INTERNATIONAL MIGRATION REVIEW

*The Path to Asylum in the US and the Determinants for Who Gets In and Why**

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The migration of political asylum seekers into the United States has long been a salient political topic; however, social scientists have yet to examine this process in its entirety and in the context of political changes since September 11, 2001. Previous research shows that humanitarian and strategic interests are important for decisions made by asylum officers but that research overlooks the decisions made by immigration judges. Here we examine decisions made by both asylum officers and immigration judges using data from a global set of countries, from 1999 to 2004. We find that the waning importance of human rights is more pronounced for asylum officers than for immigration judges after the attack on the World Trade Center. We also find that language heritage, specifically for asylum seekers from English-, Spanish-, and Arabic-speaking countries, substantially affects acceptance rates made by both decision-makers between the two time periods of our study.

INTRODUCTION

In 2005, the United States Commission on International Religious Freedom, a bipartisan federal commission, expressed concern that the US had been improperly processing many asylum seekers for deportation and requested that

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the administration make a better effort to safeguard asylum seekers' rights. On February 7, 2007, the commission revisited the issue, publishing findings of no surprise to careful observers of the US political asylum process; little had been done to address the commission's concerns. In spite of the implorations of the commission, the US government has in many instances treated asylum seekers like common criminals, sometimes imprisoning them for months or years without a hearing (Swarns, 2007).

The concerns expressed by this commission reflect those of asylum advocates – that in the wake of the terrorist hijacking of September 11, immigrants deserving of asylum in the US have faced unnecessary and in some cases inhumane hardship. The many changes in the post-September 11 political environment appear to have influenced substantially the asylum process. Unfortunately, previous social science literature on political asylum decisions does not address whether the terrorist events of 2001 have had an important impact on the probability of success of persons filing asylum claims nor has it examined the asylum process in its entirety.

There is a small, systematic literature on the determinants of asylum application success in the US (Gibney, Dalton, and Vockell, 1992; Gibney and Stohl, 1988; Rosenblum and Salehyan, 2004; Salehyan and Rosenblum, 2008) and two recent studies of the asylum decisions made by European countries (Neumayer, 2005a, 2005b). However, no published study has examined US asylum decisions in the post-September 11 decision-making environment or the second stage of the asylum process in which cases denied or not ruled on by asylum officers are decided by immigration judges.

In the present research endeavor we examine decisions made by not just asylum officers but immigration judges as well. We cover the years 1999 through 2004, which also allows us to test for any change in acceptance rates that may have occurred after the attacks on September 11, 2001. Overall, we find that the waning importance of human rights is more pronounced for asylum officers than for immigration judges after the attack on the World Trade Center. We also find that language heritage, specifically for asylum seekers from English-, Spanish-, and Arabic-speaking countries, substantially affects acceptance rates made by both decision-makers between the two time periods of our study.

POLICY AND ASYLUM IN THE US

Quantitative Studies of Morality and Policy, and Asylum

Whether or not moral considerations are or should be a factor in foreign policy decision-making has been a question of interest to international relations

scholars for some time (*e.g.*, Kennan, 1954; Van Dyke, 1972; Morgenthau, 1978). In the 1980s, quantitative international relations researchers began to study how moral issues are considered in foreign policy decisions, focusing mainly on the effect of human rights on policy outputs (*e.g.*, Schoultz 1981; Carleton and Stohl, 1985; Cingranelli and Pasquarello, 1985; McCormick and Mitchell, 1988). These studies began by investigating the impact of human rights considerations on foreign aid allocations and were followed by a host of other scholars (*e.g.*, Poe, 1992; Poe and Sirirangsi, 1994; Apodaca and Stohl, 1999; Neumayer, 2003; Blanton, 2005; Carey, 2007). Overall, this large literature finds that human rights considerations do have some influence over foreign policy outputs but that they are balanced against or overridden by more self-serving concerns like economic, political, and strategic interests.

The broad findings of this literature seem to also apply to the few studies conducted on US asylum decision-making. Gibney and Stohl (1988) conducted the first empirical study of asylum acceptance rates for the years 1980–1985 in which they analyzed whether grants of asylum were related to the level of human rights abuses in the applicants' country of origin. Gibney and Stohl (1988) found that there was a significant linkage between human rights violations and asylum grants, but they also found that US authorities systematically ignored many of the asylum applicants from countries with the worst human rights records, meaning that asylum decision-makers did not rely solely on human rights considerations alone.[1] This study, however, did not conduct tests designed to ascertain the validity of other explanations. Gibney, Dalton, and Vockell updated this research and examined the years 1980 through 1989 using similar data and found that "a solid majority of those seeking asylum in the US over the past decade were from countries experiencing 'gross' levels of human rights abuses" (1992:40–41); however, the level of human rights abuses in these countries had little to do with the actual acceptance rates for asylum applicants.

More recently, Rosenblum and Salehyan ask if asylum policy in the US is determined more by human rights considerations, which they examine as a representative of norms, or more by the relationship the US maintains with asylum seekers' country of origin, which they define as strategic interests for 42 selected countries from 1983 to 1998. The study finds that both norms and interests play a strong role in US asylum policy and, though not definitive, the results suggest "interest-based variables account for more variance in approval

[1]For example El Salvador and Guatemala received very poor human rights scores but only had acceptance rates around 1 to 2 percent. This is most likely due to overt political motivation as the US was supporting both governments during this time period (Rosenblum, 2004).

rates than normative factors" (2004:693). In a more recent study Salehyan and Rosenblum (2008) include variables for domestic attention to asylum, both in the media and in Congress and confirm the robustness of their results regarding human rights and interests.

From the perspective of our own research – interest in changes in the asylum process after September 11 – we see two limitations in the previous research. First, the previously published research has not yet analyzed the post-September 11 period. Second, previous studies examined asylum acceptance by asylum officers only but have not yet reflected on the reality that 39 percent of all grants of asylum for the years 1999 through 2004 came from judges in the immigration courts.[2] Analysts have thus far overlooked a very large percentage of the total number of asylum decisions, including the final decision on many cases.[3] The reason for the exclusion of immigration court data is that systematic information was not readily available for that stage of the process prior to 1997. Nonetheless, it seems important to address this limitation by conducting analyses on both stages of the process now that sufficient data are available. This will allow us to ascertain whether the previous findings hold up when decisions by immigration judges are also considered and how the different sets of factors influencing the decisions of both groups of decision-makers vary respectively. We continue by briefly reviewing the US asylum process.

History of Asylum in the United States

The Refugee Act of 1980 set the foundation for the asylum application process today. Under this act, any alien in the US has the ability to apply for asylum, which brought the US into compliance with international law, specifically the United Nations Protocol Relating to the Status of Refugees of 1968 (Hing, 2004). Prior to the passage of the Refugee Act, refugees in the US were defined by geographical or political criteria, with most refugees coming from communist countries or the Middle East. The passage of the Refugee Act required the US to adopt a neutral standard for the acceptance of refugees and asylum seekers regardless of the country of origin and it also created a policy of non-refoulement,

[2]Executive Office of Immigration Review (1999–2004) and US Department of Homeland Security's Yearbook of Immigration Statistics (1999–2004).

[3]Asylum seekers also have the right to appeal immigration court decisions first to the Board of Immigration Appeals and then to the United States Courts of Appeals. A recent article on the disparity of the asylum process across the US presents, in great detail, descriptive analyses of these two decision-making bodies, in addition to asylum officers and immigration judges (Ramji-Nogales, Schoenholtz, and Schrag, 2007).

which prevents the expulsion of a refugee to a country where the life or freedom of the returnee would be threatened. Additional reforms enacted in the mid-1990s streamlined the asylum application process and now nearly all cases that are denied by asylum officers are automatically sent to immigration court for further review. With the US adoption and implementation of the United Nations Convention on Torture (1984), asylum officers must now provide screenings for potential asylum seekers (*i.e.*, any illegal aliens without proper documentation). This screening is conducted to determine if a "credible fear of torture" or a "reasonable fear of torture" exists, for these are requisite conditions for asylum eligibility (US Citizenship and Immigration Services, 2003a, 2003b). By the late 1990s, the US seemed to be more committed than ever to the protection of those with a well-founded fear of persecution or torture.

More recently, however, the September 11, 2001, terrorist attacks have brought about substantial changes to the asylum process, placing greater emphasis on homeland security and border enforcement (*see* Rottman, 2009 for further discussion). This change appears to have overshadowed the US commitment to protect asylum seekers fleeing from persecution abroad. The most significant changes to the asylum process since September 11 come from the USA Patriot Act. Before the Patriot Act, individuals could be denied asylum based on a history of terrorism; however, the Patriot Act expanded this to include individuals involved in "terrorist related activities" and to persons who have associated with a terrorist organization.[4] These provisions are completely retroactive and definitional vagueness implies that anyone who can be connected in any way to a terrorist or terrorist organization can be excluded from asylum under the Patriot Act (Doyle, 2002).

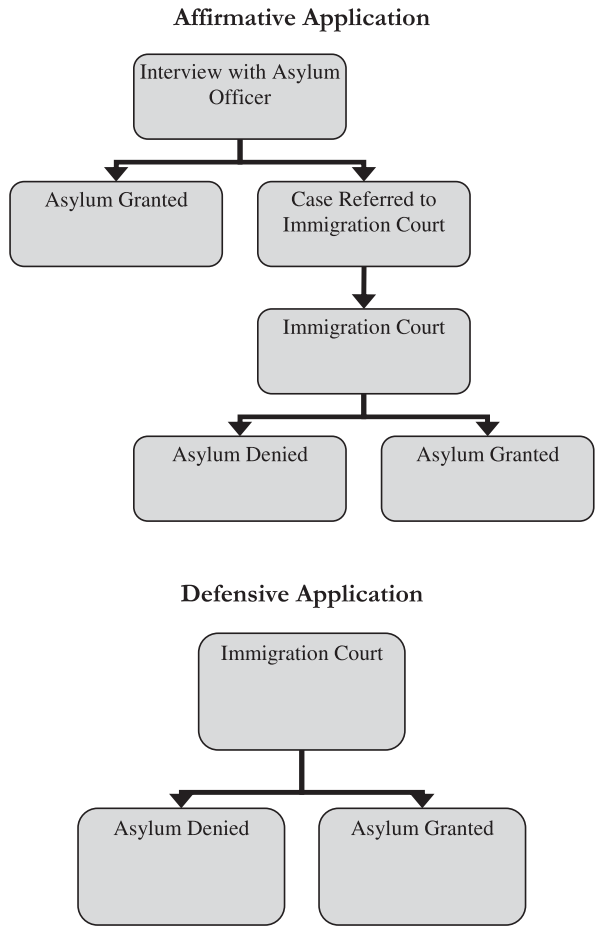
Two Stages of the Asylum Process

Asylum applications are divided into two categories: affirmative and defensive. Affirmative applicants are under no orders for removal from the US and submit their application for asylum within one year of their arrival (US Citizenship and Immigration Services, 2003a, 2003b). The application is reviewed by an asylum officer and, if not approved, is referred to an immigration judge at the Executive Office for Immigration Review. The judge is able to review the case and make a final decision of approval or denial (Fig. I).

The process for defensive applicants is very different, for the immigration court has already placed defensive applicants in removal proceedings. Applicants

[4]USA Patriot Act (US Congress, 2001).

Figure I. Two Paths to Asylum



may appeal their removal by claiming a well-founded fear of persecution or torture from their country of origin and thus gain the opportunity to seek asylum status through the immigration court. In defensive cases, applicants present their case in front of an immigration judge in adversarial proceedings (cross-examined by a government attorney) and may submit any evidence to help their case. A defense attorney is not provided by the US but may be utilized by the applicant if he or she has the resources to afford one, or has support from a nonprofit advocacy group. The judge can either grant asylum or order a continuation of the removal proceedings, effectively removing any chance of asylum.

Asylum decisions, whether grants or denials, come from both asylum officers and judges in the immigration court. In order to better understand this system in light of the apparent shift in US priorities in the post-September 11 world, we develop a theory-based model of the decision-making process for both groups of decision-makers.

THEORY AND HYPOTHESES

The study by Rosenblum and Salehyan (2004) provides us with a useful baseline from which to begin our modeling efforts. One difference that distinguishes our study from earlier research is that we wish to examine decisions by both levels of decision-makers responsible for granting or rejecting asylum applicants. We begin by considering asylum officers and judges to be political decision-makers, imbedded in a political environment or *milieu* (Sprout and Sprout, 1969). The *milieu* is important partly because it defines the opportunities that are open to decision-makers and affects the probabilities that they will choose particular options over others. In the case of these particular decision-makers, the opportunities or list of menu options (Russett and Starr, 1985) are to grant or reject asylum cases. In the case of an asylum officer, rejecting the case means that with a high probability the case will go forward to an immigration judge.

We start our inquiry with the belief that the same set of factors likely affects the decisions of asylum officers and immigration judges. However, we also believe that perhaps, because of their different positions in the system and the different roles they play, we will see differences in the effects the various factors have on asylum acceptance rates of these two kinds of decision-makers. It is important to note that there are some differences in the samples of cases that are ruled on at these two levels of the process. Asylum officers rule on affirmative claims, while defensive claims go immediately to immigration judges. In addition, in the vast majority of cases in which an asylum officer has denied an affirmative claim, that case is next passed to an immigration judge for a final decision. Consequently, a selection bias exists because immigration judges never see a certain number of successful affirmative cases.

What, then, determines who gets asylum and who does not? One consideration is that, as in the domestic court system, each case has its merits and its weaknesses. At both stages of the process officials are charged with applying laws relating to humanitarian criteria that are meant to give deserving applicants asylum in the US. Yet quite aside from those factors that are specified in law, we theorize that there are various other factors in the *milieu*,

often seemingly irrelevant to the merits of the case, which nevertheless affect asylum decisions. We separate the classes of determinants of asylum decisions into two categories: (1) those actually pertaining to the law (*i.e.*, human rights and the fear of violence) and (2) those pertaining to political concerns having to do with the domestic and international environs which filter through the *milieu* in order to affect officials' judgments. Some of these factors relate to traditional US foreign policy interests, such as security and the desire for trade, while others relate more closely to domestic concerns, such as biases against persons of certain nationalities due to a concern for illegal immigration and biases against persons of particular cultural heritages or language backgrounds.[5]

Determinants in the Law: US Humanitarian Obligations

Respect for Human Rights. The very purpose of asylum policy is to offer a place of safe haven to those whose lives are endangered by violence occurring in their countries. If asylum policies are working in accordance with domestic and international law, applicants who arrive in the US from countries where the threat and occurrence of human rights abuses are a common part of life should be more likely to file successful asylum claims. Thus persons from countries that have extremely high levels of human rights abuses should be more apt to have their asylum claims accepted than would applicants from other countries. This should not require any special information on human rights on the part of the decision-maker, because in most instances the legal representative of the applicant will present evidence of human rights abuses to asylum officers and judges, in order to convince those officials of the legitimacy of their claims.[6] Accordingly, we pose the following hypothesis:

H1: The worse the human rights conditions in the country of origin, the greater the chances that asylum applicants from those countries will have of being granted asylum, *ceteris paribus*.[7]

[5]The beliefs and psychologies of judges also almost certainly make a difference here, just as they have been shown to in the vast literature on judicial behavior (*e.g.*, Segal and Spaeth, 2002). That being said, we do not presently have data on the individual judges and asylum officers, or for that matter on individual cases.

[6]We base this assumption on our own observations of asylum proceedings and on several interviews that we conducted with asylum advocates and lawyers. Moreover, this decision is in keeping with previous research (Rosenblum and Salehyan, 2004).

[7]Data on human rights are measured by the State Department Political Terror Score (Gibney, Cornett, and Wood, 2009).

When choosing from the various human rights measures appropriate for this study, we must keep in mind the information likely to be included in the decision-maker's *milieu*.[8] We expect that the source of information on human rights most likely cited by lawyers for the applicant, and that which is most likely recognized by US government officials as legitimate, is the *Country Reports on Human Rights Practices*, issued annually by the US Department of State, for it is an official government account of human rights conditions in a nearly comprehensive set of the world's countries.[9]

Accordingly, we use the Political Terror Scale, a measure originally gathered by Michael Stohl and his co-authors, through the application of a predetermined set of standards on content published in the US State Department Reports (Carleton and Stohl, 1985). The scale is a five-category ordinal scale, where a 1 identifies countries under a secure rule of law, where physical integrity violations like imprisonment, torture, murder, and execution do not occur (*e.g.*, Lithuania). Countries placed in category 5 are those in which such abuses are a common part of life, affecting all segments of the population (*e.g.*, Sudan), and categories 2 through 4 represent gradations between these two extremes (Gastil, 1980; *also see* the appendix available in the online version of this article). For an in-depth discussion and treatment of this scale *see* Gibney and Dalton (1996), Poe and Tate (1994), and Poe, Tate, and Keith (1999).

Democratic Governance. Following Rosenblum and Salehyan we also include in our model a second measure of humanitarian interests: the degree of democracy in the country of origination. The concept of human rights as it applies to US asylum law is most directly captured by measures that indicate levels of physical integrity abuses, like the Political Terror Scale. Still, officials will have some information and knowledge of the political institutions of countries from which asylum claims originate. Moreover, the legal representation of the asylum seeker will present information concerning the political climate in the applicant's country of origin.

[8]See for example Cingranelli and Richards (1999) and Lopez and Stohl (1992).

[9]Amnesty International also reports on the human rights conditions in most countries each year and this information is often entered into evidence on behalf of the asylum seeker. However, we have selected to use data based on the State Department reports because they represent the official US position on human rights conditions in the asylum seeker's country of origin. To ensure the robustness of our findings we ran tests with both variables that produced substantively similar results when using either measure. *See* Poe, Carey, and Vazquez (2001) for a detailed discussion concerning how the human rights "pictures," which the State Department and Amnesty International reports create, vary over time and how they eventually begin to converge.

Previous studies of the relationship between human rights and democracy indicate the negative relationship between democracy and the respect for human rights abuses is an important one, but that it is far from perfect (*e.g.*, Henderson, 1991; Poe and Tate, 1994; Poe, Tate, and Keith, 1999; Richards, Gelleny, and Sacko, 2001). More recently, analysts have argued that particular components of democracy are important (Bueno De Mesquita *et al.*, 2005) and that a threshold effect may exist, whereby democratization makes little difference until a relatively high threshold is reached (Davenport and Armstrong, 2004). What is important here, however, is not so much the existence or degree of a *real* empirical relationship but the perceptions of asylum officers and judges regarding that linkage and the effects of those perceptions on the outcome of the asylum process. Officers and judges will likely assume that applicants from less democratic countries are more apt to have legitimate claims to asylum than applicants from more democratic countries, because *they believe* that more serious human rights abuses are less likely in more democratic countries.[10] Accordingly, we pose the following hypothesis:

H2: The more democratic the government of the country of origin, the lesser the chance that asylum applicants from those countries will have of being granted asylum, *ceteris paribus*.

To test this hypothesis we will utilize the Polity IV data combined Polity2 variable, which measures the level of executive recruitment, executive constraints, and political competition on a 21-point ordinal scale that ranges from the least democratic (–10) to the most democratic (10) of countries (*see* Marshall, Jaggers, and Gurr, 2003).[11]

Determinants from the Domestic and International Environments

Economic and Security Ties. We argue that economic and security considerations permeate the decision-making environment and will affect the decision to grant asylum. Previous studies by Rosenblum and Salehyan (2004) and by

[10]Country experts often present this information during immigration court proceedings on behalf of the asylum seeker.

[11]We tested the relationship between the Polity IV combined Polity2 variable and the PTS variable for the observations within our study. The correlation coefficient for the two variables is a relatively low –0.26. We also ran our models while including only one of the two variables, which did not result in any substantive changes.

Gibney, Dalton, and Vockell (1992) have presented strong evidence that such concerns are balanced against humanitarian motives, sometimes outweighing the humanitarian concerns of US asylum law. We will begin by testing three propositions put forward in the Rosenblum and Salehyan (2004) study, which hypothesized that asylum requests originating from countries important to US security concerns, as measured by the allocation of US government military aid and by trade with the US, would result in cases less apt to be adjudicated in favor of the asylum seeker. To be clear, we do not believe that asylum officers and judges are so preoccupied with security concerns that they do research to gain perfect information on US trade partners or aid recipients. Moreover, throughout our discussions and interviews with asylum advocates and lawyers we have yet to encounter any official government documents that give even the appearance of endorsing the use of US geopolitical interests in the determination of individual asylum claims.[12] We do, however, believe that these persons are better informed than the average US citizen and, in the course of doing their jobs, think more about US interests in countries around the world. As a result, they will be less apt to grant asylum in cases in which the country of origination has important economic or political ties with the US, because they realize grants of asylum could tend to strain friendly relationships. Accordingly, we test the following two hypotheses:

H3: The more important the country of origin to US security interests (as measured by the receipt of US military aid), the less apt that an asylum applicant from that country will be approved, *ceteris paribus*.[13]

H4: The more important the country of origin to US economic interests (as measured by trade with the US), the less apt that an asylum applicant from that country will be approved, *ceteris paribus*.[14]

[12]We concede, however, that a set of normative biases could exist among US government officials who are similarly situated by region and who share similar background characteristics. For example, Ramji-Nogales, Schoenholtz, and Schrag (2007) find that US immigration judges that once served as government immigration attorneys have a much higher rejection rate than other asylum judges. We plan to further explore these potential biases in future research with a series of systematic interviews of these decision-makers and by specifically analyzing the court documents produced in immigration court.

[13]Data for US military aid are taken from USAID (2006).

[14]Data on US trade (exports and imports) are taken from the US Department of Commerce, which are compiled and made available by TradeStats Express (2006).

To test hypothesis 3 we follow Rosenblum and Salehyan (2004) and code our US military aid measure as a dichotomous variable, where each country that receives US military aid in a given year is coded as 1 (*e.g.*, El Salvador, Lithuania, and Uzbekistan) and all other countries are coded 0 (e.g., Cuba, Iran, and Sudan). To test hypothesis 4, we combine imports to the US and exports from the US into one measure in order to gauge the economic impact that each county exerts on the US economy and thus its relative importance and visibility within the decision-maker's *milieu*. To consistently compare monetary amounts as they inflate over time we have converted the trade data into constant $US (2004) and then logged the series to decrease the effects of outliers.[15]

Rosenblum and Salehyan (2004) also include a measure of sanctions in their model, arguing that it is important to also capture the effects of *negative relations* with the US. The imposition of sanctions on a country indicates a strong diplomatic interest for the US. The US has a greater incentive to provide political asylum to the people of sanctioned nations who flee to the US. Further, we believe that asylum officers and judges will be knowledgeable of US sanctions, as sanctions are likely to be presented as an argument for asylum by the applicants' counsel. Accordingly, we pose the following hypothesis:

H5: Applicants from countries that are the subject of US sanctions will be more apt to be granted asylum, *ceteris paribus*, than applicants from countries that are not the subject of such sanctions.[16]

To test this hypothesis, again consistent with the work of Rosenblum and Salehyan, we code each country that is the target of US sanctions in a given year within our sample time frame as 1 (e.g., Cuba, Sudan, and Syria) and all other countries as 0 (*see also* Wood, 2008).

High Undocumented Immigration. For the past several decades, a debate has raged in the US regarding the proper treatment of persons who enter the country illegally. As a result, immigration judges and officers may believe that grants of asylum, even deserved ones, from those countries may be closely watched by commentators and therefore more likely to become the subject of

[15]To convert (inflate or deflate) dollars we utilized the Chain-type Price Index from the US Department of Commerce: Bureau of Economic Analysis (2006).

[16]Sanctions data through 2000 are taken from the Institute of International Economics (2003) and are extended from 2001 to 2004 using the wording of the active US sanction programs themselves (US Department of the Treasury, 2007).

public criticism. Further, officers and judges might shy away from granting asylum in such cases out of the fear of setting precedents that allow others from these countries to gain entry, which could result in an overflow of asylum recipients or perhaps serve to draw asylum claimants of particular kinds to their own jurisdictions in large numbers.[17] We therefore agree with Rosenblum and Salehyan (2004) that this debate will have an impact on the probability of grants of asylum. Judges and officers will be somewhat more circumspect when deciding on the cases of persons fleeing from countries that are the source of large numbers of undocumented immigrants and as a result will be more likely to reject those cases than others. We test the following hypothesis:

H6: Asylum applicants who have come from a country that sends a large number of undocumented immigrants to the US will be less apt to have their claims accepted than others, *ceteris paribus*.[18]

To test this hypothesis we code all of the top ten undocumented immigrant-sending countries for each year that they appear in our model as 1 and all other countries as 0.[19]

Changes in the Domestic Political Context Due to the September 11 Attacks. The September 11, 2001, terrorist attack by Al-Qaeda is a very important factor that was introduced into the *milieu* surrounding decision-makers. There is a reasonable fear that terrorists will again attack the US. Gaining entry to the US through a variety of means has become more difficult and increased scrutiny during the refugee application process has resulted in a large backlog of cases

[17]That financially more secure asylum claimants "shop" for beneficial immigration courts and officers is a conventional wisdom among those who are involved in the system. Unfortunately, because of limitations of our design we cannot directly address this interesting phenomenon here; however, research by Ramji-Nogales, Schoenholtz, and Schrag (2007) begins to offer possible reasons why this might occur. Specifically, they find that systematic and substantial variation in asylum approval rates exist across the country at not just the asylum officer and immigration judge levels but within the appeals process as well.

[18]Data estimating the number of illegal immigrants residing in the US are taken from Citizenship and Immigration Services (1996).

[19]The top ten undocumented immigrant-sending countries, in descending order, include Mexico, El Salvador, Guatemala, Canada, Haiti, Philippines, Honduras, The Dominican Republic, Nicaragua, and Poland. Of these ten, The Dominican Republic, Poland (not enough data for the dependent variables), and Canada (not enough actual asylum cases) are excluded because of considerations discussed in more detail below.

(Salehyan and Rosenblum, 2008). Further, the would-be terrorist would have to prove a "well-founded fear" of persecution in one's home country to gain asylum. Nonetheless, based on our discussions with asylum advocates and lawyers we expect that the asylum process has tightened considerably since the September 11 attack. We attribute this change in decision-makers' behavior to the concern that some terrorist will use the asylum process to gain entry into the US. Accordingly, we pose the following hypothesis:

H7: Asylum applicants will have a lesser probability of being granted asylum after September 11, 2001, than they did before that date.

To test this hypothesis we code every year after 2001 as 1 and 0 for all years before 2001 (including that year).

Language and Cultural Heritage. To our knowledge no one has yet tested hypotheses relating to language and US asylum decisions and we believe that this is another important lacuna that this study can begin to fill. Past research on refugees has drawn on network theory to argue that migrant networks matter and that the settlement of persons of the same language or cultural group in the destination country lowers the cost of migration for others, thus increasing the probability they will move (*e.g.*, Massey *et al.*, 1993; Davenport, Moore, and Poe, 2003; Moore and Shellman, 2008). We think that there is good reason to believe that language is important from the perspective of the destination country too, and specifically, that decision-makers charged with making asylum decisions will likely use language as a cue, giving preference to some and discriminating against others. Though the number of languages in the world is vast and asylum applicants seeking to enter the US speak many of them, in this initial examination we investigate three that we have good theoretical reasons to suspect might impact asylum decision-making: English, Spanish, and Arabic.

We began this study with the expectation that persons from English-speaking countries would stand a better chance of being granted asylum than others. First, though economic viability is not among the criteria that are supposed to be applied to determine asylum status, an official who is concerned with the drain on US funds in support of asylees might be more apt to grant asylum to someone who is fluent in English and therefore more immediately employable. Second, having observed asylum cases being presented in immigration court, we believe that the ability to present one's case and to be questioned in the language of the decision-maker would be a major

advantage.[20] Third, we believe that officials are more likely to admit persons that they perceive as being from cultural backgrounds similar to the US. Similarly, we theorize that persons fleeing from Arabic and Spanish-speaking countries will have a smaller chance of being granted asylum, once humanitarian and other more self-serving motives are controlled. Just as we believe that the ability to speak English may be a cue to decision-makers for employability and cultural similarity, we believe that language may serve as a cue in the minds of asylum decision-makers to indicate important differences. Thus, some deserving Spanish-speaking applicants may have a lower probability of being granted asylum partly because they may, unfortunately, be wrongly assumed to be an economic migrant by asylum decision-makers.

Finally, we include the Arabic language partly because we are interested in probing the effects of the September 11 attacks on US asylum outcomes. The expectation is that asylum applicants coming to the US from Arabic-speaking countries are less likely to receive asylum for some of the same reasons as Spanish speakers. We suspect that judges and officers who would seek to limit asylum seekers from Arabic or Islamic countries might use language as a cue for Islamic culture.[21]

H8: Persons from English-speaking countries will have a greater chance of being granted asylum than those from other countries, *ceteris paribus*.

H9: Persons from Spanish-speaking countries will have a lesser chance of being granted asylum than those from other countries, *ceteris paribus*.

H10: Persons from Arabic-speaking countries will have a lesser chance of being granted asylum than those from other countries, *ceteris paribus*.[22]

[20]However, some of the advocates and lawyers we spoke with considered non-English-language speakers to have an advantage over English speakers because in many interviews the translator (often experienced in asylum cases) could tailor their translated response for the decision-maker in order to increase the asylum seeker's credibility and chance of gaining asylum.

[21]We also conducted analyses using a variable tapping Muslim population, which we discuss in the appendix section of this article.

[22]Unfortunately, we do not have individual-level data on asylum applicants, as would be ideal for this analysis. The best available measurement approach was to measure language at the state level. Specifically, we read available sources (*Political Handbook of the World*, 1998) to ascertain whether a particular language was either the official state language, or in instances where there was no official language, the principal spoken language. We did not code the language if it was only "widely spoken" as described in the text. This coding decision did not affect any of the observations included in our model.

To test these hypotheses we construct dichotomous variables for each of the three language groups of interest. All official English-speaking countries are coded 1 and all other countries 0. The variables for Spanish- and Arabic-speaking countries are also coded this way.

RESEARCH DESIGN

Dependent Variables

To test our hypotheses we take the percentage of approved asylum cases from the Department of Homeland Security, formerly Immigration and Naturalization Services, and from the Justice Department to form two dependent variables: (1) *asylum officer* percentage approved and (2) *immigration judge* percentage approved.[23] These two government departments report their respective data annually, consequently making our unit of analysis country-year from 1999 to 2004. This time period allows us to model the three years before the September 11 attacks and the three preceding years with a small number of country-years excluded. The beginning of our data is defined by the first year that equivalent data for both types of decision-makers were made available. The end date of 2004 represents the latest data available when we began this research effort. We had to discard some observations from our sample for theoretical reasons and due to missing data. First, we excluded all Western European countries from the sample because these countries, like the US, tend to be receivers of political asylum seekers (Neumayer 2005a, 2005b). Similarly, Australia, Canada, Japan, and New Zealand are also excluded. Second, remember that one of our interests is in the difference in US asylum policy across time, and in particular in any differences that we might identify between the pre- and post-September 11 worlds. Therefore we exclude all panels that

[23]Data for the dependent variable measuring the approval percentage of asylum officers for the years 1999–2004 are available from the US Department of Homeland Security's Yearbook of Immigration Statistics. This department publishes the asylum officer approval percentage statistic calculated as: cases granted during year/cases granted during year + cases denied asylum during year + cases referred to immigration judge, past filing deadline + cases referred to immigration judge after an interview with an asylum officer. Not included in this statistic are cases otherwise closed during the year and cases referred to an immigration judge after no interview with an asylum officer. Data for the dependent variable measuring approval percentage of immigration court judges for the years 1999–2004 are available from the US Department of Justice Executive Office of Immigration Review. The Department of Justice does not publish the approved asylum percentage statistic, however, it does specify how to calculate this statistic at http://www.usdoj.gov/eoir/statspub/fy04syb.pdf. This statistic is calculated as granted asylum + conditional asylum/granted asylum + conditional asylum + denied asylum.

do not contain at least five out of six years with the dependent variables reported, resulting in a relatively equal number of observations between the two time periods and also making it possible to run statistical routines that provide strong remedies for autocorrelation and heteroskedasticity.[24] Next, because our dependent variables are the percentages of successful claimants, we examine only cases where countries sent above a certain threshold of asylum seekers. Assuming that the approval percentages represent a latent construct, indicating US officials' overall disposition toward any cases filed from the country in question, a percentage calculated from a very low number would have a substantial error component with the error tending to decrease as the number of claims on which the percentage is based increases. We exclude observations where the number of cases filed in a given year is less than ten.[25] Lists of all countries included are presented in the appendix section of this article.

Methodology

Our statistical findings would be called into question if we were to employ ordinary least squares regression, because statistical difficulties related to heteroskedasticity and autocorrelation frequently arise in the context of pooled cross-sectional (or panel) data. To control heteroskedasticity, our remedy of choice was to employ panel-corrected standard errors, as recommended by Beck and Katz (1995). To control the effects of AR(1) autocorrelation, we employed the Prais-Winsten regression technique. The small number of years included in the data set made the diagnoses of other time series processes impracticable. All statistical analyses for this article were conducted using Stata 9 (2005). Before starting our analyses we did a series of bivariate correlations (in addition to tests for multicollinearity), which indicated to us, first, that a number of our hypotheses seem to be supported empirically and, second, our results will probably not be affected greatly by the problems associated with collinearity.[26]

One final concern was the strong possibility that the two levels of decisions are interrelated (i.e., a selection effect) as a result of asylum officers

[24]We discuss our estimation techniques and robustness tests in the appendix section of this article.

[25]However, we also ran analyses on observations that originated five or more claims and got very similar results.

[26]We discuss our tests for collinearity in the appendix section of this article.

accepting claims from applicants with particular sets of characteristics and as a result biasing the sample of applicants left for consideration by immigration judges. To account for this possibility, we include in the immigration judge model the percentage of asylum applicants accepted by asylum officers for a particular country. A statistically significant coefficient for this variable would indicate that the two decisions are interrelated and that we would have to exercise some caution in interpreting the meaning of coefficients at the second (immigration judge) stage of the process.

RESULTS

Determinants of Successful Asylum: 1999–2004

In Table 1 we present initial models of the asylum process. The results in the two columns to the left of the table, labeled Model 1, represent the findings for a base model including a set of variables similar to that of Rosenblum and Salehyan (2004) with a binary variable designed to capture the effect of changes due to September 11. The leftmost findings are those gained with asylum officer decisions and those in the next column to the right are the results for Model 1 focusing on immigration judges.[27] Findings on the right side of that table are those for Model 2, which is essentially the same model with our three language variables included.

Our results show that the post-2001 political environment had an important impact on the decisions of asylum officers, as the coefficients of that variable indicate that in the 2002–2004 period asylum claims were about 7 percent less likely to be accepted. Claims that are turned down by asylum officers are normally appealed to immigration judges, and at that stage of the process, the sign of the coefficient is in the expected direction but statistically insignificant. Evidently, the post-2001 political environment is not as influential in discouraging affirmative claims in immigration judges' decisions and judges are no more apt to turn down claims after September 11 than they were prior to that date. This particular result may be somewhat encouraging because judges usually render the final decision; however, we should remain cautious because it could be due to a selection effect. Clearly the two decisions are

[27]One difference between our model and that of Rosenblum and Salehyan is that we leave out a yearly counter variable, preferring the more theoretically guided post-2001 variable as a measure of time. Rosenblum and Salehyan find that their yearly counter variable is positively signed, indicating that with time asylum decisions were more apt to be accepted. Our theory suggests that after the September 11, 2001, break point acceptance would be less likely.

TABLE 1
PRAIS-WINSTEN REGRESSION WITH PANEL-CORRECTED STANDARD ERRORS

	Model 1: 1999–2004				Model 2: 1999–2004			
	Asylum Officer		Immigration Judge		Asylum Officer		Immigration Judge	
Variable	Coef.	Std. Err.	Coef.	Std. Err.	Coef.	Std. Err.	Coef.	Std. Err.
Constant	49.31	(4.80)***	42.59	(8.17)***	52.37	(5.17)***	35.47	(8.63)***
Asylum Officer Percentage Approved			0.28	(0.05)***			0.29	(0.05)***
Violations of Physical Integrity (PTS)$_{t-1}$	3.30	(0.97)***	1.71	(0.92)*	3.66	(0.95)***	1.52	(0.85)*
Democracy (Polity2)$_{t-1}$	–0.80	(0.15)***	–0.55	(0.25)**	–0.78	(0.14)***	–0.59	(0.26)**
US MilitaryAid$_{t-1}$†	–1.09	(1.31)	7.89	(2.17)***	–1.30	(1.42)	8.62	(2.31)***
US Trade (ln $1000US 2004)$_{t-1}$	–0.74	(0.27)***	–1.18	(0.26)***	–0.88	(0.34)***	–0.72	(0.26)***
Sanctions†	5.34	(1.60)***	–0.13	(2.56)	4.73	(1.74)***	0.48	(2.60)
English Language†					–6.03	(0.81)***	–0.53	(1.89)
Arabic Language†					0.96	(1.42)	–7.24	(1.80)***
Spanish Language†					0.53	(3.09)	–12.66	(1.10)***
Top 10 Undocumented Countries†	–17.18	(2.08)***	–16.91	(2.29)***	–17.27	(2.22)***	–11.26	(2.24)***
Post 2001†	–7.35	(2.80)***	–0.43	(2.91)	–7.46	(2.80)***	–0.26	(2.90)
R^2	0.44		0.25		0.45		0.28	
Wald chi^2	282.1		836.0		284.4		1375.0	
Prob > chi^2	0.00		0.00		0.00		0.00	
Rho	0.45		0.44		0.42		0.42	
Number of observations	527				527			
Number of groups	96				96			
Number of Observations per group: min	1				1			
: avg	5.49				5.49			
: max	6				6			

Notes: *p ≤ 0.10; **p ≤ 0.05; ***p ≤ 0.01 (2-tailed).
† = discrete change of dummy variable from 0 to 1.
ln = natural log.
PTS = 5-point Political Terror Scale (State Department) from best human rights practices (1) to worst (5).
Polity2 = 21-point institutional democracy scale from Autocracy (–10) to Democracy (10).

interrelated, as indicated by the statistically significant results for the variable tapping the effect of the outcomes of the asylum officer decision on the decision of immigration judges.

With regard to the effects of humanitarian interests, asylum officers pay considerable attention to the level of physical integrity abuse in a given country. In both models it appears that asylum seekers from a country with a State Department country report coded as a 5 (e.g., Sudan) on the PTS scale have nearly an additional 13 percentage point probability of receiving asylum than asylum seekers from a country with a PTS score of 1 (e.g., Lithuania) or approximately a 6.5 percent greater probability of receiving asylum than someone from a country with a PTS score of 3 (e.g., Syria). In addition to the substantive significance of this relationship, it is also statistically significant at the 0.01 level in each set of analyses. By contrast, the substantive relationship between violations of physical integrity and asylum approval for immigration judges is about half that of officers and statistically significant at the less stringent 0.10 level. Though it is tempting to conclude that human rights are less important to immigration judges, it may be that asylum officers are deciding many of the clearest cases leaving judges with more ambiguous and less favorable cases to decide.

We interpret the findings for the democratic institutions variable similarly. The coefficients are in the expected direction and statistically significant in both models but weaker in both cases for immigration judges than they are for asylum officers, a finding that might be expected if asylum officers are selecting out some of the easier cases. The negative coefficients achieved by those variables indicate that applicants from more democratic countries are less apt to have their asylum claims accepted. A consideration of the impact of the largest potential variation in democracy indicates that the impact of this variable is also important as asylum seekers from an authoritarian, completely nondemocratic country (–10 on the Polity2 scale) will have about a 16 percent greater chance of being awarded asylum status by asylum officers than an applicant from a country that is quite democratic (with a score of 10). By contrast this effect is about an 11 percent increase in acceptance probability for immigration judges.

The results in Table 1 also indicate that international and domestic environmental variables affect asylum applicants' prospects of success. The variable for US security interests, measured by the presence or absence of military aid, was in the expected negative direction for asylum officers (though statistically insignificant) just as the Rosenblum and Salehyan (2004) study had found for the 1993–1998 period. By contrast, during the merit hearing before

an immigration judge, US military aid recipients actually had a statistically significantly greater probability of approval by nearly 8 percent over others. This finding may be taken as an indication that judges approve asylum claims originating from US security partners more willingly than asylum officers, who are aware of the security relationship, cautious of going against US interests, and therefore more hesitant to grant approval in those cases.

Regarding economic interests, the results in Table 1 show that as US exports to and imports from a country increase, asylum seekers from that country have a decreased probability of having their claims granted by both asylum officers and by immigration judges. This relationship is both substantively and statistically significant for both officers and judges, and of a slightly larger magnitude for judges. For each one percentage point increase in US trade to a country, asylum seekers from that country have between approximately 0.74 and 1.18 percentage points less chance of receiving affirmative asylum status from officers and judges, respectively. These results indicate that both officers and judges are in some way aware of the economic relationship between the US and asylum seekers' country of origin when they consider factors in the *milieu* and render their decisions.

A final variable related to US political interests is that which identified whether a country was the subject of US sanctions. It appears that such a conflictual relationship with the US is considered by asylum officers to be a favorable condition for asylum. This impact, while robust and statistically significant at the 0.01 level, exerts a moderately sized, 5.3 percent or 4.7 percent impact on asylum officer approval in the two sets of analyses. This is roughly the equivalent to between a 1- and 2-point change in the level of physical integrity abuse (PTS) by an asylum seeker's country of origin. No such relationship was found for immigration judges.

Asylum seekers from these top immigrant-sending countries have an approximately 17 percentage point lower probability of having their asylum claims accepted, for both judges and asylum officers, in Model 1. The result is a bit weaker for immigration judges in Model 2, in which language variables are added into the model, because of the shared variance with the Spanish language variable, but it is still statistically significant and substantively important.

Some of the other results for the effects of languages, in Model 2 (on the right side of Table 1), are very interesting. They tell us, first, that contrary to our hypothesis, asylum seekers from English-speaking countries have an almost 7 percentage point disadvantage, compared with asylum seekers from countries that speak other languages, when their cases are heard before asylum officers. The Spanish language variable is statistically significant at the 0.10 percent

confidence level for asylum officers' decisions, but is much more strongly negative for immigration judges, indicating that persons from Spanish-speaking countries are about 12 to 13 percent less likely to gain asylum than others. Judges also tend to decide against cases that are presented by persons from Arabic-speaking countries, but a similar effect is not evident when we look at decisions of asylum officers. Thus, asylum officers appear tougher on English speakers, and easier on those speaking the other measured languages than are immigration judges. Immigration judges may simply be more biased against Arabic and Spanish speakers than officers. However, an alternative and more nuanced explanation is that asylum officers probably tend to exercise caution when denying claims and they are more willing to deny asylum seekers who speak the language because they are more easily understood relative to other applicants. Asylum officers may also be somewhat more willing to give the benefit of the doubt to those who do not speak the language. By contrast, for trials before immigration judges, the quality of translation is likely better than what is available for hearings with asylum officers. With better translation judges do not exercise the same amount of caution, making them more apt to deny applicants from those countries, many of whom do not speak English very well.

Are the Post-September 11 Differences Systemic?

Our results indicate that asylum decisions differ substantially in the wake of the terrorist events of 2001. What remains to be seen, however, is whether the effects of terrorism run much deeper. We believe that a more fundamental set of systemic changes might have occurred, whereby the entire system of determinants of asylum has been modified and other variables will be weighed differently in the two periods. Consistent with our previously discussed thinking regarding changes in decision-makers' *milieu*, we expect that humanitarian motives such as physical integrity rights and democracy will decrease in importance after 2001, as asylum officers and judges react to the increasingly salient security concerns in the post-September 11 environment. And we expect greater difficulty for persons from Arabic-speaking countries to gain asylum in the post-2001 environment.

In Table 2 we have split the sample into two parts, running parallel analyses of Model 2 for pre- and post-2001 periods. Unfortunately, we were unable to estimate the pre- and post-2001 model for the immigration judge dependent variable using the same control for heteroskedasticity that we had been using, because our statistical software would not estimate using that technique. For that reason we used robust standard errors (as opposed to

TABLE 2
PRAIS-WINSTEN REGRESSION WITH PANEL-CORRECTED STANDARD ERRORS

	Model 2a: 1999–2001				Model 2b: 2002–2004			
	Asylum Officer		Immigration Judge		Asylum Officer		Immigration Judge	
Variable	Coef.	Std. Err.	Coef.	Std. Err.††	Coef.	Std. Err.	Coef.	Std. Err.††
Constant	54.67	(4.64)***	26.41	(10.05)***	40.23	(7.00)***	38.12	(10.73)***
Asylum Officer Percentage Approved			0.38	(0.07)***			0.21	(0.08)***
Violations of Physical Integrity (PTS)$_{t-1}$	5.12	(1.48)***	1.75	(1.38)	2.30	(0.54)***	1.49	(1.21)
Democracy (Polity2)$_{t-1}$	–0.82	(0.18)***	–0.40	(0.32)	–0.71	(0.14)***	–0.77	(0.28)***
US MilitaryAid$_{t-1}$†	–0.12	(0.98)	9.08	(3.17)***	–2.25	(2.45)	11.38	(3.13)***
US Trade (ln $1000US 2004)$_{t-1}$	–1.19	(0.39)***	–0.62	(0.50)	–0.40	(0.34)	–0.76	(0.55)
Sanctions†	3.00	(1.38)**	1.73	(3.02)	6.41	(2.93)**	2.27	(3.06)
English Language†	–7.39	(1.00)***	1.94	(3.55)	–4.72	(1.20)***	–1.52	(3.05)
Arabic Language†	1.91	(1.97)	–6.04	(3.29)*	–1.09	(1.30)	–9.30	(3.52)***
Spanish Language†	0.58	(3.60)	–12.06	(3.50)***	–1.55	(4.07)	–12.13	(3.90)***
Top 10 Undocumented Countries†	–19.14	(2.14)***	–10.41	(3.75)***	–15.10	(1.93)***	–12.60	(3.34)***
Post 2001†								
R^2	0.42		0.32		0.48		0.33	
Wald chi^2	421.2		116.15†††		113.7		103.54†††	
Prob > chi^2	0.00		0.00		0.00		0.00	
Rho	0.45		0.36		0.39		0.46	
Number of observations	254				273			
Number of groups	93				95			
Number of Observations per group: min	1				1			
: avg	2.731				2.874			
: max	3				3			

Notes: *p ≤ 0.10; **p ≤ 0.05; ***p ≤ 0.01 (2-tailed).
† = discrete change of dummy variable from 0 to 1.
ln = natural log.
PTS = 5-point Political Terror Scale (State Department) from best human rights practices (1) to worst (5).
Polity2 = 21-point institutional democracy scale from Autocracy (–10) to Democracy (10).
†† = robust standard errors.
††† = General F-Test with Prob > F below.

panel-corrected standard errors, which we prefer) for analysis of the immigration judge decision in both periods.[28]

The left side of Table 2 contains the results for 1999–2001, with the results for 2002–2004 on the right.[29] The results suggest important differences in the asylum process that indicate that the entire system of determinants changed after September 11 in ways that are for the most part quite consistent with our expectations.

First, a comparison of the coefficients of the physical integrity measures in the two periods indicates that this variable, as a determinant of asylum success, is only about half as important after September 11 as it was prior to that date. Prior to September 11, the greatest possible increase (of four points) in that scale would have translated into a 20 percent increase in the probability of asylum success. After 2001 that percentage increase is only about 9 percent. Similar, but not as stark is the decreased magnitude of the effect of democratic institutions on asylum success at the officer level. For this variable, the decrease in importance at the asylum officer level is balanced by an increased importance at the judge level after 2001.

The findings relating to the sanctions variable also support our expectations regarding the increased importance of security concerns; applicants from sanctioned countries are about twice as likely to have their applications approved by asylum officers after 2001 than they were prior to the end of 2001. The findings regarding military aid at the asylum officer stage however are statistically insignificant, while immigration judges were rendering increasingly positive and statistically significant decisions over the two time periods. The statistically

[28]We ran both periods for the asylum officer model with robust standard errors and compared the results to the estimation that used panel-corrected standard errors. The results obtained with robust standard errors are somewhat more conservative than those arrived at with panel-corrected standard errors. We discuss the results in Table 3 in the online appendix. The only difference of note between the two estimations of the asylum officer model, one using panel-corrected standard errors (presented in Table 2) and the other using robust standard errors (Table 3), is that the coefficients for trade with the US and for sanctions are no longer statistically significant when robust standard errors are used for the 1999–2001 period. Most importantly, our comparisons between the two periods would be the same with this method because the magnitude of the coefficients is similar in both periods.

[29]We wish that the asylum data enabled us to split the data on September 11 exactly, but unfortunately they are reported on an annual basis. We are aware that including cases for October–December 2001 in the pre-2001 sample somewhat contaminates that sample, but it does so in such a way that would lead to more conservative findings regarding the differences between the samples. Our need for pre-2001 data points and that the findings would be biased in a conservative direction weighed into our decision to include those cases in the pre-2001 sample rather than discard that year altogether.

TABLE 3
PRAIS-WINSTEN REGRESSION WITH ROBUST STANDARD ERRORS

	Model 3a: 1999–2001				Model 3b: 2002–2004			
	Asylum Officer		Immigration Judge		Asylum Officer		Immigration Judge	
Variable	Coef.	Std. Err.	Coef.	Std. Err.	Coef.	Std. Err.	Coef.	Std. Err.
Constant	55.15	(13.60)***	26.41	(10.05)***	43.63	(10.17)***	38.12	(10.73)***
Asylum Officer Percentage Approved			0.38	(0.07)***			0.21	(0.08)***
Violations of Physical Integrity (PTS)$_{t-1}$	4.65	(1.05)***	1.75	(1.38)	2.03	(1.08)*	1.49	(1.21)
Democracy (Polity2)$_{t-1}$	–0.82	(0.22)***	–0.40	(0.32)	–0.68	(0.20)***	–0.77	(0.28)***
US MilitaryAid$_{t-1}$†	–0.10	(2.65)	9.08	(3.17)***	–2.76	(2.31)	11.38	(3.13)***
US Trade (ln $1000US 2004)$_{t-1}$	–1.15	(0.71)	–0.62	(0.50)	–0.51	(0.57)	–0.76	(0.55)
Sanctions†	2.82	(3.11)	1.73	(3.02)	6.65	(2.43)***	2.27	(3.06)
English Language†	–7.25	(3.10)**	1.94	(3.55)	–4.46	(2.66)*	–1.52	(3.05)
Arabic Language†	2.12	(3.11)	–6.04	(3.29)*	–0.75	(3.43)	–9.30	(3.52)***
Spanish Language†	0.36	(4.61)	–12.06	(3.50)***	–1.26	(3.98)	–12.13	(3.90)***
Top 10 Undocumented Countries†	–18.95	(6.05)***	–10.41	(3.75)***	–15.05	(3.81)***	–12.60	(3.34)***
Post 2001†								
R^2	0.43		0.32		0.54		0.33	
General F-Test	155.5		116.2		123.2		103.5	
Prob > F	0.00		0.00		0.00		0.00	
Root Mean Squared Error	11.45		14.78		9.89		13.43	
Rho	0.60		0.36		0.59		0.46	
Durbin-Watson statistic (original)	0.47		0.77		0.50		0.68	
Durbin-Watson statistic (transformed)	1.32		1.16		1.35		1.32	
Number of observations	254				273			
Number of groups	93				95			
Number of Observations per group: min	1				1			
: avg	2.731				2.874			
: max	3				3			

Notes: *p ≤ 0.10; **p ≤ 0.05; ***p ≤ 0.01 (2-tailed).
† = discrete change of dummy variable from 0 to 1.
ln = natural log.
PTS = 5-point Political Terror Scale (State Department) from best human rights practices (1) to worst (5).
Polity2 = 21-point institutional democracy scale from Autocracy (–10) to Democracy (10).

significant effect of being a strong trading partner of the US, shown in our first test of Model 2 at the asylum officer level evaporates after September 11, indicating that the results in Table 1 were completely dependent on strong findings for this earlier period. Economic interests appear not to have been as important a determinant of asylum decisions after September 11, 2001.

Finally, the findings relating to consideration of asylum applicants from Arabic-speaking countries run very much as we had expected. The statistically significant findings in our first test of Model 2 (shown in Table 1) indicated that applicants from Arabic-speaking countries were less likely to receive asylum than others at the judge stage. Here we show that the previous finding arose largely as a result of the stronger finding that arises in the post-2001 period. Though there is a only a moderate change in the magnitude of the effect (from 6 to 9 percent less chance of being accepted), the coefficient for the analyses prior to September 11 reaches only nominal statistical significance at the 0.10 level, while the stronger coefficient for post-September 11 period reaches the 0.01 level. So asylum claims emanating from applicants from Arabic-speaking countries appear more likely to be denied in the post-2001 period.[30]

Finally, the explanatory power of our models is moderate but respectable and somewhat greater for the asylum officer stage (R-squares ranging from 0.42 to 0.48) than for the judges (R-squares ranging from 0.25 to 0.32). Perhaps there are other country-level characteristics that could be identified to improve the prediction at the judge level which have not yet been considered; however, the differences in explanatory power are consistent with the argument that country-level cues are of greater importance to asylum officers, while judges may be somewhat more likely to take a closer look at the merits of each case. Unfortunately, our focus on country-level characteristics leaves us with no way of ascertaining the validity of this argument at this time; however, the analysis by Ramji-Nogales, Schoenholtz, and Schrag (2007) begins to shed light on possible differences.

CONCLUSION

Our findings support many of the results of the Rosenblum and Salehyan (2004) study; however, it provides many new insights and a much richer view

[30]It would be interesting to be able to separate out the last few months of 2001 and put them in the post-September 11 period where they would fit better. We expect that the anti-Arabic effect would be greatest in those few months, and that perhaps as a result the difference between the two periods is greater than that which is depicted in our results.

of the asylum decision-making process.[31] First, we have demonstrated empirically that there are indeed important differences in officers' and judges' asylum decisions. Considerations relating to physical integrity abuses, which are supposed to be at the heart of asylum decisions, seem to matter more at the initial stage of the process, where asylum officers screen claims, than they do for the immigration judges. However, we remain cautious, for it could be that asylum officers disproportionately accept asylum applicants in cases from human rights–abusing countries, thus biasing the sample of cases that are left for judges to decide. With a similar caveat in mind, it does appear that judges are more apt to grant asylum to persons from countries that are important to US security, evidenced by the receipt of US military aid. And asylum officers are evidently willing to deny claims from persons hailing from English-speaking countries, but are more cautious than judges in denying cases involving persons from Arabic- and Spanish-speaking countries.

Second, consistent with our theoretical expectations, we have also demonstrated that asylum officers were more apt to deny claims after 2001, but even more striking, we found that the determinants of asylum decisions at both stages of the process appear to have changed after that break point. Most importantly, physical integrity rights, which are supposed to be a central concern in the decision to grant asylum, seem less important after 2001 in asylum officers' decisions and asylum applicants from Arabic-speaking countries were more likely to have had their claims denied after the terrorists – who had similar heritage – struck on September 11 of that year.

Though we believe that this study provides several interesting new insights, we conclude fully cognizant of the fact that there are limitations in our study of country-level factors and annual asylum approval rates. Ideally, new data would make it possible for researchers to address several nuances that this study could not. For example, we know from our discussions with asylum advocates that there is a strong sense that forum shopping is occurring. Persons of differing national origins believe their chances are greater in certain locations around the country and as a result have been known to travel to a particular place to file their claims (e.g., some Albanian asylum seekers travel to New York). And we know that some judges have reputations for being tougher (sometimes on particular kinds of cases) than other judges (Ramji-Nogales, Schoenholtz, and Schrag, 2007). We are currently in the process of using judge

[31]We ran a number of alternatively specified models, which indicate that our findings are quite robust. These analyses are discussed in the appendix section of this article.

and court documents to integrate the results from this analysis with the work similar to that of Ramji-Nogales, Schoenholtz, and Schrag (2007). Such a research effort would not only result in a more sophisticated understanding of the asylum decision-making process across the US – it would serve to shed further light on the possible inequities of a system criticized for sometimes wrongly returning persons to the dangerous situations from where they fled.

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