There is a startling similarity across the globe in the language politicians and media organizations use to describe people fleeing for their lives. In response to a growing number of desperate and displaced people, the rhetoric coming from governments and newspapers is largely the same — these “others” threaten our beloved nation — letting them in would destroy its very foundation. The words one chooses to use to define key terms in policy debates do not just frame the discussion, they have a significant impact on the outcome — often through legislation and government policy. Governments use these words to link these desperate people to a national security threat in order to reframe the conversation as one of security, rather than social policy, and evade discussions of responsibility.

As immigration law and policy is in flux across the world, one cannot help but wonder why the debate rhetoric from one country could easily be uprooted and placed into another with little modification. Perhaps even more odd are the commonalities in the language and framing that can be found across time. Does psychology, history, or law perhaps provide us with some answers and give us insight into how to break out of the cycle?

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This article examines the framing of contemporary immigration issues in two countries to elucidate the debate occurring around the world. This article argues that vocabulary and framing can both narrow the set of solutions considered and manipulate public support for policies regarding asylum seekers. Israel and the United States are two countries with democratic governments and histories that are...
closely intertwined with immigration. Both are having debates over the national security implications of asylum seekers, and immigrants in general, but have very different sets of facts and country circumstances. Using these two distinct examples, this article demonstrates that using words as tools can be effective in very different situations.

In psychology, the Sapir-Whorf Hypothesis states that language “is not merely a reproducing instrument for voicing ideas, but is itself a shaper of ideas, the programme and guide for the individual’s meaningful activity.” Language, then, helps shape our reality.1 Outside of psychology, this concept is illustrated by George Orwell’s “newspeak” in 1984, in which the language of newspeak was developed so that “a thought diverging from the principles of Ingsoc [English Socialism] — should be literally unthinkable, at least so far as thought is dependent on words.”2 Relatedly, framing bias is the theory that the framing of acts, contingencies, and outcomes can have significant impacts on individuals’ decision-making and specifically their assessments on the relative desirability of options.3 The Sapir-Whorf Hypothesis and framing theory are not commonly referenced by name in the immigration/refugee debates, but the underlying principles are used frequently by those who want to manipulate voters’ responses to policies.4

**VOCABULARY DEBATE**

There is a class of people fleeing their countries due to war; there is another class of people fleeing their homes for reasons of individual political or religious persecution, but not due to conflict; there is another class of people arriving in other countries because there is no economic opportunity in their country and they cannot feed themselves or their families. Determining who is who based on appearances or country of origin is not always possible, and some fit into more than one category. Despite this reality, humans prefer organized, concrete, categories that help classify the world into understandable elements.

Current descriptions of these people vary but are carefully chosen based on the impact they are expected to have on the listener or reader. Alexander Betts, director of the Refugee Studies Centre at Oxford University, argues that while “migrant” used to have a neutral connotation, it is used today to mean “not a refugee,” and the term “economic migrant” is used to imply choice rather than coercion.5 Using this term is simply not accurate for many of the displaced people trying to enter a new country today — in order to survive, they saw no choice but to flee. Certain organizations like the news agency Al Jazeera discontinued using the term “migrant” because the staff believes it no longer evokes its dictionary definitions and instead dehumanizes and distances the individual in need from the reader.6 Al Jazeera now uses “refugee,” which it claims is more accurate, but using “refugee” is not a neutral choice either — it focuses on the wider issue of displacement and motivates the reader to think of their country’s responsibility.
However, “refugee” can also be misleading from a legal standpoint. A refugee, according to the 1951 Refugee Convention, “is any person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable, or owing to such fear, is unwilling to avail himself/herself of the protection of that country.”7 However, an individual cannot simply choose this designation to apply to himself/herself. Instead, the term “refugee” is a legal term that the country in which one applies must grant after a legal analysis of the requirements.

“Asylum seeker” is a more accurate term for many of these individuals — it refers to an individual who has applied for refugee status but whose claim is still pending — and also emphasizes responsibility of the state.8 Asylum evokes the concept of persecution, and the term has existed since at least 1430, where it was used to refer to “a sanctuary or inviolable place of refuge and protection for criminals and debtors, from which they cannot be forcibly removed without sacrilege.”9 Although in the case of many individuals today, they have yet to file official paperwork, they are indeed individuals seeking asylum, many of whom would likely apply if they had the access to do so. Recognizing that “asylum seeker” is by no means a neutral term (although one may argue there are no neutral terms on this issue), this article uses the term because it does not prejudge whether the person has a valid refugee claim under the law, but still invokes the dire situation from which they came and the larger social policy issues that are implicated, allowing for a larger range of possible solutions. Understanding the specific effects of language choice on the asylum seeker debate is possible by diving into the details of specific nations’ actions — in this case, Israel and the United States.

ISRAEL: THE NATIONAL SECURITY THREAT FROM INFLTRATORS

In Israel, the historical roots of the current discussion on asylum seekers are clear, as the current law is an amended version of the Prevention of Infiltration Law of 1954, emergency legislation passed to prevent the entry of Palestinians into Israeli territory. At the time, there had been a number of recent attacks on Israelis from Palestinians based in Egypt-controlled Gaza and Jordanian-controlled West Bank. Fear of Palestinian Fedayeen (armed militias in Arabic, literally “those who sacrifice”) threatening the nation of Israel was high. The law defined infiltrators to include Palestinians residing outside of Israel, as well as citizens, residents, or visitors of Lebanon, Egypt, Syria, Saudi Arabia, Jordan, Iraq, and Yemen who had entered Israel unlawfully.10 The term infiltrator applies to armed and unarmed individuals, and their actual motive for entering Israeli territory does not matter (e.g., one was an infiltrator even if attempting to return to his home without any plans to attack). Although those with weapons could receive more jail time, an unarmed infiltrator could receive five years’ imprisonment simply for crossing the border.11

This law was modified in 2012 to define any person who is not a resident of Israel
and who enters Israel without authorization as an “infiltrator,” and the government has applied it toward African asylum seekers in recent years. In 2016, 41,477 asylum seekers from Africa lived in Israel. Almost all of these asylum seekers are from Eritrea or Sudan. For citizens of Eritrea, the state of Israel applies the principle of non-refoulement, meaning that the state will not send a person to a place where his life or liberty is in danger. Sending individuals back to Sudan, even if they do not meet asylum requirements, is not possible because Israel and the Republic of Sudan do not have any diplomatic ties. In 2013, the government completed a 140-mile fence along its entire border with Egypt. The barrier is believed to have almost fully stopped the entry of asylum seekers into Israel from the Sinai Peninsula. But there is no permanent solution, at least not one that the Supreme Court has upheld, for the thousands of African asylum seekers already in Israel.

National security in Israel is conceptualized differently, and more broadly, than in many other countries. Retaining Israel’s substantial Jewish majority and Jewish character is seen by some as central to the survival of the Jewish state. The relatively rapid addition of a large, non-Jewish population is perceived by some as an existential threat to the state.

Politicians often refer to African asylum seekers as “infiltrators” (mistanenim in Hebrew) rather than “refugees” (pletsem), “asylum seekers” (mevaksheym miklat), or “foreigners” (zarim), as other immigrants are called. Using the term infiltrator brings back the images and emotions of the 1950s, right after Israel’s War of Independence, or the catastrophe (nakba in Arabic), as Palestinians refer to it. The choice of words has intentional effects: it makes the African asylum seekers associated, even implicitly, with terms like “dangerous” and “frightening,” evoking the threat Palestinian Fedayeen posed to the newly established State of Israel. This serves a useful purpose, as the government narrows the solution set by the national security framework — removing discussion of aiding those in need, and instead focusing on protecting the State of Israel.

The Israeli Supreme Court has acted as a moderating influence on various amendments to the infiltrator law since 2012, reducing the time period an infiltrator can be detained and refusing to allow extended detention for those who would not depart for a third country willingly. However, the latest decision that stated the government cannot force unwilling people to go to a third country was based on agreements Israel made with third countries. The government has since negotiated new agreements and passed a new law in an attempt to get around the decision.

Additionally, many African asylum seekers find it difficult to file refugee claims in Israel, and even for those that can file, the current rate of acceptance of claims is less than one percent. Israel’s current policy is to deport these individuals to a third country (reported to be Uganda or Rwanda); however, in mid-February 2018, an Israeli appeals court ruled that an Eritrean “infiltrator,” who previously had his asylum application rejected, met the legal standard for asylum based on his defection
The framing of the debate as infiltrators, and the resulting focus on the national security risk has affected both the attitudes of the general public and the courses of action that are considered possible. This may have significant implications for the thousands of other Eritreans in Israel. Also in February 2018, the government started issuing deportation notices, placing many of the Eritrean and Sudanese in limbo, unsure of what their future holds.

A 2016 study analyzed whether introducing a competing frame focusing on asylum seekers escaping from political persecution and war could affect the attitude of the Jewish Israeli public on humanitarian policy measures towards asylum seekers. Respondents were randomly assigned to two groups who answered the same survey but with different framing — one referred to asylum seekers as “asylum seekers” and the other as “infiltrators.” The study found that Israelis with a low perceived threat were influenced by framing in a statistically significant way and were less likely to disagree with humanitarian policies if questioned under the asylum seeker frame. These findings imply that a change of the frame may elicit change in public attitudes, if one also takes actions to reduce the levels of perceived threat.

The framing of the debate as infiltrators, and the resulting focus on the national security risk has affected both the attitudes of the general public and the courses of action that are considered possible. The Court has been able to moderate the most extreme laws against asylum seekers but did not and cannot change the vocabulary and framing of the public debate.

UNITED STATES: THE FEAR OF TERRORISTS IN SHEEP’S CLOTHING

Recent debates in the United States focus on preventing people from certain countries from arriving in the first place. However, the rhetoric about the threat these people pose to the States is not dissimilar to the issue’s historical framing or the framing used in other countries. This framing is intentional, as evidenced in a leaked 2005 memo from Dr. Frank Luntz, a famous communications expert, to one of the major political parties in the United States (the party of President Trump). He suggested using specific frames to get support for the party’s positions on immigration, such as: “Border security is homeland security. In a post-9/11 world, protecting our borders has taken on a whole new importance. It’s not just about...
economics or even quality of life. It’s about preventing the next September 11th. We don’t know who is entering the country each day. We don’t know why they are here or what they plan to do. What we do know is that terrorists can’t attack America if terrorists are kept OUT of America.”

As fear of terrorist attacks in the United States grows, this suggested framing has become the dominant narrative in the U.S. debate regarding refugees.

In the fall of 2015, over half of all U.S. state governors issued statements declaring that they would bar any Syrian refugees from settling within their state, citing the fear that violent extremists would enter the United States disguised as refugees. Although these proclamations do not have legal force in themselves, many Governors can affect resettlement in roundabout ways — such as instructing state agencies to stop supporting relocation efforts and cut funding to resettlement programs. Additionally, their statements set the tone and frame for the entire state government apparatus as one of security, such as an invocation of emergency powers to protect the state’s citizens (Robert Bentley, Alabama) or the necessity of taking immediate action to ensure that terrorists do not enter the state under the guise of refugee resettlement (Sam Brownback, Kansas).

President Trump has promulgated three different bans on individuals based on nationality. The names of the orders alone explicitly link national security to refugees and immigrants. Executive Order 13,769 (“EO-1”) and Executive Order 13,780 (“EO-2”) are entitled “Protecting the Nation from Foreign Terrorist Entry into the United States”, and the third travel ban is entitled “Presidential Proclamation Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats” (referred to as “EO-3” by the courts even though it is a Presidential Proclamation). Individuals and organizations have successfully brought motions in court for injunctions to stop the enforcement of portions of the bans. Although the eventual legal outcome of the third version of the travel ban is uncertain, the historical comparisons are already apparent.

Despite the United States’ history of banning certain nationalities, the Japanese internment during World War II is the most relevant to the current debate. The government used the claim of a national security threat to prevent scrutiny over the necessity its actions, and the court system provided an additional stamp of legitimacy. In the case Korematsu v. United States, the Supreme Court upheld the conviction of Fred Korematsu for remaining in an area after a military order forbid all persons of Japanese ancestry from being present. Korematsu did not turn himself into military authorities because he knew it would result in being sent to an internment camp, yet the Supreme Court held that the exclusion order was justified by the exigencies of war and the threat to national security.

A 1982 government report found that military necessity did not actually warrant the exclusion and detention of ethnic Japanese and instead were driven by “race
The United States is attempting to frame the debate in a manner that foreigners are not national security threats, instead of addressing broader issues of social policy.

prejudice, war hysteria and a failure of political leadership.” The Supreme Court’s decision enabled the government to shield its racially discriminatory policies in the cloak of national security.

The district court judge that overturned Korematsu’s conviction in 1984 expressed what the Supreme Court’s decision in Korematsu v. United States now represents — a warning:

[I]t stands as a constant caution that in times of war or declared military necessity our institutions must be vigilant in protecting constitutional guarantees. It stands as a caution that in times of distress the shield of military necessity and national security must not be used to protect governmental actions from close scrutiny and accountability. It stands as a caution that in times of international hostility and antagonisms our institutions, legislative, executive and judicial, must be prepared to exercise their authority to protect all citizens from the petty fears and prejudices that are so easily aroused.

Today, the criticism of the travel ban is similar — the United States government is claiming there is a threat from specific countries in order to avoid scrutiny over restricting the movement of a specific group of people. It is attempting to frame the debate in a manner that those on the other side are now forced to spend time and effort arguing that foreigners are not national security threats, instead of addressing broader issues of social policy.

Perhaps because of the warning the earlier case now provides, the courts have been less willing to take the government’s word that such discrimination is “necessary.” No longer are the lower courts refusing to scrutinize the government’s claim of necessity; they are pulling back this curtain to question underlying assumptions. The Ninth Circuit Court of Appeals, in upholding a preliminary injunction that stopped the enforcement of the refugee section of EO-2, stated, “the President did not meet the essential precondition to exercising his delegated authority: the President must make a sufficient finding that the entry of these classes of people would be “detrimental to the interests of the United States.” However, the Supreme Court, in reviewing the injunction, ruled that it would stand for those refugees that have a bona fide relationship with an American individual or entity (i.e., the ban
could not be enforced against them), but that it would not stand (i.e., the ban could be enforced) against those without such a connection to the United States because “the balance tips in favor of the government’s compelling need to provide for the Nation’s security.”

After the courts held that the justification was not sufficient, EO-3 was the first version to provide reasoning for the claim that the bans were necessary for national security. It stated that Homeland Security reviewed the travel ban, and because certain countries were not sharing information, they could not separate the good from the bad — similar to the argument the government made for Japanese internment and its inability to separate loyal from disloyal. However, critics note that none of the countries included in the travel ban have been tied to any terrorist attack in the United States.

Both the Fourth and Ninth Circuits held that the new national security justification of EO-3 was not sufficient to make it legal in its entirety, and the country is currently waiting for the Supreme Court to rule. The turn to the courts gives hope of the rule of law mitigating the adverse effects of vocabulary and framing intended to drive support for specific “solutions” to immigration issues. The courts are now pushing past the facade and asking for legitimate support for the government’s assertions; however, the courts are limited to the national security frame the government has provided — it is not their place to address social policy and the larger forces behind immigration.

CONCLUSION

The current debates in both Israel and the United States illustrate a worldwide phenomenon in which politicians and media are framing the issue of migration as one of national security and choosing vocabulary that reduces citizens’ sympathy and increases their fear. In so doing, they are deliberately attempting to reduce support for addressing the underlying causes of the mass movement of people today, many escaping threats to their very lives. Psychology provides us with the “why” and “how” of government and media campaigns: (1) vocabulary affects how people think about asylum-seekers and state responses to them, and (2) that

History and the law, however, are not capable of changing the debate. For that, we need to understand psychology and purposely choose.
framing bias allows a national security framing to narrow the solution set avoiding those that might address social issues.

History and the law are tools. History can be used to invoke fear, as is done in Israel, or as a warning not to take the government’s national security argument at face value, as is done in the United States. Law can be a mitigating force, like it is in present-day Israel and the United States, but it can also exacerbate the threat, as in the United States during World War II. History and the law, however, are not capable of changing the debate and opening the discussion to wider social policy issues. For that, we need new tools that can counteract the manipulation of people’s emotions and decision preferences. For that, we need to understand psychology and purposely choose words that change the debate.
ABOUT THE AUTHOR

Loren Voss is a Harvard Frederick Sheldon Traveling Fellow currently residing in Israel. She is a lawyer with a J.D. from Harvard Law School and an M.A. in Global Affairs from Yale University. She previously served as a foreign law clerk for Justice Hanan Melcer, the Vice President of the Israeli Supreme Court.
ENDNOTES


4 For example, the United Nations High Commissioner for Human Rights argues that racism characterizing the debate over refugees and immigrants has had direct impact on the European Union response, resulting in a focus on deterring and preventing movement instead of addressing, much less recognizing, the underlying forces compelling people to flee. “UN Human Rights Chief urges U.K. to tackle tabloid hate speech, after migrants called ‘cockroaches’,” Office of the High Commissioner for Human Rights, April 24, 2015, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15885. Government leaders are not framing the suffering of people as the problem to be solved; instead they focus on the negatives such people may bring, emphasizing terrorism and the national security threat of imposing sharia law on the home front. The goal becomes increasing security by reducing entrance into their countries, and solution becomes stopping smugglers and destroying trafficking vessels, rather than addressing the problems facing people in their home countries. Ian Traynor, “Migrant deaths: EU leaders to triple funding of rescue operations,” The Guardian, April 23, 2015, https://www.theguardian.com/world/2015/apr/23/migrant-deaths-eu-funding-rescue-ships-mediterranean. At best, this just strands people in places where their lives are in danger.


18 See Michael Handelzalts, “Word for Word: By Renaming Migrants ‘Infiltrators,’ Israel Is Forging a New Reality,” Haaretz, June 29, 2012, https://www.haaretz.com/israel-news/word-for-word-by-renaming-migrants-infiltrators-israel-is-forging-a-new-reality.premium-1.447198. The Israeli government also explicitly argues that African migrants are economic migrants, so that refugee law, and its obligations does not apply. This is another way it attempts to change the frame away from social concerns. For example, in a 2015 Supreme Court case, Tashuma Naga Dasta v. Knesset, the government argued that the motives of African infiltrators in arriving in Israel were to improve their economic conditions, but the petitioners argued they were escaping political persecution. Tashuma Naga Dasta v. Knesset (decision rendered on Aug. 11, 2015), HCJ 8665/14, ¶ 5, http://elyon1.court.gov.il/files/14/650/086/15/14086650.c15.pdf (in Hebrew), archived at https://perma.cc/EW6B-ZUT9. Additionally, Prime Minister Benjamin Netanyahu often emphasizes that Africans who are living in Israel illegally are not legitimate refugees or asylum seekers, but instead are economic migrants who came to Israel to look for a job.
24 The first version began with the following sentence: in recent years, people from various African countries have entered Israel via the Egyptian border, and asked for asylum for reasons of political persecution or civil war. The second version of the questionnaire opened with: in recent years, people from various African countries have infiltrated Israel through the Egyptian border without any visa or permit, thus breaking the law. Oshrat Hochman & Adi Hercowitz-Amir, “(Dis)agreement with the Implementation of Humanitarian Policy Measures Towards Asylum Seekers in Israel: Does the Frame Matter?” Int. Migration & Integration (2017) 18:905, DOI 10.1007/s12134-016-0510-0.


29 For example, Gov. Bobby Jindal on Twitter, stating, “I just signed an Executive Order instructing state agencies to take all available steps to stop the relocation of Syrian refugees to LA.” Bobby Jindal, Twitter Post, November 16, 2015 11:46am, https://twitter.com/BobbyJindal/status/666296258852622336.


32 Although internment was not limited just to aliens and included citizens, the national security framing used to justify restricting people from specific territory based on their ethnicity or country of origin is similar to current arguments.


35 EO-1 modified refugee policy, suspending the United States Refugee Admissions Program (USRAP) for 120 days and reducing the number of refugees eligible to be admitted to the United States during fiscal year 2017. EO-2 also suspended “decisions on applications for refugee status” and “travel of refugees into the United States under the USRAP” for 120 days following its effective date. EO-2 instructed the Secretary of State to review the procedures and add additional procedures as necessary to “to ensure that individuals seeking admission as refugees do not pose a threat” to national security. Additionally, in EO-2 the President determinate that “the entry of more than 50,000 refugees in fiscal year 2017 would be detrimental to the interests of the United States,” so any entries above that number were suspended; Hawaii v. Trump, 859 F.3d 741, 755 (9th Cir. 2017).


37 EO-3 also took out specific regulations for refugees after the courts blocked them in earlier versions. However, note that refugees from the banned countries would still not be allowed into the U.S. under EO-3.

38 The Ninth Circuit, in its latest decision on an injunction against EO-3 said, “While the Government asserts a national security interest behind the Proclamation, the district court did not abuse
its discretion in concluding that the Government has not shown that national security cannot be maintained without the unprecedented multi-nation ban. For one, the injunction does not result in the entry of any particular individual. It simply precludes the use of a nationality-based ban. Foreign nationals from the Designated Countries must still proceed through the standard individualized vetting process and prove that they are not inadmissible. The INA provides numerous means to exclude individuals who present a risk to the United States. The injunction, therefore, neither opens our borders nor creates any vulnerabilities, and the balance of equities, overall, favors injunctive relief.” (internal citations removed); Hawaii v. Trump, 878 F.3d 662, 692 (9th Cir. 2017).