implications, and can be used to set up a static taxonomy or hierarchy for governing mass atrocities. This process began in earnest with the formation of the UNGC, which transformed Raphaël Lemkin’s vision of genocide into a stable definition tied to specific acts and historical legacies” (12).

²⁴ As in, revoking their citizenship such that they are *de jure* stateless.

²⁵ See Ba (2020) chapter 2, which outlines critiques of the International Criminal Court (ICC).

debates ‘what’ is happening. Genocide is especially less visible when its central violence is not systematic mass killing, as with Uyghurs in East Turkestan. There are also acts of violence where victims and advocates struggle to “adequately convey the destructive conditions and policies” groups might face, and thus genocide stands in for the apex of systematic human cruelty (Meiches 2019, 3).

This chapter will show some of these gaps in action. Uyghurs in Xinjiang are not necessarily being killed en masse, although many have certainly been killed. Instead, they face mass detention, mass sterilization, the destruction of cultural sites including the partial or full destruction of a majority of mosques, reeducation, discriminatory treatment, and mass surveillance. As I will argue, and as many others have argued, this regime is meant to prevent the transmission of ‘deviant’ Uyghur identity. While China may have Uyghur collaborators, and Uyghurs who have been adequately assimilated, the thick religious and cultural aspects of Uyghur identity have become the targets of severe repression. In this case, we might say that many, even most, Uyghurs in China find themselves both as targets of a genocide that cannot be (or has not been) recognized as such, and are now de facto stateless, without a government that offers them legal status equivalent to other citizens. Not only this, but the repression of Uyghur identity has been an *ongoing project*. The moment of inflection where violence ‘becomes’ genocide is important, but it is difficult to put a finger on what that ‘inflection point’ is. Does it happen when violence intensifies ‘just enough,’ or is some aspect of what constitutes a genocide linguistically and politically constructed? The answer, as Meiches says, is complex and somewhat idiosyncratic combinations of both.

Alongside evidentiary²⁶ and ‘access’ arguments²⁷, then, are epistemic and linguistic ones: the unstable nature of the things being described, and the question of whether a given international order recognizes a particular harm *as a harm*, and how advocates and victims can best understand and describe suffering and identity. For example, the genocide convention did not include the exhaustion of political or economic classes because of objections by the Soviet Union (Straus 2001, 362), making the violence of Stalin’s purges, and Mao’s Great Leap Forward, as state-caused forms of mass death which do not fit into the matrix of what constituted genocide. If genocide is the apex of targeted state killing and/or mass violence directed toward its own citizens (Meiches 2019), then victims of violence may not be able to advocate for relief as effectively if their use of the term falls through certain gaps.

People often lack protection from the states in which they reside or originate even if, legally, they are citizens. People(s) may also lack recognition of their status internationally, such as in the case of *de facto* independent political entities. When these things happen, it can be difficult to describe the particular kind of marginality they inhabit in a way that is easily interpretable within institutions of governance, and within civil society, both ‘domestically’ and ‘globally.’ Likewise, crimes committed against these people might be difficult to ‘identify,’ states can approach a legal limit without crossing, or they can exceed legal limits that carry minimal consequences, or obscure whether they have exceeded a limit. Many of these processes may even be unintended, but nevertheless produce similar effects.

Building on Ben Meiches’ *Politics of Annihilation* (2019), I have argued that concepts, especially legal concepts, are important for making certain kinds of life and harm intelligible. I

²⁶ Whether there is ‘proof’ of harm.

²⁷ Whether groups have people/institutions which have a representative relationship with them.

have further demonstrated that there is often political gamesmanship in arguing whether something ‘counts’ as a particular kind of harm, or as a particular kind of entity (e.g., people, indigenous people, states). The next section will more thoroughly articulate the boundaries of this gamesmanship through the concept of aporias.

Aporias

Derrida defines an aporia as a “nonpassage,” something beyond “a door, a threshold, a border, a line, or simply the edge or the approach of the other as such” or even something intractable (Derrida 1993, 12-13). We can think of aporias as moments where the thinking or doing of ‘something’ is undermined by the very rituals and thoughts which makes that ‘something’ possible: where concepts, systems of ethics, or feelings of self-coherence contain fundamental contradictions or absences that, once acknowledged, rupture notions of wholeness or possibility.

International law and global governance, by centering their legitimacy on states as authorizing agents, places certain people(s) – those left ‘outside’ the state system (whether in a ‘de facto’ or ‘de jure’ manner) into states of erasure. Put differently, the affirmation of people(s) as ‘fitting’ a particular ‘legal’ category (i.e., recognition) is undermined by the particular consensual and state-centric structure of international law – there are many ways that these claims can fall apart, or reasons that can be conjured for recognition to be withheld. The notion of aporias can both help us understand the ways that governance institutions can say ‘no’ (e.g., arcane and unwritten ‘rules’ or hierarchies, identities that have no apparent ‘category’ to inhabit, or legal concepts and categories that remain un(der)specified), and the underlying structural conditions that make these ‘noes’ hard to resolve, especially with respect to identity.

Derrida offers a sketch of three kinds of aporia which help illustrate how concepts might fall apart, and I speak of them now with reference to identity.

Impermeability is to Derrida a conceptual point of nonpassage stemming from "the opaque existence of an uncrossable border: a door that does not open or that only opens according to an unlocatable condition, according to an inaccessible secret of some shibboleth" (20). Unspoken rules or arcane rituals of entry including the secret (or not so secret, but not officially codified) and/or arbitrary ranking of worthiness can be a cause of certain examples of impermeability. For a simple illustration of impermeability, we can think of the unpopular teenager in high school who feels pain about their condition. What is it that marks them as unworthy of the attention or affection of their classmates? The trappings of popularity may change, but if I may indulge my own time: this teenager does everything right, the iPhone just came out and they have one, their shoes are Air Force Ones, they are on an athletics team, and they take some difficult classes, but not so many as to intimidate their peers. Yet, they are not 'popular?' What is it that lurks behind a lack of recognition when everything is done properly? We will see this in international recognition of peoplehood, where people(s) excavate ostensibly 'scientific' and 'objective' definitions of peoplehood from international working groups associated with, for example, UNESCO (or some other body) and argue that they, too, meet those preconditions. Yet, they are not recognized. Why? This is impermeability, the existence of a rule (which may simply be power) which excludes. As we will see with respect to Uyghurs in China, there is a robust sense of what Uyghur identity means historically among Uyghur activists and even recognition of certain aspects of Uyghur identity by the Chinese state. But why is it then, that Uyghur identity is then seen as threatening, that they can't be accepted as Chinese citizens while remaining 'unassimilated' in certain ways – especially with respect to religion?

Delimitation, or the lack of a limit, arises because "there is not yet or there is no longer a border to cross, no opposition between two sides: the limit is too porous, permeable, and

indeterminate" (20). Now, the rules of entry into a 'club' may no longer be in question, but instead the existence of the actual 'club' itself. Think of the diversity initiative which does not have a category for a particular kind of difference – for example, the nondiscrimination ordinance which prohibits discrimination based on race, sex, and sexual orientation, but not gender identity. Alternatively, imagine a situation where the distinction between two categories from an institutional perspective is unrecognizable within the frames of reference available to it. We could think of Kimberlé Crenshaw's (1989) account of *DeGraffenreid v. General Motors* where five Black women sued GM because the company, which did not hire Black women before 1964, laid off all the Black women it had hired in a seniority layoff in 1970 (and of course, these Black women could not have seniority). The court found that they could not bring suit, because Black women did not constitute a specific protected class. There could be recognition of discrimination based on gender, and there could be recognition of discrimination based on race, but not over discrimination based on the intersection of gender and race (140-143). Crenshaw later recalls of the case:

“Now, the judge in question dismissed Emma's suit, and the argument for dismissing the suit was that the employer did hire African-Americans and the employer hired women. The real problem, though, that the judge was not willing to acknowledge was what Emma was actually trying to say, that the African-Americans that were hired, usually for industrial jobs, maintenance jobs, were all men. And the women that were hired, usually for secretarial or front-office work, were all white. Only if the court was able to see how these policies came together would he be able to see the double discrimination that Emma DeGraffenreid was facing. But the court refused to allow Emma to put two causes of action together to tell her story because he believed that, by allowing her to do that, she would be able to have preferential treatment. She would have an advantage by having two swings at the bat, when African-American men and white women only had one swing at the bat. But of course, neither African-American men or white women needed to combine a race and gender discrimination claim to tell the story of the discrimination they were experiencing” (Crenshaw 2016, 5:55 – 7:54).

Within this particular case, the category of ‘African American woman’ is not recognizable,²⁸ the border between race and gender being impossible to demarcate, legally (one could make claims as a woman, or as a racial minority, but not as both at the same time). Beyond this, the problem of overlapping identity had ‘no name.’ As Crenshaw further elaborates, “where there's no name for a problem, you can't see a problem, and when you can't see a problem, you pretty much can't solve it” (Crenshaw 2016, 7:54 – 8:38). We will see this kind of issue with the concept of peoplehood in international law (chapter 4). In effect, international law reserves the right of self-determination to ‘peoples’, yet it is unclear just what constitutes a people because it is not defined in international law – especially as it pertains to self-determination (this is slightly different than the problem of impermeability with respect to peoplehood described above, here the problem lies in the lack of a defined legal category rather than the refusal to recognize a ‘practical’ and nonbinding category).

Finally, the impossible, the antimony, the contradiction. Of this, Derrida says “its elementary milieu does not allow for something that could be called passage, step, walk, gait, displacement, or replacement, a kinesis in general. There is no more path ... the impasse itself would be impossible” (1993, 21). In this case, recognition of one identity could fundamentally undermine the possibility of another type of identity or would undermine a particular social or ethical order. Ontological Security Theory provides good way to understand this (Mitzen 2006). OST posits that states/societies create ‘autobiographical accounts of the self’ which create a

²⁸ To emphasize this, to begin “Mapping the Margins” (1989), Crenshaw sets up the problem of the invisibility of the intersections of race and gender by saying: “One of the very few Black women's studies books is entitled *All the Women Are White; All the Blacks Are Men, But Some of Us are Brave*. I have chosen this title as a point of departure in my efforts to develop a Black feminist criticism because it sets forth a problematic consequence of the tendency to treat race and gender as mutually exclusive categories of experience and analysis” (139).

modus vivendi for ‘the state.’ States will act consistently with their self-understanding (or ‘self-identity needs’), even to the point of engaging in armed conflicts to their detriment – indeed, even when they know that they are likely to lose (Steele 2008). To act contrary to this self-identity would be to disrupt one’s identity itself, perhaps necessitating the reconstitution of an identity along less (or more) harmful sets of values (Rumelili 2015; Browning and Joenniemi 2017; Kinvall and Mitzen 2020). This is to say, that to remain ‘the same entity’ requires acting in certain ways, to act differently is to become something or someone else – perhaps similar, but still different.

The concept of an ‘aporia’ has been used elsewhere in literature on international relations and international law, and in ways similar to Derrida’s typology – unsurprisingly, because he is a core theorist for discussions of aporias. Hannah Arendt describes a problem of ‘impermeability’ with the aporia of human rights – that in order to have ostensibly human rights under the regime of international law as it existed prior to, during, and after the Shoah – individuals and groups must first have membership in a state which represents them. That is to say, in order to be fully human, or to have the full ‘suite’ of rights that ‘come with’ being human, citizenship in a polity is a necessary condition (Arendt 1958 [1951], Menke et al. 2007, Gündoğdu 2011, Riva and Hoffstaedter 2021).

Anthony Burke (2002) describes an issue of ‘delimitation’ (lack of a limit) when arguing that ‘security’ lacks a stable core, that it has ‘no ontological integrity’ – especially after conceptual critiques which eroded realism’s claim to be a ‘comprehensive account of security’ (4). Beyond this, the realist account of security, by Burke’s logic, is also aporetic. It is aporetic in that the security of one person is ‘purchased at the expense of’ the security of someone else – that when communities make themselves secure against external threats, they necessarily make

those external others less secure (6). The very emptiness of security broadly (not just the realist account), is that it describes not a tangible sense of what ‘it’ (security) is, rather only describes who or what is a threat: it is “a *political technology whose power partly derives from its aporetic structure* ... [as] a generalized opposition between society and its others has worked as an effective technology of fear to construct and police forms ... of identity” (7). In this account, security is a discursive tool of the state which delineates ‘normal’ or ‘safe’ forms of life from those which are incompatible with a particular state or national form (17) – its lack of distinction and specificity is precisely what makes it a tool fit for the consolidation of particular forms of hierarchy and identity.

Finally, Tanja Aalberts (2018) outlines an example of ‘antimony or contradiction.’ Aalberts argues that European colonial powers, by basing their claim to colonies on treaties signed with ‘native’ rulers, undermined the possibility of a permanent international order with European powers as its only true members. This is because treaties created a tension, “that while the standard of civilisation clearly put the ‘savages’ outside the Family of (civilised and sovereign) Nations, the colonial treaties suggested something else” (873). The ‘aporia’ here is that the foundational aspect of the colonial international order – treaties – also undermined the very foundations upon which that order was built: the denial of the sovereignty of ‘savage nations’ and the “self-image of the European core as a unitary and complete order by and of itself” (879).

If aporias describe a certain indeterminacy (sometimes strategic, sometimes not) or structural issue (sometimes purposely produced, sometimes not) in international law and practice (even if there are also domestic aporias of law and practice), and discursive underrepresentation describes a specific kind of marginality, we also need language to describe practices by which

individuals and groups make themselves ‘legible’ within these regimes of representation. I suggest that queer theory can offer one way of thinking through this. As mentioned earlier, I characterize members of the UNPO as “queer,” in the sense that they exceed or remain illegible to certain regimes of representation, and that to be made legible, they often ‘de-queer’ themselves, i.e., fit themselves into a particular discursive ‘box.’²⁹

Queerness, de-queering

“[Queerness is] the open mesh of possibilities, gaps, overlaps, dissonances and resonances, lapses and excesses of meaning when the constituent elements of anyone’s gender, of anyone’s sexuality aren’t made (or can’t be made) to signify monolithically” (Sedgwick 1993: 7).

“Queer studies offer us one method for imagining, not some fantasy of an elsewhere, but existing alternatives to hegemonic systems” (Halberstam 2011: 89).

“What is it, then, to have a contingency of identity, or better, an identity alert to the elements of contingency in its relative composition?” (Conolly 1991, 173).

Whenever relating a topic to queerness which itself is not a direct result of LGBTQ+ advocacy, there is always a tightrope to walk of justifying queerness as an analytical lens (this, of course, is political). First, while queer and trans identity (and other related identities) overlap with other sorts of identity (intersectionality) the specific politics of gender and sexuality invoked by this term is not the story of the UNPO. Second, there is a political aspect of queerness – it not only invokes in the popular imaginary a certain concept of political activity, but people seem to then dismiss what queer theory might have to offer to problems outside of sexuality and gender identity. In this section I will both conceptualize queerness for this project and argue for its specific appropriateness when thinking through aporetic issues: existing outside of a discourse or signaling indeterminately within it.

²⁹ See page 21.

Figure 1. Uses of Queerness in Social Theory

Sexuality and Gender	Sexuality and Gender
Individual scale	Collective scale
Other issues of identity	Other issues of identity
Individual scale	Collective scale

In effect, queerness is the transference of the aporia into the realm of identity – not only is there some nonspace beyond discourse, but one’s identity is in some way beyond (or exceeds) that discourse – for example, this dissertation focuses on people(s) who are unrecognizable as subjects within particular legal doctrines or regimes of representation. Put simply then, the queerness I am talking about in this dissertation involves existing beyond the limits of interpretability of a discourse or system of thought or signaling indeterminately within that discourse. This is very similar to the section epigraph by Sedgwick that conceptualizes queerness as a kind of excess or fuzzy meaning with reference to gender and sexuality, even as a kind of possibility or openness rather than definite fixity (one might still be on a journey toward becoming fully themselves, or they might be open to change and flux).

There are two basic dimensions, then, along which me might categorize the use of queer theory (see figure 1). The first is identity. Queer theory can be used within its original context, to think through issues of sexuality and gender – specifically regarding non-normative expressions of sexuality and gender – or it can be used to think through other issues of identity which involve similar logical/structural issues. The second dimension along which it can vary is the broadness of the experience to which it is applicable. For example, queer theory could be about the development of individual expressions of queerness, or individual development of identity; or it could be about collective experiences of queerness or identity. I could theorize about how

queerness results in the development of how you or I individually see the world, or how experiences in the world shape the queer and trans community. Using this matrix, this dissertation focuses on issues of identity – primarily peoplehood and nationality – at a high level of aggregation.

We can also imagine queerness, following Halberstam (2011) as a failure to act in socially prescribed ways, and realize that these failures might also open new ways of thinking through problems – not necessarily because the failures themselves provide us with examples of antihegemonic utopias (perhaps in some cases they do) but also because they might illustrate certain kinds of violence implicit in making someone fit into a highly constrained “box.”

In these senses, and in many other works, queer theory and queerness emphasize taking common assumptions and investigating how they function in the messy world we live in, including their omissions and disciplinary functions. However, I want to also argue that queer theory moves beyond the investigation of categories and their disciplinary functions, something which a notion of aporias might already be up for the task of. While aporias help us to understand how international law and practice exclude the possibility of asserting particular kinds of identity, queer theory helps us move beyond the sense of paralysis Derrida describes in this encounter and open the opportunity for the kind of politics he hoped for. Queer theory has encountered a world that, for much of modern history, has defined ‘homosexuals,’ ‘transvestites,’ and ‘inverts’ as morally and/or psychologically deviant (Connolly 1991, 75; Foucault 1978). As such, there is an encounter with a consolidated, hegemonic sense of identity which requires a counternarrative that itself does not reinscribe its own hegemonic identity (Kolia 2016 approaches this in a similar but different way with respect to indigenous identity in

Canada), both because this would be a repetition of the same problem and because queerness itself includes diverse ways of being in the world.

Take, for example, the critique Judith Butler (1990) of feminist philosophy, that in attempting to consolidate a ‘true’ category of woman, feminist philosophers had fallen into the same political logic which allowed for the marginalization of women (see esp. pp. 32-34, 80-81, 91, 147). They had constructed the notion that there was a specific way of being a woman, from which flowed universal ethical principles (see also Connolly 1991, 177). Instead, Butler describes a contingent sense of identity where culture meets practice through performance. There are culturally consolidated notions of what being a woman is, but people perform their identity in ways that fail to perfectly replicate this figure. Assuming some universal sense of a ‘proper’ subject results in the disciplining of fugitive identities constructed out of self-understanding of how one moves through the world. As a political affect, then, queerness emphasizes being together with difference, kinds of difference that are inherently contingent through changing performances, subjective understandings, and intersubjective understandings. That does not make identity less real, but de-territorializes (in the sense of being non-hegemonic, or in refusing to attribute to a particular identity the status of ‘the identity’) and ‘de-ethicizes’ it. In effect, it does so by arguing against the possibility of an internalization of a regulative ideal (Butler 1990, 140-147). Queer politics, then, posits a freedom in living together with difference which makes these regulative templates appear violent, and opens the possibility of performing differently.

To de-queer oneself, then, is to perform in a way that omits those aspects of identity which transgress or mystify regimes of signification (Gleig 2012).³⁰ By narrowing the

³⁰ A ‘similar’ concept is ‘compulsory heterosexuality’, see Rich (1980, 2004). The premise of compulsory heterosexuality, is that there is an underlying social system which subordinates women to men through sexuality, and in part explains why historical interpretations of women’s

presentation of identity to what ‘fits’ a particular rationality of rule, people(s) can make themselves legible in forums where they previously weren’t. However, in so doing important aspects of identity can be subsumed or repressed in ways that might be harmful. De-queering is a ‘strategy’ for becoming legible, even survival, but it is not without harm. We should not assume, however, that subjects who ‘de-queer’ themselves *lose* aspects of their identity, become less fully realized ‘plural’ subjects, or do not understand the particular kinds of harm that come from this reduction.

Having laid the theoretical foundations for this dissertation and chapter, what follows is a connection of two points in time: the forming of the Allied Committee of East Turkestan, Inner Mongolia, and Tibet and the 2009 Urumqi riots. The argument of this section is that Uyghur activists have made claims of human rights abuses in Xinjiang through civil society organizations since the 1980s. However, these abuses have not become a major concern for institutions of global governance *until* they were framed as a genocide. In this case, there was a rhetorical shift by advocates from a human rights and self-determination frame, to a genocide frame. I do not argue that the genocide ‘frame’ is a dishonest strategy: rather, I will argue (as others have) there has been a qualitative and quantitative change in abuses of Uyghurs by the Chinese government which includes mass incarceration, destruction of cultural sites, mass sterilization, and targeted state killings. However, examining the history of these claims shows that there has been historical precedent for what is happening in Xinjiang. My point in showing

activism do not include lesbianism or bisexuality as a lens of analysis. Rich describes the power of compulsory heterosexuality this way: “The denial of reality and visibility to women's passion for women, women's choice of women as allies, life companions, and community; the forcing of such relationships into dissimulation and their disintegration under intense pressure have meant an incalculable loss to the power of all women to change the social relations of the sexes, to liberate ourselves and each other” (1980, 657).

this transition is to illustrate a failure – that it is only *a certain subset* of human rights abuses that spur international action. I also illustrate the politics of genocide surrounding Xinjiang through a recent UN OHCHR report on human rights violations in Xinjiang (OHCHR 2022).

“First-wave” advocacy: Common Voice and the Allied Committee

"To speed up the sinicisation of non-Chinese people, the Chinese are sinicising the names of their country, language, and following a policy of forced marriage with the Chinese" (Common Voice 1988, 2).³¹

The Allied Committee of the Peoples of Eastern Turkestan, Inner Mongolia, Manchuria, and Tibet³² was formed in 1984 as an effort to facilitate collaboration among minority groups in China and disseminate information to a global audience through international lobbying and the publication of *Common Voice*, which had two issues, one in 1988 and another in 1992.³³

As we might expect from the title, *Common Voice* did not just detail what issues these communities faced in common (also, what issues were unique to each community), but it also was a place for solidarity to be built or explained. Indeed, all members of the Allied Committee also accepted the Dalai Lama as their “guiding force and common spokesman” (Common Voice, 1992) even though Tibet was but one group in the committee. The first issue of *Common Voice* contained 6 short articles, a news section, and introductory and concluding materials giving

³¹ It is a bit of an anachronism to call this ‘first-wave,’ as there was advocacy prior to the Allied Committee. I am using this term as a signpost, rather than a statement of fact.

³² Also called The Allied Committee of the Peoples of Eastern Turkestan, Inner Mongolia, Manchuria, and Tibet presently under China, and The Allied Committee of the Peoples of Eastern Turkestan, Inner Mongolia, and Tibet. Lodi Gyari recalls that: “at the explicit suggestion of His Holiness [the Dalai Lama], some Manchurians were also invited to participate, although here was a great deal of resistance from our Uyghur friends ... it was also not easy to find an ethnic Manchurian. One individual we located in Taiwan was more Chinese than Manchurian. He eventually felt his participation in the group was actually a liability, so he left” (Gyari 2022, chapter 16).

³³ In fact, the Allied Committee could be seen as a predecessor to the UNPO. It was members of the Allied Committee who would reach out to human rights advocates in Soviet Republics and elsewhere, eventually co-founding the UNPO.

broad information about the Committee and its goals. The second issue, released 4 years later, contained 10 short articles as well as similar introductory and concluding materials. In that issue, they explain the absence of a regular publication by saying, “When we first started, we hoped to publish the *Common Voice* every sixth month; but due to lack of financial resources, we have not been able to do so. We are sorry for the delay”³⁴ (Alptekin 1992).

Another reason for the sporadic output of the Allied Committee was that it represented an early attempt to create solidarity among marginalized groups in China, an experience that would contribute to the eventual formation of the UNPO. One interviewee noted that:

“There were a number of things that happened that resulted in the creation of UNPO, and the Allied Committee was something that had been in existence for a fair amount of time... It was an idea to try for cooperation between these groups, but ... it was never a very dynamic or active organization. It was an idea; it was a good idea. At times, some of the players were reluctant to openly associate with each other because of possible discussions with the Chinese that would irritate China, et cetera, so that there were different moments that worked differently, sometimes better than others. But yes, ... it was also from this idea of the cooperation between different groups and the experience with the Allied Committee, which, as I say, had access to for some time that the thought was also expressed: “Well, why don't we build on that and make a bigger forum?” (interview 4, 2022).

Within *Common Voice* we can see the development of three sets of claims made by and on behalf of the organization's various members: first, that China was attempting to destroy or overwrite the cultural identities of each community in the Allied Committee (a process they called “sinicisation,” which included coerced intermarriages and religious repression, see section epigraph); second, that China was taking advantage of the resources of these regions without consideration for the people living there; and third, that historically each of these regions had been independent of China. The third claim takes a straightforward form, with people from East Turkestan, Inner Mongolia, and Tibet differentiating themselves from China based on prior

³⁴ This signals one reason the UNPO is particularly effective because it helps groups with few resources to pool what they have.

periods of political independence, and historical Chinese sources citing these cultures as foreign. For example, “The Great Wall is the best proof that Eastern Turkestan was always outside Chinese territory. One of the western gates of the Great Wall is named Yu Min Guang. This gate faces Eastern Turkestan”³⁵ (Alptekin 1988, 21). Writers self-identifying as ‘Manchu’ in the pages of *Common Voice* discuss their own cultural heritage as conquerors and rulers of China, separate from Han Chinese.

Leaving aside the task of attempting an intellectual history of each of these communities in the pages of this dissertation – there is a parallel political process happening in *Common Voice* that is more subtle but no less important: the use of history to articulate a shared sense of community between each member of the Allied Committee. These histories suggested that there has always been a community of communities among the nations of the Allied Committee, for example, P.T. Takla’s contribution to the first volume discusses the development of Tibetan and Uyghur collaboration after the conquering of Uyghur tribes by the Tibetan military in the 7th century AD (1988, 26-29), providing an origin for collaboration and cross-cultural flows. This

³⁵ It is important to note the centrality of Isa Yusuf Alptekin and his son Erkin Alptekin to Uyghur diaspora advocacy (Yitzhak 2007). Historically, Uyghur activists have been fragmented between groups that advocate for different varieties of autonomy, ranging from violent separatist organizations like the East Turkestan Independence Movement, to others seeking meaningful autonomy either inside of or separate from China using peaceful means. The Alptekins have advocated for nonviolent activism and helped form the Allied Committee, the UNPO, the World Uyghur Congress, and the Eastern Turkestan Union in Europe (Chen 2014, chapter 1). One interviewee described the political future of the Uyghur this way: “The political futures of the Uyghur people, the political futures of the people of East Turkistan should not be determined by the Chinese Communist Party. The political future of East Turkistan must be determined by the people of East Turkestan, by Uyghurs, Kazakhs, and other native people. When they have this right – if then they decide that they want to remain a part of China, they can. However, there is no reason today, particularly today, to remain a part of China, because [there is] no life! Not when people are going to concentration camps” (interview 2, 2021).

essay was also included in the second issue of *Common Voice* in 1992.³⁶ In that issue, an anonymous author writing from East Turkestan opines that the Chinese government has pursued a strategy of building a variety of mosques for different Muslim cultural groups because “it is in Chinese interests that the various Muslim nationality groups across Xinjiang should not unite” (1992). That intuition seems to be another which suggests the importance of building a repertoire of stories and histories which provide a foundation for a community of difference within the Allied Committee.

From *Common Voice* it is difficult to establish how widespread the practices that targeted Uyghurs in East Turkestan were, however, it does provide at least some evidence to suggest a historical precedent for human rights violations that would take place in later periods.

“The Chinese government’s intention and [policies] against the Uyghur are very key: this is assimilation – [the] Chinese government’s policy towards Uyghurs of assimilation has never changed. This is just – this is the means proposed and the general policy. But China’s government, it implements this policy sometimes very violently... [but] sometimes very normally – but it has never changed” (interview 2, 2021).

There are other incidents between the founding of the Allied Committee and the Urumqi riots which could explain the trajectory of Uyghur treatment by the Chinese government, but I skip to Urumqi for three reasons. First, because it seems to mark a grim turning point, even if there were historical antecedents. Second, because the UNPO and WUC produced a report in the wake of

³⁶ There are several possible reasons for this. The first is that there was not enough material to complete the issue, but I suspect Takla’s writing was included for common sense political reasons. First, he was a Tibetan historian, and as an academic historian his writing would go some way toward recounting/creating a foundation for solidarity between groups of the Allied Committee. Second, he was the brother-in-law of the 14th Dalai Lama, Tenzin Gyatso. His inclusion more firmly establishes the link between the Allied Committee and the Dalai Lama as their common representative. Finally, the article was initially meant to be a series of two. At the time of the publication of the second issue, Takla was 80 and had retired at 77. He may not have been able to complete the second article, but the political and practical needs of the group meant that reincluding the first article was nevertheless important.

the riots; and finally, because of the central role the Chinese government attributed to the WUC and their then-leader Rebiyah Kadeer in fomenting the violence.³⁷

The Urumqi riots

The 2009 Urumqi riots are an important moment leading to the current human rights crisis in East Turkestan. I will differentiate here between three ‘accounts’ along an imagined continuum: the first being the official government account of the violence, the second being a journalistic and scholarly account that expresses great uncertainty about the events, and the third being the events as explained by the UNPO and World Uyghur Congress. As I go, I will illustrate both the similarities and differences between these accounts.

Accounts of the Urumqi riots and the events surrounding them agree on some main points. First, that the violence began in a toy factory in Shaoguan. Uyghur laborers had gone to Shaoguan where violence broke out, and several people were killed. The scale of the violence is the main point of contention, with the government claiming that 2 Uyghur men had been killed, and 118 other people injured (Millward 2009, 350). Both Millward (2009) and the UNPO (2009)

³⁷ Kadeer even plays into China’s propaganda discounting the Uyghur genocide. A 2020 Global Times piece shows Kadeer’s granddaughters traveling across Urumqi, demonstrating how the government has developed Xinjiang and helped Uyghurs – this includes ‘fast and convenient’ public transit, and the Maison Mode Shopping Center which sells global brands like Gucci, Dior, Channel, and SK-2, “it has everything” (1:26). One denounces Kadeer saying, “contrary to what you said, people in Xinjiang are living a decent life. People are well off, we can buy products of international brands. Isn’t this the new changes of Xinjiang [sic]? Isn’t this the beautiful Xinjian we have dreamt about?” Another says, “Grandmother, when you left Xinjiang I was a little girl. Back then, I didn’t understand what you had done. Now I am a post-graduate student, I learned about your misdeeds. You have constantly accused the Chinese Government of engaging in Uyghur cultural genocide, it’s totally untrue. Thanks to the government, my classmates are benefiting from favorable policies. We can neither study nor enjoy the great facilities at the school without the government. We have full access to all kinds of scholarship and student subsidies” [sic]. Kadeer’s son also says (while at a Mosque), “Mom, the religion policy in our country is very good. We can go to the Mosques to pray at any time. A heating system is in place for the winter, as is an air conditioner for the summer. We also have places to wash ourselves, we can come here at any time. It’s not what you said, the government never oppresses us. If you don’t believe it, you can see it in Xinjiang with your own eyes.”

cite a Han worker who claims to have helped kill at least 7 Uyghur men. The UNPO and WUC claim that “the actual number is believed to be around 30” (10). Several days later, protests and/or riots began in Urumqi, the capital of Xinjiang province (East Turkestan). Again, several people were killed, with the number, ethnicity, and events surrounding their deaths being contested. This was followed by the Chinese government bringing in foreign journalists to document where the violence had occurred, and to interview primarily Han witnesses. During these events, Uyghur women protested by confronting the convey and talking to foreign journalists, saying that many of their male relatives had been taken by security forces. Again, the number and nature of these events being contested.

That violence at the Early Light toy factory in Shaoguan occurred is not contested, but the exact events of that violence are. As noted by Millward (2009), neither Uyghur nor Han communities trusted government accounts of the violence. Millward identifies two government accounts about the impetus behind the violence. The first notes that a former Han employee had anonymously posted a false story that two Han woman at the factory had been sexually assaulted by six Uyghur men. The second claimed that a Han woman had gotten lost and made her way to a dormitory of Han men and screamed when they tried to communicate with her, and this resulted in rumors that she had been sexually assaulted. The UNPO and WUC’s account (2009) similarly is that the impetus behind the violence was a false report that Uyghur men had sexually assaulted Han women at the factory, and that the government had found these allegations to have originated from a disaffected former employee.

Protests in Urumqi, according to both the UNPO (2009) and Millward (2009) were sparked by the perceived underreporting of deaths at the Early Light toy factory. The government contends that these protests were organized by then World Uyghur Congress (WUC)

President Rebiyah Kadeer who sought to “vilify China's ethnic and religious policies in an attempt to create publicity and stir up trouble” and that the events in Shaoguan “was an ordinary case of public order and was properly handled”³⁸ (Chinese Embassy, 2009). These protests would have been known about ahead of time likely by Uyghur, Han, and the government, as they were being organized over internet message boards and social media, and resulted in Uyghurs coming from outside of Urumqi, as well. The protests approached People’s Square, and were either put down as they approached, or in the square itself (Millward 2009). The UNPO claims that as the protestors approached the square, they were violently attacked by security forces with electric batons, cattle prods, tear gas, and even live gunfire (12; the UNPO cites Hille 2009 regarding gunfire). All accounts emphasize that there was violence between Han and Uyghur (UNPO 2009, 12; Millward 2009, 352). The Chinese government quickly brought in foreign journalists to examine the effects of violence in predominantly Han areas of town in the two days after the riot (Millward 2009, 352). Official government numbers were that 197 people were killed (Millward 2009, 352) with 137 being Han, 46 Uyghur, and 1 Hui (Boston Globe 2009). Millward (2009) notes that the initial violence was primarily asymmetrical, with Uyghurs targeting Han. The UNPO claims that “according to a nurse working in Urumqi, more than 100 Uyghur men were admitted on 7 and 8 July. She said 97 of them died within one day, and their bodies put in a cellar” (18). Millward goes on to further claim that regarding the events surrounding security forces responding to/cracking down on Uyghur protestors that,

“On this, official media is nearly silent; what we have to go on are scattered, unconfirmed and sometimes contradictory reports by visitors to Urumchi who have been interviewed outside of China, and seldom in mainstream media. According to these accounts, demonstrators or rioters were in places met with tear gas, stun batons, truncheons, armoured vehicles and, in some reports, gunfire” (2009, 352).

³⁸ Rodriquez (2013) notes that "Violent episodes in Xinjiang are notable for a lack of verifiable information and accounts often contradictory by non-neutral parts" [sic] (135).

Millward and the UNPO both note that Uyghurs protesting carried Chinese flags, either to show that they ‘wanted to work within the system’ (Millward 2009, 355) and/or demonstrate that they were not separatists (UNPO 2009, 11). After the protests, there were claims that security forces gathered bodies and disposed of them (UNPO 2009, 14) with Millward noting that the evidence of this ‘remained unconfirmed by journalistic standards’ (353). Arrests followed, with 1,434 people being detained according to the Urumqi Communist Party Secretary, Li Zhi (UNPO 2009, 14). The UNPO furthermore cites a *Financial Times* report that the real number detained was closer to 4,000 (UNPO 2009, 14; see Hille 2009). According to testimonies obtained by the UNPO, potentially ‘hundreds’ of these protestors died in prison in the subsequent months (14).

On the second day (July 7th) of the international media’s tour of Urumqi, Uyghur women protested to security forces and the media for the release of their family members who had been taken prisoner (UNPO 2009, 15; Millward 2009, 354). Security forces attempted to disperse the women, who eventually left at “11:45am” (UNPO 2009, 15). During this event, a photo of Tursun Gul – a woman whose husband and five brothers had been detained – was taken as she blocked the path of security forces (15). Later that day, Han demonstrators organized with makeshift weapons and began to move about the city, destroying Uyghur property (UNPO 2009 16-17; Millward 2009, 354). Millward (2009) notes that ‘a clear double standard’ in how demonstrators were treated ‘was on display for foreign press,’ and that ‘while it was agreed that the security forces did a decent job stopping reprisal killings’ there were still reports of some deaths (354). The UNPO claims – with photos from media reporting on the events – that these demonstrators were aided by security forces, given riot shields and batons even as “Li Zhi, Urumqi Communist Party Secretary stood on the roof of a police car with a loudspeaker

implored the throngs of Han citizens to “calm down” and “let the police do their job” [31]” (Foster 2009 in UNPO 2009, 16).

Following the Urumqi riots, there were also a string of claimed attacks by Uyghurs of Han using hypodermic needles (Milward 2009, 355; UNPO 2009, 19) but the UNPO notes a statement by a PLA representative that in the cases they had examined there was no evidence of attacks (19) with the representative stating that “many of the patients we have seen were mainly influenced by psychological factors” (Fan 2009).

A notable aspect of the Chinese government response to the Urumqi riots and Uyghur identity in East Turkestan more broadly, is to tie all Uyghur civil society groups to the War on Terror and the East Turkestan Islamic Movement/Party (ETIM/ETIP, now the Turkestan Islamic Party; Reed and Rashke 2010, 1-4; Barbour and Jones 2013, Wei and Gang 2017, 6; Tradaniel and Lee 2018, 183-186; Information Office 2022, 116). The World Uyghur Congress is not affiliated with ETIM (Yitzhak 2007, UNPO 2009, Milward 2009) and endorses nonviolence (Chen 2013, 21-22; Rodriguez 2013, 145). Tying activism to terrorism has become a strategy, not just in China, but elsewhere, to stymie political activism (interview 4, 2022).

While the government initially blamed Kadeer for the riots, they also claim that “On 5 July, 2009, ETIM forces inside and outside China engineered a riot in Urumqi which shocked the whole world” (Information Office 2022, 7-8). The events in Urumqi in 2009 could have been a confluence of several parallel mobilization processes, considering its public nature, but the claim in 2009 that it was primarily orchestrated by Kadeer, and the claim in 2022 that it was organized by ETIM are incommensurable. The 2022 report makes no mention of Kadeer, despite her centrality to their account(s) in 2009.

Since this period, there are three major policies that are used as evidence for genocide. The first is mass detention and ‘reeducation’ of Uyghurs in East Turkestan. The reasons for many of these detentions are suspect and have been documented in the Xinjiang Files, Xinjiang Victims Database, and Uyghur Transitional Justice Project (XF 2022, XVD 2022, UTJP 2022). The Xinjiang files, include leaked data of over 2,800 photos and arrest records of Uyghurs from the first half of 2018 in Konashaher County, Kashgar Province. The Xinjiang Victims Database includes evidence of detentions, forced family separations, deaths, and document confiscation, and has over 44,000 entries as of this writing (10/29/2022). Below, *Table 1* lists the most common reasons for detention drawn from the Xinjiang Victims Database, while *Table 2* lists sentence duration.

Table 1. Official Reasons for Detention (via Xinjiang Victims Database)

n>500, sample = 25,743

Endangering State Security	9,465
Disturbing Public Order	6,736
Past Transgressions	4,895
Picking Quarrels	3,450
Extremism	3,772
Related to Religion	1,048
Terrorism	3,020
Phone/Computer	1,443
Problematic Associations	873
Other	2,294

Table 2. Detention Length (via Xinjiang Victims Database)

sample = 13,500

1-4 years	511
5-9 years	7,699
10+ years	5,290

The second major policy is the curtailment of religious rights in the region (Smith 2019, Brophy 2019, Xinjiang Data Project 2022), evidence of which is also contained in many of the

arrest records of individuals in Xinjiang. This includes destruction or damage to 65% (16,000) of all mosques in Xinjiang, including the total destruction of 8,500 (Ruser et al. 2020).

Finally, is the application of family planning laws, which have resulted in a dramatic decrease in Uyghur fertility. I focus here on reproductive politics because of the longer-running claims by the Allied Committee, which suggest that policies seen as new (forced sterilization, and monetary compensation for policies that result in reduced Uyghur reproduction) have a history in East Turkestan. I also focus here because mass sterilization is explicitly contained in the “UN Convention on the Prevention and Punishment of the Crime of Genocide” as a type of violence which, if targeting ‘a national, racial, religious, or ethnical group’ with ‘the intent to destroy the group in whole or in part’ (UN General Assembly, 1948) would constitute genocide. I contrast this with a broader secondary literature on reproductive policies in China.

The Acceleration of Human Rights Violations: Reproductive Politics and Genocide

Marriage and family planning laws have been an important aspect of social and economic policy in modern China (Diamant 2000, Wang 2012). Historically, marriage and family planning laws as written have been less strict toward ethnic minorities in China than toward Han. Ethnic minorities could marry earlier and have more children (Sautman 1997, 6-10; Attane 2002, 104-105). However, this policy area is one where many Uyghurs have historically disagreed with the CCP (Sautman 1997, 7; Attane 2002, 107-108; Wang 2012, 565). Consequently, many ethnic minorities in China, including Uyghurs, have historically had higher birth rates than Han (Sautman 1997, 6-10; Attane and Courbage 2000).

While marriage and family planning laws have had reservations for ethnic minorities, massive transfers of ethnic Hans to regions populated by minorities meant to ‘sinicize’ regions, with Xinjiang experiencing an increase from 330,000 Han to 2.3 million from 1953 to 1964 and

‘nearly doubling’ from 1964 to 1982 (Attene and Courbage 2000, 259). Contraception has been a core part of China’s family planning regime, with long-term contraception often being imposed prior to 2002, including through mass sterilization (Wang 2012, 565). The securitization of Uyghur identity has led to changing social dynamics around marriage, with rumors of young men going missing, and increasing tension between personal and cultural security (Ding 2018).

In 2017 China began a new campaign to reduce birth rates among Uyghurs in Xinjiang (Ruser and Leibold 2021, 4). This campaign has been extremely coercive, with women facing forced sterilization and internment for having too many children (7-9; Zenz 2020). Ruser and Leibold (2021), using Chinese government statistics, find that birthrates in Uyghur-populated areas have dropped to some of the lowest levels in the world, just as restrictions around reproduction have been loosened in many parts of the country. In Urumqi, birthrates in predominantly Han areas have risen, while they have fallen in predominantly Uyghur areas (15). Citizens are financially rewarded for reporting that their neighbors have violated family planning policies, and government officials do not receive bonuses or promotions if they do not meet reproduction targets (15-17). Fines are also imposed for violations of family planning policy – both for violations of past and present policy (17). According to Ruser and Leibold, the decrease in birth rates in Xinjiang are larger than the decreases during the Khmer Rouge, Bosnian, and Rwandan genocides, as well as the ongoing civil war in Syria (21).

“Second wave” advocacy: East Turkestan and the Long Genocide of the Uyghurs

“The whole East Turkestan, the whole Uyghur region has been turned into an open-air prison. So, there is no space to speak at all, so this is our whole role – the role of the World Uyghur Congress, UNPO, and other organizations is very significant. Nearly no one from East Turkestan can speak at all and raise awareness.” – (Interview 2, 2021)

Since 2016, East Turkestan has become an “open air prison” (author interview) replete with ‘reeducation’ and forced labor camps. Because of this, many Xinjiang Uyghurs have been

transformed into a population existing beyond the pale of the law. Over 1 million people are in these concentration camps, and thousands have been killed in state violence (Finley 2021). Furthermore, communication out of Xinjiang by Uyghurs to the World Uyghur Congress, UNPO, and other civil society organizations has been effectively impossible since 2016 (author interview, 2021) after the passage of legislation in December 2015 which intensified security practices in East Turkestan (Topal 2021, 7). As a result, not only are people interned because of their religious and ethnic identity, but also for going abroad, contacting people outside of East Turkestan/China, phone and computer usage, possession or dissemination of ‘problematic literature’, ‘revealing state secrets,’ traveling to visit relatives abroad, installing apps like WhatsApp, and maintaining communication with relatives outside of China (*ibid.* 9-13).

These conditions represent a quantitative, but not always qualitative, change in the conditions Uyghurs in Xinjiang experience, and it seems to happen in the time period surrounding Urumqi.³⁹ Tragically, it is this change which finally makes their suffering ‘intelligible’ or ‘important’ enough for the global community (of states) to take serious action, culminating in a Human Rights Council investigation (OCHCR 2022). That the Human Rights Council undertook an investigation into human rights violations in Xinjiang illustrates how powerful the politics of genocide are, but also how marginal Uyghurs have been in global politics to this point.

Conclusion

Currently, to be Uyghur in East Turkestan is to be surveilled, possibly forced into a forced labor or ‘reeducation’ camp or even killed, with no state institution to turn to for protection. The strategy of Chinese government, however, has been to make this a genocide

³⁹ Clarke (2008) notes that Uyghur activists in the World Uyghur Congress had begun to use the term ‘cultural genocide’ to describe their experiences starting in ‘the early 2000s’ (274).

taking place over the course of decades through eugenic policies, while in the meantime rendering the minorities of East Turkestan rightless. The effect is to place Uyghurs and other Turkic Muslims in a condition that represents what Hannah Arendt called ‘statelessness’ decades earlier. In Agamben’s terms, these people are a people stripped of their political identity and rights, rendered mere biological life at the mercy of the state (Agamben 1998). They are stateless in condition, but not in name.

The tension between activist and academic reports which suggest an ongoing genocide, and NGO and UN reports which establish crimes against humanity leaves us in a bind as to how to describe Uyghur dispossession. For this reason, there is no neat way to place them in international law and discourse. Is a ‘long’ genocide still a genocide? Are people without rights the same as those who are stateless? Are people not recognized as indigenous in the country they live in recognizable as indigenous by the international community? Furthermore, how can Uyghurs in China gain redress when the Chinese government attempts to block Uyghur civil society groups from gaining access to institutions of the United Nations (interview 2, 2021; interview 3, 2021)?

What *can* be said is that if citizenship is conceptualized as some bundled combination of rights, privileges, and responsibilities, that Uyghurs are among a class of people who lack effective citizenship, who lack forms of effective discursive and institutional representation. This issue is compounded because not only are they placed beyond the pale of the law domestically, there are also few recourses in international law and international institutions available to them because they are not represented by the states in which they live in or originate (see Smith 2021, 363-365). This phenomenon is not important because it is novel, it is important because it is seemingly a consequence of our system of global governance that has gone unresolved – it is a

form of dispossession that avoids the kind of obviousness as statelessness, but still leaves people(s) without a guarantor for their rights. Furthermore, it is not clear than an international 'law' centered on states can easily resolve such elisions.

If people's suffering can't appear until it reaches the point of genocide, there is a failure in institutions of global governance. The categories we have/create do have 'material' power, they help shape outcomes by what they make possible or impossible. As Meiches and othes show, this is, in part, why the genocide convention was such a revolutionary thing, because it made a whole 'kind' of violence intelligible. It wasn't that it was necessarily new (though in some ways it was), but rather that this was the first time we had a set of analytical and legal tools to call it what it 'was.' However, when we lack analytical and legal tools to 'call it what it is,' stories and identities have to be performed in ways certain ways if they are to be 'intelligible' within certain forums.

CHAPTER 3: DISCURSIVE UNDERREPRESENTATION AND BATWA IN RWANDA

Introduction

In a 2008 interview the former director of COPORWA (Community of Rwandan Potters)

Zephyrin Kalimba framed the struggle of the Rwandan Batwa by saying:

“What I can ask from the government or international community, or religious community, or all developed countries is to prevent the Batwa from becoming extinct, and to allow the umutwa to accept who she is. If he wants to hunt in the forest, he can be supported to do it. If he wants to be like others, or to be a part of a decision group you provide access, or have representatives in decision making” (Boiko, 2008: 21:44-21:53).

With the immediate aftermath of the Rwandan genocide behind him by over a decade, and a massive complex of institutions meant to prevent similar outbreaks of violence, why would Kalimba fear the ‘extinction’ of an entire group of people, and in what way does he mean this?

Popular and academic understanding of the Rwandan genocide often frame it exclusively in terms of a Hutu-Tutsi divide that resulted in the genocide of Tutsi by Hutu. While this is certainly the central aspect of the Rwandan genocide, this *exclusive* focus, and the policies inspired by it have made political advocacy by Rwanda’s third largest cultural group, the Batwa, increasingly difficult and sometimes illegal. This has necessitated international advocacy through various institutions, importantly among them, the Unrepresented Nations and Peoples Organization (UNPO).

The following paper makes three interventions: (1) it emphasizes the harm of binary presentations of the Rwandan Genocide as exclusively a Hutu-Tutsi experience for the Rwandan Batwa (I primarily use the term “Batwa” rather than “Twa,” or “Abatwa,” to match usage of the

term by COPORWA in submissions to human rights monitoring mechanisms),⁴⁰ while still emphasizing that the elements of Hutu power and genocide of Tutsi are still important; (2) it shows how state-sanctioned discourses result in the discursive underrepresentation of Rwandan Batwa and circumscribe political options at the domestic level; (3) it shows how such exclusions can become the impetus for political organizing at the international level where people(s) might have more options to contend with the state (in this case, through the Unrepresented Nations and Peoples Organization). Thus, this paper integrates concerns traditionally reserved to ‘comparative politics’ and ‘international relations’ – with the central lesson being that domestic political marginalization can result in the emergence of nations and peoples within international institutions where they can make claims and pressure governments in ways unavailable to them domestically.

Why illustrate this ‘central lesson’ with the example of Rwanda? I start here for two reasons. The first is that genocide is a formative story for modern international institutions and human rights law. As a political and scholarly community, it is something which we ostensibly care about. Yet, that responses to genocide emerging out of this milieu sometimes results in the further marginalization of people(s) is a conundrum in need of investigation. For well-justified normative reasons, we care about genocide and its response, and thus Rwanda is an important case.

Second, I start with Batwa in Rwanda for a methodological reason: because they are one of the first members that the Unrepresented Nations and Peoples Organization Secretariat conducted a mission on behalf of (author interview). The UNPO acts as an ‘alternative

⁴⁰ Twa refers to an individual Abatwa, Abatwa refers to Twa collectively, Batwa refers to a group of Twa.

representation organization,' a place where people(s) who are not effectively represented by the states in which they live or originate can politically self-organize in collaboration with other un(d)errepresented people(s) to lobby international organizations, legal institutions, foreign governments, etc. to effect change. This case gives a temporal scope that few others in the organization can match, and thus can help us understand what role the UNPO plays in international advocacy by its members.

This paper proceeds as follows. First, I detail a theory of discursive underrepresentation that I assert can help us understand the situation of the Rwandan Batwa. Second, I describe the position of the Batwa in the context of the genocide and its immediate aftermath. Third, I frame the Batwa's contemporary political situation around reports from the UNPO for the United Nations Universal Periodic Review Process, and literature concerning the Batwa specifically. Fourth, I apply the theoretical framework developed in this paper to analyze the institutional, discursive, and historical underpinnings of Batwa discursive underrepresentation, a milieu which will provide additional leverage for explaining the experience of the APB/CAURWA/COPORWA detailed in the introduction. Finally, I argue that these kinds of discursive overrepresentations and underrepresentations, along with associated human rights abuses, lack of substantive and descriptive representation, etc. are illustrative of why the UNPO has become a 'space of emergence' for such people(s).

Theory

Discursive representation refers to the ability to be represented through language available in a discourse community. The lack of this discursive representation can stall advocacy efforts in several ways: it can be difficult to tailor policy to a group that can't 'appear' as such in law, certain groups might be framed as 'outsiders' and lack the ability to gain a sympathetic audience, or certain kinds of advocacy might be in and of themselves, illegal.

Lack of discursive representation can become increasingly entrenched when it is a strategic choice, such as when certain kinds of political activity or solidarity are framed as a threat to security. Thus, I want to make a distinction between lack of discursive representation and discursive *underrepresentation*. I define underrepresentation as a strategic choice, one that might be considered a necessary or acceptable tradeoff in pursuit of another goal, or a goal in and of itself. By security, I mean ‘security’ in a broad sense – both the kind of ‘physical’ security that traditional international relations theorizing might think about, but also less ‘concrete’ and more ‘felt’ senses of security (recognizing that ‘feelings’ or ‘perceptions’ of security are important even in the former accounts, see Herz, 2003).

With respect to the Batwa, I will show that an important aspect of their marginality is both part of a national project and a result of an orientation vis-à-vis a particular construction of what it means to be secure after a genocide, and an aspect of what Meiches (2019) calls the ‘politics of genocide’⁴¹ and Subotic (2019) calls ‘remembrance’ of genocide – specifically, what it means for a group to be able (or unable) to claim that they are victims of genocide in a post-genocide environment. In what follows, I outline two notions of ‘felt’ security in international relations scholarship, and why these notions of ‘felt’, or ‘constructed’ security are useful in encompassing the myriad ways that security discourses emerge, especially with respect to how security discourses might enable or constrain political subjectivities.

⁴¹ Meiches defines the ‘politics of genocide’ as answering the question: “At what point does an act of violence affect a group severely enough to become genocide?” (79). This question is slightly different, but I think related, and phrased in the language of Meiches would be something like: ‘at what point is a group’s suffering visible enough to be included in the institutional-historical memory of genocide?’ Subotic’s *Yellow Star, Red Star: Holocaust Remembrance after Communism* (2019) arbitrates a similar set of questions.

The first notion of ‘felt’ security I want to discuss is ‘ontological security. ‘Ontological security’ describes a ‘continuity of intersubjectively constructed self-identity which provides an understanding of a social group’s place in the world’ (Steele, 2008: 2; Mitzen, 2006a,b) that might come under threat when there are collectively felt ‘apprehensions’ that a value or collective memory (or interpretation of collective memory) central to their experience or sense of self is under threat (Gustaffson and Krickel-Choi, 2020; Subotic, 2019; Mälksoo, 2015). These felt threats can be due to things external to states, or internal – including people(s) framed as ‘internal others’ (Rumelili, 2012; Mälksoo, 2012).

Another notion, ‘securitization,’ describes the framing of issues as existential threats to survival, and the concomitant transition of those issues from something legitimately contestable (i.e., political issues), to issues which are not politically contestable, now becoming an ‘emergency’ or ‘exceptional’ issue (Buzan et al., 1998; Elbe, 2006; Buzan and Weaver, 2009). Securitization has been critiqued by Hansen (2000) for placing certain issues of individual and group identity outside of its notion of ‘security’ as ‘national security,’ and that methodologically it can’t ‘see’ issues which do not or cannot emerge as speech acts – for example, Pakistani laws mean that a woman accusing someone of sexually assaulting her could also be prosecuted, thus it would be difficult for this issue to emerge as a security issue (see also Hansen, 2020). Her suggestion, then, is that theories of security consider both the long construction of security discourses, and the kinds of political subjectivities these enable.

Howell and Richter-Montpetit (2020) argue that the way securitization conceptualizes ‘normal politics’ relies on a set of liberal assumptions about what kind of politics are desirable that elide racist and imperialist assumptions embedded in the liberal and Arendtian/Schmittian notions of politics and security, respectively. Put simply, securitization theory, in their eyes, does

not critically engage with the racialized and imperial violence in the ‘background’ of ‘normal politics’ (11-12). They emphasize the implications of securitization theory on Africa, and its lack of reflexivity about the terms of engagement between Africa and ‘the West.’ Their argument is that once this core desire or imperative is stripped from securitization theory, ‘there is not much left’ (17).⁴²

Deployments of the term ‘security’ are legion (Burke, 2002), and my approach in this paper is conceptually looser than IR scholarship that considers it as a kind of physical or sovereign integrity, cohesive sense of collective selfhood especially related to the nation, or a realm of exceptional politics distinct from ‘normal politics’ where issues are ‘contestable.’ Instead, I take these streams to mean that as a discourse, ‘security’ can be attached to many referent objects (Lipschutz 1995: 14; Burke, 2002), and its effects are context dependent (McDonald, 2008) but often enable or constrain particular kinds of politics and subjectivities (Hansen, 2000). Particularly, I am interested in the effects of a felt notion of security in Rwanda that constrains how actors can ‘appear’ in law and politics.⁴³

⁴² However, as they say, they do not examine the ‘second order’ securitization literature – and within this we find contestation over whether securitization is desirable or not, thus undermining the particular notion of ‘normal politics’ Howell and Richter-Montpetit take issue with (e.g., see Szarejko, 2022); and securitization literature that takes on questions of race, racialization, and/or the construction of otherness while, at the same time, bringing the background violence of liberal politics into view (e.g., Ibrahim, 2005; Moffette and Vandasaria, 2016). It is also important to note that many scholars *have* found securitization to be a useful analytic, in conjunction with other theoretical approaches, for thinking about race and racialized violence (Behera et al., 2021).

⁴³ My thought on this topic originates in a thin reading of Sylvia Wynter, which focuses not on her project, broadly, but rather on its implications for the politics of history – especially its intersection with ‘felt’ senses of security. I turn to the thought of Sylvia Wynter, to think about the enabling and constraining of subjectivities that consolidated notions of ‘self’, ‘other’, ‘security,’ and ‘insecurity’ can have. Wynter’s oeuvre predominantly questions the ontological status of ‘man’: specifically, she is concerned with the methodological tools utilized to construct the ‘human’ within a racialized Western global hierarchy (so that she can explain the marginal position of Black people worldwide), and relatedly, what forms of ethics and knowledge are then

As Burke (2002) says, security is a “political technology” that is “an interlocking system of knowledges, representations, practices, and institutional forms that direct, and act upon bodies, spaces, and flows in certain ways” (2) – even if there is not a natural, found in the world thing that we could call ‘security.’ As a technology, security – that felt sense of threat – can act as what Brubaker calls ‘a mechanism of social closure’ (1992, 1), a way of defining *who belongs* and *who does not belong* to a community or what kinds of difference undermine a particular story of the self.

Pulling back to discursive representation, through historiographies of security as politically constructed discourses (with IR literature offering several ‘genres’ and ‘typologies’ of discourses) that enable and constrain certain activities and ways of life – we can see how the construction of certain kinds of security and concomitant identity discourses might compound or produce a lack of discursive representation. Certainly, the Batwa’s lack of ability to represent themselves – as this paper will show – is seen by important actors as either a necessary sacrifice for preventing future outbreaks of ethnic conflict or genocide (a kind of security); or, it is a goal itself, to help the Batwa become ‘developed’ members of society, or consolidate a particular kind

privileged (da Silva, 2015; McKittrick, 2015; Wynter, 1968: 24, 30; Wynter, 1987, 1989, 1990, 2003). She defines this figure of ‘man’ to be a combination of bios/logo, or ‘bios/mythoi’, that ‘man’ is *as much* a figure that constructs itself consistent with a particular understanding of the world as they are a biological being; that ‘man’ comes with an origin story (of sorts) for themselves and the world, and to inhabit that world properly, must act in certain ways (McKittrick, 2015: 15-16). One problematic aspect of Western domination, then, is the imposition of a particular notion of humanity *as universal* – and the associated justification of domination which originates in this representation throughout time. She calls this the ‘overrepresentation of man,’ where a white western-humanist sense of ‘humanity’ represented itself “as if it is the *class of classes* of being human itself” (McKittrick and Wynter, 2015: 21), and certain ‘genres’ of being human which were amenable to hierarchization and exploitation were produced, including through the production of race and the hierarchical adjudication of human communities through this concept. Inspired by Wynter, we can see how the consolidation of a particular kind of subjectivity and related senses of threat and desirability constrain and hierarchize human communities and human relations.

of Rwandan community of which they can be a part, if only they become a specific kind of subject (which contains its own security discourse). That is to say, their underrepresentation is a political technology meant to bolster a particular sense of what it means to be ‘Rwandan’ after a genocide. In stabilizing a particular kind of subject, certain differences must disappear as politically and socially salient.

Having introduced the idea of discursive underrepresentation as a strategic choice, I now turn to literature on the Rwandan genocide, to help illustrate the marginality of Batwa within this literature, and within the international response to the genocide.

The Batwa and the Rwandan Genocide

Causes and impacts of the Rwandan genocide are typically framed through the fracture between Hutu and Tutsi. The colonial powers of Germany and Belgium reified cultural and class structures into ethnic groups, which set the groundwork for historical ethnic antagonisms which culminated in the genocide (Buckley-Zistel, 2009; these divisions may have been becoming meaningful earlier as class divisions, see Vansina, 2005). This included the omnipresent “Hamitic hypothesis,” a quasi-biblical and ‘scientific’ colonial discourse which supposed a ‘Western’ origin for the Tutsi rulers, i.e., as descendants of North African ancestors who had intermingled with Europeans and produced a culturally and racially superior genus of peoples (Sanders, 1969; Gourevitch, 1999: chapter 5; Eltringham, 2006; Buckley-Zistel, 2009). The *genocidaires* utilized rhetoric surrounding the Hamitic hypothesis to frame Tutsis as invaders or immigrants who had unfairly exploited Hutu throughout history and were primed to do so again (Kellow and Steeves, 1998; Li, 2004; Eltringham, 2006 Buckley-Zistel 2009).

Other hypothesized contributory macro causes of the genocide include the structural pressure of the Arusha Accords which would afford the RPF (and thus, Tutsi) significant influence in government (Lemarchand, 1995; Newberry, 1995; Uvin, 2001), the particular way

history was interpreted and mobilized to foment ethnic division and outgroup hatred including through popular media and public education (Kellow and Steeves, 1998; Uvin, 2001; Li, 2004), historical cycles of ethnic violence and reprisals oscillating between perpetration by Tutsi/Hutu against their counterpart (Lemarchand, 1998; Uvin, 2001), the reification of ethnic categories by colonial usurpers (Buckley-Zistel, 2009), the instrumentalization of ethnic divisions by elites (Uvin, 2001, contra Straus, 2004), and more (see Uvin, 2001 and Fletcher, 2007). Yet, these explanations predominantly explain the impetus for Hutus to kill Tutsi, but not why they would kill Batwa, or why Batwa would kill Tutsi *and/or* Hutu. To the extent that the Batwa are a part of this story, it is as an ancillary piece who were also incorporated into the Hamitic myth, but most of these accounts often fail to move beyond the inclusion of the Batwa in these discourses, i.e., they do not consider the plight of the Batwa during and after the genocide.

Micro-level explanations which explain why individual people decided to participate in the violence are no more helpful in locating the Batwa. Straus (2004) estimates there were between 175,000 and 210,000 perpetrators who fell into two groups: neighbors killing neighbors, and paramilitaries. How many of these perpetrators were Batwa? Why did those Batwa that participated perpetrate violence against Hutu/Tutsi? How many participants in the genocide targeted Batwa, and why? The micro-level literature suggests several reasons for individual level decisions to participate in genocide, any of which may be instructive, but none of which are applied to Batwa participation or victimhood.⁴⁴

⁴⁴ These include in-group policing which caused people to fear for their lives if they did not participate in the violence (Bhavnani, 2006; Fletcher, 2007), rote obedience to the media (Kellow and Steeves, 1998), media framing of a friend-enemy distinction (Kellow and Steeves, 1998; Li 2004), and social ties (Fujii, 2008), among others.

Who died during the genocide? Academic and intergovernmental/government reports usually only account for Tutsi, and sometimes, Hutu deaths (see *Table I*). Many estimates and/or estimation strategies explicitly exclude the Batwa as a category, in some cases lumping them in with Hutu deaths for methodological, rather than theoretical reasons (perhaps unintentionally suggesting that Batwa were predominantly perpetrators of genocidal violence).

Table 3. Estimates of Deaths in Rwandan Genocide

Source	Tutsi	Hutu	Batwa	Total
Verpoorten (2020)	562,000-662,000	~ ¹	N/A	
McDoom (2020)	491,000-522,000	N/A	N/A	
Armstrong, Davenport, and Stam (2020)	500,000-687,000	N/A	N/A	
Tissot (2020)	600,000	N/A	N/A	
Verpoorten (2005)	600,000-800,000	N/A	N/A	
Des Forges (1999)	500,000	25,000-60,000 ²	N/A	
Prunier (1997)	800,000	N/A	N/A	
Reyntjens (1997)	N/A	N/A	N/A	1,050,000-1,150,000 'disappearances' ³
Gersony (1994)	N/A	25,000-45,000	N/A	
UNPO (1995)	N/A	N/A	~10,000	
United Nations (1994)	N/A	N/A	N/A	500,000

1. From April 1994 to 1997 Verpoorten 'guesimates' 542,000 Hutu deaths, with a significant amount happening in 1996.

2. via Gersony report (cited above) and Seth Sendasoga, a former member of the RPF who estimated the RPF killed 60,000 Hutu. See Des Forges (1999: 13).

3. In Verpoorten (2005: 333).

Even deeper, there is very little literature directly analyzing the fate of the Batwa post-genocide, and most of this literature focuses on the possibility of political organization among the Batwa, differences in Batwa outcomes in Rwanda and Burundi, Rwandan laws which have made political advocacy along 'ethnic' lines illegal, and Batwa perspectives on post-conflict nation-building (Thomson, 2009; Vandeginste, 2014; Laws et al., 2019). This is important

because the Batwa represent a group of 30,000-40,000 individuals in Rwanda⁴⁵ who are oppressed and who died in significant numbers during the genocide, whose position of marginality was culturally produced just as the social and cultural positions of the Hutu and Tutsi throughout history have been (Taylor, 2005 & 2011), and for scholars of the Hutu-Tutsi divide, because the post-genocide treatment of the Batwa, especially in the construction of a new Rwandan political subject, can shed light on how Rwanda has dealt with that particular rift (Laws et al., 2019).

Only outside the academic literature can we find how the Batwa fared (in terms of survival and participation) during the genocide. After the genocide, it was unclear how many Batwa had survived in Rwanda, with some fearing that as many as 70 percent had been killed (UNPO, 1995: 5). In the post-genocide environment, international organizations were focused on the rift between the Hutu and Tutsi: the Batwa were little more than a footnote in understanding and addressing the post-conflict environment (and in research, see characterizations in Lewis, 2006; Thomson, 2009: 313-314; Taylor, 2005: 213, 215; Taylor, 2011: 186; Vandeginste, 2014: 4; Jessee, 2017: 215-236; Laws et al., 2019: 127). At the request of Charles Uwiragiye, Executive Secretary of the Association pour la Promotion des Batwa (APB) and the APB itself (a precursor to CUARWA/COPORWA), the UNPO conducted a mission both to determine how the 29,000 Batwa in Rwanda had been affected, and to facilitate APB meetings with aid organizations (UNPO, 1995: 5). During that trip, it became clear just how precarious recognition of the Batwa's very existence was:

“The UNPO mission spoke with a considerable number of representatives of international organizations and UN agencies active in Rwanda as well as in the refugee camps ... The result of this part of the investigation of the UNPO was disappointing. Only some organizations were at all aware of the existence of the Batwa” (1995: 31).

⁴⁵ Approximately .3% of the population.

The UNPO estimated that during the genocide, one third of the Rwandan Batwa were killed, and one-third fled the country, leaving 10,000-12,000 in total (23). During the genocide, many Batwa were targeted as “friends of the Batutsi” (19). Many Batwa were saved during the genocide by the RPF, although some were also killed by RPF fighters (20).

Some Batwa also participated in the killings. The UNPO report finds that “(it was) only in exceptional cases (that the) Batwa willingly sided with the Interahamwe. More often, Batwa were forced to kill Batutsi, under the threat to be killed themselves if they did not co-operate” (1995: 21; also see Lewis, 2000: 23 & 2006: 8-12; Thomson, 2018: 7-8).

In the wake of this tragedy the UNPO noted that the new Rwandan government was “engaged in a sincere and ambitious program to reconstruct and develop the country” (1995: 34) and that the government “agreed that the Batwa community forms one of the more vulnerable groups in Rwanda” (35). The UNPO discussed several possible projects with government representatives, finding that “the government came up with creative and substantial proposals to assist the Batwa in different fields” (35). Thus, there remained some hope that even after a mass genocide that included the deaths of many thousand Batwa, at least their needs could be responded to by the Rwandan government.

Were these hopes answered? While I have already implied that in many important ways they were not, the next section outlines the contemporary situation of the Rwandan Batwa.

Batwa since the Genocide

The socio-political and economic situation of the Batwa has, in many ways, not lived up to the hopes set out by the post-genocide Rwandan government to UNPO representatives. Economic displacement and marginalization, especially through the changing of domestic law to prevent effective mobilization of Batwa qua Batwa in response to government policy, has had a

deleterious impact on Rwandan Batwa communities post-genocide. Despite the hope of relief, including recognition by international aid organizations and the government itself, the Batwa remain marginalized within Rwanda. Government policies meant to curb ethnic antagonism between Tutsi and Hutu populations have only served to harm the Batwa, and very few displaced person and refugee camps instituted policies to specifically help them (UNPO, 1995; Thomson, 2009; Vandeginste, 2014). Their position within Rwandan society is precarious even now: a 2015 UNPO submission for the UN Universal Periodic Review (UPR) process notes that “as a consequence of land grabbing, many Batwa have been forced into slavery-like conditions working the land of other Rwandans in exchange for food or begging to make a living” (2015: 4). Three key issues exacerbating these problems repeat themselves within UNPO reports: the Batwa cannot legally identify as a group, they have been displaced from their homes and homeland, and they have been denied substantive political representation at every level of government.

Since 2001, any speech which could be construed as fomenting ethnic identity and division could result in punishment for ‘sectarianism,’ which carries a penalty of up to two years in prison. The Constitution also calls for the eradication of ‘divisionism’ and ‘discrimination’ based on ethnicity, and the duty to promote a ‘national culture’ (Chapter 3: Article 10; Chapter 4: Article 36; see also Adamczyk, 2011: 176; Vandeginste, 2014: 7-9). Laws strengthening this ‘sectarianism/genocide ideology’ frame were passed in 2003 and 2008 (Jansen, 2014). An Amnesty International Report (2010) notes that in 2008 there were 749 cases related to these laws, and 435 in 2009 with nearly 1/3rd of all cases resulting in acquittal, but with defendants being detained in the pre-trial process. In 2013 the 2008 Law on Genocide Ideology was revised to include the *intent* to perpetrate genocide as essential to making ‘sectarian’ statements

justiciable (Mukamana, 2020: 13), however, it is not clear how much difference this change has resulted in (Parmar, 2017; Mukamana, 2020: 19-24).

Adamczyk notes that “existing laws restricting the use of identity labels and the official consent on history are well known at the grassroots” (2011: 185). One purpose of these laws is to enforce the propagation of the ‘unity narrative’ – that all Rwandan’s share a common origin and have historically benefited from cooperation – in the hopes that this will prevent similar divisions to that which resulted in the Rwandan Genocide (Adamczyk, 2011: 176-180; Laws et al., 2019). However, these narratives are primarily oriented toward ameliorating the rift between Hutu and Tutsi and serve to render the Batwa ‘invisible’ (Adamczyk, 2011: 180; Laws et al., 2019). The confluence of these policies and advocacy groups related to the Batwa led to the notable incident between the Rwandan government and the Communauté des Autochtones du Rwanda (CAURWA) described in the introduction (Boiko, 2008: 8:20-12:46).

The Rwandan government has developed an institutional language for referring to Batwa, without referring to ‘the Batwa’ as a cultural group. The most common term is ‘historically marginalized peoples’ (HMP). The use of this term as a stand in for the Batwa is especially apparent when considering how Rwanda has addressed the issue of displacement of the Batwa from their homes to the United Nations, as shown in COPORWA stakeholder submissions to the UPR process. In reporting to, first, the Committee on the Elimination of Racial Discrimination, and second, the UPR process, the government made note of their efforts to provide housing to the Batwa (as noted within UNPO UPR reports):

“In the 8th-12th Periodic Report submitted to the Committee in 1999, Part V.E. Para 3:

‘Special measures have been taken on behalf of the minority Twa⁴⁶ people, who until recently lived in cramped and rudimentary huts. As part of a general aid for the poor, the Government is providing them with subsidies to improve their living environment, notably through supplies of corrugated iron sheeting’.

In Para 2220 of the 13th-17th Periodic report submitted in 2010, *the exact same wording us employed aside from the new non-ethnically aligned terminology of Historically Marginalised Peoples used to describe the Batwa:*

‘Special measures have been taken on behalf of the HMP, who until recently lived in cramped and rudimentary huts. As part of general aid on behalf of the poor, the GoR is providing them with subsidies to improve their living environment, notably through supplies of iron corrugated sheetings’.” (2011: 18, emphasis mine).

The UNPO report goes on to note that “the reiteration of this phrase word for word in two documents submitted more than 10 years apart suggests woeful neglect of the situation of the Batwa” (2011: 18). As further evidence, the UNPO points out that an unpublished government report from 2009 estimates that there are approximately “25,000-30,000” ‘historically marginalized peoples,’ the same estimate typically made of the total Batwa population in Rwanda (7-8). Elsewhere, the Rwandan officials use other terminology, including ‘*Abahejewe inyuma n’amateka*’ – ‘those who are left behind by history’ (Adamczyk, 2011: 185; Ndaruhutse et al., 2013).

This lack of legal recognition means that the Batwa have increased barriers to advocating for themselves qua Batwa, it is more difficult to specifically tailor government programs to their needs, and it increases the difficulty of systematically analyzing discrimination because populations can’t be identified by ‘ethnic identity.’ This resulted in the UN through the UPR process giving the recommendation that Rwanda “improve access by minority groups and indigenous people to basic social services” (UN HRC, 2011: 19; Vandeginste, 2014: 9).

⁴⁶ See footnote 38, page 76.

Vandeginste (2014) notes that “Rwanda considered this recommendation as either not applicable or irrelevant” (9).

Beyond their inability to be recognized *as* Batwa, displacement from their historical homes is a major issue. This displacement is the converging of several processes including civil conflict, national development projects, and laws regulating land use. The politics of displacement converges with environmental politics and sustainability projects: to preserve the habitats of Mountain Gorillas and other endangered species, to create UNESCO heritage sites, and to preserve/increase tourism revenue which comes from these natural ‘resources,’ the Batwa have been displaced from their traditional homes across the Great Lakes region.

Displacement is not only from ancestral territory, but also from actual, physical homes. The UNPO’s 1995 report notes that even before the genocide, Batwa lived in “substandard” housing. The genocide resulted in the destruction of many Batwa homes. Those individuals who survived often had nothing to return to and were not beneficiaries of land redistribution for returning refugees and displaced persons. The Batwa’s ability to access their traditional homeland and resources was further eroded by the 2005 National Land Law which “gave far-reaching powers to the Government to confiscate lands that were allegedly “unused” or “abandoned” – including the forests and wetlands the Batwa depended upon for hunting, agriculture or gathering clay” (UNPO, 2015: 3). Examples of the homes which many Batwa reside in can be seen in ‘*Figure 2.*’ And while many of these homes are built in an ancestral style and may be preferred by some Batwa people, the lack of access to important resources (such as healthcare and education – despite government efforts to provide universal education and access to healthcare) – is a very real problem.

Figure 2. Images of Batwa housing used in UNPO reporting (2012)



Image I Batwa housing, lower slopes of Muhabura volcano, December 4 2010



Image II House for Batwa family of 6. Lower slopes of Muhaburu volcano. December 4 2010

The Batwa continue to be displaced, and the national government has done little to provide economic relief. As of 2015 the Batwa are predominately rural, have no cultivatable land, and thus the majority likely live on less than \$200 USD a year (UNPO, 2015: 4).

The Batwa legally cannot advocate for themselves as Batwa, nor do they have access to their traditional homelands (and in many cases, physical homes). Their extreme poverty means they lack healthcare, they are broadly discriminated against in society, and have limited access to education. These inequalities are further compounded by their lack of electoral representation. While the Constitution of Rwanda designates 8 seats in the Senate to ‘historically marginalized peoples’ (Subsection 3, Article 80; see also UNPO, 1995: 14), the Rwandan Batwa have few elected representatives at any level of government (Vandeginste, 2014: 8), and “active participation in Rwanda’s political life is currently inconceivable for many Batwa” (UNPO, 2015: 7).

Batwa in Rwanda are not being killed by the state, but their ability to discursively represent themselves, and thus many avenues for self-advocacy within Rwanda are foreclosed. Whether intentional or not, whether a tradeoff for some other goal or not, this has very real effects on their community. The next section turns to the construction of the modern Rwandan

subject, and how Batwa are rendered discursively exterior to what it means to be Rwandan in state discourses.

Construction of the Rwandan Subject

This aspiration to be Rwandan is one of the primary goals of the National Unity and Reconciliation Commission (NURC); as they put it in their *National Policy of Unity and Reconciliation* (2020), their goal is:

“1. To promote the spirit of Rwandan identity and giving precedence to national interests, instead of ethnicity, blood relations, gender, religions, region of origin, and others” (8),

Which includes fighting “against all forms of divisionism and genocide ideology” (11) and promoting “a Rwandan Identity (Ubunyarwanda) rather than ethnicity, and have a Nation where every citizen has equal rights” (27). This has culminated in an undertaking by NURC and its sponsored scholars to construct a massive *History of Rwanda: From the Beginning to the End of the Twentieth Century* (Byanafashe and Rutayisire, 2016). My interest here is in the political mobilization of history in constructing a new Rwandan subjectivity which does away with the ‘danger’ inherent in old subjectivities rather than any critique of the historical accuracy of Byanafashe and Rutayisire, which is wide-ranging and well-researched.

Education

Construction of cultural identity is reinforced through the various institutions of knowledge transmission, in Rwanda this includes schools, museums, *gacaca* courts, *ingando* reeducation camps, and more. All of these underpin the same discourse of the ‘Ubunyarwanda’ citizen, i.e., the stabilization of a universal concept of what it means to be Rwandan, and a security regime that involves the discursive underrepresentation of Batwa.

These institutions have been highly tailored toward emphasizing exclusively Tutsi victimization (as they represent the most numerous and most systematically targeted of the

victims), and all institutions are directed toward excising ethnic identity from the everyday life of Rwandans. This is transmitted through reference to a precolonial past which emphasizes a sense of what ‘being Rwandan’ is, and who the victims/perpetrators of the genocide were (Pottier 2002: 12-14, chapter 3). We have discussed this with specific reference to COPORWA, that the current regime of history production and enforcement – the current regime of producing ‘good’ citizens – may lead to the extinction of the Batwa not just as a cultural group, but as a group which can be discursively represented in Rwanda.

Thomson (2013) details a different manifestation of this politics of representation, the placement of the Batwa viz. the genocide itself. She tells the story of a Batwa man seeking to go to one of the *ingando* reeducation camps (76):

“I wanted to go to *ingando* (reeducation camp) but was told I couldn’t because I was a Twa in 1994. (The official) said, “You don’t need reeducation because you are not part of the genocide. Your people did not kill or get killed.” I was so angry with him. I lost my (Twa) mother and sister, and I even hid some Tutsi in my home. I asked my wife to go out during the killing and get food for us. I couldn’t go myself. I was too scared. But I knew they wouldn’t even look at an old Twa woman. Those Tutsi we saved don’t even speak to me when they see me now. And I saved their lives! As soon as he (the official) said that (I don’t need reeducation), I slammed my fist on the table like this (*gestures*). He looked at me, and I knew I had done a wrong thing. He called some people, and I spent the next week in prison. Now I just keep to myself and try not to cause any trouble.”

Théogène’s story illustrates how this construction of cultural identity is further reinforced through legal sanctions – more broadly, sowing ‘ethnic divisionism,’ ‘genocide ideology,’ or ‘genocide denial’ could result in prison time (Thomson, 2013: 51 & 2018: 181-193). The very mechanisms meant to prevent ethnic violence and genocide *also* result in the erasure of Batwa suffering and their ongoing repression. Thomson asserts that dual narratives of ‘genocide’ and ‘history’ act as the government’s primary tools to achieve ‘unity and reconciliation’ (2013: 79). This inscription of discourses into the cultural consciousness of the nation acts to flatten

narratives of both, remake the identity of Rwanda's citizens, and reinforce the legitimacy of government rule.

Mobilizing history in such a way as to develop a particular sense of being Rwandan, as many have argued, prevents certain kinds of conversation around the genocide and reconciliation, echoing Mälksoo's (2015) warning that:

“in a situation where several European jurisdictions as well as case law by the European Court of Human Rights have established the criminalization of Holocaust denial or defence as an important exception to the freedom to debate the past ... competitive quests to apply the same delimiting standards to remembering other cases of genocide or crimes against humanity (e.g. the crimes of the totalitarian communist regimes), or simply to cases of ‘ontological security significance’ (such as the remembrance of WWII as defined by the current Russian regime), are bound to occur, with potentially detrimental consequences for both transitional justice in the countries under question and academic freedom and freedom of speech in general” (233).

It also has developed a peculiar form of marginality that the Batwa specifically inhabit within Rwanda – i.e., they are a liminal subject who, by way of their very existence, are undermining to the universal identity the government of Rwanda hopes to instantiate (that is to say, that their existence illuminates an aporia in this Rwandan national identity). With mobilizing to change this history being rhetorically impossible within Rwanda (because it is illegal) there are limited possible spaces of emergence for people with these forms of marginality to advocate for themselves.

Attempts at nation-building are not isolated to the realms of law, politics, or economic development, but can also be seen in public education and the arts. Buckley-Zistel (2009) examines the dissemination of the Rwandan state historical narrative via *ingandos*, a ‘civic education camp’ for former combatants and participants in the genocide, the intellectually disabled, university faculty and staff, and genocide survivors (43). The *ingandos* were particularly important for the transmission of official state history because the federal

government installed a moratorium on the teaching of history in schools; although many Rwandan teachers still taught history, some with textbooks which included the kind of ethnic antagonism that preceded the genocide (42-43). The curriculum of the *ingandos* focuses on five themes: ‘analysis of Rwanda’s problems; the history of Rwanda; political and socio-economic issues in Rwanda and Africa; rights, obligations, and duties; and, leadership’ (43). Buckley-Zistel argues that the effects of the moratorium on general education, the curriculum of the *ingandos*, and state laws regulating acceptable speech about the genocide result in ‘narrative closure’ where ‘alternative explanations’ of the origins of the genocide and the roles of its various players are closed off, ‘masking the monopoly by Tutsi military and political power’ (47). The article itself does not focus on the Batwa, but a quote selection by Buckley-Zistel from the Office of the President of Rwanda shows that the government is indeed concerned with how to embed the Batwa within this regime of history production:

“...Ethnic mututsi keeps considering himself as a Tutsi, and sees a muhutu as an enemy; and the ethnic muhutu sees himself as a Hutu first and perceives a Tutsi as an enemy, while the mutwa always sees himself as the dregs of society. Thus, these different ethnic components cannot have a common ideal which would help them to move forward together, and could not detect a common enemy from abroad aiming to divide them and fellow Rwandan who could harm them in a bid to satisfy his own needs, by building an “akazu” (kin-centered management system) in public administration, in the economy or the educational system” (33).

In effect, the government line is that ethnic categories have nothing to offer Rwandan society. Tutsi and Hutu – in this narrative – are constructions that include essential antagonism with their opposite, while the Batwa are undeveloped and defeated. We can see then, why Buckley-Zistel concludes that the policies don’t generate unity, and instead result in continued distrust (47-48).

Effects

We can see that there has been a concerted effort at propagating a ‘unity’ narrative which enforces assimilation to a particular version of what it means to be a Rwandan citizen. Other

institutions exist for the promulgation of this narrative, and this particular version of citizenship, including the *gacaca* courts and *abunzi* mediators (Thomson, 2013: 107-126 & 2018: 198; Corey and Joireman, 2004). This unity narrative has the effect of universalizing a particular notion of what it means to be a Rwandan citizen, which marginalizes the Batwa at several levels. In effect, the Batwa are marginalized because they legally cannot advocate for themselves *as Batwa*, and they are further marginalized by the promulgation of a notion of citizenship which devalues/ignores their community because that identity is intimately associated with underdevelopment and being in the ‘dregs of society.’ Put more simply, the Rwandan government promotes a universal Rwandan identity which explicitly excludes any reference to multiculturalism and/or pluralism. Redefining citizenship in this way is an ontological investment which dictates the bounds of political community, political discourse, and history, in such a way as to paper over particular forms of identity and affiliation.

The Rwandan government has not completely rested on its laurels in meeting the needs many Batwa citizens have – indeed, it has made progress in providing access to education, housing, and medical insurance (but all of these successes have important caveats (ACHR, 2010: 19) – but its strategy of obscure any view of ‘ethnic identity’ for fear of ‘divisionism’ or the propagation of ‘genocide rhetoric’ means that the Batwa must turn to institutions other than the Rwandan government to address the root sources of many challenges they face (even while coordinating with the government on others – such as getting universal education and access to healthcare). This has involved COPORWA engaging in advocacy in regional (the African Commission on Human Rights), and intergovernmental (the United Nations) organizations. But they have also found a space within the Unrepresented Nations and Peoples Organization (UNPO) along with other peoples who are similarly marginalized, and who are similarly seeking

a right to self-determination – or, perhaps less controversially stated – some semblance of cultural recognition and autonomy.

Emergence

Figure 3. The acronym 'CAURWA' changed to 'COPORWA' on a COPORWA office sign (screenshot of Boiko, 2008: 22:58).



We return now to the politics of genocide and the construction of a Rwandan national subject by returning to Zephyrin Kalimba's statement that "what I can ask from the government or international community, or religious community, or all developed countries is to prevent the Batwa from becoming extinct" (Boiko 2008: 21:44-21:53). The possibility of 'extinction' is both blunt and powerful, and the processes which lead to such extreme marginalization is both discursively and materially represented within Rwandan Batwa advocacy. To be clear, this extinction does not entail physical violence, but rather the ability of Batwa to exist *as* Batwa.

Figure 3 provides a physical example to illustrate this point: in *Figure 3* we see a sign that once said 'CAURWA,' but with the application of some thin white paint and black lettering,

now says COPORWA. There is, of course, a story behind this transition with the sign being a material representation of an ongoing political project in Rwanda: the development of a broad sense of ‘Rwandan’ identity – a specific Rwandan identity meant to inculcate unity and reconciliation – and the concomitant marginalization of groups who need ‘ethnic’ or ‘cultural’ identity as a reference to advocate for their rights as themselves.

The Batwa first joined the UNPO under the ambit of a predecessor organization to COPORWA, the APB (Association pour la Promotion des Batwa) which later merged with another advocacy organization, CAURWA (Communiqué des Autochtones du Rwanda) and continued to represent the Batwa under the name of CAURWA. However, as Adamczyk (2011) shows, CAURWA’s 2004-2005 attempt to reapply for legal status with the Rwandan Ministry of Justice to obtain “tax exemptions and funding by international donors” (182) was frustrated due to Rwanda’s specific politics of identity. Because of their use of the term ‘Autochthons’ their application was denied because it “was seen as focusing on one part of the population, sharply distinguishable from the rest of Rwandans” (182). To maintain their legal status, CAURWA changed its name to the ‘Communauté des Potiers du Rwanda’ – the Community of Rwandan Potters (COPORWA) (183). This event is mentioned in both the UNPO’s 2011 and 2015 UPR reports as an example of the government denying the ability of Batwa to identify and advocate on behalf of themselves as a group (UNPO, 2012: 6-8; UNPO 2015, 6; Boiko, 2008: 12:46-13:59). So, when we look at this sign and see the thin, white paint covering the ‘A’ and ‘U’ in CAURWA and replacing them with the black-inked ‘OPO,’ we are seeing the material after-effects of this policy, and the regime of representation Rwanda has chosen for its citizens.

This sign is a material manifestation of a discursive and political debate: the meaning of the terms ‘autochthones’ and ‘Batwa’ (or ‘Abatwa’, ‘Twa’, ‘Mutwa’, and more) in post-genocide

Rwanda. This debate over terminology intersects with the needs of the Batwa themselves, and the erasure and assertion captured here is not simply a crystallization of semantics, but of political possibilities within state-sanctioned discourses. Accounting for Kalimba and COPORWA's embeddedness within the UNPO, we can see that Kalimba's plea resonates beyond the contraction in Batwa population, beyond the difficulty in asserting Batwa identity within Rwanda, to the inadequacy and failure of international institutions to respond to local crises and violations of 'human rights,' and a call toward both a local and international renegotiation of ethical responsibility (not to assert that these things are singularly important, but to situate this claim viz. international politics).

So how have the Batwa, through COPORWA, contended with these regimes? As noted earlier, within security discourses certain identities can become enabled – even reified as universal – and their alternatives foreclosed through discursive and juridical structures. When this happens, actors may need to search for forums in which they can contend with the issues that face them *in the language that best describes their marginality*, even if doing so represents a threat to the ontological security of the state. We can see this in the official COPORWA line tells the story of adapting to this discursive landscape where certain assertions of identity were outlawed:

“Caurwa was confronted with a big problem on governmental side: They refused to recognize the potters' community as the indigenous group of Rwanda by saying this could create an ethnical ideology and divisionism, which had led to the genocide against the Tutsis in 1994. Not to stop or suspend the activities in favour of the vulnerable potters' community of Rwanda, Caurwa and the government agreed on the new denomination based on the profession of the community: pottery. Caurwa (Community of the Rwandese Autochthons) became COPORWA (Rwandese Community of Potters) and became officially incorporated (AM No. 71/11). *In addition COPORWA became observer at the African Commission on Human and People's rights in March 2008*” (COPORWA, emphasis mine).

As we have seen pointed out by Adamczyk (2011), there is a broad understanding by grassroots organizations that advocacy must conform to canonical state history (185). However, COPORWA continues its work. In adapting to government language games domestically, they have been able to gain access to certain international institutions via the Rwandan government, and achieve some domestic gains, however, Batwa advocacy in the UNPO demonstrates that this necessity leaves much to be desired and illustrates that Batwa leaders are *not* content to acquiesce to the structural imperative that they devalue their identity as Batwa.

These domestic political dynamics help explain COPORWA's presence at the UNPO. The UNPO is an organization that gives them professional resources for making claims through human rights monitoring mechanisms like the Universal Periodic Review, and it has filled in the gaps when the international community failed to respond to Batwa suffering immediately after the Rwandan genocide.

Through the UNPO, COPORWA continues to advance three primary demands: first, government recognition of their peoplehood; second, the enacting of policies specific to their suffering; and finally, meaningful political representation of the Batwa. The latter two demands are impossible without recognition of the Batwa as a people within Rwanda, a recognition which – it has been noted – would not preclude the Batwa from being 'Rwandan' (UNPO, 2012: 5).

That the deep and multi-facet erasure of Batwa identity resulting from this regime has made many Batwa 'feel that they are not citizens' or that "active participation in Rwanda's political life is currently inconceivable for many *Batwa*" (UNPO, 2015: 7, emphasis mine) has been directly reported to the United Nations through multiple rounds of UPR reporting. In turn, many countries in the working group for the Rwandan UPR report have, in the past, recommended that measures be taken specifically to assist *the Batwa*. These include: Albania,

Chile, Congo, Haiti, Mexico, and Spain in the 2015 round of UPR reporting (HRC, 2015). In this same report, the Rwandan government responded to these concerns that:

“The Batwa were Rwandans, as were all other ethnic groups in Rwanda. *Rwanda had decided that the nationality of “Rwandan” was more important than having narrowly defined ethnic groups.* Issues relating to child labour, child trafficking and the quality of education for children were all high priorities for the Government and would be addressed” (10, emphasis mine).

Similar recommendations were made in the 2012 round of reporting by Chile and Spain (HRC, 2011a), with Spain calling for the adoption of: “concrete measures to avoid discrimination and protect the rights of the peoples of the Batwa community and other minorities as well as request technical assistance from the United Nations to identify their basic social needs” (HRC, 2011b: 3). Stakeholders have also raised their concerns for the 2021 report, with the *African Commission on Human and People’s Rights* continuing to raise the concern that: “the post-genocide approach to ethnicity could impact negatively on indigenous groups such as the Batwa,” and other groups continuing to raise concerns about displacement, political representation, civil and human rights, public health, and education as they relate to the Batwa (HRC, 2020). This seems far from Rwanda’s contention in the 2012 round of reporting that “The question of the Batwa has been aggressively addressed, and it was expected that by 2020 they would be at parity with all other Rwandans” (2011b: 5).

These reports paint a picture of a people facing marginalization, and an international community with human rights reporting mechanisms that have seemingly little effect when state parties are unwilling to adopt UPR recommendations. This, of course, ignores that any submission to an international organization requires a certain level of *specific* technical expertise and institutional knowledge – something which all groups may not have – as well as political players in the United Nations whose recommendations may be another way of hierarchizing

states, etc. But my aim here is to point out that UPR reporting has seemingly had, at best, limited positive impact for the Rwandan Batwa despite the degree of effort to access the institution. However, it also points to the fact that international forums *are* a place in which the Batwa community can make demands *as* Batwa, rather than conforming to government language games.

Shifting ‘down a level’ from an ‘international’ organization like the United Nations, to a more ‘regional’ organization like the *African Commission on Human and People’s Rights*, we can see that they, too, have identified similar issues which have not been rectified (again, by coordinating with COPORWA). During a mission to Rwanda, representatives of the African Commission discussed the marginalization of the Batwa with several stakeholders (AC, 2010).

The African Commission Report finds that Rwanda has instituted some policies which have increased the quality of certain aspects of Batwa life. These include access to education (although we have noted some caveats above), housing (again, we have noted the shortcomings of this program above), and medical insurance (2010: 19). However, they also found that the quality of resource allocation varied by province, Rwanda had not ratified ILO Convention 169 Convention on Indigenous and Tribal Peoples, had not constructed schools near many Batwa communities, most had lost access to ancestral lands without compensation, literacy levels among the Batwa were far below the national average, and begging was the main source of income for 40% of Batwa (19-30).

The challenges of gaining recognition for the indigenous status of the Batwa becomes apparent even at the outset of the mission when the commission was informed that:

“Regarding the situation of indigenous populations, *the mission was informed that there is no indigenous population in Rwanda* and that all the communities in Rwanda share the same territory, the same culture and the same language, despite attempts by the former colonial masters to divide them into ethnic groups” (32, emphasis mine).

This point was further underscored by the Vice-Dean of the School of Law at the National University of Rwanda who “raised the concern that the concept of indigenous peoples could constitute a threat to the *security* and sovereignty of states” (33, emphasis mine). Despite the Rwandan’s state’s position viz. ethnic identity, Batwa people still face stigma in Rwandan society, with some people considering them “ignorant and uncivilized” and having ‘various taboos associated with the Batwa’ including that they shouldn’t even use utensils touched by Batwa (29).

To reiterate, for the purposes of this argument, what is important to note is that Batwa engagements with the UN and the *African Commission on Human and People’s Rights* are specifically framed in terms of Batwa identity. Their engagements with several international organizations, including the *United Nations*, is facilitated by their membership in the UNPO, a place where they can frame their struggles in terms of their identity, and mobilize and learn from other similarly marginalized communities. In effect, the UNPO makes possible certain rhetorical and political strategies which may not be available to populations in their domestic settings.

Conclusion

This argument has been twofold: first, it has illustrated the situation of the Batwa from the genocide till the recent (as-of-this-writing) day and pointed out that there is a scholarly gap in understanding the Rwandan genocide with respect to the Batwa; second, it has advanced an argument which shows how the Rwandan government’s attempt to inculcate a particular sense of what it means to be Rwandan has resulted in the discursive underrepresentation of the Batwa. These domestic processes explain the role of the UNPO as a space for emergence for them outside the narrow discursive-judicial institutions of the state.

Indeed, it is my assertion that we can understand the emergence of many nations and peoples within the UNPO as a result of similar regimes that place certain subjectivities under erasure – even if each of these emergences (as would be expected by the theory) are idiosyncratic. It is not, however, my contention that every population within the UNPO represents a threat to felt senses of security of the states in which they reside or originate, or that every population’s challenges come from domestic regimes that result in discursive underrepresentation.

There is still utility to this approach, however, as coming to understand *an* explanation (among many) of *how* and *why* groups arrive at the UNPO gives a foundation for learning what claims members make to the international community, and why some of those claims might be more/less efficacious than others. Again, my goal is not to provide *the theory* of emergence in the UNPO, or *the theory* of marginality in international politics, but rather to utilize theory to understand the contours of some empirical issues present in this organization, and the global political environment in which it (and the people in it) find themselves.

As David Campbell (2003) observes, if our social institutions and relationships are constituted by the “practices that bring it into being,” the collapsing of discursive openness within the state of Rwanda (and elsewhere) and systematic exclusions of nations and peoples from international forums is both partially constitutive of those institutions, and the experiences of affected peoples (Bleiker, Campbell and Hutchison, 2014:198). The UNPO is a space in which we see the emergence of some of these groups both within and outside of international organizations, institutions, and law.

CHAPTER 4: EMPLOYMENT OF PEOPLEHOOD IN INTERNATIONAL LAW

Introduction

UNPO Statement on Reimagining Self-Determination:

“The right to self-determination is perhaps the most misunderstood fundamental human right in part because it has not been sufficiently developed under international law.

This stands in stark contrast to other human rights, the body of law and jurisprudence around which has been greatly developed over the past 30 years. This causes the right to self-determination to operate more as a “political” than a legal right, fundamentally undermining basic guarantees of legal certainty underlying human rights law” (UNPO 2021).

Ian Hurd conceptualizes international law as a language of legitimation among states: “law is the language that states use to understand and explain their acts, goals, and desires, and is both internal and external to state interests” (Hurd 2017, 64). States use international law instrumentally, both to denounce international actors who do things they don’t like, and to justify their own actions. This instrumentality is an important dynamic of the ‘politics of international law’ (Koskenneimi 1990, 2009, 2011): the idea that international law relies “on essentially contested – political – principles to justify outcomes to international disputes” (Koskenneimi 1990, 7) and thus how law applies is always the outcome of political and social processes.⁴⁷ This

⁴⁷ For Koskenneimi this is because of the contrary goals of international law. On the one hand, it must be concrete – avoiding being merely a subjective extension of value – in order to be legitimate. On the other, it must also have a quality of ‘normativity’ – applying universally, even when states oppose the application. This creates a double bind and the juridical justifications satisfying each condition (concreteness and normativity) are incommensurable. Should a rule be interpreted in terms of concreteness, i.e., how closely it aligns to state behavior’ (to be non-subjective), this then makes the concept political, i.e. the closer to state practice a rule is, the less it can be said to be (a) universal, and (b) constraining – instead law becomes interpreted/interpretable as a tool of the powerful. At the same time, should it meet the conditions of normativity it should demonstrate that in some way it ‘deviates from state will or

lack of stability in meaning is why Leah Carmichael asks “is international law even law?” (2021) – and why international law can be a difficult tool for marginalized people(s) to utilize in challenging state policies.

Self-determination is one of the rights particularly impacted by the structural constraints of international law. The Unrepresented Nations and Peoples Organization (UNPO) claims as a core aspect of its mission to “empower the voices of unrepresented and marginalized peoples worldwide and to protect their rights to self-determination” (UNPO 2021). But just how would one go about asserting their right to self-determination within a system of laws composed of ‘essentially contested principles’ which are instrumentalized by states? This question cannot be answered without first knowing two challenges of claiming a repressed right of self-determination. First, self-determination is a right which international legal instruments reserve to ‘peoples’, yet “the concept of peoplehood is famously undefined in international law” (Summers 2014, 7; see also Makkonen 2000, esp. pp. 76); and second, there is no universally recognized framework for how *a* marginalized people⁴⁸ can make a legitimate claim to self-determination. This chapter will address the first of these challenges in detail and answer the questions “how do un(der)represented people(s) in the UNPO present themselves as people [i.e. a legitimate subject] before the law?”

practice,’ i.e., it should constrain states from taking immoral actions which might otherwise serve their interests. But, demonstrating normativity implies subjectivity – a value position has been taken – and thus the application of the rule seems “utopian and – like theories of natural justice – manipulable at will” (1990, 8). There is no escape from politics in international law. This problem is so entrenched – in this account – that much rulemaking avoids the creation of actual rules (do/don’t do ‘x’) but instead law becomes a series of ‘procedural frameworks’ where “there are no determining legal standards” (*ibid.* 28).

⁴⁸ Here I mean this in the sense of an abstract group of marginalized people, as there are specific cases where the right to self-determination has been recognized, e.g. UN non self-governing territories.

The primary argument of this chapter will be that un(der)represented peoples in the UNPO attempt to overcome the first hurdle by stabilizing their status as a recognizable subject (a people) before the law through a standardized narrative structure which imposes certain political tradeoffs on members. Furthermore, I will argue that their strategy is a specific response to the political and aporetic nature of international law described by Carmichael, Hurd, Koskenniemi, and many others (including the UNPO itself, as seen above). Understanding this point within the context of the UNPO is critical because it illustrates a side of ‘the politics of international law’ which is not often seen, that of marginalized people who go discursively and/or institutionally un(der)represented in or by the states in which they live or originate. Consequentially, the hurdles involved in acquiring recognition of legal status and self-determination illustrate a shortcoming of international law – that ultimately it is a law of and for states rather than humanity as-such.

This chapter is structured as follows: the first section details a basic narrative theory framework as a method for understanding *how* members of the UNPO might make claims to peoplehood, and what consequences the narrative structure of these claims might impose. Section two illustrates the development of strategies of self-representation in the UNPO through early (internal) reports on self-determination and demonstrates that *how* to make a claim to peoplehood is a major concern of the organization. The third section shows that the standardized structure developed in the early days of the UNPO has carried through into submissions to the United Nations Universal Periodic Review Process (UPR). The fourth section goes into detail about the constraints of this approach, specifically that it can give the appearance of instrumentality and exclusion by the very peoples claiming marginalization – but shows that alternative methods of self-representation would come with their own challenges. Finally, the

conclusion reflects on the political nature of international law and bridges the argument into the final chapter.

Narrative Theory

One way members of the UNPO represent themselves as people before the law through is through text, and within these texts we can locate certain political tensions which are tradeoffs of the mode of self-representation members of the UNPO have adopted. These self-representations are essentially histories: facts ordered in a manner that is interpretable through narrative structure. That histories require narrative scaffolding to be histories, rather than disconnected facts,⁴⁹ is an observation that is prominently theorized by Hayden White in his *Metahistory: The Historical Imagination in Nineteenth Century Europe* (1973). White's major argument was that histories are "a verbal structure in the form of a narrative prose discourse" whose component narrative parts allow historians to explain "what was *really* happening" (ix-x). One implication of this is that there is "silent, non-empirical content" brought to historical accounts "by virtue of their narrative structure," i.e., the way 'authors' connect facts smuggles in ideological content, and this is true of *all* narratives (Babik 2016, 77; see also Wynter 2006; Suganami 2008, 328; Mignolo and Walsh 2018).

White's theoretical system helps bring this 'nonempirical content' (Babik 2018, 8) to the fore through three main lenses, what White calls explanations by formal argument, emplotment,

⁴⁹ See Babik (2008): "empirical reality is unintelligible unless narrativized" (9).

and ideological implication.⁵⁰ For the purposes of this chapter, I will focus on explanations by emplotment, and explanations by formal argument.⁵¹

Explanations by emplotment involve “providing the “meaning” of a story by identifying the *kind of story* that has been told” (White 1973, 7).⁵² In White’s system, emplotment functions

⁵⁰ However, I would be remiss to not include a basic explanation of the last element. The last element of White’s taxonomy is argument by ideological implication. This aspect of histories involves the ‘ethical element’ including the (moral) lessons we can draw from past events for our present and future (1973, 22). Derived from Mannheim, White argues that there are four basic ideological positions for Victorian-era historical works: anarchism, conservatism, radicalism, and liberalism (22-27). Anarchists emphasize ‘structural transformations’ which ‘abolish society’ in favor of ‘communities of individuals held together by a shared sense of common humanity’ (24). Conservatives tend not to favor change, viewing only very slow, non-evolutionary change as beneficial (24). Radicals are in favor of deep transformations which ‘reconstitute society on new bases’ (24). Liberals tend to view social change through “the analogy of adjustments, or “finetunings,” of a mechanism” (24). The important thing to note here, is that White is arguing that the ideological content of historical accounts emphasizes the desirability of certain kinds of change (or, in the case of conservatism, change writ large) as a lesson ‘for our time.’ In particular, I omit this aspect of his taxonomy for two reasons: first, because it is the most historically (and contextually) contingent of the frameworks, and second, because to the extent that it is in operation, it is most prominent from a macro perspective as an implicit commentary by the UNPO of the international community of state’s failure to live up to their obligations under international law. This is *less* prominent in their accounts of themselves *as people(s)* and more prevalent in what they do once the claim to peoplehood has been made – i.e., in the grievances they advance within institutions which their status as ‘people’ or as ‘possible people’ has gained them entry.

⁵¹ I am paraphrasing loosely here. Babik’s argument (and the origin of the ‘quote’) for the purposes of his 2018 book is to “excavate the nonempirical content inherent in mainstream social-scientific international relations literature by virtue of its narrative form” ... and “highlight the real political inspirations and aspirations of fine literature written by leading contemporary novelists, on the other” (8).

⁵² White identifies four styles or genres of emplotment in Victorian historiography: romance, satire, tragedy, and comedy. Romance involves the transcending and mastery of worldly problems, where the ‘protagonist,’ through heroic effort, overcomes (8). Satire is romance’s opposite, instead they are structured such that the protagonist is under the thrall of the world, and the lesson is humanity’s inadequacy to the task of solving its problems (9). Tragedy uses the spectacle of perpetual division and the resultant failure to overcome it to bring about ‘epiphanies in the law governing human existence which the protagonist’s exertions against the world have brought to pass’ (9). Finally, comedies – tragedy’s opposite – involve “the temporary triumph of man over his world by the prospect of occasional reconciliations of the forces at play in the social and natural worlds [“men with men, of men with their world and their society”] [where]

through the role identity of the characters, and with several possible roles and outcomes associated with those roles (e.g., how the roles of historical figures are contextualized) come *different* modes of emplotment with their concomitant lessons. For example, Tragedy uses the spectacle of perpetual division and the resultant failure to overcome it to bring about ‘epiphanies in the law governing human existence which the protagonist’s exertions against the world have brought to pass’ (9). I use emplotment in a slightly different manner than White⁵³ because there is a single role-identity which *all* histories of the UNPO seek to legitimize: that of being a people, i.e., being a recognizable and legitimate subject before the law. Certainly, they can seek to legitimize other kinds of identity, too, but for the purposes of self-determination, being a ‘legitimate’ subject before the law is imperative. Therefore, members of the UNPO ‘emplot’ peoplehood: their stories are structured in a standardized manner which reflects their organizational definition of peoplehood, and they are presented to international institutions which have the authority to, at least to a limited extent, recognize such claims. In presenting themselves to specific institutions, in choosing to highlight certain aspects of their identity in standardized ways (and we will come to understand this more fully as the chapter progresses), members of the UNPO textually constitute themselves as a specific kind of actor. They make this claim, even, without needing to outline the legal prerequisites for peoplehood (were these things which could be found); through the logic and force of their self-representation this role is made obvious to those that can legitimate their identity and grievances (at least in theory).

the condition of society is represented as being purer, saner, and healthier as a result of the conflict among seemingly inalterably opposed elements in the world” (9).

⁵³ See Keith Jenkins’ interview of Hayden White (1998): “My attitude about the books and articles I have written is that you write them, you send them out and if people can use the stuff, that’s fine. If they want to use it in a distorted form, if they want to adapt it, let them do it That’s what intellectual work is about.”

Cinar and Smith (2015) reflect on what White calls ‘explanations by formal argument,’ i.e., the level where “[the historian] seek[s] to explicate “the point of it all” or “what it all adds up to” in the end” (11). This aspect of narrative concerns the kinds of things we can say with the data we have – or rather, the kinds of ‘causal’ claims which are made with historical data. Their work specifically considers the implications of nationalist narratives on state immigration policies and builds from Stephen Pepper’s (1942) *World Hypotheses* from which White also adopts his categories (see White 1974, 19). These four varieties of explanation by argumentation are formalist, mechanist, organicist, and contextual.

According to Cinar and Smith (2015) *formalist* stories are “modest in regard to explanations of change” and focus on the description of categories and taxonomies which identify “the distinctive properties of historical objects”, where these stories simply “narrate the observed fate of these entities over time” (70). *Mechanistic* stories identify law-like regularities which “causally govern, or at minimum predictably characterize ... the operation of human activities” (70). *Organicist* stories are teleological and describe the development of an entity toward the fulfillment of its ultimate or ideal form (70-71). Finally, *contextual* stories emphasize how “the particular characteristics of elements and how they interact in their specific contexts ... [help us understand] how they are altered, and how their broader contexts are also transformed through those interactions” (71). Cinar and Smith doubt the utility of formalist stories for the purpose of building solidarity among a people because they: (1) do not provide accounts of how categories come into being (e.g., the nation, or a people), and (2) do not transmit normative

values because of their taxonomical and ostensibly value-neutral format (such as the value of solidarity among a particular group of people).⁵⁴

Contra to Cinar and Smith, the case of the UNPO shows that formalist stories *do* contain ideological content, and the *kind* of ideological content they contain is particularly appealing to groups seeking recognition of their status *as a group* (e.g., people, nation, state, etc.). In a sense, formalist self-narratives are ideal vessels for claims to peoplehood because they are (ostensibly) objective and ideologically neutral. However, the specific implication of these claims to peoplehood is that in not recognizing ‘a people’ the international community not only ignores something which is *prima facie* obvious but also that it is morally mandatory to follow through on legal obligations once this self-evident status is recognized. In short, formalist accounts play well to an audience that upholds value-neutrality and therefore apolitical nature of ‘facts’ as a *de facto* good.

Self-representation of peoplehood inside the UNPO

This section focuses on the development of self-representation strategies of peoples within the UNPO through conference reports from the General Assembly. Importantly, these representations are made to (at least) three audiences: to other UNPO members, to the international community of states, and to other interested parties such as activists and scholars.

⁵⁴ They use this model to show how founding narratives in the United States (primarily organicist, sometimes mechanist), Turkey (organicist), Austria (primarily contextualist, sometimes mechanist), and Israel (mechanistic) affected subsequent attitudes toward immigrants and national outsiders. One of the major conclusions is that organicist models such as in the United States and Turkey, because their teleological and value-laden form of identity, provide narrow paths toward political membership that require assimilation, while Austria’s primarily contextual origin story is more amenable to a pluralistic national culture that is welcoming of immigrants as they are, even if immigrants are – in many ways – different from predominant ethnic and cultural groups. Mechanistic models like Israel’s, however, may not be amenable to assimilation or pluralism because they may require new members of the political community to already be a constituent part of the existing cultural community, and thus they are more closed to immigration of diverse populations than states with organicist origin stories.

I focus on two conference reports, one from 1993 and the other from 1996 – both being direct responses to UN activities related to self-determination and both early in the UNPO’s history. This is for two reasons: first, these conferences illustrate that the UNPO was concerned with the concept of peoplehood from the very beginning, and second, because regular submissions by the UNPO to various human rights monitoring mechanisms (such as UPR, CEDAW, etc. – which will be explored later in this chapter) became common in the 21st century, thus this approach gives additional scope and context for self-representation of peoplehood over time.

The 1993 Conference on “Self-determination in relation to Individual Human Rights, Democracy and the Protection of the Environment” occurred shortly after the formation of the UNPO as both an agenda-setting conference meant to clarify various aspects of their mission, and a direct response to the public release of a draft of the “United Nations Declaration on the Rights of Indigenous Peoples” (not adopted until 2007) during the UN’s “International Year for the World’s Indigenous People.” The most immediate goal was to clarify the right of self-determination and “seek the views of the peoples most affected by the issue” (UNPO 1993, section one). Of course, the UNPO and its members were not unaware of the basic hurdle which *preceded* the recognition of the right of self-determination: recognition of peoplehood. As was noted in the introduction to the conference:

“Defining the unit entitled to exercise the right to self-determination is of critical importance. In all United Nations instruments on the subject it is stated that “peoples” possess the right to self-determination, leading to the question: *what is a people for the purposes of that right[?]*” (*ibid.*: section two, emphasis mine).

And it was noted that the UNPO Covenant provides a possible answer for what a nation or people *is*:

“A group of human beings which possesses the will to be identified as a nation or people and to determine its common destiny as a nation or people, and is bound by a common heritage which can be historical, racial, ethnic, linguistic, cultural, religious, or territorial” (*ibid.*).

Legitimacy of a claim to peoplehood was a point highlighted by the UNPO – to effectively establish their members as legitimate subjects before the law, the ‘will’ to be seen as a nation or people should “be based on certain objective criteria” which members in their comments on the conference would deliberate on. Members would not only make comments about what those ‘objective criteria’ were/ought to be, but each member would also provide an overview of their history and their current situation vis-à-vis self-determination and human rights.

This commitment to ‘objective criteria’, is a commitment to a formalist component in the narrative structure deployed by members of the UNPO to assert their status as ‘people.’ Again, formalist narrative structures identify “the distinctive properties of historical objects”, and subsequently “narrate the observed fate of these entities over time” (Cinar and Smith 2015, 70). Strategically this response to the open category of ‘peoplehood’ in international law leaves less room for argumentation than other strategies. This is because a formalist narrative of peoplehood is – at its core – ontological, it asserts that a people *is*. Other approaches to developing narratives leave room for argumentation at the epistemological and methodological level, as well: *how do we know* that structural conditions, group values, or highly specific historical events led to the development of some group we call a people? If the portrayal of those conditions/values/events is incorrect, how can we say that this is a people, or is a people whose rights are being violated? We have already seen how this plays out with reference to the Batwa in Chapter 3 – the Rwandan state subsumes them under a broader cultural group coterminous with the Kinyarwanda language, and thus aspects of a competing contextual historical explanation of how Hutu, Tutsi,

and Batwa⁵⁵ came to be separate peoples (for example, Vansina [2004 (2001)]) is seen as fundamentally illegitimate.

To highlight the ‘objective’ quality of this approach, the UNPO makes specific reference to the “working definition of “peoples”⁵⁶ for the purposes of self-determination developed by the UNESCO Experts Meeting on Rights of Peoples” (UNPO 1993, section one), these qualities being:

- “common features such as language, race, and religion;
- Numerosity;
- The will to be identified as a people or the consciousness of being a people;
- Possibly institutions of expressing both the common features and will for identity” (*ibid.*).

This illustrates an asserted common understanding of peoplehood by the UNPO with practitioners (as well as academics) albeit with the caveat that members of the UNPO reject “the suggestion ... that a people must first prove its ability to govern itself” (*ibid.*) to be considered a people (a suggestion which would be made by Liechtenstein at the same conference).

How do these formalist assertions of peoplehood appear in practice? Members may make an explicit claim to *de facto* but unrecognized peoplehood, for example “the people of Acheh posses the will to be identified and to act as a nation and are bound by a common heritage of long history, ethnicity, language, culture, religion, and territory” (UNPO 1993, section 3). Often,

⁵⁵ “The prefix ba- refers to a group of people” (Hintjens 1999). I use Batwa rather than Twa because this is how Batwa members of the UNPO refer to themselves.

⁵⁶ It is important to note the difference between ‘nation’ and ‘people’ in the context used by the UNPO. As this chapter notes, ‘peoplehood’ is an aporetic/ill-defined concept in international law. The UNPO’s use of the terms suggest that they see the two as similar in many ways (and thus they sometimes appear to be interchangeable), but a key difference is that the will to be recognized as a ‘nation’ is also a stronger political claim for some level of self-governance, while peoplehood is a claim to collective identity (and sometimes limited autonomy). In the case of ‘nationhood’ in the UNPO, claims to self-governance do not always mean complete political separation – although sometimes it does – as will become apparent in this chapter.

however, this ‘claim’ of *de facto* peoplehood in this early report is more subtextual – groups do not explain themselves with direct reference to a definition of peoplehood, instead, they proceed by asserting other qualities which we might find in the UNESCO list above (all *ibid.*):

- “the number of Aboriginal nations in Australia is estimated at 300. Together they make up 1.7% of the population.”
- “Assyria is a nation with a history of several thousands of years ... The Assyrian population consists of 3 million people, of which 1.5 million live in their homeland, the present-day Iraq.”
- “Rwanda is inhabited by three different ethnic groups: the Batwa, the Bahutu and the Batutsi. The Batwa constitute only 1% of the total population.”
- “Bougainville is occupied by Papua New Guinea. Traditionally and culturally it is part of the Solomon Islands.”
- “The indigenous Jummas of the Chittagong Hill Tracts have been deprived of their lands. As a result of population transfer they are fast becoming a minority in their own country.”
- “Approximately 60% of the population of Chuvash consists of indigenous Chuvash people...the Chuvash language should have the same status as the Russian language in Chuvash.”
- “The Crimean Tatars should be considered as a people, because they have a common language, a common history (they are the indigenous people of the Crimea) and they have the will to be identified as such.”

Interestingly, observer delegations – many of which would later become members of the UNPO – were as or even more explicit in asserting their peoplehood during their comments to the conference. We can assume that this is for two reasons: first, because like the member delegations at the time, they hoped to gain recognition of their peoplehood from the international community of states; second, because they were also auditioning their legitimacy as a people *to* the UNPO. Thus, we can see some recognition of the status-granting function of the UNPO (Beaumont and Røren 2021, cited with permission). See for example (UNPO 1993):

- “The Breton people have their own language, history and culture.”
- “The African Americans, whose ancestors have been transported to North-America as slaves, suffer from the acts of ethnocide committed by the government of the United States. As a result of forced assimilation they have been deprived of their language and culture.”
- “The Lakota Indians have a unique and distinct religion, culture and language as well as a political structure to exercise the right of self-determination. They do not need to

verbalize or document the will to be identified as a people. Their mere existence expresses their self-identity.”

- “The Shan state is situated in an area of eastern Burma. The Shan people have lived there for thousands of years. They have their own language and culture and a distinct identity from their neighbours, the Burmese.”

The member comments in 1993 are by necessity, brief, but we can clearly see the formalist assertion of peoplehood as, if not a standard practice, a very common practice. The formalistic definition of peoplehood codified in the UNPO charter which references specific anthropological categories seems to suggest that this was a concern at the beginning. i.e., that in the face of no standard legal definition of ‘a people,’ the UNPO created one which was ‘value-neutral’ and ‘objective’ to the extent that it was possible.

1996 Conference Participants

Like the 1993 conference, the 1996 conference on “The Question of Self-Determination: The Cases of East Timor, Tibet and Western Sahara,” would emphasize that the ‘subject’ of self-determination – peoples – was not defined in international law (UNPO 1996, 6). They would further elaborate that “controversy arises particularly when applying to peoples other than those in classical colonial situations” (7), of which many UNPO members were not.⁵⁷ So, the

⁵⁷ What do they mean by ‘classic colonial situations’? I think there are two parts of this answer. The first is an interpretation of international law surrounding self-determination which appears in the UNPO’s report on their 1996 conference “The Question of Self-Determination: The Cases of East Timor, Tibet, and Western Sahara” (1997). They make three interlocking claims about self-determination in international law: (1) there is a historical ‘lack of agreement’ on “the exact meaning, possible application and possible beneficiaries” of the right to self-determination; (2) the 1960 “Declaration Concerning the Implementation of the Right to Self Determination” by the United Nations ‘elevated the principle to the position of an unconditional right’ and along with the Declaration on the Granting of Independence ‘affirmed the right for all peoples under alien, colonial or oppressive domination’; and (3) that “the international covenants do not appear to limit the right to self-determination to peoples classified as non-self-governing by the United Nations” (6-7). In this context, the ‘classic colonial situation’ would be those situations which fall under the United Nation’s list of non-self-governing territories. The second interpretation might be a more ‘common-sense’ one, which simply indicates colonial situations which are/were not European (and presumably, Anglosphere, as well) colonization – what we might refer to colonialism and neocolonialism.

conference was an opportunity both to respond to a seemingly suspect deliberation within the United Nations on the cases of East Timor, Gibraltar, Western Sahara, and New Caledonia (UN 1996) and further elaborate both claims to peoplehood (and what those might look like in colonial and non-colonial contexts) and self-determination.

Again, claims to *de facto* peoplehood were recognized as an important aspect of making a broader claim to self-determination. Because of the nature of this conference – that it was focused on three cases – these claims are more detailed than in 1993. Two strategies were generally used to make these claims: (1) the outlining of component qualities of peoplehood with respect to each particular case, and/or (2) reference to historical recognition of peoplehood by the state in which they lived, or by external states.

Starting with Tibet, Lodi Gyari, Special Envoy of His Holiness the Dalai Lama, simply states that “while there is no one clear definition of a “people”, the Tibetans would clearly fall under any reasonable definition,” (42) and that Tibet had a “2,000-year history” (46). An earlier conference contribution by J.M. Mukhi, a lawyer in India and Seniore Advocate to the Supreme Court of India with whom multiple members of the Tibetan Legal Association interned for⁵⁸ was even more overt in his assertion of Tibetan peoplehood:

“Are the Tibetans a people? If the Poles are a people, if the Egyptians are a people, if the Bhutanese are a people ... how and why are the Tibetans not a people? In fact, they are the world’s most cohesive and culturally compact people ... [they] are a homogeneous people, with one written language, a single script modelled on the Brahmi and Gupta scripts, with a special form of Buddhism as the predominant religion founded on a strong belief in Karma and with the Dalai Lama as both the temporal and spiritual head. And it has a rich history of independence” (22).

⁵⁸ Tibetan Legal Association. “About Us.” Accessed October 2, 2020. <https://tibetanlegalassociation.org/en/about-us/>

Gyari would also emphasize that China recognized the Tibetans as a ‘separate and distinct’ people in their Constitution and highlighted the violent transition from a sovereign Tibetan state to a Tibetan territory under the alien rule of China.

Jose Ramos-Horta, Special Representative of the National Council of Maubere Resistance, spelled out East Timor’s historical claim of peoplehood through his interactions with the Indonesian Government. Because of Mr. Ramos-Hortas’ centrality to this historical claim of East Timor, his words are reproduced below:

“Allow me to set the East Timor conflict in its proper context for a better understanding. In June 1974, I visited Jakarta, in my capacity as Secretary for Foreign Affairs of the Timorese Social Democratic Association, and met with then Foreign Minister of Indonesia, Mr. Adam Malik. After our third round of talks, Mr. Malik addressed to me a letter which reads in part:

The independence of every country is the right of every nation, with no exception for the people of [East] Timor [.]

[w]hoever will govern in Timor in the future and after independence can be assured that the government of Indonesia will always strive to maintain good relations, friendship, and cooperation for the benefit of both countries.

In the course of our discussions, I conveyed to Mr. Malik our desire to develop close relations with Indonesia and our intention to seek membership in the Association of Southeast Asian Nations (ASEAN). In an *effort* to appease our giant neighbor, I went as far as proposing that our future diplomats and security forces be trained in Indonesia. Mr. Malik’s words were those of a statesman conscious of his country’s *lack of any valid historical claim to East Timor*.⁵⁹ He viewed the emergence of an independent East Timor as the natural outcome of the collapse of the Portuguese colonial empire.

The following year, April 1975, I again visited Indonesia and met with President Suharto’s senior advisor, General Ali Mortopo, to whom I reiterated our collective and firm desire to develop friendly relations with Indonesia. General Mortopo reassured me that Indonesia harboured no territorial ambitions over East Timor” (25).

East Timor would be invaded on December 7, 1975, according to Ramos-Horta, scheduled so as not to embarrass US President Gerald Ford during his visit to Indonesia (34). Beyond this

⁵⁹ Emphasis mine.

history, Ramos-Horta also briefly touches the history of colonialism, mentioning that Indonesia's borders were a result of the Dutch East Indies 'administration' and colonization. Indonesia claimed all of the Dutch East Indies at its founding, but did not claim East Timor, as it had been a Portuguese holding (35).

With respect to Western Sahara, Dahi Bashir, Director of International Relations in the Ministry of Foreign Affairs of the Polisario Front, began by briefly outlining the history of colonialism in Africa, where Western Sahara came under Spanish rule. Despite resolutions to allow colonial holdings' self-determination, Western Sahara remained under Spanish control, until they relinquished it to Morocco and Mauritania who both resisted UN resolutions calling for a referendum for Western Sahara and the Saharawi people (51-53). The diplomatic status of the Saharawi State was also emphasized, which again illustrates the reference to international recognition of peoplehood:

“As a full member of the Organization of African Unity (OAU), the Saharawi State is today recognized by 78 countries throughout the world, with which it maintains diplomatic relations” (52).

Statements from the 1996 conference share some commonalities with that of the 1993 conference. Particularly, the 'anthropologic' categories of the UNESCO working group's definition of peoplehood from the 1993 conference – common demographic features, numerosity, and will to be identified as a people – are strongly present. The 1996 report adds an additional and/or alternative common quality of claims to peoplehood within the UNPO, that historical recognition of peoplehood/nationhood seems to satisfy the same needs as anthropologic categories.

Claims to Peoplehood through the United Nations Universal Periodic Review

The Universal Periodic Review Process is the only United Nations human rights monitoring mechanism which requires an evaluation of every member state on a regular basis (see Gaer

2007 for the historiography of the UPR's origins). Other human rights monitoring mechanisms developed out of the UN human rights treaty regime are only applicable to those states which have ratified the respective conventions. As such, UPR is uniquely situated as a forum for marginalized people(s) to lobby when their states either are not signatories to, or which have not triggered other human rights monitoring mechanisms.

As UPR reporting and recommendations are predominantly a state rather than expert led processes, with state representatives making recommendations based on state self-reporting and stakeholder and NGO reporting, the UPR's main effect is to generate "peer and public pressure," especially as NGO participation has greater emphasis than in other UN reporting mechanisms (Carraro 2019, see pp. 1,083, especially). This, of course, does not mean that the UPR is a perfect system, nor that it has the power to force states to change their practices, either because of moral outrage or sanctions (see Etone 2019 for a summary of debates on the UPR's effectiveness).

Submitting a supplemental report for the UPR process *does not* mean that recommendations or grievances will be heard by the relevant state, or become a part of the final UPR reports, such as the summary of stakeholder information, or recommendations by reviewing states. The UN technical guidelines for UPR submissions stipulate that information must be "credible and reliable," so there is a need to represent oneself as a legitimate stakeholder – alluding to, of course, the legitimacy of the organization submitting information and the standing of any aggrieved party (i.e., 'people'; UN 2017). The UNPO has submitted 29 reports for Universal Periodic Review (not counting mid-term reports or reports the UNPO provided support for but did not produce or co-produce – as of December 2020), with 27 having points integrated

into the stakeholder summary.⁶⁰ This shows that as an organization, the UNPO engages in practices which result in ‘legitimate’ reports with ‘objective’ information.

But how do members of the UNPO represent themselves in this format? The answer is, much the same as they do elsewhere. Almost universally, UPR reports contain references to the signposts of peoplehood the UNPO has coalesced around in their other reporting projects: unique cultural/demographic features, ‘numerosity’, historical recognition of peoplehood by the state in which they live/originate, and/or historical recognition by the international community. This formula *is emplotment*, that is, readers know these are stories of ‘peoplehood’ by their very structure. Examples from submissions to Ethiopian and Laotian UPR cycles can be found below:

- “The Oromo are an indigenous group who traditionally live in Oromia, a region in present-day Ethiopia. The Oromo are the largest national group in Ethiopia, making up about 35 million out of a population of 75 million. Prior to their violent colonization by Abyssinia during the late 19th Century, the Oromo also had unique political, religions, and legal institutions” (UNPO 2014, 1).
- “The Hmong constitute an indigenous people who are originally from the ChaoFa region in Northern Laos. Because of their distinctive ethnicity, language, culture and religion, the Hmong distinguish themselves from the rest of the Laotian population. According to

⁶⁰ Azerbaijan 2017 (points 59-61, HRC 2018); Bangladesh 2017 (points 2, 20, 26, 28, 30, 37, 69, 70; HRC 2018); Brazil (points 18, 95, HRC 2017); Cambodia 2013 (points 47, 67, 68, 71, HRC 2013); Chile 2008 (points 20, 34, 38, 48, 50, 51, 53, HRC 2009); Chile 2013 (points 72, 79, HRC 2013); China 2013 (points 62, 63, HRC 2013); China 2018 (none, HRC 2018 – also no mention of the joint submission by The Tibet Bureau, endorsed by the UNPO); Ethiopia 2013 (points 26, 37, 38; HRC 2013); Ethiopia 2018 (point 75; HRC 2018); Indonesia 2017 (point 82; HRC 2017); Iran 2010 (point 11; HRC 2010 – the UNPO also assisted in the submission of 4 additional reports by member delegations); Iran 2014 (point 21; HRC 2014); Iran 2019 (point 5; HRC 2019); Iraq 2014 (not mentioned, HRC 2014); Laos 2015 (points 48, 50-52, 54, HRC 2014); Laos 2020 (points 26, 27, 32, 33, 71, 73, 82-92; HRC 2019); Mauritania 2015 (points 25, 75, 77, 78, 84, 97, 110, 121, 122, 124, 125; HRC 2015); Mauritania 2021 (points 13, 27, 28, 36; HRC 2021); Myanmar 2015 (points 63, 79, HRC 2015); Nigeria 2009 (points 7, 13, 55, 57, 58, 61, 62, HRC 2009); Nigeria 2018 (points 18, 95, HRC 2018); Pakistan 2012 (points 2, 24, 75, 79, 82, HRC 2012); Pakistan 2017 (points 8, 12, 19, 25, 30, 34, 46, 46, 53, 68, 70, 84, 85, 89, 100, this includes points from both the UNPO’s own submission, and their joint submission with the World Sindh Congress, HRC 2017); Rwanda 2015 (points 62, 63, 66, HRC 2015); United States 2019 (point 105, HRC 2019); Vietnam 2014 (points 76, 77, HRC 2013); Vietnam 2019 (points 10, 19, 33, 87, HRC 2019).

the latest national census, they constitute about 10 percent of Laotian society, which makes them the third largest minority. Despite this, the Laotian government refuses to acknowledge the Hmong as an indigenous group” (UNPO and CWHP 2018/19, 2).

UPR submissions are by necessity short: individual submissions are limited to 2,815 words and joint submissions to 5,630 words (not including brief one paragraph bios of each submitting organization). The UNPO could choose a strategy of not writing a biography of the people(s) in question as a part of this word count, yet they still do so. Clearly, there must be some perceived value-added in doing this, and the assertion thus far is that this mode of self-representation is a method of arguing that one has standing under international law, i.e., is a people. Yet, without a specific international standard of what constitutes a people, it is unclear how successful this strategy can be.⁶¹

Tradeoffs

Thus far, this chapter has illustrated how members of the UNPO attempt to navigate the issue of peoplehood: with no definition of the concept in international law, they instead rely on their own definition and its claim to objectivity through its formalist/taxonomical presentation. As I have argued, a non-formalist definition of peoplehood would open members of the UNPO to certain kinds of critique vis-à-vis historical accuracy, but this does not mean that their definition is free of detractors. Of the UNPO’s definition of peoplehood, Timo Makkonen states it is “a typical example of the aspirations to advance the ethno-national cause outside the statist framework of international law” and goes on to explain that “the absence of a generally agreed definition of ‘peoples’ in international law leaves the field open to speculation and outright opportunism, as all kinds of entities claiming to be ‘peoples’ in accordance with international law strive towards recognition and self-determination” (2000, 67-68). I meet this with two objections: first, that the

⁶¹ Although it is also unclear that a clear definition would be a good thing, especially if it is so narrowly defined that very few people(s) could convincingly argue that they are a ‘people.’

UNPO is works within the international society/system of states including through institutions of global governance and is not trying to undermine/overthrow ‘the statist framework of international law,’ and second, that the mode of self-representation which Makkonen calls ‘ethno-nationalist’ is in fact, a direct response to tradeoffs in strategies of self-representation.

To the first point, evidence that the UNPO and its members are not seeking to overthrow the ‘statist foundation’ of international law can be seen in their appeal *to* self-determination. This is a right which international legal instruments do *not* claim are not always *the same as* claims to independence. This can be seen in United Nations General Assembly Resolution 2625 (1970), “The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States” which outlines four possible modes of self-determination: “the establishment of a sovereign and independent State, the free association *or* integration with an independent State, or the emergence into any other political status freely determined by a people.” Further, the declaration emphasizes that:

“Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples.”

Most claims to self-determination within the UNPO are not claims to independence – but rather claims about human rights abuses and lack of representation. These claims are consistent with international jurisprudence, which finds no right of political independence as a culmination of self-determination even in the case of gross human rights abuses (Hilpold 2017, 324) except for in the post-colonial context or where secession is *sui generis* [meaning that secession is already a

fact (321-326)]. Thus, there seems to be, in general, a recognized right to ‘internal self-determination.’⁶²

However, the criteria for external self-determination, i.e., secession, is to be found either in the postcolonial concept of self-determination requiring the question of self-determination to be answered with respect to each territory identified by the UN as being ‘non self-governing,’ or completely idiosyncratic (i.e. no legal basis, but something that exists in fact). These idiosyncrasies seem to exist where there are gross human rights abuses *and* a territory has achieved de facto independence (Kosovo and South Sudan), where there is already an international recognition of the right to self-determination with respect to a particular case (Western Sahara, one of the original non-self-governing territories), or the case where a state allows a referendum within one of its territories for independence and they opt to secede. It is important to note also, that the UNPO’s official position is that “while there is no explicit right for independent statehood, the right to believe in and lawfully campaign for such causes is protected free speech and opinion” (UNPO 2017), so in that respect the organization’s official line does not contradict the ‘statist foundation of international law,’ either, as seeking statehood is not the same as seeking the abolition of the sovereign state system.

Within the UNPO, there are 15 members who claim the right of independence from the state they are internationally recognized to be a part of. Of these, three claim to have become de facto states and thus were the international community to recognize the legitimacy of their claims of repression, we could assume their secession would be *sui generis* (these being Abkhazia,

⁶² Hilpoldi (2017) defines this as “the systematic involvement of all groups in the national democratic process, thereby allowing for the preservation of their cultural identity and their development on an equal footing with the majority population” (331).

Somaliland, and Taiwan⁶³). One claims to have a *de facto* government in exile, but to be under illegal occupation (Tibet). One is on the original list of non-self-governing territories and is represented by its government at the UNPO (Guam). Others effectively claim to meet the qualifications of non-self-governing territories in the colonial context whose status was mismanaged by formal colonial powers (Acheh, Biafra, Kabylia, South Moluccas, Western Togoland). Another member points out its status as a “disputed territory” as declared by the United Nations Security Council (Gilgit Baltistan) which is a norm that would give the territory the right to choose which state involved in a conflict over their territory (India and Pakistan, with Pakistan controlling the region, now) to be a part of rather than a right to independence (Westcott 2020). Two other members claim that the states which they find themselves internal to have violated historical agreements between their peoples (Barotseland and Balochistan) with Balochistan additionally claiming that they should be declared a disputed territory, as with Gilgit Baltistan and Kashmir. Another claims to have been a historical self-governing territory which was occupied in the late 19th century, and whose domestic rights have been repressed in the interim (Savoy). Finally, Catalonia cites its historical marginalization, the denial of increased autonomy through legislation by the Catalan Parliament in the 2000s, the independence referendum of 2017, and the subsequent repression by the Spanish state as the basis for its independence. As can be seen above, most of these 15 members frame the legitimacy of their claim through already recognized legal structures for independence, or as *sui generis*. But even ignoring this, the explicit mission of the organization at its outset – as highlighted in the

⁶³ Taiwan has been represented in the UNPO by the Taiwan Foundation for Democracy, an NGO established by Taiwan’s *Ministry of Foreign Affairs*, from 2006-present. From 1991 through 2005, they were represented by the Democratic Progressive Party of Taiwan, the current ruling party in the country.

introduction to this dissertation – was to gain entry for its members into the United Nations. So, while members may challenge some international laws and/or norms, this does not mean they support the dismantling of the entire structure, or even that their position is the same as the position of the UNPO as a whole.

Put in more general terms, there are two ways in which the UNPO works within the system of states. First, most members are not asking for independence, and no members are asking to wholly dismantle particular states. Most simply want to change their relationship with the state(s) in which they live. Second, they are not seeking to undo the ‘system of states’ or “Westphalian sovereignty,” rather, again, to change their relationship(s) with particular states and/or institutions of global governance.

It is the second aspect of Makkonen’s contention that the narrative structure of UNPO claims to peoplehood can more directly address, that the principle of peoplehood espoused by the Unrepresented Nations and Peoples Organization is ‘ethno-nationalist’ in character. I suspect that this contention partially originates in the narrative structure of claims to peoplehood by the organization, and the formalist framework the definition suggests. Again, the definition being:

“A group of human beings which possesses the will to be identified as a nation or people and to determine its common destiny as a nation or people, and is bound by a common heritage which can be historical, racial, ethnic, linguistic, cultural, religious, or territorial.”

As Cinar and Smith (2015) argue, different narrative structures suggest certain kinds of openness to the integration of ‘outsiders,’ i.e., they offer an account of how someone becomes ‘of this nation,’ rather than ‘of that nation.’ Their issue with a formalist model is twofold: first, that it does not offer an account of how one comes to be part of a people, and second that they do not transmit values because they are arranged to be ‘value-neutral’ and ‘taxonomical.’ The latter quality shares some resemblance to the problem of their asserted ‘mechanist’ national narrative

of Israel, that it requires new members of the Israeli nation to *already be* a part of a particular community. In that respect, a taxonomical category which does not offer an account of how one becomes this rather than that, seems to suggest that new members of a community must be descendants of old members (i.e., always-already members) and thus we can see how one might critique it as ethno-nationalist.

However, if the UNPO were to deviate from the formula it has selected, one which it clearly derived from international practice around the time concerning the definition of peoplehood, it would be opening itself up to different issues. On the one hand, there is the issue which I have expanded upon above, that a formalist model operates more at the level of ontology than epistemology, and thus closes certain avenues of contention. On the other, the UNPO's definition of peoplehood hews closely to that of "The UNESCO Experts Meeting on Rights of Peoples," were the UNPO to radically deviate from what might be seen as a definition from an international authority, they would also open themselves up to further charges of instrumentalism beyond the ones that Makkonen asserts – not only could anyone call themselves a people, but they could also do it in any way they see fit. Following what seems to be an example of international best-practice at least guards against assertions of politicking with the definition of peoplehood. This contention is further addressed by the fact that the UNPO is selective in terms of who it grants membership – e.g., in denying Liberland's application to the organization (Beaumont and Røren 2021, cited with permission). Thus, we can see that the choice of narrative structure in making claims to peoplehood is a choice of tradeoffs, at least until the international community further defines peoplehood, and establishes a clear framework for self-determination.

Conclusion

In a sense, members of the UNPO appear to be attempting to jump on a moving train called international law. There is broad recognition that certain central features of the international

human rights regime are ill-defined (if defined at all), leading to the need for communities to assert and defend *even* their status as peoples. This chapter has, in a limited way, illustrated the impacts of the politics of international law on underrepresented peoples in the UNPO by showing *how* they make these assertions of peoplehood.

CHAPTER 5: CONCLUSION

This dissertation has made two interlocking arguments. First, that governance institutions, both domestic and global, produce two kinds of underrepresentation: institutional, where individuals and groups lack traditional political representation through or within institutions of government (e.g., ‘descriptive representation’); and discursive, where individuals and groups cannot represent themselves in the language of law and/or politics. Second, that international law contains aporias – omissions, ambiguities, and contradictions – that make certain kinds of recognition a primarily political, rather than legal-bureaucratic process. Because of the interlocking nature of these two problems, people(s) who resort to transnational advocacy as an attempt to generate international pressure to address their domestic legal statuses face difficulty in resolving these recognition issues.

Beyond these two arguments, I also said in chapter 2 that I would argue that the need to gain ‘standing’ or to be ‘recognized’ has resulted in the development of certain frames, practices, or performances which are more likely to be ‘recognizable’ in international organizations and global civil society (Keck and Sikkink 1998, 2). Groups often have to ‘fit’ their identities and struggles under the ‘rubrics’ of concepts that might do discursive violence, flattening particular aspects of their experience or forcing them to ‘put on a mask’ bringing certain (sometimes distorted) aspects of their identity into the ‘public’ (or, perhaps ‘specialist’ or ‘political’) sphere (Pitkin 1964; Arendt 1990 [1963], 106-107; Gündogdu 2014, 101-104).

This chapter first analyzes how the evidence in this dissertation addresses these arguments, and then moves on to discuss three major implications flowing from the activities of the UNPO and its members that will be central to the expansion of this project. These implications are, first, that self-representations within governance institutions and to diplomats often involve the ‘de-queering’ of the subject, that is a narrative flattening that omits, simplifies, or alters certain aspects of identity or rights claims so that these groups can ‘get a seat at the table’. Second (and flowing from the first), that using the language of international law and global governance – rather than challenging the legitimacy of a system that fails to resolve human rights abuses – instead reinscribes it. Third, that international law and governance of and by states continues to produce and/or ramify large classes of mass suffering, and that minimally global governance should increase engagement by civil society actors such that people(s) or humanity as such has some say over how they are governed.

Discursive Underrepresentation

I defined discursive representation as “the ability to represent oneself or one’s group through categories available in a discourse community – whether these are categories created through law, institutional language, or everyday interactions,” and underrepresentation as “a strategic choice [not to permit a group discursive or institutional representation], one that might be considered a necessary or acceptable tradeoff in pursuit of another goal, or a goal in and of itself.” Two cases helped demonstrated discursive underrepresentation in action, first the Uyghur case, and second, the Batwa case.

Uyghurs are discursively underrepresented in China as certain expressions of Uyghur identity – particularly those containing some element of ‘nationalism’ or devout religiosity – are treated as deviant, and people who express their identity in ways perceived as threatening to the regime do not have recourse through institutions of domestic governance to lobby for their

protection. As we saw, some Uyghurs do become allies of the state, even contributing to the ongoing humanitarian crisis in Xinjiang, but only when their identity fits politically acceptable scripts. Those whose identities are ‘threatening’ can be brutally repressed, even killed, while the Uyghur community remains under intense surveillance, and modes of political organization including transnational activism can be a cause for their disappearance to reeducation camps and/or long-term imprisonment. Uyghurs are discursively underrepresented because many aspects of their identity have a ‘ban’ in political discourse.

Batwa are discursively underrepresented in Rwanda owing to a series of laws which make it illegal for them to politically organize qua Batwa. While these laws were ostensibly created to prevent further ethnic conflict between Hutu and Tutsi, they compound the social stigma and socio-economic disadvantages faced by Rwandan Batwa, many of whom have been forced from their ancestral homes, and even their physical homes in areas they were displaced to. Because they cannot politically organize qua Batwa in Rwanda, civil society advocates do so through international forums, including the UNPO which assists them in creating reports for human rights monitoring mechanisms like the Universal Periodic Review Process.

Discursive underrepresentation is compounded by structural qualities of global governance and international law, what I call the “aporias of global politics.”

Aporias of Global Politics

I defined aporias as “moments where the thinking or doing of ‘something’ is undermined by the very rituals and thoughts which makes that ‘something’ possible: where concepts, systems of ethics, or feelings of self-coherence contain fundamental contradictions or absences that, once acknowledged, rupture notions of wholeness or possibility” and suggested that this description is particularly appropriate to thinking about status recognition in global politics. I made this argument most explicitly through four examples: first through the thought of Hanna Arendt,

second through Noora Lori's work, third through the politics of genocide recognition with respect to Uyghurs in China, and finally through the politics of peoplehood performed by members of the UNPO, especially in their engagement with human rights monitoring mechanisms. I suggested that the concept of aporias can help us understand the myriad ways that institutions of global governance can say 'no' with respect to status recognition, and why people(s) might occupy liminal, 'queer' social positions. Here, I return to the examples illustrated through the UNPO.

Uyghur advocacy encounters an aporia of global politics in making a claim to be victims of ongoing genocide. There is no straightforward, mutually agreed upon checklist for what constitutes a genocide, instead a loose set of properties which can be differently interpreted (Straus 2001, Meiches 2019). The genocide convention specifies that genocide is constituted by:

“any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group” (UN 1948, Article II).

Chapter 2 demonstrated that there is evidence that Uyghurs face systematic bodily and mental harm and have imposed measures to prevent births. There is also evidence of Uyghurs being killed, detained en masse, and that mechanisms of cultural transmission have been systematically destroyed, including religious sites. Yet, as straightforward as this evidence may seem to a layperson looking at what activities count as genocide, organizations like Amnesty International who work in human rights, and investigations by the United Nations itself have been unwilling to call events in Xinjiang a genocide. As Ben Meiches (2019) points out, the term genocide allows

for the description of a kind of violence which cannot be easily captured with other terms, but there is a political process behind naming something a genocide which is – in many ways – separate from, but related to, the kind and degree of violence people experience.

Part of the Chinese government's strategic calculus has been to label the World Uyghur Congress and groups who coalesced during the 2009 Urumqi riots, one of the major turning points that led to the development of a massive institutionalization of security functions, as a terrorist organization. Specifically, they claimed Rebiya Kadeer and the World Uyghur Congress were part of the East Turkestan Islamic Movement (ETIM), a terrorist organization. Since then, they have shifted to making claims about terrorism which do not mention EITM (see chapter 2). Through this rhetoric, the Chinese government has sought to restrict access to important functions of the United Nations by Uyghur activists and victims. The policing of Uyghur 'deviance' has resulted in accusations of an ongoing genocide, the recognition of which can only flow from a transnational political process – and the Chinese government has, to the extent it can, denied access by Uyghur advocates to the transnational political realm where this recognition might be adjudicated.

Peoplehood is aporetic because of its indeterminacy: there is no supranationally accepted definition of peoplehood (Summers 2014; Makkonen 2000). This is a major issue for nations and peoples seeking the right of self-determination, because as something recognized through international law, self-determination is reserved to people(s). Thus, members of the UNPO claiming a right to self-determination in international forums develop repertoires of self-representation (chapter 4 used the idea of 'emplotment' to describe this) to be recognizable as a people, and thus to generate international pressure regarding their cause(s). These processes further demonstrate that international law, even when it is about people(s), is really about states.

Were that not the case, statelessness, peoplehood, and genocide might not be such slippery concepts, even when their plain meaning seems clear.

Performances

Members of the UNPO adopt particular scripts to make claims to peoplehood. I have explained this textual performance through the concept of emplotment, which means to ‘provide the “meaning” of a story by identifying the kind of story that has been told’ (White 1973: 7). White argues that stories that are ‘tragedies,’ ‘comedies,’ etc. have their own genre-specific mode of imparting lessons through protagonist actions in a text (see footnote six, chapter 4). Members of the UNPO, in making claims to peoplehood, tell histories which – through the arrangement of their parts, the way they progress, etc. – attempt to make the claim that it is obvious that they are peoples, and thus they owed the rights associated with peoplehood in international law and practice. Emplotment is, in this case, a strategy to tell a certain kind of story. I further argue that the mode through which this story is emplotted is via ‘formalist narrative,’ in White’s terms.

Cinar and Smith (2015) reflect on explanations by formal argument in constructing nationalist narratives: particularly, how nationalist narratives circumscribe a ‘properly national’ subject. They claim that formalist narratives (where ‘the fates of entities are narrated over time’, 70), a type of formal argument, are particularly ill-suited to constructing nationalist narratives because they do not convey ideological content, and they do not provide an account for how someone becomes a member of ‘this nation’ rather than ‘that nation’ – an implication being that these movements might be ethno-nationalist and exclusionary in character (which would introduce legitimacy issues when paired to claims to self-governance in a liberal framework). Members of the UNPO have a slightly different, but related aim – to make claims to peoplehood to domestic and international audiences to air a variety of claims to self-determination: not just to

independent statehood, but increased regional autonomy, or simply concessions to ameliorate economic and/or human rights issues.

I argue that formalist narratives convey the right ‘ideological content’ within an international legal framework that upholds ‘objectivity’ and value-neutrality as a de facto good. First, this type of narrative corresponds to definitions of peoplehood created by international working groups, specifically UNESCO (see chapter 4) which are based on ostensibly clear criteria (with the caveat that these are all subject to structural issues around language explained in this dissertation). By matching and referring to these definitions, the UNPO and its members describe themselves in a familiar format which is developed out of standards created by ‘experts’ in academia and global governance. Second, this format also helps the UNPO and its members (at least theoretically) avoid charges of instrumentalism: because their ‘definition’ of peoplehood is based on the opinion of ‘experts,’ it conveys that they have not simply invented a notion of peoplehood that fits their particular political interests. However, this notion of peoplehood and the performances meant to solidify that a group does constitute a ‘people’, may require certain omissions of identity and flattening of experiences, what I call de-queering.

Queerness, de-queering

Queerness, as it is used in this project, describes types of identity that are not locatable within a particular discourse – including law. De-queering describes the kinds of narrative ‘flattening’ or simplification people(s) sometimes utilize or are subject to in order to be legible within particular discursive regimes. Sometimes these reductions can be harmful, and the people who utilize or experience them are not unaware of the tradeoffs of the simplifications they must use to gain an audience.

A significant subject of one interview for this dissertation (interview 3, 2021) was how a member of the UNPO presented themselves to be legible to certain audiences – in many cases, to even be met with. In speaking about the complexity of invoking ‘self-determination’, they said:

“Once you use the terms “rights” or “self-determination,” you are conveying many things in one accepted word, but nobody would meet me in the State Department if I say we want to separate [from our country]. Half of the people will be scared to meet me, scared in the sense that they are scared their relationship with [our country would be damaged]. [Self-determination] doesn't just mean the right to separate, but it is at least a toned-down version of it in some sense” (interview 3, 2021).

Not mentioning the possibility of complete political separation does differ from the range of options this interview subject thought ought to be available, in a just world (noting that, “I am, in a way not so naive to understand that things just get resolved with vote and plebiscite,” *ibid.*):

“[There are] all kinds of options, a negotiated well balanced federal state to all the way to autonomic separate state ... or even to be part of some other country or some other Union, whichever it is” (*ibid.*).

This illustrates some of the simplifications necessary to ‘get in the door,’ but this member of the UNPO also felt how they could explain themselves depended on their audience:

“The United States we approach differently [than we would another body]. [For example], the United Nations is more permissive, more receptive to all kinds of complaints. We can talk to them, and there's nothing truly off limits” (*ibid.*).

Why do they meet with government officials if it requires them – in some sense – to censor themselves? Because there are very real human rights needs, and by passing data and information to country governments, those governments can raise awareness in ways that they can't as civil society organizations:

“We have met [with the government of country “X”] a few times, and had success, but they don't, they wouldn't mention our name obviously, but we send them some data and information and sometimes you see that it slips through their human rights report every year they come up” (*ibid.*).

This illustrates that – regardless of what an ideal outcome looks like – certain options are taken ‘off the table’ when engaging in advocacy. If this group's ideal outcome were complete political

separation, it would not be possible for them to make that claim in many forums. However, as with other groups I have corresponded with, they claim their goal is for people in their country to have the power to make a meaningful decision about their future – even if it is not complete political separation. Perhaps this is what they felt they needed to say to an academic, an understandable choice for someone whose community experiences severe human rights abuses.

Reinscribing

Activists make difficult strategic decisions every day which require them to represent themselves and their needs in ways that do not perfectly align with how they see themselves. They do this because their communities have needs that can and/or must be addressed, even if imperfectly. This does not mean that activists are giving up on particular – perhaps loftier – goals. Beyond the issue of de-queering, this also introduces the problem of reinforcing the legitimacy of systems that are permissive of their particular marginality. Provisionally, I am calling this problem ‘reinscription,’ where the legitimacy of systems that reinforce or permit marginality go unchallenged and are instead ‘reinscribed’ by the activities and words of activists.

An easy way to conceptualize this problem is through a set of questions. For example, if the Universal Periodic Review Process (UPR) does not result in concrete changes, does participating in the process as affected civil society actors suggest that it can? If the United Nations is ineffectual at addressing human rights abuses including genocide, does engaging in advocacy through the UN suggest that they are the legitimate arbiter of whether abuses are real or pressing? This concern is an important one, and expansion of this project will more directly address it. However, there is a historical and ongoing conversation in the UNPO about institutions of Global Governance that does somewhat respond to this concern.

The UNPO and Global Governance

My time spent researching and interviewing members of the UNPO illustrated that there is a crisis of confidence in institutions of global governance among marginalized civil society actors and that institutions of global governance are generally representative to the extent that agents are ‘authorized’ to act on behalf of a ‘state’ (i.e., states, not people(s) are represented).⁶⁴ This

⁶⁴ I am reminded here, of Robbie Shilliam’s *Black Pacific* (2015), in which he illustrates ‘global anti-colonial connectivity’ through transnational networks linking Black Rights with Maori and Pasifika communities through the tour of a RasTafari theater troupe. He describes the global relationality through which indigenous and non-white communities are incorporated into the British imperial project through an 1886 map in *Graphic Magazine* which: “brings together the people who populate colonial territories – both settlers and non-settlers – and depicts them in a cartoon relief around the peripheral areas of the map. They are all captured by the gaze of Britannica, the figure that is centerfold on the Greenwich meridian. In this depiction, the peripheral figures, especially the colonized among them, can only understand themselves in mute relation to the imperial center. And there is certainly no possibility of the colonized relating to each other across global spaces, as in the greeting at Te Hapua, and cultivating knowledge ‘sideways’ so as to possibly inform a decolonial project” (3)

Within this project, he articulates the boundary between ‘categorical segregation’ and ‘deep relation.’ The former evolves out of imperial knowledge production (ethnography) which produces a difference between “there and home,” (19) reifying indigenous and non-colonial knowledge as static, stuff of the ‘past,’ illogical spiritualism. In short, colonial science involves hierarchizing and essentializing arbitrary lines of distinction and relating to people(s) by way of their degree of ‘familiarity’ to a ‘rational subject’ (18-24).

The latter involves not ‘producing’ knowledge, but rather ‘cultivating’ by ‘tilling and turning matter around and folding it back on itself so as to rebind and encourage growth’ (25). Shilliam does this by locating oceans as places where “racial categorizations (black and brown) are only manifest barriers to peoples that can be bound back together at deeper levels. A ground can always be creatively prepared for relating” (27) – finding ‘ground’ in the Pacific as a site of relating between colonized peoples. He calls, too, for an ‘Arcadian Hermes,’ a western subjectivity not born out of the activity of hierarchizing, but rather relating ‘horizontally’:

“Perhaps even the children of Arcadian Hermes might have a part to play – or a relation to redeem – in this enterprise” (30).

In this sense, Shilliam offers an opportunity for colonizers to reimagine or recover a non-hierarchical relationality, to reconstitute our cultural ethics around self-reflexivity rather than power.

What I do not want to suggest here, is that I have the solution to this problem. Instead, I my claim is that a similar relation of power and ‘subterranean’ network of communities affected by this constructed relation is illustrated through the example of the UNPO and its members. To move outside relations of power that ‘seek to segregate peoples from their lands, their pasts, their ancestors and spirits’ (13) requires a similar move at an institutional level as Shilliam suggests at an ontological and epistemological one.

section, then, discusses how the UNPO and its members talk about global governance, and the extent to which they feel included.

The terms through which the UNPO describes its advocacy transitioned in the period of 2010-2011. Through the first 20 years of its history, the organization had operated by advocating through the language of self-determination. This meant that their advocacy focused on the interpretation and application of a legal concept, and it made good sense to do so for an organization whose first years were occupied by the transition of former Soviet republics into sovereign states. However, the last of their members to enter the United Nations was East Timor, in 2002.⁶⁵ With many members not seeking statehood, and a global political situation during the US War on Terror where groups seeking ‘self-determination’ were often treated as separatists – even when not seeking statehood – the UNPO began to emphasize democracy and human rights. As former General Secretary Marino Busdachin said:

“Reflections on current thinking on self-determination and the false promises and traps it may generate is influencing our work and drives a shift in the organization’s direction towards underscoring the cardinal nature of democracy, human rights and the rule of law in all our activities, campaigns and lobbying efforts” (UNPO 2010, 5).

While it was not covered at length in this dissertation, self-determination, like peoplehood, is aporetic in that there are no definitive criteria for when and how it applies. The UNPO has a history of organizing conferences around this theme (e.g., UNPO 1993, 1996, 2014).

The hostility toward groups advocating for ‘self-determination’ is reflected in my interviews, with one interviewee remarking of the war on terrorism that:

“We’ve seen that the result has been quite devastating in many places [...] I think that changed the ability of some representatives, for example, of movements to travel freely, to get visas to participate as they might have before” (interview 4, 2022).

⁶⁵ Prior to this, Palau (1994), Armenia (1992), Estonia (1991), Georgia (1991), and Latvia (1991).

Another remarked that:

“[The regime in my country] received an education from the United States for the so-called War on Terror, and they are using it. They're using it to create intelligence on dissidents and crush the democracy workers. They are using all the means they've learned from United States. This may be banning the Internet, or espionage on WhatsApp groups and Facebook groups, or hacking Facebook groups. I'm not blaming America for that ... I'm just saying that the means, America gave it to them” (interview 3, 2021).

They expressed fear that they would not be able to engage in diplomacy at the United Nations in the future:

“We have more access and means in general through the UNPO and through other places. But the fear is we will be blocked there. I don't even know if I can do UPR anymore” (ibid.).

This crisis of confidence has been expressed by former General Secretaries of the UNPO,

Marino Busdachin and Michael van Walt van Praag:

“Although the aspirations of UNPO Members differ greatly, they are all united by one shared condition – they are not adequately represented at major international fora, such as the United Nations. As a consequence, their opportunity to participate on the international stage is significantly limited, as is their ability to access and draw upon the support of the global bodies mandated to defend their rights, protect their environments, and mitigate the effects of conflict” (Busdachin 2010).

“The international community is unfortunately not well equipped to facilitate the kind of change we're talking about. The main international institutions that should do so are run by governments, whose leaders have dedicated much of their lives to achieving political power, and so they are not likely to do anything that might result in giving up even a little bit of that power. The UN and other international organisations are government “clubs”: just as the “old boy's clubs” are institutions that protect and help its members to keep the privileged position they are in, so these international organisations largely protect and promote the interests of their members, the privileged political elite that has achieved power (by whatever legitimate or illegitimate means) and so attempt to exclude others from this club and its decision-making. There are individuals in the UN, including its very senior leaders such as Kofi Annan, Francesc Vendrell and Frederico Mayor—to name but a few—who have tried to open up the organization to the people. But many governments are determined not to allow this to happen, even while they pay lip service to such ideals” (van Walt van Praag, 2011).

The increasing influence of China in the United Nations has also been a major concern of UNPO members. Some accuse China of preventing members from participating in UN functions,

including blocking the consideration of applicants for ECOSOC Consultative Status, which would give civil society organizations like the World Uyghur Congress the ability to participate in the Human Rights Council as Observers (interviews 1 & 2, 2021; interview 4, 2022). This status would allow them to:

- “Attend and observe all proceedings of the Council with the exception of the Council deliberations under the Complaints Procedure;
- Submit written statements to the Human Rights Council;
- Make oral interventions to the Human Rights Council;
- Participate in debates, interactive dialogues, panel discussions and informal meetings; and
- Organize “parallel events” on issues relevant to the work of the Human Rights Council” (OHCHR 2023).

Presumably, an institution monitoring human rights would want participation from civil society actors, but my research suggests that – at least in some cases – this is becoming more difficult. The consequences of this in an era where many governments are hostile to immigrants, minorities, and refugees, and where increasingly sophisticated technology is being used to monitor and repress activists are concerning. My hope is that this research illustrates who is excluded from global governance, how, and what some of the consequences are.

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APPENDIX II: IRB Renewal



July 19, 2022

To: Austin Schutz
Department of Political Science
College of Arts and Sciences
Box 870213

From:



Re: **Notice of Approval**
IRB Application #: e-Protocol 21-04-4516-R1
Project Title: "Underrepresentation in World Politics: The Unrepresented Nations and Peoples Organization (UNPO)"
Submission Type: Renewal
Approval Date: July 19, 2022
Expiration Date: July 18, 2023
Funding Source: Graduate Council Fellowship
Review Category: EXEMPT
Approved Documents: Waiver of Written Consent

Dear Mr. Schutz

The University of Alabama Institutional Review Board has approved your proposed research . Therefore, your application has been approved according to 45 CFR part 46 *as outlined below*:

(2) Research that only includes interactions involving educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures, or observation of public behavior (including visual or auditory recording) if at least one of the following criteria is met:

(iii) The information obtained is recorded by the investigator in such a manner that the identity of the human subjects can readily be ascertained, directly or through identifiers linked to the subjects, and an IRB conducts a limited IRB review to make the determination required by §46.111 (a)(7).

The approval for your application will lapse, as noted above. If your research will continue beyond this date, please submit the Continuing Review to the IRB as University policy requires before the lapse. Please note any modifications made in research design, methodology, or procedures must be submitted to and approved by the IRB before implementation. Please submit a final report form when the study is complete.

All the best with your research.

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