

PANDEMICS AND POLICY: A HUMAN RIGHTS BASED APPROACH TO MIGRATION IN MALTA

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TABLE OF CONTENTS

LIST OF FIGURES	vi
LIST OF ABBREVIATIONS	vii
ABSTRACT	ix
CHAPTER 1 - INTRODUCTION	1
Migrants Definitions and Exploration	4
Background on Human Rights	8
Characteristics of Human Rights	12
HRBA in Theory	14
Looking Forward	15
CHAPTER 2 – LITERATURE REVIEW	18
Background on Migration in the Country	19
Contemporary Migration Issues	22
Structural Violence: Housing, Healthcare, and COVID-19	23
Anti-Immigration Rhetoric	26
Upholding Homogeneity	29
Detention of Migrants in Malta	31
Migrant Rights in Malta	33
Literature on Previous Pandemics and Lessons Learned to be Applied to COVID-19	36
Human Rights and HIV	37
Exploring Lessons from Previous Scholarship	38
Misleading Dichotomies that Emerged from COVID-19	41
Literature on a HRBA to Policymaking	43
Rights-Based Approaches	45
Conclusion	50
CHAPTER 3 – METHODOLOGY	52
CHAPTER 4 – CASE STUDY	56
Travel Ban	56
Conclusion	63

CHAPTER 5 - ANALYSIS	65
Analysis of the 1970 Immigration Act	68
Analysis from a Lens of Structural Violence	73
Political Level	74
Social Level	78
Economic Level	81
Conclusion	82
Analysis from a Lens of Narrative Theory	83
Conclusion	91
Recommendations for Resolution	92
Overcoming Structural Violence	92
Overcoming Destructive Narratives	94
Looking Forward	95
Conclusion	96
CHAPTER 6 - CONCLUSION	98
Summarization of Chapters	98
Results from Research	101
Limitations of this Study	102
Contribution to the Field	104
Looking Forward	105
APPENDIX A: L.N. 92 of 2020	107
REFERENCES	110
BIOGRAPHY	118

LIST OF FIGURES

Figure 1:

59

LIST OF ABBREVIATIONS

AFM	Armed Forces Malta
CRC	Convention on the Rights of the Child
ECHR	The European Convention on Human Rights
HRBA	Human Rights Based Approach
ILO	International Labour Organization
IOM	International Organization for Migration
SAR	Search and Rescue Zone
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDGC	United Nations Department of Global Communications
UNHCR	United Nations High Commissioner for Refugees
WHO	World Health Organization

ABSTRACT

PANDEMICS AND POLICY: A HUMAN RIGHTS BASED APPROACH TO MIGRATION IN MALTA

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The COVID-19 pandemic created an unprecedented public health crisis that intensified inequalities worldwide. Pandemics should not allow for neglecting or diminishing human rights, but rather incorporate the rights of all individuals when proposing policies.

Marginalized populations are often excluded when forming policy decisions and are often disproportionately affected during health crises. As such, this dissertation will examine how Malta upheld its human rights obligations towards migrants through policy creation during the COVID-19 pandemic. Through a systematic review of policies created in response to the COVID-19 pandemic this research will highlight how one policy, L.N. 92 of 2020, led to conditions in society that violated the human rights of migrants in Malta.

The policy was cross-referenced against the Universal Declaration of Human Rights, the European Convention on Human Rights, and the Convention on the Rights of the Child to explore how Malta failed to uphold its human rights obligations to migrants based on incidents reported from the People for Change Foundation. To deepen the analysis these incidents were analyzed within the conflict analysis and resolution theoretical

frameworks of Galtung's (1969) structural violence and Cobb's (2013) narrative theory. The results yielded from this research demonstrate that while Malta was compliant with international law to institute the travel ban, the situations that emerged from the implementation of the travel ban violated the human rights of migrants and emphasizes how adopting a human rights-based approach to policies can be employed to ensure that marginalized populations are included and respected during policy creation.

CHAPTER 1 - INTRODUCTION

The COVID-19 global pandemic has created an unprecedented public health crisis that has exacerbated inequality and left those who are in marginalized populations more vulnerable (United Nations Sustainable Development Group, 2020). As marginalized people may become more vulnerable during emergencies due to factors such as lack of access to effective health services and the potential to face exploitation (IFRC, OCHA, WHO, 2020), it is critical to ensure that these vulnerable populations are actively included and engaged in the planning and implementation of laws and national policies in order to have an inclusive approach to best suit the needs of all during cases of public health emergencies. The COVID-19 pandemic created a space that highlighted various shortcomings of appropriate institutional responses to not only eradicate the virus, severe acute respiratory syndrome coronavirus 2, that causes the COVID-19 disease, but to address and combat the vast number of societal issues that have left room for vulnerable populations to experience exploitation and mistreatment during the pandemic (United Nations Sustainable Development Group, 2020).

It is of paramount importance that the COVID-19 pandemic is not used as an excuse or justification for states to ignore human rights and their subsequent obligations to uphold human rights, but rather ensure that no one is left behind in the policy creation

stage. Placing the response of the virus within an understanding of human rights is necessary in order for states to fulfill their obligation to comply with international law and national legislation. By placing the pandemic and states responses in the context of a human rights-based framework it ensures that it continuously emphasizes the notion of putting people at the center of the discussion, with respect for the economic and social rights of people to be centralized in order to foster a united front to confront the societal issues that have been exacerbated due to the on-going pandemic. This is a necessary step in order to ensure the adequate protection of human beings and their rights during these turbulent times is upheld. While protecting human rights is not only required by states due to international law it is also an imperative in the field of public health as it enables the adherence to health practices as well as builds the trust of the populations that are the most impacted and most at risk during the pandemic (UNAIDS, 2020).

While placing human rights at the forefront of policy discussion and creation allows for the protection of human beings to be at the center of these phases, competing narratives of placing economic values as a priority as well as systemic forces that perpetuate violence have counteracted the human rights-based approach (HRBA) making some states resistant to incorporate or acknowledge the need to have a human rights-based approach to policymaking. Various state legislation may be ignoring the human rights dimension involved with the pandemic response through oppressive legislation that does not take into account the rights afforded to individuals that are protected by international law. This begs the question, to what extent have various states, including Malta, abided by its international human rights obligations in creating their

policy responses to the COVID-19 pandemic. As such this paper will address whether Malta has and the ways in which it has utilized a human rights-based approach to policy creation during COVID-19 to protect vulnerable populations. Specifically, the research question this dissertation seeks to answer is, whether Malta upheld their human rights obligations to migrants through policy creation during the COVID-19 pandemic from 13 February 2020 to 5 June 2020. Malta was chosen to serve as a case study for this dissertation as the Mediterranean island nation has a complex history with migration, this coupled with the fact that Malta was praised by the World Health Organization for its government's response to the COVID-19 pandemic (Giordimaina, 2020), made it an interesting context to study the intersection of migrant treatment during the pandemic and the government's response to the COVID-19 pandemic. Practical considerations were also factored into this decision to utilize Malta as a case study as the opportunity to conduct research in a country where one resides makes the process authentic and reasonable to undertake.

This dissertation seeks to position itself amongst existing research that examines both the extent and ways in which policies created as a response to the COVID-19 pandemic utilized a human rights-based approach. Following a review of relevant literature related to the topic on migration in Malta, lessons learned from past pandemics, false dichotomies that emerged during the pandemic, and a HRBA in policy creation, this will be accomplished by analyzing various legislation the Maltese government instituted during the pandemic with the Universal Declaration of Human Rights (UDHR), the Convention on the Rights of the Child (CRC), and the European Convention on Human

Rights (ECHR), as objective points of reference to measure how the Maltese government upheld its obligation to protect the human rights of migrants during the pandemic. While Malta has ratified other instruments, such as the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, the aforementioned declaration and conventions were chosen as they directly relate to the conditions this dissertation aims to address, with practical considerations, such as time constraints, also being a factor to analyze the policies through three documents as opposed to more. These benchmarks have been chosen as they objectively underpin the inclusion and support of human rights practices. This research seeks to provide clarity for the importance of implementing a human-rights based approaches to policy creation for the COVID-19 pandemic that is inclusive, just, and transparent. Upon completion of the case study the results found will be analyzed through two different theoretical frameworks in the field of conflict analysis and resolution and suggestions for resolutions will be provided based on the analysis. Finally, this dissertation will present and summarize the key findings of the research and demonstrate the importance of the findings within the field of conflict analysis and resolution.

Migrants Definitions and Exploration

The COVID-19 virus does not discriminate against anyone; however, the responses from states and impacts of the virus do. Dubbed the ‘great equalizer’ by New York Governor Andrew M. Cuomo during the start of the COVID-19 pandemic (2020), highlights the problematic approach to combatting the virus and managing the harmful societal conditions that emerged, due to the lack of recognition of lasting global

inequalities that exist in the world and become exacerbated during times of emergency (Department of Global Communications, 2020). As there are certain groups of people that are much more vulnerable to contract the virus as well as more vulnerable to endure abuses and violence from the social conditions that have been exacerbated from the response to the virus it is critical to ensure that no one, especially those in marginalized populations, is forgotten or neglected during the response measures to the COVID-19 pandemic.

Migrants, asylum seekers, and refugees are often marginalized based on their standing, which may lead them to experience vulnerability. This vulnerability may take the form of exploitation, lack of access to fundamental human rights protections, and socio-economic standing (United Nations High Commissioner for Refugees, 2020). The vulnerable standing in society that migrants may already endure coupled with the pandemic creates social conditions that may allow for further marginalization, discrimination, and violence at both the individual and structural levels. This will be explored further in the literature review in order to provide a more analytical lens of which to engage with the concept. For the purpose of this dissertation, it is critical to ascertain the different types of migrants in Malta in order to provide clarity around the rights and protections one is guaranteed under international law.

Asylum seekers, refugees, and migrants are often miscategorized and misunderstood in terms of defining and labeling. However, there are differences between each of these groups, which requires a sound understanding of the convergences and divergences of each to fully understand the groups. These differences are important to

clarify as they are each awarded different forms of protection under international law. Each of these groups will be defined and explored below.

The 1951 Refugee Convention and Protocol is a key piece of legislation in the protection of refugee rights as it is the most comprehensive document detailing the rights of refugees at the international level. The Convention (1951) defines refugees as,

someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.

Due to increased conflict worldwide, the number of both refugees and asylum seekers has increased to numbers that have not been seen before.

Asylum seekers are defined by UNHCR as, "...someone whose request for sanctuary has yet to be processed," (2020). The key distinction between refugees and asylum seekers is the fact that refugees have received their status from the state, whilst asylum seekers are still in the process of gaining approval.

The term migrant is defined by the International Organization for Migration, IOM, (2019) as

An umbrella term, not defined under international law, reflecting the common lay understanding of a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons.

Within the context of Malta, the phrase ‘irregular migrant’ is often used and describes the movement of “persons that takes place outside the laws, regulations, or international agreements governing the entry into or exit from the State of origin, transit or destination,” (International Organization for Migration, 2019). Defining the term ‘migrant’ is inherently problematic, as there is not a commonly recognized international definition (International Organization for Migration, 2019). This presents a challenge as some definitions presented are not as inclusive and presents limitations on who is considered to be a migrant and if moving outside of borders makes a difference for definitional purposes. The lack of a clear definition also presents a challenge during research as much of the previous research on the topic seems to utilize the terms migrants, asylum seekers, and irregular migrants almost interchangeably with no clear distinctions made between the terms. This causes a problem as it can lead to confusion on how the topic is addressed. However, with these imperfections of the term in mind, for the purpose of this dissertation, the term shall be defined as stated above by the IOM definition.

Discussions surrounding migration in Malta have been an on-going challenge in the country for years. Convoluted dialogues over perceived security threats coupled with the supposed notion that the island nation does not have the necessary infrastructure to cater to having more people in the state have created an atmosphere of animosity and tension in the country over the discussion of migration. However, it is clear that no matter what the reason is that people are migrating to Malta, they need to be treated as human beings and have their rights protected. The complex history of migration in Malta serves

as a backdrop of which this dissertation embarks upon, as the difficult history has presented clear challenges for migrants to attain certain levels of dignity and respect with regards to their treatment during the COVID-19 pandemic. It must be made clear that while migration in Malta may be a complex and divisive topic, which has been heavily politicized, the topic is very important in order to achieve and maintain a peaceful and just society for all who live here and who have their human rights protected under international law.

Background on Human Rights

While violent conflicts have always plagued human interaction, the recognition and protection of human rights during times of both peace and conflict is a relatively recent development. The development of human rights can be traced back to early state formation and recognition of equality under law (Viljoen, 2009). However, of interest here is the legal discourse that recognizes and protects all humans from global oppression, exploitation, and injustice. The birth of human rights law must be explored in order to properly engage with the core ideas, concepts, and values that have transcended into contemporary society. As such, this section is dedicated to providing a succinct background to provide key elements of human rights as a field and human rights law.

Human rights are the basic rights and freedoms awarded to every living person recognized and protected by international law (United Nations, 1948). Human rights, as a field, presents a distinguishable timeline of the adaptation of recognizing some human rights within law. This background and timeline will be further explored in order to provide a clear and comprehensive framework for understanding the role human rights

have in contemporary society. As this dissertation focuses on the human rights dimension involved with the COVID-19 pandemic it is critical to distinguish the protections that are awarded to individuals under international law in order to properly analyze the extent to which this protection was upheld in Malta during the crisis.

In Viljoen's piece "International Human Rights Law: A Short History" the author presents a comprehensive overview of the history of human rights and human rights law (2009). The historical background of human rights law presents a valuable context for recognizing the importance that all human beings are awarded certain protections under international law. While noting the distinction that exists between human rights and human rights law, Viljoen ascertains human rights law can be broken into three generations. While the three generations of human rights as a theory was first introduced by Karel Vasak during the 1970's Viljoen explores the concept whilst providing a comprehensive overview of the three generations. As an ode to the French Revolution, the generations are Libert , Egalit , Fraternit , (Viljoen, 2009). Libert  is the first generation that focuses on freedoms relating to civil and political life, Egalit , is the second generation of rights that focuses on equality and the socio-economic dimension of human rights, followed by Fraternit , which is the third generation of rights that focuses on collective concepts such as solidarity (Viljoen, 2009). Each of these generations has been deployed based on the socio-political context of the time. This can be seen as third-generation rights, such as right to a healthy environment, has been adopted due to the increase in globalization that has exacerbated global inequality. Thus, making such rights promoted during the time. Another example comes from the Cold War, during

which time first-generation rights were seen to have been prioritized by Western countries, while second-generation rights were not (Viljoen, 2009). These generations provide a basic framework for thinking about human rights and requires us to think critically about the assumptions around the rights when applied to real-world situations.

While the theory of the three generations of human rights does not exist without critique, it still provides importance in the contemporary understanding of human rights as it provides a valuable context of which the field of human rights has been studied for years. However, critiques of using the theory stem from it being viewed as not having a clear time frame, placing American and French history at the forefront of the discussion, and promoting political dynamics (Jenson, 2017). Recognizing these critiques within the understanding of the value that the theory holds ensures that one can critically engage with the concepts presented from the framework.

In part, due to the lack of recognition of human rights as part of international law led to many grave atrocities occurring for centuries. It was not until the International Labour Organization (ILO) was founded in 1919 that set forth the first international legal standards for protection (Viljoen, 2009). Following World War I there was a hope to establish concrete human rights norms within the body of the League of Nations (Viljoen, 2009). Such attempts included the creation of the Minority Committee, whose purpose was to hear complaints from minorities (Viljoen, 2009). These attempts proved to not be as fruitful as anticipated and such attempts quickly ended upon the start of the Second World War.

Following the atrocities that consumed the world during World War II the United Nations was created in 1945 as an entity to maintaining international peace, developing friendly relationships with other nations, and promoting human rights (United Nations, 2020), the institution then found it to be necessary to incorporate a legal document that protects the rights of all individuals on the basis of them being human beings and thus encompass human dignity. The Universal Declaration of Human Rights as set forth by the United Nations General Assembly in 1948, and now serves as “a common standard of achievements for all peoples and all nations,” (The United Nations, 1948). The UDHR was drafted around four pillars which are: dignity, liberty, equality, and brotherhood (The United Nations, 1948). These pillars serve as valuable markings as they dictate the standards of how to promote and protect human rights within a society. The value of the UDHR cannot be understated as it has clearly served as an instrumental document that has inspired various treaties and conventions for the protection of human rights. The UDHR has proved to be a foundational text for the fair and just treatment of all human beings and it is a part of customary law. As such, the UDHR can still be used as a point of reference for analysis as there are still clear human rights abuses that are committed in the world. This contemporary framework for human rights provides a critical framework for how human rights are defined and protected via international law.

The UDHR has provided the basis for many human rights texts, treaties, and conventions that have emerged in recent years. A few examples of such documents are the European Convention on Human Rights and the Convention on the Rights of the Child, both of which will be expanded upon further in this research as they will be used

as a framework for the analysis relating to the human rights dimension towards the treatment of migrants during the COVID-19 pandemic in Malta. These conventions would not have emerged if the UDHR did not exist as it provides the foundation for which many treaties and conventions rely on to ensure further protections in international law.

This brief background of the development and evolution of human rights is intended to serve as background information that seeks to deploy a context for this dissertation. While noting that the history of human rights and human rights law presented is not completely exhaustive this section attempts to demonstrate the importance that human rights have had in the recognition of human rights law as an international standard. As human rights have been recognized as international law, this serves as an international standard and precedent for the protections and adequate responses for how all human beings should be treated and the human rights obligations states are required to uphold.

Characteristics of Human Rights

In order to critically engage with the concept of human rights, it is crucial to examine and understand the characteristics they have. This section will be dedicated to exploring such characteristics in order to fully understand the value they have in relation to the research question. Human rights are viewed as being “inalienable, indivisible, and universal,” (Council of Europe, 2020). Inalienable because they cannot be lost as they inextricably linked to the existence of being a human (Council of Europe, 2020). Indivisible because human rights are interconnected and cannot be viewed as being

separated from one another (Council of Europe, 2020). Human rights are universal as they apply equally to everyone around the world without distinction from prejudice (Council of Europe, 2020).

The COVID-19 pandemic has created a space that has allowed for various discourse to occur surrounding the idea of human rights and what rights should be protected. Human rights discourse is often exploited by people who seek individualistic concern over the well-being of others. This has taken the form in varying contexts, namely in the United States, where instituted mask mandates have become politicized and have been called an infringement on civil rights (Chumley, 2020). While it is not within the scope of this research to address such instances, it should be clear that this dissertation does not share the rationale that the mandated face mask requirement implemented in order to curb the spread of the virus is an infringement of human rights, and instead focuses on the ways in which state responses have impeded human rights in a legitimate way. However, there will be a section in the literature review that discusses the emergence of false dichotomies that have emerged in the response to the COVID-19 pandemic, where the notion of exploiting human rights discourse to further the desires of a few people will be explored further.

These rights present the groundwork for how humans must be treated. The core characteristics that make up human rights need to be at the forefront of decision making in order to ensure that policies protect all human beings as required by international law.

HRBA in Theory

As this dissertation places a heavy emphasis on utilizing a human rights-based approach to policy creation it is crucial to examine what exactly that entails. HRBAs are, as defined by the United Nations Population Fund, (2020)

The human rights-based approach focuses on those who are most marginalized, excluded or discriminated against. This often requires an analysis of gender norms, different forms of discrimination and power imbalances to ensure that interventions reach the most marginalized segments of the population.

Born out of the field of development and shaped by international law, a HRBA became a best practice towards human development. It is important to recognize the transcendence that occurred between a HRBA from the field of human development towards utilizing such an approach to other fields, such as health and policy formation as the latter is most closely related to the research question this dissertation aims to answer.

Utilizing a HRBA to health ensures the recognition of health as a human right as well as recognizing the link between other human rights relating to health is prioritized. At its core, a HRBA focuses on the elimination of all forms of discrimination (United Nations Sustainable Development Group, 2020). This description of a HRBA is what this dissertation will use for the framework of analysis. This type of inclusion is what makes a HRBA extremely valuable as they inherently seek to protect those who are often the most marginalized in a community. As a HRBA seeks to analyze inequalities that occur during development and address discriminatory practices that often lead to groups of people

being left behind or excluded (United Nations Sustainable Development Group, 2020), this conceptual framework provides a valuable point of reference when critically examining the human rights dimension of an issue as it inherently begs one to question who is being excluded and attempts to redress the discriminatory practices that lead to such exclusion. It is necessary to have a human rights-based approach to health in order to dismantle the global inequalities that exist via health. Such inequalities can be seen through lack of access to treatment, marginalized populations being at more risk, and lack of quality of treatment.

Relating to the COVID-19 pandemic, a HRBA has been called for by UN Secretary-General António Guterres in order for states to adopt a people-centric approach in order to best beat the global pandemic by putting the focus on achieving quality health care for everyone (Guterres, 2020). This call to action by the Secretary-General of the UN provides a sort of legitimacy to adopting a HRBA as the United Nations is a large international institution whose existence is predicated on the promotion of peace and cooperation amongst states (United Nations, 2020). The value of utilizing a HRBA for the response to the COVID-19 pandemic cannot be understated, as it ensures that no one is left behind when making decisions and allows for an inclusive approach to a problem that is affecting the globe. The process of utilizing a HRBA will be further explained and contextualized in the following chapter as it relates to health policies.

Looking Forward

Human rights and the COVID-19 pandemic are inextricably linked in a myriad of ways, thus making the need for a human-rights based approach to policy creation all the

more valuable. If human rights are continuously ignored during the pandemic it can create conditions that continuously harm the most vulnerable in society. Without addressing the systemic factors at play that can exacerbate the conditions in which human beings are not treated equally, it leaves those who are marginalized to experience a plethora of issues. Racism and xenophobia are clear examples of structural issues, which have been exacerbated by the COVID-19 pandemic. This can be seen through the increase in hate speech and stigma surrounding people's ethnicity (Human Rights Watch, 2020). These examples of racism and xenophobia becoming exacerbated during the COVID-19 pandemic serve to illustrate how damaging the social conditions that were created in response to the COVID-19 pandemic can be and will be further explored in this dissertation to emphasize how the systems and structures in place further perpetuate violence and how the narratives created during the COVID-19 pandemic sought to justify the violence.

It is only when all people and their rights are respected and put at the forefront of decision making that inclusive and just solutions are created. This claim will continue to be explored throughout the dissertation as it directly relates to how Malta specifically was able to navigate the complexities involved with handling the COVID-19 pandemic response. Following a review of relevant literature on the aspects relating to the topic of this dissertation, a chapter on the methodology that was employed to carry out this research will be presented. Following this, this dissertation sought to utilize the context of Malta to serve as a case study to examine how the national legislation created in response to the COVID-19 pandemic upheld the human rights obligations to migrants. The results

that emerged from this case study will then be analyzed within two key theoretical frameworks within the conflict analysis and resolution field in order to demonstrate the complexities involved with such a topic and also provide suggestions for resolution and suggestions for future public health emergency situations that can be bettered from an understanding of the lessons learned from the COVID-19 pandemic. This will then be concluded by a chapter that seeks to succinctly reconcile the previous chapters.

CHAPTER 2 – LITERATURE REVIEW

In order to engage with the question of whether the Maltese government upheld its human rights obligations to migrants through policy creation during the COVID-19 pandemic, one must first, explore, analyze, and synthesize previous literature on the topic. As there are multiple segments involved in addressing the aforementioned research question it is necessary to address each segment relatively exhaustively in order to have a holistic understanding of the research that has already been produced. Through an analysis of a mixture of blogs, articles, and books, this chapter seeks to provide a foundational examination of the existing literature on the various topics within this dissertation in order to identify gaps within the previous scholarship, as well as pay homage to the previous researchers and scholars who have researched and written on the subject.

For the purpose of this dissertation, the literature review will be broken into three distinct sections, each of which represents an important facet of the overall research topic in order to effectively ground the research question in the appropriate context. These segments will appear as followed: migration in Malta, previous pandemics and the lessons learned to be applied to the COVID-19 pandemic, and a HRBA to policy making. In order to effectively gain a deeper understanding of each of these topics, as well as to contextualize this dissertation, the aforementioned segments seek to provide a

comprehensive overview of the main segments of research this dissertation attempts to answer. While the on-going COVID-19 pandemic is a public health crisis that the world has not experienced before, there is a plethora of previous literature dedicated towards the aforementioned sections that will provide clarity on the relation between previously explored research areas relating to the COVID-19 pandemic.

Literature on Migration in Malta

Background on Migration in the Country

As this research is being conducted in Malta and about the way the migrants in Malta have been treated during the COVID-19 pandemic, the first section of this literature review will be dedicated to exploring the topic of the treatment of migrants in Malta. The intention of this section is to highlight and explore the ways that the history the state has in handling migration and migration concerns have impacted and led to the current environment regarding the treatment of migrants during the COVID-19 pandemic. As analyzing the historical trends and themes surrounding the topic may provide beneficial insight into the current state of affairs on how migration is handled in the country, it presents an apt point of review for this dissertation in order to attempt to effectively engage a large component of the research. While recognizing that the history presented in this dissertation is not fully exhaustive of the entirety of the history of migration in Malta, it seeks to provide a few segments that serve as a starting point to attempt to address how systemic forces that have penetrated to contemporary society may be impacting the ways that migration issues are dealt with by the Maltese government in the response to the COVID-19 pandemic.

Malta has experienced a unique evolution of how migration has been viewed and experienced in the country. With a vast history of experiencing various colonization that has left an imprint in the societal fabric on the country (International Organization for Migration, 2016), Malta has had to contend with a paradigm shift when addressing migratory practices and trends. This shift can be seen through Malta, at first, being a country where emigration dominated the migration conversation and experiences, flipping to a country that experiences more immigration during recent history. Beginning in the nineteenth century Malta experienced emigration to mainly North Africa, this trend of emigration was upheld until the end of World War II where the main destinations were English-speaking countries, such as Australia, Canada, and the United Kingdom took place (International Organization for Migration, 2016). This began to shift and immigration to Malta began to emerge. As of today, the highest numbers of migrants that live in Malta are from the European Union (International Organization for Migration, 2016). This is in contrast to much of the political rhetoric that attempts to paint a picture that shows that the majority of migrants in the country are asylum-seekers or economic migrants from sub-Saharan Africa (International Organization for Migration, 2016). This type of rhetoric is what tends to dominate the media coverage and both the public and political discourse on the issue as well as frame how discussions on migration are addressed in the country. However, it appears that contemporary migration trends in Malta are much more diverse and complex than what is typically presented by the narrative of the media (International Organization for Migration, 2016).

Migration in Malta has been an on-going issue in the country that has been exacerbated by the inherent politicization of the topic (International Organization for Migration, 2016). As one of the most densely populated countries in the world, (International Organization for Migration, 2016) Malta has a unique challenge to reconcile the complexities that are present in the on-going dispute of migration. While recognizing the great dynamic advantages migration has (International Organization for Migration, 2016), there are definitely challenges that the state must contend with. These challenges may include anti-migration rhetoric, lack of necessary infrastructure, and attacks against migrants, such challenges will be further explored in the section below. This should not be the case as the value and importance of political aim should not come at the expense of the recognition of basic human rights.

There are a number of factors that have led to the changes in migration in Malta. These include; the location of the island as well as the accession of Malta to the EU. The location of Malta has often been viewed as being a driving factor for migration as it lies in the middle of the Mediterranean (International Organization for Migration, 2016). Due in part to the strategic location in the Mediterranean as well as the accession to the EU, Malta has become a focal country in terms of migration, as people traveling to southern Europe via sea routes from the Maghreb may arrive in Malta as a first destination, while EU citizens are able to exercise their right of free movement within the EU (International Organization for Migration, 2016). As it exists in the middle of the Mediterranean, Malta is viewed as a gateway to Europe, which has become more important in recent years as of 2002 there has been an influx of asylum-seekers arriving in Malta from North Africa

(International Organization for Migration, 2016). Following the Arab Spring and the onset of multiple conflicts in the region, there has been an increase in Syrian and Libyan asylum-seekers entering Malta (International Organization for Migration, 2016). The inherent politicization of a sensitive and complex topic, such as migration, has become one of the greatest political challenges of the current times the country has experienced (International Organization for Migration, 2016). As such, this contemporary challenge underscores the importance that research in academia needs to focus on ensuring the human rights of marginalized populations are protected as there are certain policies and ideologies that are directly threatening to the existence of some groups.

Through the comprehensive report issued by the International Organization for Migration, the commentary attempts to establish contemporary migration trends in Malta that seek to provide a more complicated and complete overview of the topic rather than rely on the more simplistic narrative that often dominates the mainstream media narratives. This complexity is important to consider as it highlights the nuances that exist within such a divisive and politicized topic, that must be analyzed and understood in order to have a holistic and inclusive society, rather than relying on divisive narratives that all too often cascade over the political rhetoric into the public perception.

Contemporary Migration Issues

Migration in Malta is not a concept that exists without controversy and a myriad of challenges. It is necessary to recognize and analyze these challenges in order to attempt to accurately assess the current situation and gain a deeper understanding of the complexities involved in the discussion. This section seeks to explore contemporary

migration issues in Malta as they relate to this dissertation. The variety of issues that emerge within the topic of migration in the state, appear to stem from a combination of systemic forces that perpetuate systems of violence against the marginalized group coupled with an anti-migrant mentality that manifests through violent rhetoric and acts, and an increasing mentality of the supposed need and importance of upholding homogeneity in the country. While these are just a few of the contemporary challenges mentioned in the previous literature (International Organization for Migration, 2016) on the topic, it is important to note that there are others, such as adults encountering difficulties to attain a formal education (KSU, 2019). However, for the purpose of this dissertation, the previously mentioned challenges will be explored as they directly relate to the purpose of this research as well as provide an apt frame of which to answer the research question. These contemporary migration issues have been identified through reviewing the literature on the topic and each will be explored below.

Structural Violence: Housing, Healthcare, and COVID-19

Structural violence against migrants in Malta is a systemic force that may happen in a variety of ways; these ways will be further elaborated during this chapter. From the lack of access to healthcare to experiencing discrimination in housing, these examples of structural violence highlight a system that perpetuates the inequity and injustices experienced amongst migrants in Malta. In Johan Galtung's article "Violence, Peace, and Peace Research," Galtung articulates a theory that denotes the three different forms of violence- structural, cultural, and direct (1969). The most pertinent of which to this dissertation, while recognizing other forms of violence exist and are inflicted on

migrants, is the structural violence that occurs. Structural violence is the notion that systems and institutions that are in place can cause harm to people and prevent them from meeting their basic human needs (Galtung, 1969). This is critical for the understanding of the treatment of migrants because the existence of such structures present a hindrance that perpetuates an inability to enjoy a healthy existence. According to Galtung's theory of structural violence, those who are at the top of the structure are inclined to maintain the status quo in order to preserve their interests (Galtung, 1969), thus making it even more challenging to dismantle such violent systems of oppression. The importance of understanding conflicts within a framework of structural violence cannot be understated as it begs for scholars, researchers, and practitioners to challenge and inspect situations critically while evaluating what intersections of larger forces may be at play that perpetuates inequality at both the individual and structural levels.

To critically engage with some of the ways in which structural violence manifests against migrants it is first necessary to know how and why such violence may present itself. People who are from a migrant background represent some of the most vulnerable and marginalized groups worldwide (Ziersch, Walsh, Due, and Duivesteyn, 2017). This marginalized status can lead to exploitation and violence across many different levels (Flynn, 2016). Globally, migrants are seen to experience a vast array of health complications; from facing a range of risk factors for poor health and well-being, the resettlement into a new country poses new possibilities for health outcomes (Ziersch et al., 2017). The inability for migrants to experience a better form of health-related access and outcomes represents a form of structural violence as the systems in place do not take

into account the needs of everyone while also exacerbating the inequality that exists in the country. The right to secure housing is a determinant of health, as it is viewed not only as a successful marker of integration (Ziersch et al., 2017) but also provides sound security for people. As secure housing is a human right (Ziersch et al., 2017) it is critical to ensure that all individuals have the ability to achieve such a right in a just way.

Within the context of Malta, the experience for some migrants to attain secure housing may be perilous. The lack of clear structures in place that are dedicated to achieving secure housing for migrants is a direct hindrance for advancement and coupled with the current racist sentiments that still penetrate throughout society (Azzopardi, 2020) further represents a clear example of structural violence migrants must contend with. The racist sentiments that exist further perpetuate a system of violence against those who are deemed the *other* and creates a space that allows for the mistreatment and violence at both the systemic and individual levels to occur.

Housing and job security are often viewed as inter-related facets and markers for successful integration into a country (King & Lulle, 2016). Noting that the phrase integration is often viewed as a contested term (King & Lulle, 2016) it does seem to place value within the context of this research because it seeks to envision a future where a successful and long-term inclusion and acceptance of migrants emerges within the institutions and society as well as the formation of feelings of belonging and identification to such a place occur (King & Lulle, 2016). The COVID-19 pandemic has caused economic uncertainty in Malta, which has left employers less likely to hire new people, systems are lacking the necessary resources to provide jobs and housing, that has

left migrants and asylum seekers sleeping in the streets (Azzopardi, 2020). These systemic failures are thus resulting in marginalized people becoming more vulnerable to exploitation (Azzopardi, 2020).

The precarious and violent situations that migrants may all too often endure lead the way for exploitation and further abuses to occur and will continue to be a problem until certain structures are put in place to prevent such scenarios (Azzopardi, 2020). The lack of housing and job security for migrants in Malta present an on-going structural issue that is clearly damaging to the well-being of migrants and has been further exacerbated during the pandemic (Azzopardi, 2020).

In exploring just a few examples of the systemic issues facing migrants, lack of housing rights and lack of access to health care, it is clear that there are structural issues related to housing rights and health care access that must be overcome in order for migrants to afford their basic human rights during COVID-19. This review of related literature serves to add as a marker of analysis to the discussion of this paper, helping to situate the research question in a critical understanding of structural violence.

Anti-Immigration Rhetoric

Utilizing a narrative lens to analyze conflicts is a critical framework within the field of conflict analysis and resolution that seeks to make connections as a form of categorizing the conflict (Cobb, 2013). In Sara Cobb's book *Speaking of Violence: The Politics and Poetics of Narrative in Conflict Resolution* the author offers a framework for how to analyze conflicts through a narrative lens by describing the structural and dynamical features that make up this foundational aspect of narrative theory (2013). This

framework consists of addressing the dominant narratives, hidden transcripts, narrative authority, frozen conflict, that are all contextualized within a timeline (Cobb, 2013). Cobb asserts that stories matter and the way we tell them matter as they continue to perpetuate narratives of how people view and interact with a conflict (2013). While addressing the gap that exists in existing conflict resolution techniques, such as problem-solving workshops, and dialogues, Cobb declares that these tenants in the peacemaking and peacebuilding field can benefit from a redefinition that is grounded in narrative theory (2013). With regard to human rights discourse Cobb, states that it provides the foundation for viewing the excluded *other* as a human being with rights that cannot be infringed (2013). When addressing policy, Cobb (2013) emphasizes that policies can be,

[...] a remedy to a problem narrative, to the extent that problems are often either associated with the presence of a marginalized population (single-parent mothers, for example) or formulated as caused by a marginalized population (gangs or immigrants, for example). Those who are the object of the policy, especially when they are seen as the problem, it leads to their dehumanization. (p. 126)

What is pertinent from narrative theory for the purpose of this dissertation is the notion that Cobb suggests that narratives can function as a justification for violence (2013). This lens has been explored in this section as it will be utilized further in this dissertation in order to analyze the narrative that has emerged from the rhetoric being employed by various government officials surrounding the way migration is discussed in the state. This

is done to ultimately provide a coherent answer to the question this research seeks to answer.

Within Malta examples of harmful rhetoric used to justify and validate xenophobia have emerged and continue to perpetuate violence against those that are viewed as the *other*. These examples will be further illustrated in this chapter. As such, this presents a clear challenge to the safety of migrants, as such sentiments and viewpoints permeate throughout the government at the highest levels. The xenophobia that exists at the highest forms of government can best be illustrated through Robert Abela's controversial decision to close the ports to migrants during the pandemic. Abela's message of "Malta first and above all else" was seen to incite more xenophobic language (The Shift, 2020). While the rhetoric surrounding contemporary migration speaks to larger and more structural issues that are present, as it begs us to consider how the systems and institutions that are present are operating in ways that are racist and perpetuate violence, it is crucial to understand the danger that harmful rhetoric can have as the effects can lead to an increase in perceiving *others* as a threat.

The situation surrounding rhetoric with migration in Malta has been further complicated due to the pandemic. This can be seen as Robert Abela's failure to rescue migrants within Malta's search and rescue zone, SAR zone, has unleashed a wave of xenophobia throughout the country (Debono, 2020). However, it should be noted that the current Prime Minister is not alone in his viewpoints and there is a demonstrated history of anti-migration sentiments throughout Maltese governance. For years Malta had a policy to automatically detain any migrants that arrived in the nation irregularly, this

policy created a space, that along with racist sentiments partially fueled negative public discourse on migration (Falzon, 2019). This protocol will be explored more in-depth in the subsequent section, but right now the protocol along with the aforementioned examples seek to provide a succinct pattern of systemic failure within the Maltese government to uphold values that align with anti-xenophobic sentiments.

The density of Malta combined with the small size of the island nation is often used as a justification for anti-immigration rhetoric (International Organization for Migration, 2016). While there are three islands of Malta, (Malta Comino, and Gozo) that comprise the country, it is actually the smallest and most densely populated member state of the EU (International Organization for Migration, 2016). In 2018 Malta ranked as the third-highest EU country for receiving asylum seeker requests (Newsbook, 2019), as such the total number of migrants living in Malta has seen a steady increase during the past decade (International Organization for Migration, 2016). As Malta has been a nexus for migration, the small size of the state is often used as a reasoning by anti-immigrant groups and people utilizing this destructive rhetoric to further their own xenophobic viewpoints to promote ideologies that suggest Malta cannot take in more people. This presents a clear challenge to maintain a prosperous society that encompasses inclusion for all. As xenophobic rhetoric is the most prominent form of hate speech in Malta (Iversen, 2017) it presents a clear and necessary challenge to overcome that is further exacerbated by institutions and high-ranking government officials that continue to propagate such sentiment.

Upholding Homogeneity

The promotion of nationalism and upholding a singular national identity is inherently problematic in the context of a globalized world. In Malta signs of nationalism grew as COVID-19 cases increased. Flags began to hang from balconies, as migrants were shipped to the sea (Azzopardi, 2020). The danger of this became that nationalism was used to justify the inhumane treatment of migrants, as it pivoted them from human to *other*. For example, on April 12th, 2020 Libyan migrants drowned at sea after they were left stranded just shy of Malta's SAR zone (Costa, 2020). Prime Minister Abela responded to this tragedy by taking an even firmer stance to border security, stating that "Our love for the Maltese people and our country is too big for us to give up in this important moment," (Debono, 2020). By placing the Maltese people above the human rights of migrants stranded at sea, nationalism fueled the dehumanization of non-Maltese people. This dehumanization is a symptom of a hegemonic view of human rights, as a globalized view would have afforded each of the stranded migrants' refuge at Malta's ports.

These contemporary challenges explored above seek to serve as a basis for the understanding of the positionality of migrants in contemporary Maltese society. It is important to recognize the nuances that exist within the debate that is often presented as "two-sided" as it further emphasizes that there cannot be a simple solution, but rather requires work from a multitude of sides to ensure the peace and prosperity of the country. The justification for anti-migration sentiments in the country appears to stem from systemic flaws (Azzopardi, 2020) that continue to perpetuate systems of violence against marginalized groups. While it is challenging to begin to address and tackle such systems it is necessary to do so in order to promote a society that is inclusive and just for all.

While recognizing the full autonomy and agency that migrants hold this dissertation does not seek to present migrants as anything other than humans and promotes the understanding that various institutional failing contributes to the perpetuations of violence.

Detention of Migrants in Malta

As this research seeks to address how Malta upheld human rights specifically to migrants, it is imperative to attempt to unpack the experience of migration and how that experience can be grounded in human rights principles. While this is a complex topic to explore due to the variety of systemic forces that perpetuate violence against marginalized groups, it is necessary to address the documented evidence of how migration in the country is dealt with at an individual level. This section seeks to explore this by reviewing the evolution of Malta's policies on the legality of the detention of migrants. Before continuing with the remainder of this section, it is important to understand what encompasses the process of what occurs when irregular migrants and asylum seekers arrive in Malta. It is important to note that this section seeks to uncover the processes for migrants before the pandemic, as various policies that have been implemented since the start of the COVID-19 pandemic have dramatically shifted the experience and the process. This will be explored further along in the dissertation as it serves as the basis for analysis within the dissertation. With that in mind, however, choosing to include the procedures that have been in place before the pandemic is intentional as it seeks to provide clarity on the regulations and laws that have been imposed. Based on the official documents that are provided to the public, this section will

now explore what exactly the process looks like when irregular migrants and asylum seekers arrive in Malta. This information is intended to clarify any confusion about what the process actually looks like for migrants arriving in Malta as well as provide concrete and comprehensive facts on what occurs in order to dispel any falsehoods that surround the topic.

The 1970 Immigration Act is the main framework for border control, detention, expulsion, and residence in the country (Global Detention Project, 2019). Before amendments were made to the Immigration Act in 2015, Malta was the only EU country that had mandatory detention for migrants and asylum seekers (Global Detention Project, 2019). This mandatory detention has since been eradicated by the creation of the policy “Strategy for the Reception of Asylum Seekers and Irregular Migrants,” (Global Detention Project, 2019) while ending the mandatory detention, this policy provided a provision that provided legal grounds for detention, which formed the creation of the new accommodation facility known as the “Initial Reception Centre,” (Global Detention Project, 2019). It is at this Centre that all those who arrive irregularly are to be held for medical screenings and processing for seven days pending that there are no health-related reasons that require a longer detention (Global Detention Project, 2019).

There are multiple provisions of the Immigration Act that are geared at addressing the detention of children. The Return Regulations, which sanction that migrants are returned to their country (Overview of the Legal Framework - Malta Asylum Information Database, 2020), also stipulate that minors who are either unaccompanied or with a family are only detained as a last resort and for the shortest amount of time possible, they

are to have access to leisure activities, and educational opportunities (Global Detention Project, 2019). However, in 2016 the European Court of Human Rights found that Malta was in violation of Article 3, when two asylum-seekers, who were minors, remained in detention for nearly eight months, despite evidence that confirmed their status as minors (Global Detention Project, 2019). This seeks to emphasize a clear pattern that the Maltese government has demonstrated towards the treatment of migrants. This pattern will be further explored in the subsequent chapter that is dedicated to the analysis of such treatments of minors.

Migrant Rights in Malta

As this dissertation seeks to add to the discussion on human rights and migrant treatment during the COVID-19 pandemic, it is important to recognize the rights recognized to migrants in Malta, as this is directly linked to the research question. Refugees are entitled to the same benefits as Maltese citizens under the same conditions, however, they must satisfy certain criteria for the benefits of which they apply for (Aditus, & JRS Malta, 2020). These benefits include “Children’s Allowance, Social Benefits, Pension Benefits, Rent Subsidy, Social Housing and Unemployment Assistance,” (Aditus, & JRS Malta, 2020). While these are a few social benefit programs that refugees are entitled to, migrants who are not categorized as refugees, are not awarded these benefits due to the differentiation in the legal status. However, migrants are protected to certain rights under international law. This serves to highlight that while migrants are not awarded and do not receive the same government social benefits as citizens or refugees, migrants are still entitled to certain protections under international

law and deserve to have their rights protected and respected despite their status in the country.

There is a multitude of conventions, treaties, and declarations bound by international law that protects the rights of human beings. Of interest for this dissertation are the Universal Declaration of Human Rights and the European Convention on Human Rights and when applicable the Convention on the Rights of the Child. These have been explicitly mentioned as these are the documents that will be utilized for the analysis portion of this research. The UDHR has been previously discussed and explored in the introduction in terms of the value of the UDHR to the field of human rights. The ECHR is a convention that protects the human rights of people in states that belong to the Council of Europe (Equality and Human Rights Commission, 2020). Signed in 1950 the Convention came into force in 1953 and has been signed by all 47 member states of the council. The rights and guarantees of the ECHR are applied and protected by the European Court of Human Rights (Equality and Human Rights Commission, 2020). The CRC is a convention that distinguishes childhood from being separate from adulthood and that children are awarded certain rights (UNICEF, 2020). The Convention further outlines a legal framework for the protection of child rights (UNICEF, 2020). It came into force in 1990 and has since become the most widely ratified human rights treaty in history (UNICEF, 2020).

It should be noted that there are other legally binding documents that the government of Malta is responsible for upholding under international law that pertain to the protection of human rights, these include the International Covenant on Civil and

Political Rights, The International Covenant on Economic, Social and Cultural Rights, and the Convention Against Torture. However, it is not within the scope of this research to analyze each of these as the for the brevity of this analysis these will not be thoroughly analyzed, but it should be noted that these are also in place to ensure the protection of human rights under international law.

Within the context of Malta and other countries that are parties to and therefore bound by the previously mentioned declarations and conventions, it is a clear human right violation to neglect or actively go against any of the rights outlined in the legally binding conventions the state is a party to. Relating to this research it is important to note that the right to health is protected under international law. Article 25 of the UDHR stipulates the right to adequate health (1948), as Malta is a signatory to the convention, the state has an obligation to uphold Article 25. However, when utilizing a HRBA it would require that these rights are not only protected, but it would go a step further to take into account the needs of marginalized populations. This may take the form of identifying groups in a non-stigmatizing way and the efforts should be tailored to reach these communities and provide adequate care (United Nations Sustainable Development Group, 2020).

Seeking and receiving medical treatment can be a precarious task for vulnerable populations. Undocumented migrants, asylum seekers, and others who may fear arrest or detention are unlikely to seek the appropriate health services unless they are able to do so without having to endure the fear of reprisal (Avafia, Konstantinov, Esom, Sanjuan, and Schleifer, 2020, & Somse and Eba, 2020). Based on the Migrant Integration Policy assertions that health policies in Malta, relating to migrants, present both obstacles and

opportunities in order to effectively treat patients that are migrants (International Organization for Migration, 2019). The ability to receive healthcare coverage is one of the main barriers migrants may experience when trying to navigate the health care field in Malta, however, migrants who are able to gain the access to healthcare coverage have found that numerous services have become responsive to their specific health needs, thanks in part to the Migrant Health Liaison Office (International Organization for Migration, 2019).

As the ability for migrants to gain access to proper medical in Malta has been viewed as a barrier, the COVID-19 pandemic presents a devastating problem. As the virus has been known to spread easily as many people who are infected are asymptomatic and may crumble hospital infrastructure when there is not enough equipment, i.e. ventilators for patients, these conditions could create a problem for migrants to be able to seek adequate treatment. As such, governments should put measures in place to allow undocumented migrants to seek medical assistance without fear of detention or deportation (Avafia et al., 2020). By allowing undocumented migrants to seek medical assistance in a safe environment it would allow for a more comprehensive tactic that prioritizes an inclusive approach to health that values the lives of human beings over the politicization of status within the state.

Literature on Previous Pandemics and Lessons Learned to be Applied to COVID-19

The outbreak of COVID-19 was officially declared a global pandemic on March 11th, 2020 (World Health Organization, 2020). It is critical to examine the ways in which previous pandemics have been handled with respect to the preservation and recognition

of human rights to understand what the responses were and draw from previous lessons learned that can be applied during the COVID-19 pandemic. To properly engage with the research question, it is imperative to have a sound understanding of previous global pandemics and the pandemic response in order to effectively ensure that the rights of vulnerable populations are maintained and not exploited during the pandemic.

It appears that much of the previously existing literature, which looks to inform scholarship on the rights of vulnerable people during a health crisis (Avafia et al., 2020, Rius Sanjuan, & Schleife, 2020) mainly focuses on the HIV/AIDS epidemic during the 1980s to 1990s. As such these health crises will be explored in order to ascertain what was learned from the previous responses for the protection of human rights and marginalized populations' needs during crises. These works of literature surrounding previous pandemics may be useful in addressing the systems and institutions that have the power to respond to these public health crises. The following section will first look at the lessons learned from the scholarship surrounding HIV.

Human Rights and HIV

Access to healthcare and consideration for vulnerable populations and their unique needs when it pertains to protection from communicable diseases became popular in public health literature when scholars began to analyze the impact of HIV/AIDS on the LGBTQ+ community. As there is already so much research published on the human rights dimension of the HIV/AIDS epidemic many scholars are employing lessons from this public health crisis to help them better understand the state of affairs during the COVID-19 pandemic. Migrants are inherently made vulnerable by a lack of housing,

healthcare, and state affiliations. These systemic forces perpetuate an atmosphere of risk. How large institutions and state policy can protect vulnerable populations becomes easier to grasp when we rely on lessons from past research. It is for this reason that this dissertation will review literature that looks at public health lessons from handling the spread of HIV in the 1980s and 1990s. It will then explore the lessons learned by first looking at authors Tenu Avafia, Boyan Konstantinov, Kene Esom, Judit Rius Sanjuan, and Rebecca Schleife 2020 article “A Rights-Based Response to COVID-19: Lessons Learned from HIV and TB Epidemics,” and then authors Pierre Somse and Patrick M. Eba 2020 article, “Lessons from HIV to Guide COVID-19 Responses in the Central African Republic.” Together, both of these articles provide insight that helps to shape a discussion on a human rights-based approach to COVID-19 by highlighting the missteps and successes of handling HIV and AIDS as it spread amongst vulnerable populations.

Exploring Lessons from Previous Scholarship

In “A Rights-Based Response to COVID-19: Lessons Learned from HIV and TB Epidemics,” the authors surmise that there are multiple lessons learned from previous pandemics and epidemics can be used in the response to the COVID-19 pandemic, and specifically mobilize these lessons within the framework of ensuring basic human rights are protected, (Avafia et al., 2020). These lessons include; ensuring human rights principles are entrenched in pandemic response, utilizing the best available evidence to guide decision making, and fostering a global collaboration to ensure equitable access to fuel innovation in order to have an effective response (Avafia et al., 2020). The authors highlight how practical procedures and routines to curb the spread of the virus inherently

pose a problem for some people (Avafia et al., 2020). As social distancing measures are considered to be the most effective way of curbing the spread of the virus (Avafia et al., 2020), it creates a problem for people who are in confined spaces as there may not be enough room to utilize this approach effectively.

Those who are imprisoned or in detention camps, are at a higher risk of contracting communicable diseases such as COVID-19, due to crowded settlements (Avafia et al., 2020). This clearly presents a grave challenge, as these groups are being held in areas that are not conducive to physical distancing standards, thus allowing them to be more vulnerable to contracting the various diseases or viruses, which ultimately may put their lives at risk. As previously mentioned, the detainment of migrants in overcrowded facilities creates a situation that would be conducive to COVID-19 spreading amongst those detained. Finally, the authors end the piece with noting that while the COVID-19 pandemic is a public health challenge that will dampen development, it is also an opportunity to have all stakeholders engage in the responsibility to uphold the principles of human rights and transparency during the pandemic (Avafia et al., 2020).

In authors Pierre Somse and Patrick M. Eba writing “Lessons from HIV to Guide COVID-19 Responses in the Central African Republic,” they describe five lessons learned from the HIV epidemic during the last four decades in order to fight against COVID-19 as well as the stigma it creates (Somse and Eba, 2020). The five lessons are: a need for scientific evidence to guide the actions of political leaders and other decision-makers; engage the community; protect human rights and challenge stigma;

mobilize collaborative leadership at the global level; and global solidarity to foster cooperation (Somse et al., 2020). As this article places a high degree of focus on the notion of stigmatization that occurs during health crises, it promotes the importance of highlighting not only the impact this stigmatization can have on communities but makes suggestions to actively combat it. It requires a combination of behavioral and structural interventions at individual, community, and national levels in order to uphold a rights-based approach to health response that creates responses that encompass the respect and dignity of everyone (Somse et al., 2020).

In both the Avafia et al., and Somse et al., articles the authors underscore the importance of ensuring that human rights are at the forefront of decisions to respond to the COVID-19 pandemic, making sure community engagement is employed for decisions that directly impact the said community, and utilizing the most reliable scientific data to guide decisions (2020). These similarities present a clear and coherent framework for ways that responses can engage with and protect human rights. Both of these articles utilize the historical backdrop of the HIV/AIDS epidemic to ground their findings in a way that allows for those who are being impacted by the health crisis to have their agency leveraged and their voices guide analysis on how to combat the issue. The intersectionality of the way the pandemic both presents itself and leaves certain populations more susceptible to contracting the virus is explored through both articles as the gendered dimension of pandemics in both articles (Avafia et al., 2020 & Somse et al., 2020). It has been noted that women tend to make up the majority of healthcare workers, which can leave them more vulnerable to contracting the virus (Somse et al., 2020). This

is an important facet in order to ensure that not only is everyone protected, but those who are more at risk can receive the necessary protection and attention needed.

Overall the literature focused on previous pandemics such as the HIV/AIDS epidemic provides a beneficial starting point to examine public health crises, due to some of the similarities. The key takeaways from the lessons learned from previous epidemics and pandemics on how to use an approach rooted in human rights, center around the importance of basing decisions from concrete and reliable evidence provided and empowering communities in order to ensure a trustful environment that serves all people with a focus on those who are most vulnerable (Avafia et al., 2020 & Somse et al., 2020). These pillars can be useful for policymakers in order to understand why a comprehensive understanding of human rights belong in the stages of policy creation. As the world has experienced various epidemics and pandemics before it is absolutely critical to take what was learned during the previous global health crises to have a head start and understand what worked previously and target areas of improvement for crisis response. While it may be challenging to identify what communities should be engaged during epidemic response it should be the communities that are most likely to be affected by the epidemic (UNAIDS, 2020). These lessons can serve as a beneficial blueprint for how to actively engage, empower, and uplift various communities in order to effectively have their voices and concerns heard to policymakers during decision-making stages of pandemic response.

Misleading Dichotomies that Emerged from COVID-19

During the previous months of the pandemic, there has been an emerging debate over the dichotomy that exists over the perceived mutual exclusivity of preserving the public health and economic viability of states and the infringement of human rights. This false dichotomy that has emerged during the pandemic is reliant on the notion that the preservation of the economy and the protection of human rights are mutually exclusive. While this is not a paper on economics, it is important to note that there have been grave economic concerns and uncertainties that have clearly emerged worldwide from the pandemic, the effects of which have been seen to further exacerbate inequalities, ultimately alienating marginalized populations (United Nations Sustainable Development Group, 2020). This section will briefly explore the debates surrounding human rights and public health as well as the economic dimension that has fueled a narrative of a misleading dichotomy brought on by the COVID-19 pandemic.

Emerging arguments during the COVID-19 pandemic presented the notion that the economy of states must be prioritized even if it is at the expense of human rights. This is explored further in Juan Pablo Bohoslavsky's article "COVID-19 Economy vs Human Rights: A Misleading Dichotomy," where the author surmises that the lack of preparation and willingness to maintain practices shown to combat the spread of COVID-19, such as quarantines in order to flatten the curve, were rejected in order to preserve the economy, instead of seeing how these two can align in a way that does not put profit over lives (2020). Bohoslavsky argues that when a threat to lives and health is made, such as during a global pandemic, "business as usual must not go on," and governments have an obligation to protect the health of its citizens while maintaining the economy

(Bohoslavsky, 2020). The dichotomy over preserving the economy and upholding human rights by presenting these as being mutually exclusive fails to recognize the ways these ideologies can be aligned to protect both during the pandemic. The economic dimension of the COVID-19 pandemic presents a clear challenge to vulnerable populations who may face exploitation due to economic concerns.

Literature on a HRBA to Policymaking

Due to a HRBA being a core facet of this dissertation it is crucial to take the time and space to explore what the concept means in terms of policy creation in order to provide a clear framework for the analysis and following discussion of this dissertation as it directly relates to the question. As a HRBA is a way of utilizing international human rights standards as a way to put the rights of human beings at the forefront of decision and policy making (Ussar, 2011), it is a beneficial approach that aims to ensure inclusive measures are at the forefront of decision-making. It is crucial to understand the tenants that make up a HRBA in order to effectively answer the research question as these tenants will, along with the Universal Declaration of Human Rights, the Convention on the Rights of the Child, and the European Convention on Human Rights provide the framework for the analysis to see whether Malta upheld its human rights obligations to migrants during the COVID-19 pandemic and provide information for how a HRBA to policy creation can be implemented in the future.

While there is not a universally agreed upon definition of what makes up a HRBA (United Nations Sustainable Development Group, 2020) the following principles directly correspond to the way the United Nations outlined the pillars of a HRBA to development

in 2003. For the purpose of this dissertation, the pillars will be utilized as a part of the resolution to guide recommendations for how to best utilize a HRBA. These pillars include, universality and inalienability, indivisibility, interdependence and interrelatedness, non-discrimination and equality, participation and inclusion, and accountability and the rule of law (Hunt, Yamin, & Bustreo, 2015). HRBAs are underpinned by five distinct human rights principles. These principles known as PANEL are; participation, accountability, non-discrimination and equality, empowerment, and linkage (Victorian Equal Opportunity and Human Rights Commission, 2008) and will be explored further as they each present an important facet in the structure of human rights.

Born out of the field of development, a HRBA as referred to by the UN and RBA's as denoted by others, have now transcended the development field and are applied to multiple sectors, such as health, conservation, and policy creation (Gruskin, & Bogecho, & Ferguson, 2010). As a HRBA can be utilized for multiple fields, such as healthcare and development it is important to remember that when one is utilizing a HRBA as a way for policymaking it ensures that standards are set justly for everyone. This is beneficial as it is an inclusive approach that allows for the rights of people to be centered and the empowerment for people to know and wield their rights while creating solid conditions for accountability.

This section seeks to explore the history, formation, benefits, and critiques of utilizing a HRBA to policies relating to the health and well-being of people. This will be accomplished by reviewing some of the existing literature presented by scholars on the topic. To do so, a summarization of “‘Rights-based approaches’ to health policies and

programs: Articulations, ambiguities, and assessment,” will be completed, followed by an exploration on the PANEL tenants, finally this will be followed by the summarization of the article “Making the Case: What Is the Evidence of Impact of Applying Human Rights-Based Approaches to Health?” after which these pieces will be analyzed through the ways the ideas presented converge and diverge within the context of this research question.

Rights-Based Approaches

In “‘Rights-based approaches’ to health policies and programs: Articulations, ambiguities, and assessment,” authors Sofia Gruskin, Dina Bogecho, and Laura Ferguson attempt to underpin the importance of a RBA in healthcare while grounding it in the historical context that promotes the understanding of where a RBA originates from (2010). This article presents the birth of a RBA as beginning in 1997 when former UN Secretary Kofi Annan called for the United Nations to integrate human rights into all the work the institution does (Gruskin et al., 2010). As such various organizations, such as UNICEF and WHO, have incorporated this call to action when creating and implementing programs worldwide (Gruskin et al., 2010). By changing the focus of this work to actively engage human rights provides a clear path forward to work towards human development in a sustainable way that will be sure to include everyone during decision-making processes in order to ensure no one is left behind.

While recognizing how a RBA often does not have a clear structure or framework presented, the author laments that this lack of definitional approach may be challenging but offers a way to employ the techniques of placing human rights at the forefront of

decision making in order to best serve those who are in need (Gruskin et al., 2010). The article offers a somewhat nested and intersectional approach to how an RBA can be employed. The author notes that difficulties can emerge when attempting to use an RBA approach to health as there are many other factors that need to be addressed in order to effectively utilize such an approach (Gruskin et al., 2010). This can be seen through the right of everyone to “the enjoyment of the highest attainable standard of physical and mental health,” (International Covenant on Economic, Social and Cultural Rights, 1966) may require attention to education or transportation in order to be properly fulfilled (Gruskin et al., 2010). This type of approach that involves interdependence and multi-sectoral creates a complex situation to the method, as there is a multitude of factors to consider. However, it is clear that due to the inherent inclusive nature that composes a RBA that it is the most beneficial way to empower individuals to understand their rights and ensure that no one is left behind in decision-making.

The PANEL Matrix is a beneficial tool that can be utilized to map core human rights principles to develop a HRBA to policies (Victorian Equal Opportunity and Human Rights Commission, 2008). While there are different tools that can be utilized for informing a HRBA to policies the PANEL Matrix is one that is very comprehensive as it builds on the Human Rights Matrix while creating new and thorough standards on how to analyze a HRBA. The core components that make up the PANEL Matrix are participation, accountability, non-discrimination and equality, empowerment, and linkage. Participation ensures that users are given the space to participate in decisions that directly affect them (Victorian Equal Opportunity and Human Rights Commission,

2008). Accountability is employed as once organizations are clear about the goals that they wish to accomplish they ensure that there is proper accountability for meeting the principles (Victorian Equal Opportunity and Human Rights Commission, 2008).

Non-discrimination recognizes that there are certain groups that are more vulnerable to human rights abuses than others (Victorian Equal Opportunity and Human Rights Commission, 2008). Empowerment suggests that all involved need to have a shared understanding of human rights goals (Victorian Equal Opportunity and Human Rights Commission, 2008). Finally, linkage ascertains that throughout all stages of policy development there is an on-going analysis of what human rights are relevant and who is responsible for ensuring the promotion and protection of the rights (Victorian Equal Opportunity and Human Rights Commission, 2008).

While the previously discussed articles attempt to explore and highlight how beneficial adopting a HRBA are to the health field, they all neglect the important factor that is, the evidence of success a HRBA have had in the health sector. In Paul Hunt, Alicia ely Yamin, and Flavia Bustreo article, “Making the Case: What Is the Evidence of Impact of Applying Human Rights-Based Approaches to Health?” the authors seek to fill this gap by presenting a compelling compilation of the evidence that suggests a HRBA to health offers a myriad of benefits to the community and allow for a more just and sustainable approach to these fields. Measuring the evidence of impact, a HRBA has is a challenging task as it requires a multi-disciplinary approach to health (Hunt et al., 2015). However, upon drawing on examples from Germany and Mexico the authors uncover the importance of systemically integrating a HRBA at all levels in the health sector in order

to further the capacity of both the government and civil society actors to include a human rights focus in the planning, implementation, and evaluation of health programs, as this will not only advance human rights but strengthen health outcomes (Hunt et al., 2015).

Utilizing a HRBA to health is not only about implementing and improving effective programs relating to health but they also show what these projects can do through proven mobilization and empowerment of the community members that they strive to assist. Consequently, the authors acknowledge how the lack of a clear and concise definition of what constitutes a HRBA is a massive hurdle to overcome and offer suggestions to overcome this by calling for a collaborative approach of various institutions, such as the UN and WHO, to create a succinct definition (Hunt et al., 2015). However, it should be noted that while the principles of a HRBA may be the same, they may look different in practice, based on the differing contexts for which they are employed.

The lack of a clear and concise definition and practicum for a HRBA is not the only critique for utilizing such an approach. In “Beyond ‘rights-based approaches’? Employing a process and outcomes framework,” authors Hannah Miller and Robin Redhead critique the basis for the adoption of RBA’s and insist that current approaches are not enough and a new framework that places on emphasis on a “process/outcome axis” must go into the approaches in order for them to more accurately transcend across disciplines (2019). The authors surmise that an RBA can be broken into three distinct time phases. The first phase that is analyzed is during the 1990s. This phase focused on the growing popularity of the approach. However, this did not occur without confusion

emerging over the distinction between an RBA and a HRBA. This led to a discussion emerging on the key distinctions that separated an RBA from a HRBA (Miller & Redhead, 2019). The second phase of RBA research, during the mid-2000's–mid-2010's, focused on “establishing in-depth analyses of rights-based practices,” (Miller & Redhead, 2019), during this phase questions around what successes and best practices for these approaches may look like. Lastly, the authors surmise that we are currently entering the third phase that begs us to question if an RBA have had any systemic changes in the practices and implementation, as they note the growth of an RBA are often slow and hard to advance (Miller & Redhead, 2019). It is in this article that the authors provide a comprehensive overview of the evolution of a HRBA while acknowledging the limitations that each phase has created while offering a call to action for researchers and scholars to create innovative models to adapt the pre-existing HRBA framework to transcend into multiple sectors in a way that provides positive outcomes. Whilst acknowledging the legitimate concerns the previously mentioned articles raise of a HRBA, there are still clear examples of successes which validate the importance of utilizing such an approach. These successes, as outlined in the previous articles (Gruskin et al., 2010, & Hunt et al., 2015), promote the use of HRBA in health policy.

These articles on a HRBA for policymaking provide a beneficial background for understanding the history of where these practices come from as well as recognizing the value these inclusive approaches have in the lived experience of policy creation. This dissertation seeks to make clear that a HRBA have an important role to play in policy creation and they must be utilized fully and accurately in order to effectively engage

populations that are the most vulnerable to acquiring COVID-19 as best as possible. Through recognizing the limitations adopting a HRBA has, provides a gap in research and practice that can hopefully be addressed in the future in order to better serve the needs of those who employ such approaches, as it will provide a necessary advancement towards a field aimed at the betterment of society. A HRBA provides practical considerations for a plethora of fields, disciplines, and sectors that can benefit from the inclusive and empowering nature that is inherent to such approaches. As noted above the benefits of utilizing a HRBA suggest that placing a people-centric approach can provide measurable results grounded in the dignity that all human beings are guaranteed to. Not only does a HRBA ensure that vulnerable populations are included during planning and implementation, but they continuously serve as a framework to advocate for all voices to be heard.

Conclusion

The previous literature relating to this research topic has many different components that, when compiled together, present clear frameworks for how to best contextualize the research question of this dissertation. This chapter sought to provide a background on the topic, explore past research relating to pandemics, and explain and legitimize a framework for which analysis will occur. This was completed through the main areas of research-migration in Malta that utilized a comprehensive report published by IOM in 2016 to detail the migration history of Malta as well as present contemporary migration trends and challenges in the country. Previous pandemics and lessons learned was another section that was explored through a blend of articles and blogs to highlight

how the lessons that emerged during HIV/AIDS epidemic can be leveraged into a learning opportunity so the discriminatory and violent practices do not need to be repeated during the COVID-19 pandemic. Finally, an exploration of a HRBA to health and health policy creation was explored in order to contextualize the value of adopting such an approach. The previous research relating to the topic will be utilized in order to further the analysis of this research that will be presented following a discussion on the methodology that this research employed.

CHAPTER 3 – METHODOLOGY

The purpose of this dissertation is to research the extent to which and ways in which Malta upheld its human rights obligations to migrants during the COVID-19 pandemic. To address this objective, a systematic review of policies has been cross-referenced with some international law conventions and declarations. The materials being used for this research were found exclusively online. This chapter seeks to briefly discuss, explain, and legitimize the methodology employed for the undertaking of this research in order to better contextualize how the results will be presented and analyzed in the following chapters.

A unique challenge that emerged during the early stages of writing this dissertation was planning on how to begin conducting research that not only provided a critical view and sought to fill a gap in existing literature in the field of conflict analysis and resolution, but would also be feasible given the new constraints that emerged based on the current worldwide situation. Due to the current restraints placed on students and researchers from the consequences of the on-going global pandemic, it seemed that desk-based research would be the most practical and safe form of conducting research. As such, this dissertation utilized a virtual systematic review of secondary sources in order to analyze the human rights dimensions based on international law that can be identified in the Universal Declaration of Human Rights, the Convention on the Rights of

the Child, and the European Convention on Human Rights. The secondary sources that will be used for the benchmarks for analysis are the various Legal Notices the Maltese government enacted in response to the COVID-19 pandemic. In the coming chapter, these Legal Notices will be analyzed after an analysis is conducted on the 1970 Immigration Act that was mentioned during the literature review chapter of this dissertation. The Immigration Act is being analyzed as a starting point to demonstrate a succinct history and present a trend that has emerged in the way migration is addressed in Malta.

Before delving into the remainder of this chapter it should be clarified of what is meant by the method utilized for this research. Systematic reviews are a type of methodology which aim “to identify, evaluate and summarise the findings of all relevant individual studies, thereby making the available evidence more accessible to decision makers,” (Mertens, 2018). These systematic reviews are a valuable tool for analyzing policies as the approach is inherently one that prioritizes and emphasizes the importance of collecting comprehensive evidence in order to conduct a thorough review of a research topic. According to authors Gough, Oliver, and Thomas (2012),

Systematic reviews can be used by evaluators to answer questions such as What does the available evidence say about the effects of a particular intervention? Or, What is the impact of a particular policy? The results of systematic reviews do not provide uncomplicated answers to these questions because of the limitations of studies included in the review in terms of methodological approaches, reporting of results, and populations included or excluded from the studies.

For the purpose of this research the systematic review of Legal Notices that emerged during the COVID-19 pandemic have been utilized in order to accurately measure the extent to which the government upheld its obligations to migrants through policy creation. Utilizing the Legal Notices was an intentional choice as it provides a clear and legitimate source for which to analyze the actions of the government.

The secondary sources that have been chosen for review are comprehensive reports published by The People for Change Foundation in Malta. The People for Change Foundation is a Malta-based think tank specializing in human rights. The reports published by The People for Change Foundation were commissioned for background material for a comparative report being prepared by the European Union Agency for Fundamental Rights (FRA), for a project that seeks to address fundamental right implications from the COVID-19 pandemic in the EU (The People for Change Foundation, 2020). These reports have been chosen as they provide a comprehensive review of many incidents relating to migration during the COVID-19 pandemic and place them within a context of fundamental rights implications. While these two reports document the incidents that occurred, they do not highlight if or how Malta violated international law. As such the following analysis in this dissertation delves into the human rights obligations Malta has and whether the state did or did not uphold these obligations based on the incidents detailed from the reports issued by the People for Change Foundation.

As Malta is a party to the European Convention on Human Rights, the Convention on the Rights of the Child, there is an obligation under international law to uphold the

protections that are guaranteed under the previously mentioned conventions and declaration. As the Universal Declaration on Human Rights is a part of customary law there is both a moral and legal obligation to uphold the tenants of the UDHR. As such the aforementioned conventions and declaration will be used as objective points of reference for which to analyze the impacts that L.N. 92 of 2020 (Appendix A) had on migrants during the COVID-19 pandemic.

CHAPTER 4 – CASE STUDY

This section presents an analysis that has been conducted from the aforementioned virtual systematic review of Legal Notices. In this review, it became clear that L.N. 92 of 2020 of The Public Health Act (the travel ban) is the main Legal Notice dedicated to issues of migration during the COVID-19 pandemic that fundamentally impacted migrants and asylum seekers arriving in Malta. This policy was chosen to review as it satisfies the following parameters– it is accessible to the public, it was created in response to the COVID-19 pandemic, and it directly impacts migrants' human rights. The case study section of this dissertation seeks to add substantial value to the findings presented in the reports issued by the People for Change Foundation, as such, this dissertation seeks to provide the necessary legal benchmarks to document whether Malta upheld its obligation to human rights to migrants during the COVID-19 pandemic.

Travel Ban

The impact of L.N. 92 of 2020 of The Public Health Act demonstrates a lack of a HRBA to policy creation, as human rights violations were committed when the subsequent actions to this act were implemented from large institutions and political leaders. This section seeks to analyze how the events migrants experienced during the COVID-19 pandemic, as reported on by the People for Change Foundation, violated the internationally protected human rights of migrants that Malta is obligated to uphold under

the CRC, the ECHR, and the UDHR. As the People for Change Foundation’s reports outline the various incidents migrants endured but do not delve into the ways in which the incidents violate or uphold human rights, this section seeks to clarify how these incidents violate international human rights law.

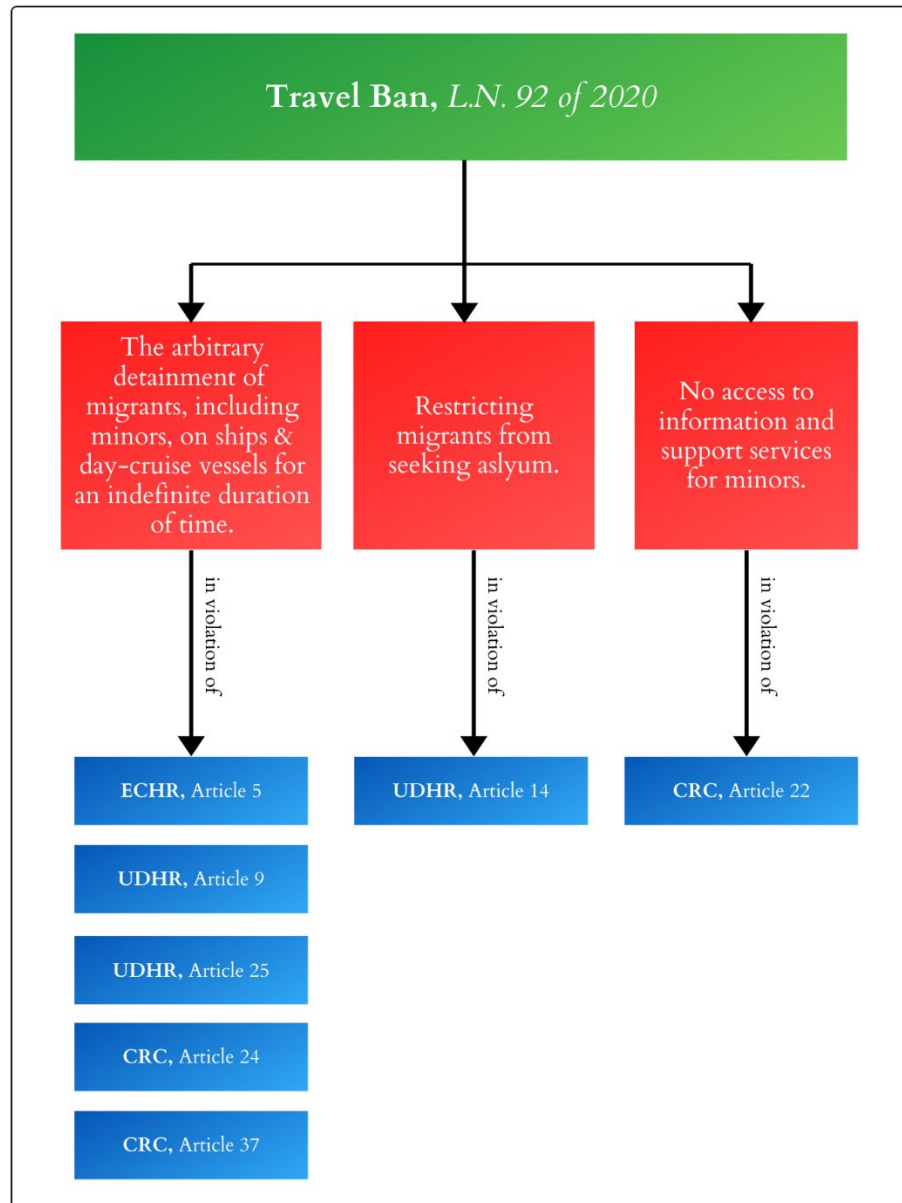


Figure 1:

Violations of Migrants' Human Rights as a Result of COVID-19 Response Measures and Subsequent Actions in Malta

Like many countries, Malta instituted a travel ban during the COVID-19 pandemic. Although Malta was not legally obligated to open borders to migrants during the COVID-19 public health emergency, the string of the detainment and subsequent conditions endured during the detainment of migrants that followed, violated human rights as outlined in the UDHR, the EHCR, and the CRC. This can be seen in Figure 1 above, that shows that the travel ban itself was not against international law, but rather it was the conditions that emerged as a result of the border closure, that shows that Malta did not uphold its obligations to human rights during the COVID-19 pandemic. The detainment being explored, began on May 1st.2020, as 57 migrants were rescued by a fishing boat and brought to a tourist vessel, Europa 11, that was anchored around 13 nautical miles from the Maltese coastline (The People for Change Foundation, 2020). Following which, on May 3rd 90 migrants who were rescued in Malta's SAR zone were taken aboard a commercial ship (The People for Change Foundation, 2020). Then, on May 7th 123 migrants were rescued within Malta's SAR zone with the majority of those rescued being transferred to another passenger day-cruise vessel (The People for Change Foundation, 2020). On May 22nd the Armed Forces of Malta, AFM, rescued 140 migrants and placed them on yet another passenger day-cruise vessel (The People for Change Foundation, 2020). This continued as on May 28th the AFM rescued 78 migrants and the government commissioned a fourth passenger day-cruise vessel that was to be anchored

offshore to detain the migrants (The People for Change Foundation, 2020). How this string of detainment specifically violated human rights is made visible when these actions are placed up against the aforementioned conventions- the European Convention on Human Rights, The Universal Declaration of Human Rights, and The Convention on the Rights of the Child.

In placing the actions that the Maltese government took to detain migrants in contrast to the protection of human rights law, whether or not Malta upheld its human rights obligations to migrants through policymaking during the COVID-19 pandemic, the very question this paper seeks to answer, becomes clear. Thus, this section seeks to look at the subsequent violations that emerged from the incidents documented by the People for Change Foundation as they relate to 1) the ECHR, 2) the UDHR, and 3) the CRC.

The European Convention on Human Rights (1950) is a convention that protects the human rights of all bodies within the borders of Europe. This convention holds accountable the entirety of the Council of Europe, including Malta. Malta's treatment of migrants violated Article 5 of the ECHR (1950), which states,

1) Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: (a) the lawful detention of a person after conviction by a competent court; (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law; (c) the lawful arrest or detention of a person affected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so; (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority; (e) the lawful detention of persons for the prevention of the

spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants; (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition. 2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him. 3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial. 4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful. 5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

The Maltese government's decision to detain migrants on ships for an indefinite duration of time (The People for Change Foundation, 2020) violated Article 5 of the ECHR. The condition of this detainment goes against the rights to liberty protected by Article 5.

In addition to the ECHR, Malta's approach to migration during the COVID-19 pandemic also violates the Universal Declaration of Human Rights. The UDHR (1948) is a document that seeks to provide protection for humans and does not negate protection under any circumstances. This declaration grounds this broad protection on the basis that all humans are afforded innate rights. The Articles which were violated by the actions following the travel ban are: Articles 9, 14, and 25.

Article 9 of the UDHR:

No one shall be subjected to arbitrary arrest, detention or exile.

Article 14 of the UDHR:

1) Everyone has the right to seek and to enjoy in other countries asylum from persecution. 2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 25 of the UDHR:

1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

The arbitrary detainment and exile of migrants violates Article 9 of the UDHR (1948). This detainment also restricted 300 migrants from seeking asylum (The People for Change Foundation, 2020), putting them in direct violation of the UDHR Article 14 (1948). Lastly, in detaining over 300 migrants on the passenger day-cruise vessels, (The People for Change Foundation, 2020) Malta violated Article 25 of the UDHR, as the conditions of detainment did not provide migrants with necessary infrastructure and resources necessary for a humane standard of living.

Lastly, Malta violated the Convention of the Rights of the Child. The CRC (1989) outlines the difference between childhood and adulthood, and thus sanctions specific protections for minors under international law. The following articles of the CRC (1989) were violated by the travel ban:

Article 22 of the CRC

1) States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian

assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties. 2) For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non- governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 24 of the CRC

1) States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

Article 37 of the CRC

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age; (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances; (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Minors who were kept on the passenger day-cruise vessels did not have proper access to information or support (The People for Change Foundation, 2020), this goes against the rights protected by Article 22 of the CRC. This support means accessibility to lawyers, interpreters, and support services, including health services amidst a pandemic. Article 24 of the CRC (1989) specifically outlines the protection of health services for children under state protection. In the detainment of minors on day-cruise vessels, exiled from the land (The People for Change Foundation, 2020), Malta denied minors access to any services, including those that are essential to the treatment of illness and rehabilitation of health. During the detainment, unaccompanied minors went unaccounted for and were given little to no support in seeking asylum, or related human resources (The People for Change Foundation, 2020), this directly violated Article 37 of the CRC. Minors were left undocumented and exiled from the state, which is an infringement on their inalienable rights which are protected under the CRC.

Conclusion

The results gathered from this research present clear findings that show that while the government of Malta was compliant with international law to institute a travel ban during the COVID-19 pandemic, there were many human rights violations that emerged in result of the policy. The violations that occurred are centered around the unlawful arbitrary detention, lack of access to adequate healthcare and social services, the detention of children for an excessive amount of time, and the prohibition of migrants to seeking asylum. This case study sought to examine how the Maltese government upheld their obligation to human rights to migrants through policy creation during the

COVID-19 pandemic. By reviewing the only policy that fulfilled the requirement of; it being accessible to the public, it was created in response to the COVID-19 pandemic, and directly impacts migrants' human rights, it is clear that not only did the policy not utilize a HRBA but also failed to maintain the human rights of those onboard the day-cruise vessels.

The treatment of the migrants onboard the ships amidst the COVID-19 pandemic, resulted in the aforementioned human rights violations occurring. These violations directly correlate to the implementation of the travel ban. The following chapter of this dissertation will analyze the conditions that emerged which resulted in the failure of the Maltese state to uphold their obligations to human rights.

CHAPTER 5 - ANALYSIS

The impact of COVID-19 on the livelihood and humanity of migrants seeking refuge in Malta is great and has endangered the lives and human rights of many (Al Jazeera, 2020). Conventions and declarations that are designed to safeguard the indivisible, inalienable and universal rights of all humans, are arguably, improperly implemented and/or directly perpetuate the dehumanization of migration into Malta. From February to June alone, the dates of which this dissertation seeks to analyze the COVID-19 pandemic, Malta saw an increase in policies that directly relate to migrants. During this time, nearly 300 migrants have been detained at sea, migrants having drowned after being left at sea, and a violent narrative over the spread of COVID-19 emerged (The People for Change Foundation, 2020). These occurrences appear to partially stem from the implementation of the travel ban enacted by the Maltese government as a response measure to the COVID-19 pandemic. While there have been measures that have been adopted to ensure migrants can have access to information about the spread of COVID-19, these measures have been few and far between and do not address the more systemic factors. While the travel ban that Malta instituted as a response measure to the COVID-19 pandemic was not in violation of international law, it created a space that sought to justify not allowing migrants to enter the country, which ultimately has violated human rights that are protected under international law, and ultimately, an

obligation which Malta must uphold. The subsequent actions of the Maltese government in response to the L.N. 92 of 2020 did not comply with either international law or the components necessary to ensure that a HRBA to policy creation was implemented. By framing the human rights violations to migrants during the COVID-19 pandemic, in two conflict analysis frameworks - Johan Galtung's (1969) theory of structural violence and Sara Cobb's (2013) theory on conflict narratives, spaces for an understanding of how human rights violations were justified and perpetuated comes to light. The conflict analysis framework of structural violence captures the institutional structures that uphold systemic injustices to migrants. Whereas a narrative framework provides a critical analysis of the discourse that attributes to the dehumanization of migrants. In order to address these deeper social and structural conflicts and systems that led to these heinous violations, there first must be a clear understanding of the 1970's Immigration Act. A critical look at the 1970's Immigration Act serves to contextualize an understanding of migrants' rights in Malta and illuminates historical trends that are embedded in the current system. These concluding understandings will contribute to a final discussion on how a human rights-based approach to policymaking can lead future policy makers and human rights advocates in tackling future public health crises in a way that ensures marginalized populations are included in policy creation.

The previous chapters of this dissertation have served to provide the necessary background information needed to inform and contextualize the upcoming analysis. This chapter will present this analysis in the following four sections: 1) a discussion on the 1970 Immigration Act to contextualize historical trends on migration; 2) applies a lens of

structural violence to analyze the conditions created that allowed for human right violations to be justified; 3) looks at the role of discourse in the perpetuation of these human right violations and 4) applies a HRBA to policy creation to demonstrate how the nation can safeguard migrants from these violations in the future.

Analysis of the 1970 Immigration Act

In order to properly engage with an analysis that focuses on migration in Malta, one must first understand the structures that have been created and implemented that have served as the framework for how migration is handled in the state. As previously explored in the literature review chapter of this dissertation, the 1970 Immigration Act in Malta is the preeminent document that regulates migration practices in the country. The 1970 Immigration Act has served as a basis for the “regulating border control, detention, expulsion, and residence,” (Global Detention Project, 2019) of the country for years. As there have been a multitude of adaptations to the Immigration Act it is necessary to analyze the ways in which these adaptations have either contributed to the rights towards migrants or whether they have further excluded such rights. The analysis of the Immigration Act serves to contextualize the remainder of the analysis by providing a clear inquiry that highlights trends and a demonstrated pattern of ways policies in Malta towards migrants have been violent.

Certain articles that Malta has under the Immigration Act are completely archaic, as they fail to recognize migrants as human beings- an outdated approach to migration that has been challenged by the UDHR (1948), ECHR (1950), and the CRC (1989). In addition to this archaic approach to migration there are certain articles within the

Immigration Act that clearly perpetuate latent violence against migrants. Such an article is Article 10, that states “persons refused entry may be placed temporarily on land or shore and detained until their departure,” (Global Detention Project, 2019). There is no rationale for the detainment of people on a shoreline as this detainment isolates migrants, denies them access to basic resources, and directly threatens their capacity to fulfill their basic human needs (Human Rights Watch, 2020). The Immigration Act targets a specific group of people and looks to perpetuate harmful scenarios of inadequate living and does the bare minimum in terms of upholding international human right standards for a humane quality of life.

Malta has a history of enduring criticism and concern from large and legitimate international institutions regarding the treatment of children in detention. For example, in 2013 the UN Committee on the Rights of the Child, expressed concern of “the lack of systematic and regular judicial review of detention,” that occurs over the detention of children in Malta (Global Detention Project, 2019). The UN Committee believed that further measures should be adopted in order for Malta to cease the detention of minors in such facilities (Global Detention Project, 2019). This documented case seeks to emphasize a lack of consideration and protection that some policies have in upholding the rights of people when they are migrants or asylum seekers.

As the 1970 Immigration Act details the legality that migrants can be detained upon arrival it is important to uncover what this process looks like. Malta operates seven reception centres, some of which are run by the government office, the Agency for the Welfare of Asylum Seekers, AWAS, and others that are managed by NGOs. While all

reception centres maintain the same purpose of providing sleeping and living quarters for migrants, the different types of open centres, the conditions of each open centre vary greatly (JRS Malta & Aditus, 2020). For example, the Initial Reception Centre provides housing in rooms, while open centres like Hal Far consist of mobile metal containers that can sleep up to eight people and Hal Far Tent Village, which as of 2019 housed 1,120 people (JRS Malta & Aditus, 2020). There are a few conditions that are taken into account during the procedure to determine who will stay where. Such conditions include; leaving unaccompanied minors alone, while some families and single women are housed together for privacy purposes (JRS Malta & Aditus, 2020). The large number of people housed in these units often leads to a number of complications that occur when people are grouped together for copious amounts of time, such as severe hygiene and maintenance problems (JRS Malta & Aditus, 2020). As migrants and asylum seekers are kept in these mandatory accommodations it is clear that the government needs to do all it can to ensure the well-being and respect of all the individuals are upheld in order to provide adequate accommodations in respect of what is required of the state under international human rights law.

Within the context of Malta, the structure of migration intake into the country presents a clear example of how dangerous the systemic detainment of migrants and asylum seekers can be. This danger is seemingly exacerbated by the COVID-19 pandemic that requires proper social distancing and regular proper hygiene procedures, such as effective and frequent handwashing, in order to best curb the chances of spreading the virus. The danger that the overcrowding of facilities causes when it comes

to the spread of COVID-19 presents a clear health and safety risk to those who are in the centres as well as those who work there. The detention centres that are at capacity present a real challenge to overcome with how the COVID-19 pandemic will be handled as the centres have no clear contingency plans to combat overcrowding in general (JRS Malta & Aditus, 2020). As there was no contingency plan already in place for how to handle overcrowding, let alone the new definition of what overcrowding would look like when practicing social distancing, it was clearly an important task to be undertaken during the context of COVID-19 due to the way the virus spreads. This task is complicated due to the restrictions placed on housing from the 1970 Immigration Act.

The urgency of overcoming this complication is exemplified by how the migrants detained at the Hal Far Open Centre and those at sea have been particularly affected by COVID-19. The Ministry of Health quarantined the Hal Far Open Centre on April 5th due to an outbreak of COVID-19 cases that emerged at the Centre (The People for Change Foundation, 2020). Detainees at the Hal Far Open Centre who tested positive for COVID-19 were subsequently transferred to a new health centre in order to prevent the spread of infection (The People for Change Foundation, 2020). As part of a contingency plan enacted during the quarantine, the Agency for the Welfare of Asylum-Seekers decided to set up isolation units, dissemination of sanitary products, and installed additional sanitary facilities (The People for Change Foundation, 2020). In an attempt to raise awareness of the spread of COVID-19 the Agency for the Welfare of Asylum-Seekers in partnership with UNHCR organized a multi-language campaign in hopes to prevent the spread of COVID-19. While these measures demonstrate effective

actions taken in order to actively negate the spread of the virus at the Hal Far Open Centre the procedures were not extended to the detainees kept at sea- a group of humans who have been forgotten and detained in compliance with the Immigration Act.

Additionally, after 38 days the quarantine at the Hal Far Open Centre was ended on May 13th by the Superintendent for Public Health declaring that individuals would be allowed to leave the Hal Far Open Centre if they had no exposure to someone who had tested positive for COVID-19 during the past 14 days (The People for Change Foundation, 2020). By the government allowing the detention of migrants to occur under the 1970 Immigration Act, during a global pandemic, it created a space which subjected migrants at the Hal Far Open Centre to be detained and increased their likelihood of exposure to COVID-19. This subjugation made it difficult for migrants to practice social distancing and resulted in mandatory quarantine after the ban was lifted.

In the archaic and ill-properly managed approach to migration the 1970 Immigration Act perpetuates an inhumane detention of migrants. The structural issues of detainment have been exacerbated during the COVID-19 pandemic as was discussed in the aforementioned examples at the Hal Far Open Centre and the forgotten migrants at sea. Understanding how a 50-year-old government policy directly influences Malta's approaches to migration today illuminates how many of the human rights violations created by the travel ban are in direct trend with discriminate practices against migrants by the Maltese government.

Analysis from a Lens of Structural Violence

As previously stated in this dissertation, the COVID-19 pandemic cannot be used as a justification for states to ignore their obligation to human rights. However, as is was illustrated in the *Case Study* chapter of this dissertation, it appears that this is exactly what Malta has been doing. This decision for states, such as Malta, to ignore its obligations to uphold human rights and justify such violations comes at the cost of the autonomy and safety of migrants who experienced violations to their human rights.

Malta is required under international law to rescue those who are in its SAR zone, protect the right to health of everyone, and allow those who wish to seek asylum to do so. In closing their borders, and subsequently detaining migrants- including minors, on day cruise vessels for an indefinite amount of time, with little to no access to legal, social, or health resources, Malta disregarded its obligations to uphold and protect the human rights of those it was required to. The structural elements involved in the violations of human rights cannot be ignored as they are embedded within the societal framework and contribute to systems of oppression that contribute to the harm and violence for those that experience them and will continue to do so until they are dismantled. As such this section is dedicated to analyzing the travel ban as the government's response to the COVID-19 pandemic through a structural violence lens, in order to illustrate that while Malta was compliant with international law to create the policy, the implications that emerged from the implementation of the travel ban resulted in clear violations of human rights.

The space that was created from the travel ban and subsequent human rights violations have been documented, and this section seeks to analyze the conditions that

allowed for such a space to form from a structural violence framework. The structural violence framework will analyze the conflict through three different levels- the political, economic, and social. The structures explored are violent because they cause avoidable deaths and injury and reproduce violence in the form of marginalization. Based on an analysis of the travel ban through a structural violence theoretical framework, resolution techniques, and practices that target these systemic issues will be recommended in order to reconcile and overcome the violence that emerged. These recommendations look to learn from the mistakes of our past, to guide policy creation during future pandemics and other public health crises to ensure that human rights violations are not legitimized by policy again.

Political Level

The travel ban implemented in Malta was used as a justification by Malta's highest government officials to not allow migrants to enter the country. This resulted in the migrants being placed on passenger day-cruise vessels. The political level of structural violence this section aims to address focuses on the government's enactment of the travel ban as well as its inadequate response to address the inhumane treatments of migrants onboard the ships. This is necessary to do in order to uncover and address the failings that emerged from government officials who negated their responsibility to uphold protections to the human rights of all.

The decision to place migrants on ships anchored off the Maltese coastline is inherently violent as the conditions aboard day-cruise vessels are not adequate for long-term housing, do not provide access to support systems, and made it impossible to

seek the necessary regulatory agencies for asylum. This can be seen as on May 6th the ship's supply of water was beginning to run out (The People for Change Foundation, 2020) and the inherent fact that these ships are designated as day-cruise vessels and not designed to be used for long-term housing. The results above clearly demonstrate how the detainment of migrants on ships is not only a perpetuation of structural violence but also inhumane. The decision to place migrants onboard these ships by Prime Minister Robert Abela and his refusal to rectify the situation after the People for Change Foundation uncovered the conditions of which migrants were being kept illuminates his complacency and participation in a system which places the safety and well-being of migrants far below the conditions necessary to lead a safe and fulfilling life. By making this decision the political system in the country is in the hands of a Prime Minister who has taken a stance on migration that furthers the xenophobic and racist agendas for migration.

Malta has a direct responsibility under international law to respond to and assist those within its SAR zone. This responsibility cannot be negated under the travel ban or any other form of national legislation. The responsibility towards upholding this obligation is highlighted by Human Right Watch (2020) when they state,

Malta has clear responsibilities under international law to respond to boats in distress at sea, enact or coordinate rescue operations within its search and rescue area, and ensure timely disembarkation at a safe port. Under international law, restrictions may be placed on rights for public health reasons, but they must be proportionate, nondiscriminatory, and based on available scientific evidence. The

pandemic cannot justify abdicating rescue responsibilities or blanket bans on disembarkation, which puts the right to health of those on board at risk.

However, Malta did use the pandemic as a justification. This can be seen as on May 20th Malta was accused by British and Italian media of violating international law by turning migrants away (The People for Change Foundation, 2020). These accusations were made after a video shows a boat under control of the Armed Forces of Malta circling around the migrants, whilst some migrants also reported being threatened with weapons while being told they had to leave and were pointed towards Sicily (The People for Change Foundation, 2020). The 24th of May saw a similar situation when a boat carrying 78 migrants become stranded in Malta's SAR zone and had been obliged to intercept them (The People for Change Foundation, 2020). However, the following day it was reported that contact with the boat was lost. The AFM was accused of not providing any information pertaining to this (The People for Change Foundation, 2020). The decision for the AFM to neglect international law by not rescuing migrants presents a multitude of problems, both in terms of violation of international law and most pertinent to this discussion- the political systems involved that felt it necessary and just to allow for such a transgression to occur. By not rescuing the migrants the AFM and Maltese government set a clear precedent that it is not Malta's responsibility to rescue those in need even when the state is obligated to do so.

This refusal to rescue the migrants further perpetuates the dehumanization of migrants that stems from a history of viewing migrants as the *other*- a historical trend that was revealed in the aforementioned discussion on the 1970 Immigration Act. Today this

trend takes root in xenophobic and racist systems which perpetuate direct and structural violence against migrants. This latent violence became visible during the COVID-19 pandemic as an increase in nationalism was ignited throughout the nation and citizens hung Maltese flags in celebration of migrants being detained at sea on day cruises (Azzopardi, 2020).

Through the implementation of the travel ban there was a stark lack of concern over the treatment of migrants during the pandemic by Prime Minister Robert Abela. Not only did Robert Abela allow for such practices to take place in the country but when confronted with the realities of the conditions he chose not to act. At the onset of the COVID-19 pandemic the adaption of the travel ban closed all the ports to Malta. Prime Minister Abela used this as a justification to place migrants on ships while he continually asserted that the influx of migrants cannot be handled by Malta alone but required intervention from the EU. Prime Minister Abela used this reasoning to continuously justify keeping migrants at sea even when he recognized that the migrants endured “certain conditions,” (Xuereb, 2020). The poor conditions migrants endured on board the ships were viewed as an attempt to get other countries in the EU to take the migrants in (Azzopardi, 2020). As previously noted in the literature review, there is a documented history of those in power in Malta attempting to shift responsibility for migrants in the country to the EU. This presents a clear pattern of the disregard for migrants’ autonomy and rights within the country. These examples of Prime Minister Abela’s complacency to what was happening to the migrants further illustrates the inadequacy of the Maltese state to implement measures needed to ensure the safety and well-being of the migrants

aboard. As such the human rights of migrants, onboard the ships were unmistakably violated. Instead of rectifying the situation, Prime Minister Abela continued to promote his harmful narrative of stating that the situation was not only under control but legal as the ports in Malta had been closed (Xuereb, 2020). These examples further cement the notion that the Abela administration is perpetuating violence at a structural level.

The structures that are in place to uphold and enforce the travel ban are inherently violent as they discriminate against migrants and create conditions that do not allow migrants to fulfill their basic human needs. The travel ban created a space that allowed for the inhumane detention of migrants to occur whilst Prime Minister Abela doubled down in his efforts to not allow the migrants to disembark from the ships. The structural violence from a political level further highlights the challenges to rectify such violence as those at the top are interested in maintaining the status quo.

Social Level

In addition to structural violence at the political level, structural violence is perpetuated through oppressive social institutions and subsequent social systems that impede upon the basic human needs of individuals or groups (Galtung, 1969). Rooted in structural inadequacies that perpetuate violent systems and exacerbate disparities amongst people; racism in Malta is experienced at a systemic level and directly impacts people who seek refuge on the island. What is pertinent to this analysis, while recognizing that racially motivated violence occurs at the individual level, are the systemic forces that allow for violence against migrants to occur on the basis of the color of their skin.

Structural violence at the social level perpetuates a discriminatory justification of laws and institutions that inherently prioritize the safety and well-being of some people over others. The travel ban is an example of such a policy that created discriminatory practices based on nationality and is a signifier of a violent social system that prioritizes the safety of some at the expense of others. While the intention of the travel ban may not be designed to advocate, promote, or uphold racist ideologies, the social conditions that emerged in response to this piece of legislation uphold systems of racism. In this instance, racism which is deeply in-grained in the social systems of the state, (Malta Independent, 2020) allowed for violence against migrants to occur. Another example of this occurrence is demonstrated by Malta's response to Libyan migration. In this case, the emergence and continuation of violent conflicts in Libya have led to an increase of migrants leaving the war-torn state in hopes of seeking asylum (International Organization for Migration, 2016). Migrants and asylum seekers from Libya in Malta have been met with increased xenophobia and violence in the country (Gauci, 2011). The increase of dehumanizing practices, such as racially motivated violence, or the disdain for war torn asylum seekers from Libya (Gauci, 2011), serves to illustrate how structural violence has erupted in Maltese social structural systems and further emphasizes the danger this eruption can present in a fight for human rights during a global pandemic.

Structural violence creates mass disparities with regards to health, both in the ability to gain access to quality healthcare and health related outcomes. With the on-going global pandemic, structural violence in Malta impeded on migrant's ability to safely access quality health care and other related services to combat the vast array of

health problems that emerge from COVID-19. This, as reported by Human Rights Watch, is explained by a man onboard one of the ships designated to detain the migrants at sea who reached out to the NGO Alarm Phone and described the conditions onboard the ship as follows:

anxiety, resentment, and depression have increased ... this has made our health condition worse. Also due to lack of full health care, there's been an outbreak of skin diseases ... there is lack of care when it comes to food. Hunger strikes have started and we're in a deplorable state. We have no means of communication to reflect our [condition] to the outside world, (2020).

The conditions of which the migrants endured onboard the ships were clearly inhumane. As previously discussed, by detaining migrants onboard these ships the government of Malta has denied them access to adequate health services during a global pandemic and allowed for the spread of communicable diseases to occur, which often happens when people are held together in close proximity. Dehumanization rooted in racism contributed to a broad social complacency for these conditions. In this instance human rights are disregarded as racism gives way to a precedent of 'Malta first above all else,' (The Shift, 2020). In this way social structural violence has resulted in inflicting preventable harm on migrants by subjecting them to a historical trend of racism in Malta.

In Malta structural violence at the social level takes form in racist and xenophobic reactions to migration. How this reaction violates, and endangers migrants is seen in the complete disregard of human rights during the COVID-19 pandemic. As discussed, this

was exemplified by the Maltese response to discriminatory policies in the form of celebration, hate speech when faced with asylum seekers from Libya, and complacency when conditions aboard ships designated for detainment were clearly in a deplorable state. Understanding structural violence at the social level illuminates the complexities involved with justifying the human rights violations that took place during COVID-19. Overcoming structural violence at the social level will take a re-examination of discriminatory policies and a long-term commitment to anti-racism.

Economic Level

Economics and structural violence are inextricably linked as the roots of structural violence are born out of existing political, social, and economic structures that disenfranchise certain groups of people (Galtung, 1969). This section seeks to explore the economic elements that perpetuate violence against migrants. Malta's free-market economy dictates the economic structure of the state, facilitating prices for goods and services with little government oversight. What is of critical importance for this section of the dissertation is examining how the economic structure within Malta has perpetuated systemic violence that has jeopardized the human rights of migrants during the COVID-19 pandemic.

The commodification of migrants' bodies is an example of yet another instance of structural violence that emerged from the travel ban. This economic dimension involved with the travel ban has perpetuated the notion that migrant bodies can be exploited for profit. The marginalized standing in society that migrants are often categorized in has habitually led to vulnerable experiences and exploitation. During the COVID-19

pandemic this exploitation took a new form as the travel ban allowed for day-cruise ship owners to rent out their vessels to the government and subsequently financially profit off the detainment of migrants. For example, the Captain Morgan pleasure cruise ships were commissioned by the Maltese government by the Zammit Tabona family (Vassallo, 2020) who profited off of the inhumane detainment of people aboard these ships. A free market economy opens space for this public and private financial collaboration over migration to emerge. How this collaboration led to the commodification of human beings is symptomatic of structural violence at the economic level.

This brief analysis of how a free market economy is managed in a society already plagued by political and social levels of structural violence exemplifies how human right violations are rooted in complexity. This form of structural violence perpetuates the notion that marginalized populations can be exploited for profit and ultimately strips away people's human rights. In addressing structural violence at the economic level economies that are created in response to global pandemics have to mindfully navigate the human right dimensions involved in such systems.

Conclusion

When utilizing a structural violence framework for analysis, it is imperative to explore the systems and structures in place that impede the ability of people to achieve their basic human needs. By analyzing the implications of the travel ban from the political, social, and economic levels it becomes evident that systems of violence further perpetuate the human rights violations against migrants. These violations directly infringed upon the basic human needs of migrants, and arguable all humans involved in

this process of humanization as everyone suffers when one human is denied their capacity to live their life to its fullest potential.

This analysis explored how structural violence at the political level perpetuated an inadequate response to migration from high government officials during COVID-19 which led to human rights violations. Additionally, this discussion explored structural violence at the social level as it took the form of racism and xenophobia that contributed to the justification of human rights violations. Finally, structural violence at the economic level was briefly discussed as it related to the commodification of the bodies of human beings as public and private parties capitalized on the detainment of migrants during the COVID-19 pandemic. Through this understanding the theoretical framework of structural violence illuminates the complexities of Malta's failure to uphold its human rights obligations during the COVID-19 pandemic.

Analysis from a Lens of Narrative Theory

The experience of the COVID-19 pandemic in Malta saw the creation of many structural concerns within the country and shed light on previous existing systemic flaws that perpetuated violence against certain groups. These structural elements while embedded within the societal frameworks manifest through other forms as well. One such form, which will be the basis for exploration in this section, will be narrative and rhetoric. In order to holistically analyze the ways in which the travel ban created a space that allowed for the human right violations to occur, one must address the narratives that were created and sustained by the public and government officials by the rhetoric surrounding the travel ban. While recognizing the structural violence that occurred as a result of

policy creation in response to the COVID-19 pandemic the role of narrative is of paramount importance. Violence, vis-à-vis stories that are told and retold influence the perception of how situations are handled and remembered. In this way the stories and rhetoric which emerge during times of conflict create and perpetuate harmful situations. For example, a public health crisis can perpetuate harmful situations, which in the case of Malta took the form of human right violations. Within Malta the narratives and rhetoric surrounding the treatment of migrants during the COVID-19 pandemic, by both some members of the public and government officials, created conditions that allowed for the normalization of human rights violations to occur. As such, this section will be used to explore the ways in which the narratives and the framing of policies surrounding the COVID-19 pandemic created a space in society that have been used to justify human right violations, perpetuate systems of violence, and cause harm amongst migrants.

Sarah Cobb's theory of narrative explains that stories matter and the way we tell them matter as they continue to perpetuate narratives of how people view and interact with a conflict (2013). The ways narratives are sustained can further perpetuate harm and stigmas around certain groups. This is important to consider because the narratives that are created can be further employed to justify violence. A narrative rooted in xenophobia and racism which was touched upon in the previous section on structural violence at the social level, has been used in Malta to justify human rights violations against migrants during the COVID-19 pandemic. Utilizing Sara Cobb's theoretical framework to analyze this rhetoric and subsequent narrative as it relates to the response to the travel ban explores how stories can be employed in the justification of violence.

For example, the travel ban implemented by the Maltese government serves as a discriminatory piece of policy. As previously noted, the intention of the travel ban does not appear to be inherently racist, however the policy allowed for a creation of space to occur in society that condoned the violations of human rights of migrants to unfold. Cobb notes that policies can often be utilized to justify violence (2013). The travel ban does not appear to be an exception. This violence is exhibited in the detainment of migrants in inhumane conditions aboard ships at sea, whilst denying them access to necessary health care and support services. Such violations were justified because the policy gave a sort of legitimacy to the viewpoint that was congruent with xenophobic ideals. The People for Change Foundation reported on an interview conducted with sociologist Michael Briguglio to discuss the connection between COVID-19 and an increase of racist posts on social media emerging in Malta. Briguglio ascertains that during times of unrest an ‘enemy’ must always be constructed as some people feel safe blaming others (2020). When speaking about social media posts in Malta that have very clear racist undertones relating to the spread of COVID-19, Briguglio discussed a post that claimed “all illnesses always originate from Asia or Africa,” (2020), and another one that claimed the spread of COVID-19 will be attributed to “some black guy,” (2020) bringing it to the country. This perpetuates a belief that migrants coming from Africa will be a problem for Malta to contend with as the narrative creates connotations over the spread of disease. This discourse illuminates’ feelings towards migrants that are both racist and xenophobic. This type of discourse perpetuates a violent narrative which jeopardizes those in which the discourse seeks to *other*. During the COVID-19 pandemic this narrative contributed to a

justification of the dehumanizing living conditions and sustained hateful motives to migration. This examination of rhetoric serves to illustrate how stories are utilized to justify violence and perpetuate what Cobb calls “violent conflict narratives” (2013).

When seeking to understand how narratives contribute to a larger system that perpetuates discrimination against people it is crucial to also understand how the formation of such narratives can spread into society. Through government officials in Malta employing harmful rhetoric surrounding COVID-19 and migrants, as previously discussed, it appears to have allowed for public discourse to take a turn and mirror such rhetoric. The impact of which can be seen through the increase in hate speech experienced in Malta (The People for Change Foundation, 2020). These narratives furthered xenophobic ideologies in the state. The stories created that suggest diseases, like COVID-19, come from Africa have instigated conditions in Malta which allowed racism and xenophobia to spread like a disease. These stories have built a conflict narrative which permeates throughout society, both virtually and through real life interactions. Such an occurrence has perpetuated a mentality that migrants arriving from the African continent are bad or dangerous and therefore their lives are not as worthy. The detainment of migrants from the Maghreb region on day cruises as a resolution to migration during the COVID-19 pandemic exemplifies how the aforementioned mentality contributes to a complacency with violence against “dangerous migrants.”

Conflict narratives are also strengthened by political discourse and can become violent when this discourse is enacted with destructive or dehumanizing rhetorical force. For example, throughout the COVID-19 pandemic Prime Minister Robert Abela made his

stance on not allowing migrants to enter the country to seek asylum abundantly clear. He continuously justified not allowing migrants to enter the country even when they were in distress in Malta's SAR zone, when under international law there is a requirement to do so, under the guise of protecting the public health and lamenting that Malta was not solely responsible for migrants in the Mediterranean, but rather shifted the blame towards the failure of inaction from the EU. This stance further politicized the topic of migration and had devastating impacts. Prime Minister Abela's stance and the way the messaging was delivered with catchy one-liners like "Malta first and above all else," (The Shift, 2020) created conditions that allowed for other members of the public to catch on to the messaging and further propagate it in a way that was not inclusive. Such impacts saw an increase in racist and xenophobic speech and acts within the country, this increase was reported by the People for Change Foundation when they noted that xenophobic comments made on social media about the emergence of COVID-19 on the island being brought about due to foreigners (2020). Holding public office and being in the public eye provided Prime Minister Abela's rhetoric with power to inflame social response which matches his own hegemonic ideology. This highlights the paramount importance of not only ensuring the practice of human rights is maintained but also the stories used to uplift a nation are also rooted in human rights for all. This responsibility lies in the hands of those who have the platform of public office and wield the pen of political discourse.

While Abela's rhetoric showcased a complete disregard for the human rights of migrants, it appears he is not the only politician who vilified and dehumanized migrants during the COVID-19 pandemic. Deputy Prime Minister and Health Minister of Malta,

Chris Fearne, echoed Abela's stance towards the ways in which migrants were being treated throughout the pandemic as a result born out of an obligation to protect the public health of those in Malta at the expense of the inalienable human rights awarded to every individual. During the pandemic Fearne stated that due to Malta's size and limited resources the country cannot have an increase in population (Francalanza, 2020). As previously noted, the size and density of Malta is often used as a rhetorical tactic to justify xenophobia in the country (International Organization for Migration, 2016). This historical trend has permeated to contemporary Maltese society and governance, the continuation of such sentiments creates a perceived justification for the neglect of migrants' human rights during the COVID-19 pandemic. Fearne's rhetoric during the pandemic emphasizes the notion that migrants should not be allowed in Malta due to the small size, this coupled with his belief that migrants are not only a problem for Malta but a problem that is so large that it requires an intervention from a third-party, such as the EU, frames the situation in a way that vilifies migrants as they can be perceived as a threat to the resources of the state. This notion is highlighted when Fearne states, "The challenges of illegal immigration, now more than ever, cannot be carried by a single country or by very few nations, especially countries which already have strained health systems due to the Covid-19 crisis," (Hudson, 2020). Fearn's concerns exploit a narrative of a helpless nation over the lack of resources seek to serve as a clear justification to further xenophobic and racist ideologies that have no real sustenance based on the facts.

While the rhetoric both Abela's and Fearné used during the COVID-19 pandemic emphasize the damaging realities that can occur when the dehumanization and vilification of an *other* is created, Economy Minister Silvio Schrebbri is yet another government official whose harmful rhetoric of the COVID-19 pandemic contributed to justifications for human rights violations to emerge. During the pandemic Schrebbri stated that any foreigners who had lost their job due to the closing of business from COVID-19 would be deported (The People for Change Foundation, 2020). Doubling down on his efforts, the Minister lamented that the primary focus during this time would be Maltese and Gozitan workers. The harmful framing and handling of this precarious situation led to critiques from NGOs within Malta who called for 'words of encouragement and supports' in order to more productively handle such a challenging time in the country (The People for Change Foundation, 2020). The rhetoric employed by Schrebbri can obviously cause confusion and lead to fear for security for non-Maltese and non-Gozitans.

The framing of migrants in this dehumanizing way by high government officials is clearly damaging as it perpetuates a notion that migrants who come to Malta create a problem for the Maltese. This framing creates conditions that allow for xenophobic and racist acts to become almost permissible as it embeds violent narratives within the structures of society. Thus, this creates social norms and models within the country that further perpetuate harms against migrants. These norms can in turn further perpetuate violent systems and structures that can be justified based on the rhetoric and beliefs that emerge from such rhetoric, that dictates the belief that migrants are the *other*. This

dehumanization creates conditions where people may no longer view migrants as humans and then would not treat them as such or believe that they are worthy of basic human rights.

While the argument for whether the rhetoric that was utilized during the COVID-19 pandemic by government officials has any critical value on the long-term impact on the country, is one worth noting, it is clear that such harmful rhetoric has created harmful conditions. The types of conditions that were created and sustained by the travel ban and the narratives that were used fueled support for the justifications of the human right violations that occurred to migrants in response to the travel ban further demonstrate how powerful the damaging rhetoric can be. This is shown through people posting harmful comments on social media about the spread of COVID-19. The impact this kind of rhetoric can have in the long-term is crucial to consider as it further perpetuates narratives and ideologies surrounding norms of how migration in Malta is handled as well as how the pandemic response will be remembered. This comes to light when The Maltese branch of the Association for Child and Adolescent Mental Health issued a statement that states, “By refusing to help those in need, and by propagating a discourse which is stereotypical, xenophobic and demeaning towards members of other ethnicities, we are inadvertently influencing our younger generations’ perspectives towards cultural diversity,” (Borg, 2020). This demonstrates that the long-term effects of the damaging rhetoric will further perpetuate negative connotations of migrants, which ultimately may lead to more conflict and instability.

The fact that high government officials employed such harmful rhetoric partially creates the dehumanization of migrants, which can cause further harmful conditions. Malta's complicated history with migration presents challenges as the rhetoric that is being used furthers the notions that migrants present a problem to the state. While the travel ban created a space that allowed for harmful conditions against migrants to be justified, the harmful rhetoric has also created a space that has allowed for the justification of human rights to be violated against migrants as they are perceived as not being Malta's 'problem' to deal with. The negative discourse surrounding migration in Malta has its roots in historical bias and racism that has fueled the contemporary understanding of the topic, ultimately intensifying the xenophobic and racist narratives that emerged from the pandemic.

Conclusion

The damaging narratives surrounding the spread of COVID-19 in Malta have been fueled by political rhetoric and ultimately has created conditions in society that allow for the justification of human right violations to occur. These conditions manifest in the form of blatant discrimination, an increase in xenophobia, and an increase in hate speech, the impacts of which perpetuate disparities and can foster an environment that is not conducive for a diverse society. The narrative aspect of this conflict must be addressed in order to holistically understand the ways the government justified detaining migrants at sea. By framing migrants as a threat to both Malta's resources and public health, multiple politicians were given the space to create blatantly racist decisions that emerged from the implementation of the travel ban. The narrative created by politicians

was then reflected by the public discourse that supported the decision to detain migrants at sea, by reiterating the same damaging rhetoric and narratives those in high positions of power created during the pandemic.

Recommendations for Resolution

Structural issues are inherently difficult to resolve as they require systemic change. This change cannot be resolved in one singular policy or one act. However, these smaller changes can be utilized to continuously deconstruct various systems of oppression and create a catalyst for change. When looking towards resolution practices that need to be adopted in order to reconcile and combat conflicts that emerge from structural violence it can seem like a perilous task as it requires often addressing the root causes to the emergence of conflicts. However, this section of the dissertation seeks to provide recommendations for ways in which resolution towards the conflict could emerge based on the findings that developed from the analysis of the travel ban through a lens of structural violence and narrative theory.

Overcoming Structural Violence

According to Gil (1999),

Elimination of social-structural violence requires a comprehensive social, economic, political, and cultural renaissance, involving transformations of prevailing social values and consciousness, and of established institutional systems. (p. 33)

Thus, in order to address the levels of violence that have permeated through society from a structural level, it is of critical importance to re-examine existing structures at the social, economic, and political level. For example, these structures may include the legal institutions and bodies within the state that perpetuate latent violence against some groups of people. Such an examination could take the form of an in-depth policy review to determine which policies are violent and/or create social conditions that can further perpetuate violence and replace them with policies that adopt a HRBA to all policy creation. A HRBA to policy creation can be utilized in order to ensure that the human rights of all are protected, the voices of those who will be directly impacted by the policy will be heard, and an emphasis is placed on the inclusion for all people to be considered when creating policy.

The importance of adopting a HRBA specifically to health policies during a global pandemic cannot be understated. Adopting a HRBA to health policy can ensure that human rights are not only recognized and promoted but also at the forefront of decision making. This is especially important within the context of Malta as the state has clearly demonstrated a lack of respect for the human rights of migrants based on their policy decisions. As previously discussed, the benefits of utilizing a HRBA to health policy allow for an inclusive approach to ensure the needs of all are adequately met and those in marginalized communities are not left behind during policy creation (Gruskin et al., & Hunt et al., 2015 2010). This facet of a HRBA underpins the vast majority of lessons that were learned during the HIV/AIDS epidemic that placing human rights at the forefront of policy making ensures that marginalized populations are given a voice and

autonomy during a time that otherwise might neglect the needs of such vulnerable populations (Avafia et al., 2020 & Somse et al., 2020).

Learning from the successes and failures during previous health crises allows for an understanding as well as being in a better position to address the social conditions that emerge. In order for Malta to overcome the structural violence in the state, it must address the existing structures and institutions that perpetuate systems of harm and violence, and in the words of Gil, experience a renaissance (1999). Such a renaissance could emerge from recognizing the value of adopting a HRBA to both health policies for migrants and policies born out of a response to public health crises in order to ensure that every person is protected under national legislation.

Overcoming Destructive Narratives

Sara Cobb's theory on destructive narratives suggests that stories matter and the way we tell such stories matter as they continue to perpetuate narratives of how people view and interact with a conflict (2013). When looking to overcome the violence that emerges from these damaging narratives it is crucial to address the dehumanization that occurs that allows for the violent narrative to continue. The framing of another party as the *other* can contribute to the dehumanization as it does not acknowledge the humanity of a person but rather seeks to debase such a person. By continuously placing the blame on the *other* it perpetuates and vilifies a group. Addressing the dehumanization aspect is of critical importance to ensure the narratives that are told do not vilify anyone as this may further perpetuate how people view and interact with the conflict.

Within Malta it must be of paramount importance to recognize and reconcile the damage that has been created and sustained through the narratives created in response to the COVID-19 pandemic. As the narratives that are created can impact the way people view and interact with a conflict (Cobb, 2013) it is imperative to recognize what the narratives are in order to overcome them and the dehumanization that emerged. As previously explored, in the case study above, the narratives created surrounding the spread of COVID-19 within the state stemmed from political rhetoric that permeated to contemporary society. These have exacerbated racism and xenophobia in the country (The People for Change Foundation, 2020). In order to address these issues, a reconciliation must occur that takes into account the damage that was created vis-à-vis to the harmful narratives employed by government officials. Such a reconciliation would require the acknowledgement of high government officials for the role the administration had in sustaining the damaging rhetoric over the spread of COVID-19. Upon such a reconciliation it would be instrumental to ensure that no damaging or harmful language is employed for the purpose of purposefully vilifying a group of people again. Until the government of Malta reconciles the complex history of migration that has contributed to the dehumanization of migrants, structural changes will be challenging to resolve.

Looking Forward

In looking to overcome structural violence, Gil suggests a renaissance at the political, economic, social, and cultural level (1999). This section sought to explore how such a renaissance could emerge by looking at the structures and institutions that inform policy creation, in order to better preserve and protect the human rights of all. By calling

for an in-depth review of policies to ultimately be replaced by those that utilize a HRBA, this dissertation seeks to promote the unity of the institutional forces that are responsible for the creation and implementation of policies in order to provide concrete outcomes that are beneficial for all, and mostly importantly, uphold the human rights for all.

Recommendations for resolutions based on the analysis from narrative theory cemented the notion that reconciliation between parties must include an honest recognition by those who employed such harmful rhetoric and are in high positions of power in the government for such a reconciliation to be effective. This section on narrative theory sought to explore how narratives contribute to the way people interact and view a conflict and the importance of addressing and reconciling destructive conflict narratives is in order to overcome the dehumanization that can occur through such destructive narratives.

If we learn from both the mistakes and positive experiences during previous public health crises, then the policy and decision makers can be better equipped to ensure the adequate measures actively combat against discriminatory and prejudice policies and practices that actively violate people's human rights. Such adequate measures would need to include the adoption of legislation that ensures the human rights of all are protected, collaborative leadership and solidarity at the global level are promoted, and communities are actively engaged in all stages of policy creation that directly impacts them.

Conclusion

The space created in Malta's society in response to the travel ban sought to justify the human right violations against migrants. By placing the implications from the travel ban in the theoretical framework of structural violence it is clear that the embedded

systems and structures within society further perpetuated violence against migrants. The analysis of the implications that emerged from the travel ban analyzed through a lens of narrative theory emphasizes that the narrative created during the COVID-19 pandemic sustained the justifications to allow violations of migrants to occur. In order to address these offenses, this dissertation sought to explore how adopting a HRBA to policy creation can be best utilized to overcome the systemic injustices that were created in response to the travel ban.

Drawing on lessons learned from previous pandemics the recommendations to adopt a HRBA to policy creation can assist in future planning on public health crises to ensure the needs of all people are met, and most importantly, the human rights of all are protected during all stages of such a crisis. While recognizing the importance of reconciling the harmful narratives that were created during the COVID-19 pandemic by government officials, this dissertation sought to explore how government officials can rectify the damage caused by the harmful narratives by honestly recognizing the harm that was created. These recommendations seek to effectively address the societal conditions that were created in response to the travel ban policy implemented by the Maltese government during the COVID-19 pandemic. It is clear that in order to effectively reconcile the harm caused, there is a need to address the vast societal conditions that emerged in response to the COVID-19 pandemic, that sought to justify and legitimize the human rights violations of migrants, that ultimately perpetuated violence at both the structural and individual levels.

CHAPTER 6 - CONCLUSION

This dissertation sought to position itself amongst existing research relating to the protection of migrants' rights during times of public health crises. While academic literature on this topic specifically related to the COVID-19 pandemic is not readily available as the public health crisis is still on-going it is clear that such research is necessary in order to ensure that the rights of all migrants are protected and ensure that states are held accountable for any and all human right violations that occur. Such an analysis is necessary as it addresses the complexities involved with the topic of the protection of migrants' rights. This chapter will provide a brief summary of the previous chapters, present the results from the research, list the limitations of the research, and provide a rationale for how this research contributes to the field of study.

Summarization of Chapters

Chapter one of this dissertation sought to introduce the research topic, by stating the main research question of, whether Malta upheld its human rights obligations to migrants through policy creation during the COVID-19 pandemic. Through defining the key terms relating to migration, such as asylum-seekers, refugees, and migrants, this chapter set clear guidelines for how the terms will be defined, while recognizing how these terms are often used interchangeably and the damage that can cause. These definitions were followed by a section that outlined the background and development of

human rights as a field and human rights law and explored the characteristics of human rights. Following this, the concept of a HRBA to policy creation was introduced that served as a backdrop for analysis within this research.

The literature review chapter sought to summarize, review, and synthesis existing literature on the research topic. This was accomplished by first exploring how historical migration trends and data from Malta have transcended into contemporary society and shaped how migration is both viewed and handled in the country today. Through this section concepts relating to contemporary migration issues, structural issues, anti-immigration rhetoric, upholding homogeneity, detention of migrants, and migrant rights were explored in order to reconcile how that background information has contributed to the contemporary understanding of how migration is addressed in Malta. Within this section the theoretical frameworks of Galtung's (1969) structural violence and Cobb's (2013) narrative theory were introduced as both frameworks were to be employed further in the research. Following the background on migration, the section on previous pandemics and lessons learned to be applied to the COVID-19 pandemic was discussed in order to examine how such lessons can be employed to ensure the human rights of all are protected during public health crises. From this section it emerged how applying lessons learned from the HIV/AIDS epidemic, such as empowering and protecting vulnerable communities and utilizing a HRBA to policy creation, can be utilized in order to limit the harmful societal conditions that pandemics create. A brief exploration on the misleading dichotomy of how preserving public health and economic viability were mutually exclusive sought to illustrate how states sought to justify some

harmful policy decisions by placing concerns of the economy over the health and well-being of citizens. Finally, this chapter concluded by exploring what a HRBA to policy making is and how beneficial such an inclusive approach, that places people at the center of decision making, can best serve the needs of everyone. Such an approach ensures the human rights of all are protected with a specific focus ensuring that marginalized communities are included in policy creation.

Following the review of relevant literature, there was a chapter on the methodology employed for this research. The systematic review of policies was utilized as it allowed for desk-based research to be conducted that would provide a holistic approach to undertake the research. Upon reviewing the various Legal Notices implemented by the Maltese government in response to the COVID-19 pandemic, L.N. 92 of 2020 was the only policy that fit the necessary criteria for which to analyze. This Legal Notice was then analyzed within an understanding of human rights by placing it against the CRC, ECHR, and UDHR to explore how the societal conditions that emerged, as reported by the People for Change Foundation, to examine whether Malta upheld its human rights obligations to migrants.

The case study of Malta explored how L.N. 92 of 2020 demonstrated a lack of a HRBA to policy creation. Upon cross-referencing the policy against the aforementioned declaration and conventions, it was noted that there were various human right violations that emerged in response to the policy. This case study sought to examine just how the societal conditions that were created by the travel ban left the migrants on-board the ships vulnerable to human right violations, ultimately highlighting that Malta did not uphold its

human rights obligations to migrants through policy creation during the COVID-19 pandemic.

Following the case study, an analysis was conducted utilizing two theoretical frameworks in the field of conflict analysis and resolution to further explore and deepen an understanding of the social conditions that were created that allowed for such violations to occur as well as examine how the previous existing policies, specifically the 1970 Immigration Act, contributed to such violations occurring. The structural violence lens brought forth an analysis on how the political, social, and economic structures of the country further perpetuate violence against migrants. While the narrative theory lens examined how the narratives created by politician's rhetoric has allowed for increased xenophobia and racism to permeate into society and justify the human rights violations through dehumanizing migrants. This analysis sought to deeply explore how these human right violations emerged through structural levels that were exacerbated during the pandemic, as well as how the harmful rhetoric employed by politicians in the state sustained violent narratives over the spread of COVID-19 in Malta. Following this analysis there was a presentation for recommendations for resolution being employed as a form of a call to action for policy and decision makers in the state to begin to systematically ensure that human rights-based approached become a norm for policy creation in the state.

Results from Research

Through exploring the question, whether Malta upheld its obligation to human rights through policy creation during the COVID-19 pandemic, this dissertation found

that while Malta was compliant with international law to institute national legislation that closed the ports to and from Malta, the ensuing conditions that emerged as a direct result of the travel ban led to many human rights violations occurring. These results showed a violation to the CRC, ECHR, and the UDHR. As such it is quite evident that the Maltese government did not utilize a human rights-based approach to policy creation towards migrants during the COVID-19 pandemic

International law allows for states to limit certain rights during times of emergencies, like a public health crisis, however these measures must be proportionate and necessary (Human Rights Watch, 2020). The arbitrary detention of migrants on-board the Captain Morgan cruise ships in Malta was a clear violation of the human rights of those on-board the ships. The bleak conditions under which the migrants endured these human right violations are in no way justifiable and it is now up to the Maltese government to immediately rectify the situation. Through the creation and implementation of the travel ban, politicians in the state leveraged the fear and anxiety to justify not allowing migrants to enter the state. This presents a clear problem when there is an obligation for Malta to protect those in the respective SAR zone and provide the adequate measures for everyone that are protected by the CRC, ECHR, and the UDHR.

Limitations of this Study

While this research sought to fill a gap in existing scholarly research relating to migrant rights during public health crises, there were limitations to this research that must be addressed. One limitation that emerged throughout the research process was the difficulty regarding terminology. As there is no universally agreed upon definition of the

term migrant, it was challenging during the literature gathering stage as there was often literature that did not clarify the terminology. As previously noted, the terms migrants, asylum-seekers, and refugees are often used interchangeably when exploring the topic of migration in the Mediterranean region. This presents a clear challenge as the lack of clear definitions can lead to convoluted discussions and areas for misunderstandings to emerge based on the terms used. Discussions and research surrounding migration then seems to be inherently limited as the terminology utilized is often misleading.

Another limitation that emerged from this research was the reliance on the reports issued by the People for Change Foundation. As these were the only succinct documents accessible to the public that met the necessary requirements to examine, the reports served as the main secondary sources for accounting for the incidents that the migrants onboard the ships endured. As such, it is necessary to note that the findings of the incidents reported were reliant on the reports issued by the People for Change Foundation.

A final limitation that emerged from this research was that the data collected was purely from a secondary source. As such, there was no way to collect the first-hand lived experiences and narratives of those, unless it was reported through one of the reports. A mixed-method approach if applicable, may have provided more nuance and allowed for a differing perspective on the topic to emerge. With these limitations in mind, this dissertation was able to gather succinct results that demonstrate how Malta failed to uphold its human rights obligations to migrants in response to policy creation during the COVID-19 pandemic.

Contribution to the Field

When looking towards how this dissertation contributes to the growing research within the field of conflict analysis and resolution, it is clear that research that actively attempts to reconcile the complexities involved with an on-going public health crisis that exacerbates damaging social conditions and norms allows for a critical inspection of the various systemic forces involved in the perpetuation of harmful practices in order to change these types of practices. As there will almost certainly be future pandemics, it is important to have research relating to the violations of human rights that occur amidst a pandemic, in order to ensure that these violations do not happen again and to also learn how to better combat harmful conditions that could lead to such human rights violations occurring. By exploring the ways in which human rights obligations were failed it allows for a clear understanding of the ways in which states must be held accountable for its actions. As marginalized populations are often excluded when forming policies and are often disproportionately affected during health crises (Department of Global Communications, 2020) it is of critical importance to analyze the social conditions that emerge from the implementation of policies in order to ensure that no one is left behind in decision-making and the human rights of everyone are protected.

Through this research, the human rights violations that emerged from the implementation of the travel ban in Malta, emphasize how damaging policies can be when they do not utilize a HRBA as marginalized populations may face discriminatory practices and may endure violations to their human rights. The results of this research can be further employed by those who are passionate and inspired to actively contribute to the

dismantling of harmful systems that perpetuate violence against migrants, as it provides a succinct analysis of how migrants endured violations to their human rights during the COVID-19 pandemic.

Looking Forward

Within an understanding of human rights this dissertation explored how policy implementation can create social conditions that can lead to human rights violations and abuses within the state. By exploring whether Malta upheld its human rights obligations to migrants through policy creation during the COVID-19 pandemic this research uncovered that the conditions in society that emerged from policies can be violent at both the structural and individual levels. Further research in this area could explore this topic utilizing other theoretical frameworks to see the impact different theories have on deepening an understanding of the conflicts that emerged and provide alternative resolution techniques. Additionally, further research may choose to analyze how instituted travel bans during the COVID-19 pandemic in other states have contributed to violations of the human rights of migrants. Upon the completion of the research it was made clear that violations to human rights occurred in Malta as responses to the travel ban demonstrated a complete lack of regard for the human dignity of migrants that the government decided to detain on commercial day cruise ships at sea. In order to ensure the human rights of all are protected and states are held accountable to what is required of them based on international law it is imperative to make sure policy creations maintain a HRBA.

While recognizing the vast nuances that exist within the topic of migration, this dissertation seeks to address how immediate and serious action must be taken at various levels in order to attempt to rectify the violence and harm to those who were impacted by the arbitrary detention caused by L.N. 92 of 2020. It also seeks to denote the importance that the arbitrary detention of migrants onboard day cruise ships does not happen again and that this detention is inherently violent and in violation of international law. Rectifying this situation can only happen once the government of Malta reconciles the wrongdoing that occurred over the treatment of migrants during the COVID-19 pandemic by recognizing its role in the perpetuation of violence against migrants. In order to ensure that there can be a society that is inclusive, just, and rooted in human dignity there must be a reckoning that recognizes the human rights of all are continuously upheld and maintained without prejudice.

APPENDIX A: L.N. 92 of 2020

*TRAVEL BAN
(EXTENSION TO ALL COUNTRIES)*

[S.L. 465.26 1

**SUBSIDIARY LEGISLATION 465.26
TRAVEL BAN (EXTENSION TO ALL COUNTRIES)
ORDER**

21st March, 2020

*LEGAL NOTICE 92 of 2020, as amended by Legal Notices 244, 255
280 and 290 of 2020.*

1. The title of this order is the Travel Ban (Extension to all Countries) Order. Citation.

2. In furtherance of the proviso to article 2(2) of the Travel Ban Order, the Superintendent of Public Health hereby extends the order of a travel ban on persons to Malta and from Malta to and from all countries:

*Extension to all
countries.
Amended by:
L.N. 244 of 2020;
L.N. 255 of 2020;
L.N. 280 of 2020;
L.N. 290 of 2020.
S.L. 465.15.*

Provided that:

(a) cargo flights, ferry flights, humanitarian flights, and repatriation flights shall be exempt from this order;

(b) cargo ships including container ships and ro-ro vessels carrying goods and essential commodities and tankers loaded with essential fuels are exempted from this order; and

(c) the Superintendent of Public Health may, in her absolute discretion, issue an exemption from the provisions of this order, by notice in the Gazette, where, in the opinion of the said Superintendent of Public Health, the travel of certain persons or goods is deemed to be essential:

Provided further that with effect from the 1st July 2020, persons may travel from Malta to the countries listed in this proviso and from the countries listed in this proviso to Malta:

- (a) Austria;
- (b) Cyprus;
- (c) Czech Republic;
- (d) Denmark;
- (e) Estonia;
- (f) Finland;
- (g) Hungary;
- (h) Iceland;

- (i) Ireland;
- (j) Germany;
- (k) Latvia;
- (l) Lithuania;
- (m) Luxembourg;
- (n) Norway;
- (o) Italy;
- (p) France;
- (q) Slovakia;
- (r) Switzerland;
- (s) Greece;
- (t) Croatia;
- (u) Spain; and
- (v) Poland;
- (w) United Kingdom;
- (x) Belgium;
- (y) Bulgaria;
- (z) Netherlands;
- (aa) Canada;
- (bb) Australia;
- (cc) New Zealand;
- (dd) South Korea;
- (ee) Andorra;
- (ff) Monaco;
- (gg) San Marino;
- (hh) China;
- (ii) Vatican City;

-
- (jj) Rwanda;
 - (kk) Uruguay;
 - (ll) Slovenia;
 - (mm) Japan;
 - (nn) Morocco;
 - (oo) Thailand;
 - (pp) Tunisia;
 - (qq) Portugal;
 - (rr) Romania;
 - (ss) Lebanon;
 - (tt) Indonesia;
 - (uu) United Arab Emirates;
 - (vv) Turkey;
 - (ww) Jordan;
 - (xx) Liechtenstein;

Provided further that the Superintendent of Public Health may grant an exemption for persons to travel from Malta to countries other than those listed in the proviso above and from countries other than those listed in the proviso above to Malta where such travel of persons is deemed necessary or essential.

REFERENCES

- About the People for Change Foundation. (2020). Retrieved August 7, 2020, from <http://www.pfcmalta.org/about-us.html>
- Aditus, & JRS Malta. Social welfare. (2020). Retrieved August 7, 2020, from <http://www.asylumineurope.org/reports/country/malta/content-international-protection/social-welfare>
- Al Jazeera. (2020, April 10). Malta takes in migrants hours after announcing coronavirus ban. Retrieved August 20, 2020, from <https://www.aljazeera.com/news/2020/04/malta-takes-migrants-hours-announcing-coronavirus-ban-200410160333984.html>
- Archived: WHO Timeline - COVID-19. (2020, April 27). Retrieved July 27, 2020, from <https://www.who.int/news-room/detail/27-04-2020-who-timeline---covid-19>
- Avafia, T., Konstantinov, B., Esom, K., Sanjuan, J., and Schleifer, R. (2020). A Rights-Based Response to COVID-19: Lessons Learned from HIV and TB Epidemics. *Health and Human Rights Journal*. <https://www.hhrjournal.org/2020/03/a-rights-based-response-to-covid-19-lessons-learned-from-hiv-and-tb-epidemics/>
- Azzopardi, K. (2020, July 22). Migrants are prey to homelessness without proper help to get jobs. Retrieved August 7, 2020, from https://www.maltatoday.com.mt/news/national/103668/migrants_are_preay_to_homelessness_without_proper_help_to_get_jobs#.XzPJky9h1R0
- Azzopardi, K. (2020, May 23). [WATCH] From tourist ferries to water prisons: AFM keeps press away from Captain Morgan boats. Retrieved August 10, 2020, from https://www.maltatoday.com.mt/news/national/102529/from_tourist_ferries_to_water_prisons_afm_keeps_press_away_from_captain_morgan_migrant_boats#.X0FGYi9h1p8
- Bethany Jones, J. (2020, April 05). Perspective | Gov. Cuomo is wrong, covid-19 is anything but an equalizer. Retrieved July 24, 2020, from <https://www.washingtonpost.com/outlook/2020/04/05/gov-cuomo-is-wrong-covid-19-is-anything-an-equalizer/>
- Bohoslavsky, J. (2020, June 09). COVID-19 Economy vs Human Rights: A Misleading Dichotomy. Retrieved from <https://www.hhrjournal.org/2020/04/covid-19-economy-vs-human-rights-a-misleading-dichotomy/>

- Borg, A. (2020, April 21). Concerns raised over impact of racist comments on youngsters' mental health. Retrieved from <https://newsbook.com.mt/en/concerns-raised-over-impact-of-racist-comments-on-youngsters-mental-health/>
- Briefing Note: The Economic Impacts of COVID-19 and Gender Inequality Recommendations for Policymakers. (2020). The United Nations Development Programme. Retrieved from https://reliefweb.int/sites/reliefweb.int/files/resources/PNUD_GENERO_COVID_19_ENG_FINAL_3.pdf
- Chumley, C. (2020, May 01). Forced face masking is a civil rights offense. Retrieved July 24, 2020, from <https://www.washingtontimes.com/news/2020/may/1/forced-face-masking-civil-rights-offense/>
- Cobb, S. (2013). Explorations in narrative psychology. Speaking of violence: The politics and poetics of narrative in conflict resolution. Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199826209.001.0001>
- Costa, M. (2020, April 12). Migrant boat capsizes on Easter Sunday, people feared lost at sea. Retrieved August 7, 2020, from https://www.maltatoday.com.mt/news/national/101622/migrant_boat_capsizes_on_easter_sunday_people_feared_lost_at_sea#.Xz6MYC9h3GI
- Council of Europe. (1952). The European convention on human rights.
- Council of Europe. (2020). What are human rights? Retrieved from <https://www.coe.int/en/web/compass/what-are-human-rights->
- Covid-19 Fueling Anti-Asian Racism and Xenophobia Worldwide. (2020, July 21). Retrieved July 24, 2020, from <https://www.hrw.org/news/2020/05/12/covid-19-fueling-anti-asian-racism-and-xenophobia-worldwide>
- Debono, J. (2020, April 23). [ANALYSIS] Five reasons Abela pushed the migration button during COVID-19. Retrieved August 7, 2020, from https://www.maltatoday.com.mt/news/national/101858/analysis_five_reasons_abela_pushed_the_migration_button_during_covid19#.XzE5qC9h2L8
- Department of Global Communications. (2020). UN working to ensure vulnerable groups not left behind in COVID-19 response. Retrieved July 24, 2020, from <https://www.un.org/en/un-coronavirus-communications-team/un-working-ensure-vulnerable-groups-not-left-behind-covid-19>
- European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5, available at: <https://www.refworld.org/docid/3ae6b3b04.html>
- Equality and Human Rights Commission. (2020). What is the European Convention on Human Rights? Retrieved August 9, 2020, from <https://www.equalityhumanrights.com/en/what-european-convention-human-rights>

- Falzon, M. (2019, October 29). Tackling hate speech. Retrieved August 7, 2020, from https://www.maltatoday.com.mt/comment/blogs/98297/tackling_hate_speech#.Xzg1fS9h1p8
- Flynn, D. (2016, May 11). Why are migrants vulnerable to exploitation? Retrieved August 7, 2020, from <https://www.ethicaltrade.org/blog/why-are-migrants-vulnerable-to-exploitation>
- Francalanza, J. (2020, April 9). [WATCH] Malta's health and migrant reception facilities have their limit, Chris Fearne says. Retrieved August 9, 2020, from https://www.maltatoday.com.mt/news/xtra/101601/watch_maltas_health_and_migrant_reception_facilities_have_their_limit_chris_fearne_says#.X0Z6-i9h00o
- Galtung, Johan. 1969. "Violence, Peace, and Peace Research." *Journal of Peace Research* 6 (3): 167-91.
- Gauci, J. (2011). *Racist Violence in Malta*. The People for Change Foundation. <http://cms.horus.be/files/99935/MediaArchive/Racist%20Violence%20Report%20Malta%20-%20online.pdf>
- Gil, D. G. (1999). Understanding and overcoming social-structural violence. *Contemporary Justice Review*, 2(1), 23-35.
- Giordimaina, J., By, & -. (2020, April 02). WHO congratulates Fearne. Retrieved August 20, 2020, from <https://newsbook.com.mt/en/who-congratulates-fearne/>
- Global Detention Project. (2019, June 11). *Immigration Detention in Malta: "Betraying" European Values?* Global Detention Project. www.globaldetentionproject.org/.
- Gough, D., Thomas, J. & Oliver, S. Clarifying differences between review designs and methods. *Syst Rev* 1, 28 (2012). <https://doi.org/10.1186/2046-4053-1-28>
- Gruskin, S., Bogecho, D. & Ferguson, L. 'Rights-based approaches' to health policies and programs: Articulations, ambiguities, and assessment. *J Public Health Pol* 31, 129–145 (2010). <https://doi.org/10.1057/jphp.2010>.
- Guterres, A. (2020). We are all in this Together: Human Rights and COVID-19 Response and Recovery. Retrieved July 24, 2020, from <https://www.un.org/en/un-coronavirus-communications-team/we-are-all-together-human-rights-and-covid-19-response-and>
- Hudson, D. (2020, March 19). Chris Fearne appeals for EU help on illegal immigration during Covid-19 crisis. Retrieved August 9, 2020, from https://www.maltatoday.com.mt/news/national/101135/chris_fearne_appeals_for_eu_help_on_illegal_immigration_during_covid19_crisis_#.X0aA9i9h00o
- Human Rights Watch. (2020, May 12). Covid-19 Fueling Anti-Asian Racism and Xenophobia Worldwide. Retrieved from

- <https://www.hrw.org/news/2020/05/12/covid-19-fueling-anti-asian-racism-and-xenophobia-worldwide>
- Human Rights Watch. (2020, May 22). Malta: Disembark Rescued People. Retrieved from <https://www.hrw.org/news/2020/05/22/malta-disembark-rescued-people>
- Hunt, P., Yamin, A. & Bustreo, F. 'Making the Case: What Is the Evidence of Impact of Applying Human Rights-Based Approaches to Health?' Health and Human Rights Journal No. 2 Volume 7 (2015)
http://repository.essex.ac.uk/15580/1/Editorial_Dec8.pdf
- IFRC, OCHA, WHO. COVID-19: How to include marginalized and vulnerable people in risk communication and community engagement. (2020, March 15). Retrieved July 24, 2020, from
<https://www.unicef.org/ukraine/en/documents/covid-19-how-include-marginalized-and-vulnerable-people-risk-communication-and-community>
- International Organization for Migration. (2016). Migration in Malta-Country Profile 2015. Retrieved July 24, 2020, from
<https://publications.iom.int/books/migration-malta-country-profile-2015>
- International Organization for Migration. (2019, December 19). Malta. Retrieved August 9, 2020, from <https://www.iom.int/countries/malta>
- Iversen, R. (2017, October 21). Xenophobia is Malta's most prominent form of hate speech. Retrieved August 7, 2020, from
<https://www.independent.com.mt/articles/2017-10-21/local-news/Xenophobia-is-Malta-s-most-prominent-form-of-hate-speech-6736180481>
- Jensen, S. (2017, November 15). Putting to rest the Three Generations Theory of human rights. Retrieved July 24, 2020, from
<https://www.openglobalrights.org/putting-to-rest-the-three-generations-theory-of-human-rights/>
- Key Migration Terms. (2020, January 17). Retrieved July 24, 2020, from
<https://www.iom.int/key-migration-terms>
- King, R., & Lulle, A. (2016). Research on Migration: Facing Realities and Maximising Opportunities. Retrieved August 7, 2020, from
http://ec.europa.eu/research/social-sciences/pdf/policy_reviews/ki-04-15-841_en_n.pdf
- KSU. (2019) Immigration Malta-Integration through Education. Retrieved August 7, 2020, from
<https://ec.europa.eu/migrant-integration/librarydoc/immigration-in-malta-integration-through-education>
- Malta, J., & Aditus. (2020). Types of accommodation. Retrieved August 7, 2020, from
<https://www.asylumineurope.org/reports/country/malta/reception-conditions/access-forms-reception-conditions/types-accommodation>
- Malta Independent. (2020, June 10). 'We need to intensify our efforts against the racist scourge' – Faculty of Education Dean. Retrieved from

<https://www.independent.com.mt/articles/2020-06-10/local-news/We-need-to-intensify-our-efforts-against-the-racist-scourge-Faculty-of-Education-6736224036>

Mantoo, S. (2020). UNHCR warns stateless people risk being left behind in coronavirus response. Retrieved July 24, 2020, from <https://www.unhcr.org/news/press/2020/5/5eb952222ec/unhcr-warns-stateless-people-risk-behind-coronavirus-response.html>

Mertes, D. (2018). *Mixed Methods Design in Evaluation*. Sage Research Methods. <https://dx-doi-org.mutex.gmu.edu/10.4135/9781506330631.n5>

Miller, H., & Redhead, R. (2019). Beyond ‘rights-based approaches’? Employing a process and outcomes framework. *The International Journal of Human Rights*, 23(5), 699-718. <https://doi.org/10.1080/13642987.2019.1607210>

Newsbook. (2019, March 15). Malta amongst highest receivers of asylum requests per capita. Retrieved from <https://newsbook.com.mt/en/malta-amongst-highest-receivers-of-asylum-requests-per-capita/>

Overview of the legal framework - Malta | Asylum Information Database. (2020). Asylum in Europe. <https://www.asylumineurope.org/reports/country/malta/overview-legal-framework>

Shift, T. (2020, April 27). Surge in racist and hate speech online following government decisions. Retrieved August 7, 2020, from <https://theshiftnews.com/2020/04/27/surge-in-racist-and-hate-speech-online-following-government-decisions/>

Somse, P., & Eba, P. (2020, April 02). Lessons from HIV to Guide COVID-19 Responses in the Central African Republic. *Health and Human Rights Journal*. <https://www.hhrjournal.org/2020/04/lessons-from-hiv-to-guide-covid-19-responses-in-the-central-african-republic/>

The Foundation of International Human Rights Law. (n.d.). Retrieved July 24, 2020, from <https://www.un.org/en/sections/universal-declaration/foundation-international-human-rights-law/index.html>

The People for Change Foundation. (2020). Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications. Retrieved July 24, 2020 from https://fra.europa.eu/sites/default/files/fra_uploads/malta-report-covid-19-april-2020_en.pdf

The People for Change Foundation. (2020). Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications. Retrieved July 24, 2020 from

The United Nations. (1989). Convention on the Rights of the Child. Treaty Series.

- The United Nations. (1948). Universal Declaration of Human Rights
- The United Nations General Assembly. (1966). International Covenant on Economic, Social, and Cultural Rights. Treaty Series, 999, 171.
- Types of accommodation. (2020). Retrieved August 7, 2020, from <https://www.asylumineurope.org/reports/country/malta/reception-conditions/access-forms-reception-conditions/types-accommodation>
- UNAIDS. (2020). Rights in the time of COVID-19 Lessons from HIV for an effective, community-led response. Retrieved July 24, 2020, from <https://www.unaids.org/en/resources/documents/2020/human-rights-and-covid-19>
- United Nations. (2020). History of the UN Seventieth Anniversary. Retrieved July 24, 2020, from <https://www.un.org/un70/en/content/history/index.html>
- United Nations High Commissioner for Refugees. (2020). Asylum-Seekers. Retrieved July 24, 2020, from <https://www.unhcr.org/asylum-seekers.html>
- United Nations Population Fund. (2020, May 28). The Human Rights-Based Approach. Retrieved July 24, 2020, from <https://www.unfpa.org/human-rights-based-approach>
- United Nations Sustainable Development Group. (2020). Human Rights-Based Approach. Retrieved July 24, 2020, from <https://unsdg.un.org/2030-agenda/universal-values/human-rights-based-approach>
- United Nations Sustainable Development Group. (2020). Human Rights are Critical- for the Response and the Recovery. Retrieved July 24, 2020, from https://www.un.org/victimsofterrorism/sites/www.un.org.victimsofterrorism/files/un_-_human_rights_and_covid_april_2020.pdf
- UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations, Treaty Series, Retrieved July 24, 2020, from <https://www.refworld.org/docid/3be01b964.html>
- UNICEF (2020). What is the Convention on the Rights of the Child? Retrieved August 9, 2020, from <https://www.unicef.org/child-rights-convention/what-is-the-convention>
- Ussar, M. (2011). The Human Rights-based Approach: A More Effective Framework for International Development Policies in New EU Member States. Retrieved August 7, 2020, from <https://www.civicspace.eu/upload/library/the-human-rights-based-approach-5d629a64619cc.pdf>
- Vassallo, S. (2020, June 20). WATCH: Michael Zammit Tabona And Captain Morgan Thanked As €108,000 Cheque Donated To Labour Party. Retrieved August 9, 2020, from <https://lovinmalta.com/news/watch-michael-zammit-tabona-and-captain-morgan-thanked-as-e108000-cheque-donated-to-labour-party/>
- Victorian Equal Opportunity and Human Rights Commission. From Principle to Practice: Implementing the Human Rights Based Approach in Community Organizations. (2008). Retrieved August 7, 2020
- Viljoen, F. (2009). International Human Rights Law: A Short History. Retrieved July 24, 2020, from

- <https://www.un.org/en/chronicle/article/international-human-rights-law-short-history>
- Who is a migrant? (2019, June 27). Retrieved August 7, 2020, from <https://www.iom.int/who-is-a-migrant>
- World Health Organization. (2020). Addressing Human Rights as Key to the COVID-19 Response. Retrieved August 7, 2020, from <https://www.who.int/publications/i/item/addressing-human-rights-as-key-to-the-covid-19-response>
- Xuereb, M. (2020, May 1). Abela admits coordinating private boats that returned migrants to Libya. Retrieved August 9, 2020, from <https://timesofmalta.com/articles/view/abela-admits-coordinating-private-boats-that-returned-migrants-to.789362>
- Ziersch, A., Walsh, M., Due, C., & Duivesteyn, E. (2017). Exploring the Relationship between Housing and Health for Refugees and Asylum Seekers in South Australia: A Qualitative Study. *International journal of environmental research and public health*, 14(9), 1036. <https://doi.org/10.3390/ijerph14091036>

BIOGRAPHY

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