

## Success in a Failed Campaign: The French Refugees of Jersey and the Making of an Abstract “Right to Refuge”

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**Abstract** Histories of human rights tend to focus on defining moments, clear instances of universalism triumphant. If we hold to this model, the 1855 campaign on behalf of French republican—or democratic socialist—refugees was a failure. The refugees, expelled from Jersey in the Channel Islands for a libel of the queen, were little liked, and the campaign on their behalf did not yield the desired results, enabling them to return to Jersey. Yet, as this article argues, the failed campaign ought to be judged by different measures than the campaigners’ desired results, for we see in it the dynamics of refugee crises down to the present: an ongoing attempt to make refuge a universal norm in the face of persistent doubt that the refugees in question were “worthy” of staying. The French refugees and their supporters drew public attention to a right that they claimed derived from precedent, the British constitution, and moral principle. Though they did not succeed in their immediate cause, campaigners drew the admission even from naysayers that there was a “right to refuge”—but one the naysayers would not agree must be upheld at all costs.

On 10 October 1855, three French refugees published an open letter to Victoria, the queen of England, in the refugee newspaper *L’Homme*. The authors, who signed themselves F. Pyat, Rougée, and G. Jourdain, railed against British support for Louis Napoleon and Britain’s involvement in the Crimean War. They claimed that the Crimean conflict had led the British into an alliance with a tyrant, Napoleon III, and made them lose sight of the struggle of oppressed peoples overseas. While such criticisms were common fare in *L’Homme* and in English-language newspapers, Pyat, Rougée, and Jourdain wrote of the loss of the queen’s honor at the hands of Louis Napoleon, whom they compared with a “Ruffian of Haymarket” and Richard III.<sup>1</sup> Though their point was political, their language was sexualized, taking far too familiar a tone with the queen of England in the view of respectable Britons.

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<sup>1</sup> F. Pyat, Rougée, and G. Jourdain, “Lettre a La Reine D’Angleterre,” *L’Homme*, 10 October 1855. While signed by all three, it was referred to in subsequent press coverage as Pyat’s letter.

The letter enraged a sizable constituency in St. Hélier, Jersey, the home of *L'Homme* and its editors. Jersey natives saw the letter as libeling the queen's character and directly attacking Britain. Posters that exaggerated the libel sprang up across the British Channel Island, directing anger against "miscreant" republican refugees. By some accounts, as many as two thousand irate Jersey inhabitants filled a town-hall meeting to demand that something be done.<sup>2</sup> Lieutenant Governor James Frederick Love shared their sentiment, and on 18 October 1855, he expelled three men associated with the newspaper. Subsequently, the expulsions extended to another thirty-four refugees, among them Victor Hugo and his son Charles.

In 1850s Britain, foreign refugees received broad popular support. Those with a sympathetic tale of persecution to tell—of woe, of unsuccessful campaigns against despotism overseas—could in Britain become celebrities and the subjects of public campaigns for charitable relief.<sup>3</sup> The French refugees on Jersey in the 1850s were not among this group. Few members of the British public sympathized with the French "red republicans," or democratic-socialists, as they were interchangeably called. These refugees' political radicalism contrasted notably with that of the more tempered Hungarian hero Lajos Kossuth, for example. Pyat's libel against the queen did not help, nor did the Crimean War. The war brought Britain closer with France's Louis Napoleon, the refugees' persecutor. Aiming to reverse their fortunes, the French refugees on Jersey, with the aid of radical activists across Britain, launched a press campaign in their support.

That campaign and the ways in which it attempted to restructure conceptions of British refuge are the focus of this article. Agitation at the French refugees' removal quickly became a conversation about refuge for foreign nationals that spanned the British Isles and drew together liberals, radicals, and conservatives. While press coverage about refugees frequently spiked in the wake of a foreign crisis, press interest in the topic of refuge itself rose especially high in the year immediately following the Jersey expulsion. For the period of 10 October 1855 to 31 December 1856, 632 articles on the topic of refugees can be found in the British Library Newspaper Database alone. The authors of these articles did not speak as one, but the conversation increasingly circled around the nature of British refuge and, if something had gone wrong on Jersey, what that something might be. Taken together with articles from *L'Homme* and longer accounts of refugees and of Jersey published in the aftermath of the expulsions, the campaign and the reactions to it offer a particularly useful window into the relationships of public opinion, local policies, national responsibilities, and universal rights.

## BEYOND THE "ACCIDENTAL REFUGE" THESIS

Scholarly treatment of the French refugees on Jersey has tended to mirror a divided literature on British-refugee relations in this era. For scholars of French communities

<sup>2</sup> "Louis Napoleon's Attempt to Expel the French Exiles from England," *Reynolds's Newspaper* (UK), 21 October 1855, 6; Philip Stevens, *Victor Hugo in Jersey* (Chichester, 1985), 92–94. Stevens estimates a crowd of fifteen hundred to two thousand, while the *Reynolds's Newspaper* article puts the number at twelve hundred.

<sup>3</sup> Caroline Shaw, chap. 3, in *Britannia's Embrace: Modern Humanitarianism and the Imperial Origins of Refugee Relief* (New York, 2015).

in Britain, the colony of refugees in Jersey, especially its most famous resident, Victor Hugo, offers a socially and politically diverse microcosm to examine.<sup>4</sup> Scholars of British radicals have noted the intellectual and political connections with the radical continental refugees in their midst.<sup>5</sup> The Jersey expulsion provided an opportunity for Chartists and liberals to work together, as Margot Finn notes in her account of ideological connections between British and continental radicalism.<sup>6</sup> But Bernard Porter has argued forcibly that while Chartists engaged with foreign refugees, the British public grudgingly tolerated rather than cared for the refugees in their midst. Since it was first published in 1979, Porter's thesis has dominated the literature. Given the degree to which Britain has gained a reputation for shunning exiles in the twentieth and the twenty-first centuries, scholars have explained Britain's openness to refugees in the nineteenth century as the unintended (and undesired) byproduct of liberal border policies.<sup>7</sup>

There have been hints for some time that the "accidental refuge" thesis is in trouble. Political scientist Niklaus Steiner's three-way comparison between Britain, Germany, and Switzerland repeats Porter's argument wholesale,<sup>8</sup> but Steiner points out that during the nineteenth century the British government played an important role internationally in the protection of foreigners. Steiner notes that the Foreign Office intervened when the Swiss were under fire from their neighbors for harboring revolutionary exiles.<sup>9</sup> Similarly, legal scholar Dallal Stevens generally accepts the accidental refuge thesis but expresses surprise at historical events that seem inconsistent with it. Stevens also notes the forcefulness of British intervention on behalf of refugees, finding the government's "apparent readiness ... to push its European neighbors to the brink of war over the refugee question" to be "perhaps

<sup>4</sup> See, for example, Stevens, *Victor Hugo in Jersey*.

<sup>5</sup> Among others, see Joan Allen, *Joseph Coven and Popular Radicalism on Tyneside, 1829–1900* (Monmouth, 2007); John Belchem, "Britishness, Asylum-Seekers and the Northern Working Class: 1851," *Northern History*, 39, no. 1 (March 2002): 59–74; Gregory Claeys, "Mazzini, Kossuth, and British Radicalism, 1848–54," *Journal of British Studies* 28, no. 3. (July 1989): 225–61; Margot Finn, *After Chartism: Class and Nation in English Radical Politics, 1848–1874* (Cambridge, 1993); Maura O'Connor, *The Romance of Italy and the English Political Imagination* (New York, 1998); F. B. Smith, *Radical Artisan, William James Linton, 1812–97* (Manchester, 1973); Miles Taylor, *Ernest Jones, Chartism, and the Romance of Politics, 1819–1869* (Oxford, 2003); Nigel Todd, *The Militant Democracy: Joseph Coven and Victorian Radicalism* (Tyne & Wear, 1991).

<sup>6</sup> Margot Finn, *After Chartism*, 179–80.

<sup>7</sup> Bernard Porter, *The Refugee Question in Mid-Victorian Britain* (Cambridge, 1979); Porter, "The Asylum of Nations: Britain and the Refugees of 1848," in *Exiles from European Revolutions: Refugees in Mid-Victorian England*, ed. Sabine Freitag (New York, 2003), 43–56. Among others who employ this thesis, see Matthew Gibney, *The Ethics and Politics of Asylum: Liberal Democracy and the Response to Refugees* (Cambridge, 2004); Philip Marfleet, "Refugees and History: Why We Must Address the Past," *Refugee Survey Quarterly*, 26, no. 3 (January 2007): 136–48; Michael Marrus, *The Unwanted: European Refugees in the Twentieth Century* (Philadelphia, 1985); Liza Schuster, *The Use and Abuse of Political Asylum in Britain and Germany* (London, 2003); Claudena Skran, *Refugees in Inter-War Europe: The Emergence of a Regime* (Oxford, 1995); Sylvie Aprile and Delphine Diaz, "Europe and Its Political Refugees in the Nineteenth Century," trans. Kate McNaughton, *Books and Ideas*, 18 April 2016, <http://www.booksandideas.net/Europe-and-its-Political-Refugees-in-the-19th-Century.html>. See also Gérard Noiriel, *Réfugiés et sans papier: La République face au droit d'asile, xix<sup>e</sup>–xx<sup>e</sup> siècle* (Paris, 1998).

<sup>8</sup> Niklaus Steiner, chap. 4 in *Arguing about Asylum: The Contemporary Complexities of Refugee Debates in Europe* (New York, 2000).

<sup>9</sup> Steiner, *Arguing about Asylum*, 21.

the most remarkable episode in nineteenth-century asylum policy.”<sup>10</sup> While historians have been reticent to claim that the Foreign Office acted on popular humanitarian sentiment, these striking anomalies suggest that alternative arguments should be taken seriously.<sup>11</sup> Writing about the period of the Jersey expulsions, Fabrice Bensimon suggests that public opinion was not as anti-refugee as elite opinion would suggest; indeed, he notes, the anti-refugee demonstrations on Jersey in 1855 are the only ones of their kind in the historical record.<sup>12</sup> Inspired by such suggestions, my own work draws together the diverse array of British aid to foreign refugees, and I see in the period between the Huguenot diaspora of the seventeenth century and the Jewish diaspora of the late-nineteenth century the ways in which patterns for relief became institutionalized by a public for whom refuge for persecuted foreigners enabled them to work out what it meant to act both patriotically and liberally on the global stage.<sup>13</sup>

Even within this new work, however, the Jersey case has seemed to be an outlier, so much so that in my book *Britannia's Embrace* (2015) I focused on other cases from the era. Historians of rights claims and of humanitarianism, myself included, tend to look for breakthrough moments—clear transitions or spectacular and powerful claims. The Jersey case is different and in some ways simply strange. While the campaign drew on a language of “right” to a degree that I had not seen at mid-century, the rhetoric seems unnecessary given the specific context of the expulsion. These thirty-seven Frenchmen were not forced to return to their country of origin to face persecution, as were so many refugees in the twentieth and twenty-first century. Instead, these men simply resettled in the neighboring Channel Island of Guernsey or in London. Given this outcome, the case was never going to claim the sort of sustained national and governmental attention received by other cases—that is, those in which *refoulement*, the return to their homeland to face persecution—was a real possibility.<sup>14</sup> By contrast, for example, an 1849 case in Malta, when officials refused refuge at the port, did become a matter of governmental inquiry. Similarly, the national endeavor on behalf of the French émigrés of the 1790s lasted for years and involved not only Treasury support but a king’s letter directing every parish to solicit funds for their relief.

The campaign to generate outrage at the French refugees’ expulsion from Jersey in 1855 might have done little to change their tenuous position in the public eye, but its significance lies elsewhere, as I have come to realize. As this article argues, precisely

<sup>10</sup> Dallal Stevens, *UK Asylum Law and Policy: Historical and Contemporary Perspectives* (London, 2004), 31.

<sup>11</sup> Michelle Tusan, Gary Bass, and Davide Rodogno engage in this debate, Tusan and Bass finding public concern constitutive of government action, the latter less so. Michelle Tusan, *Smyrna's Ashes: Humanitarianism, Genocide and the Birth of the Middle East* (Berkeley, 2012); Gary Bass, *Freedom's Battle: The Origins of Humanitarian Intervention* (New York, 2008), 82–83; Davide Rodogno, *Against Massacre: Humanitarian Interventions in the Ottoman Empire, 1815–1914* (Princeton, 2012), 125–26.

<sup>12</sup> Fabrice Bensimon, “The French Exiles and the British,” in Frietag, *Exiles from European Revolutions* (New York, 2003), 88–102, at 98.

<sup>13</sup> Belchem, “Britishness, Asylum-Seekers and the Northern Working Class,” 59–74; Abigail Green, “Humanitarianism in Nineteenth-Century Context: Religious, Gendered, National,” *Historical Journal* 57, no. 4 (December 2014): 1157–75.

<sup>14</sup> The term *refoulement* itself became common in twentieth-century attempts to protect refugees on an international scale.

because these refugees and their supporters could not count on existing public sympathy, they turned to rhetorical abstractions. In so doing, their campaign crystallized a language of universal responsibility and “right,” elevating Britons’ proud national practice of offering succor to foreign groups from the realm of serial campaigns to the realm of the universal. The peculiarity of the context in 1855 is important. The relatively low humanitarian stakes of the situation allowed those in the campaign and those who responded to it to reflect more abstractly upon why Britons prided themselves on protecting foreigners persecuted by overseas tyrants. Indeed, the short-lived campaign went further than other refugee relief campaigns of the era; the campaigners worked assiduously to embed the language of a “right to refuge” within broader discussions of legal reform, long-standing constitutional idioms, and fears that authoritarianism yet lingered within the British Isles and on the little-known island of Jersey in particular. Campaigns by and on behalf of refugees had rarely been so openly reflective and critical of British norms, tending instead (wisely, perhaps!) to emphasize triumphant rescues. Already lacking the sort of sympathy more typically accorded to persecuted foreigners in British culture in this era, the French on Jersey had to turn to arguments based on principles grand enough that their identity as the particular refugees in question mattered less.

Taking stock of the still relatively new field of human rights history, historian Stefan Ludwig-Hoffmann has cautioned against scholarly “presentism,” warning against overemphasis on the middle and late twentieth century that obscures antecedents to the individual rights regime that triumphed after the Second World War.<sup>15</sup> The injunction is at once validating to the historian of the nineteenth century and infuriating: in this history of a “right to refuge” in the nineteenth century, one sees not a distant antecedent but an early example of the difficulties of realizing individual universal rights in any given context, and especially when sympathy with the foreigners in question was strained.

### **JERSEY, AUTUMN 1855**

Writing from Jersey, Adèle Hugo, the famous author’s daughter, noted that “Jersey is actually French, but English by law.” She went on to say that the inhabitants of Jersey, like those on Guernsey, “are certainly not English without wanting to be, but they are French without knowing it.”<sup>16</sup> Indeed, the Bailiwick of Jersey in the British Channel Islands was, like other territories under British rule, an idiosyncratic product of diverse cultural influences and often-contradictory legal systems. Once a neutral meeting ground for the French and British, the island remained mixed in heritage, with both French and English as official languages. The mixture was apparent in its governance too, its laws steeped in Norman-French custom.

This mixed heritage made Jersey an enticing place of asylum for continental refugees, the French in particular. Only fourteen miles from the coast of Normandy, it was a stopover for Charles II in his flight from Cromwell’s victorious forces, as it was for French Huguenots traveling in the opposite direction after the revocation

<sup>15</sup> Stefan-Ludwig Hoffmann, “Human Rights and History,” *Past and Present* 232, no. 1 (August 2016): 279–310, at 309.

<sup>16</sup> Stevens, *Victor Hugo in Jersey*, 28.

of the Edict of Nantes in 1685.<sup>17</sup> In the early 1790s, Jersey sheltered Chateaubriand and others fleeing the French Revolution.<sup>18</sup> In the middle of the nineteenth century, non-natives made up a significant proportion of Jersey's population, beyond even the identifiable exile community. By official estimates, roughly 15,000 "foreigners" lived among a population of 41,000 natives. The "foreign" presence was even more noticeable in the town of St. Héliér where they tended to concentrate—St. Héliér was itself 30,000 strong.<sup>19</sup> Following the revolutions of 1848–49, a new wave of refugees found their way to Jersey. Though most were French, they came from across the Continent. Refugee numbers grew again in 1851 when Louis Napoleon's coup d'état of 2 December forced even some of his erstwhile supporters into exile. By 1853, the Home Office counted 126 political refugees, including 108 French, ten Italians, and eight Hungarians and/or Germans.<sup>20</sup> By 1855, sympathetic journalists were celebrating the degree to which the recent refugees had begun to integrate into Jersey society.<sup>21</sup>

The reality was, of course, more mixed, and refugee experiences varied greatly by social class.<sup>22</sup> More well-heeled exiles tried to aid the less fortunate and convened political meetings intended to draw them together, despite vastly different visions for whether, when, and how to foment political change on the Continent. Imprimerie Universelle, a radical printing office under the auspices of the most vocal Italian and Polish refugees, helped to foster a sense of purpose for the divided community. Victor Hugo and his son Charles joined the press in 1852. Along with journalist Charles Ribeyrolles, they founded the exile newspaper *L'Homme*, which linked them with comrades still in France, other exiles in the British Isles, and British radicals. Translated articles from *L'Homme* sometimes found their way into the English radical press, particularly in the immediate wake of the expulsion crisis. Articles emphasized refugees' loneliness and tried to build solidarity across a cosmopolitan radical community of exiles and sympathetic British Chartists. The editors papered over internal divisions within the exile community, directing their ire pointedly at Louis Napoleon and, especially after the outbreak of the Crimean War in late 1853, at the English government.

These republican refugees with their newspaper unnerved Lieutenant Governor Love, who worried that they might start a revolution that could engulf Britain as well.<sup>23</sup> At Love's request, the Home Office in 1852 began monitoring the refugees for signs of intent to commit violence. Detective John Sanders infiltrated French refugees' political meetings on the island. He assured Love, the Home Office, and the Metropolitan Police that their anxieties were unfounded; the refugees might speak

<sup>17</sup> David Ansted and Robert Latham, *The Channel Islands* (London, 1862), 582.

<sup>18</sup> Stevens, *Victor Hugo in Jersey*, 3.

<sup>19</sup> Ansted and Latham, *The Channel Islands*, 582.

<sup>20</sup> The National Archives (hereafter TNA), HO 45/4816, Detective John Sanders, correspondence with the Home Office, 19 March 1853, registered papers, c. 1842–1855.

<sup>21</sup> "Expulsion of M. Victor Hugo and Thirty-Three Exiles from Jersey," *Morning Advertiser* (London), 31 October 1855, 3.

<sup>22</sup> Stevens, *Victor Hugo in Jersey*, 56–59; Sylvie Aprile, "Voices of Exiles: French Refugee Newspapers in England," in Freitag, *Exiles from European Revolutions*, 149–63, at 150–52.

<sup>23</sup> John Sweetman, "Love, Sir James Frederick (1789–1866)," in *Oxford Dictionary of National Biography* (Oxford, 2004).



with passion, but they were ultimately harmless.<sup>24</sup> This assurance did not allay Love's anxieties, however. He went from worrying about a refugee-led insurrection to fearing that the refugees' mere presence would destroy the peace on the island by corrupting the local youth and, presumably, exacerbating existing political divisions, though he did not admit the latter directly.

*L'Homme's* inflammatory letter to the queen on 10 October 1855 thus presented the lieutenant governor an opportunity to act. He seemed well aware of the executive powers available to him to get rid of unwanted foreigners, drawing upon a Jersey code from 1635.<sup>25</sup> In May 1853, he had put these powers to use in expelling François Ribereaut, a refugee who had slandered the queen while drunk at a St. Hélier public house.<sup>26</sup> The immediate public reaction to the 1855 slander offered Love an excuse to act in a manner far more sweeping than he had done in the case of Ribereaut. St. Hélier officials translated an exaggerated version of the letter immediately, plastering copies throughout the town and advertising a protest meeting that would draw as many as two thousand people to the Queen's Assembly Rooms on 13 October 1855. The meeting elicited angry reactions to *L'Homme* and to the refugee community more generally. But it also showcased divisions within the island population. At the meeting, advocate François Godfray opposed Nicholas Le Quesne, the constable of St. Hélier, who called for the refugees to be expelled. Godfray, by contrast, suggested calling the publishers of *L'Homme* before the court for libel.<sup>27</sup> Libel laws of the time enabled the courts to impose harsh fines on authors *and* editors and publishers, a source of chagrin to liberals and radicals across Britain. Rather than rely on the courts to punish the refugees, however, Love informed the Home Office that he planned to use his executive authority. The Home Office assented to his actions after agreeing that the language of Jersey's libel laws was too ill-defined to try the case adequately.<sup>28</sup> Accordingly, on 18 October 1855, officials expelled Charles Ribeyrolles and Alexander Thomas, editors of *L'Homme*, along with the Italian colonel Pianciani, whose house was believed (wrongly) to provide a hub for the newspaper's circulation.<sup>29</sup>

Love was sorely mistaken if he believed that deporting these three "troublesome" refugees would settle the matter. Rather, French refugees on Jersey increased their public demonstrations in favor of their exiled comrades and captured national attention. Within days of the expulsion, Victor Hugo wrote a scathing condemnation of Love's action. Hugo defended the refugees and compared the government's actions to those of Louis Napoleon. Hugo co-signed the declaration with thirty-three other refugees on the island, including his two sons and several Polish, Hungarian, and

<sup>24</sup> TNA, HO 45/4302, report of Sanders dated 25 February 1852. Palmerston was Home Office secretary from 1852 to 1855 when he became prime minister; his Home Office secretary, from 1855 to 58, was Sir George Grey.

<sup>25</sup> TNA, HO 45/6188, fol. 20, Grey to Love, letter dated 15 August 1855.

<sup>26</sup> Stevens, *Victor Hugo in Jersey*, 61.

<sup>27</sup> "Louis Napoleon's Attempt to Expel the French Exiles from England," *Reynolds's Newspaper* (UK), 21 October 1855, 6; on the disagreements between Godfrey and other officials, see Francis Coghlan, *Hand-Book to the Channel Islands* (London, 1843), 40.

<sup>28</sup> TNA, HO 45/6188, fol. 39, Henry Waddington to Love, 24 October 1855.

<sup>29</sup> Charles Ribeyrolles et al., "Le Coup D'Etat," *L'Homme*, 17 October 1855, 2–3; Stevens, *Victor Hugo in Jersey*, 96–97.

Italian exiles.<sup>30</sup> They posted the letter throughout St. Hélier, seizing the public's attention both locally and among radical circles throughout Britain. On Jersey, officials treated Hugo's declaration as outright provocation. Love responded by warning the thirty-four signatories that they would meet the same fate as their friends.<sup>31</sup> On 2 November, these men were also escorted from Jersey, some resettling in neighboring Guernsey and some in London.

In the month that followed, the editors of *L'Homme*, prominent refugees residing across Britain, and Chartist leaders ensured that the plight of the French refugees from Jersey became common knowledge, penning and reprinting articles on their behalf and hosting support rallies, accounts of which appeared in turn in the national and provincial press.<sup>32</sup> Key among these was an 11 November rally in Newcastle led by radical republican MP Joseph Cowen, Jr., the son of an industrialist who had welcomed Polish and Hungarian refugees to Newcastle several years before. A second key meeting took place on 13 November at St. Martin's Hall in London. Edward Miall, a nonconformist, journalist, and Liberal MP for Rochdale, chaired this gathering, and Chartist Ernest Jones presided from the platform. Smaller meetings took place in Paisley on 26 November and in Glasgow on 27 November. While the first two gatherings drew mostly radical attendees, they were quickly broadcast across the United Kingdom.<sup>33</sup>

By January 1856, the concern for the refugees had died down. Like so many refugee groups before and after, they faded into the tapestry of cosmopolitan Britain. These particular refugees would disappear, but not before their cause had drawn the nation into a new conversation about the nature of Britain's habit of providing refuge to persecuted foreigners.

## PRECEDENT, DOCTRINE, AND RIGHT IN THE REMAKING OF REFUGEE HISTORY

In their campaign, the French refugees and their supporters retold the history of Britain and the refugees it hosted. In so doing, they established basic assumptions about the nature of British refuge in general from which they would continue to argue their cause in particular. Whereas scholars of human rights tend to seek out clear transitions in documenting a modern rights regime, discussions of the nature of refuge as a practice, even as a universal or British right, were grounded in the 1850s in a quest for precedent, for usable history. The refugees and activists were not alone in this turn to history. As the literary critic Ayelet Ben-Yishai notes, for example, legal scholars' search for rational, positive bases for law reform in the middle of the nineteenth century continued to draw heavily on "common

<sup>30</sup> "Jeudi dernier, après le départ de nos amis, la déclaration qu'on va lire a été affichée à un très grand nombre d'exemplaires sur les murs de Jersey." *L'Homme*, 24 October 1855, 1.

<sup>31</sup> "Les Journaux de Jersey annonçaient, Samedi, qu'à la suite d'un conseil des ministres, Sir G. Grey avait envoyé l'ordre d'expulser les signataires de la déclaration." *L'Homme*, 31 October 1855, 3.

<sup>32</sup> Porter has pointed out varying accounts as to how many people attended the Newcastle and Paisley meetings as evidence of lack of interest in refuge. See Porter, *The Refugee Question in Mid-Victorian Politics*, 122.

<sup>33</sup> A search of the British Library's Newspaper Archive Database shows that news about the London meeting appeared in 106 articles from 86 different newspapers by the end of November 1855.



precedents.”<sup>34</sup> For the French on Jersey and their supporters across Britain, a revised British history of refuge offered a means of deriving a sense of right. Their use of history gave what might appear an ad hoc practice a lineage that had national meaning and spoke to a broad sense of moral responsibility carried out not just in the moment of any given emergency but across time.

By 1855, Britain had already witnessed more than sixty years of regular traffic of refugees from the Continent to her shores. Networks of humanitarian providers regularly published accounts of their funds, offering a wonderful window for historians to glimpse what drew Britons to refugees’ cause and how they used charitable funds. Yet as frequent as these charitable campaigns were in the era, reports of their activities rarely took a synoptic view of British refugee relief. Historians interested in the *longue durée* drew not on the present but on the story of the French Huguenot (French Protestant) diaspora of the sixteenth and seventeenth centuries.

In the 1840s, British writers seized upon histories of the Huguenots written on the Continent,<sup>35</sup> highlighting Britain’s role in their rescue. John Southerden Burn published an 1846 monograph on not just the Huguenots but on Protestant refugees to England more generally.<sup>36</sup> Swiss historian Charles Weiss followed suit, placing British refuge for the Huguenots foreigners in an international context. His 1853 *Histoire des Réfugiés Protestants de France, depuis la Révocation de l’Edit de Nantes jusqu’à nos jours* gained favorable notice in Britain even before an English translation appeared in 1854. *Blackwood’s Edinburgh Magazine* swiftly reviewed the original French text, highlighting Britain’s foremost place among the providers of Huguenot refuge. Weiss’s meticulous research showed that the Huguenots had not merely found asylum in the British Isles but had also made their mark on the course of British history. Huguenot soldiers had assisted in the Battle of the Boyne and, despite fears to the contrary, had demonstrated great loyalty to the British state and to William III’s reign after the Glorious Revolution.<sup>37</sup>

The cultural appeal of Huguenot history extended far beyond the reach of these more academic works. In 1848, Giacomo Meyerbeer’s 1836 opera *Les Huguenots* debuted in London. Despite the expense of the production, it played regularly at Covent Garden, the Royal Opera at Covent Garden returning to *Les Huguenots* for the opening of the new opera house in 1858.<sup>38</sup> The work recalled the sixteenth-century wars of religion in France through the story of a star-crossed love affair ending in the carnage of the St. Bartholomew’s Day Massacre. Other tales emphasized the longer span of the Huguenot odyssey. The first published Huguenot

<sup>34</sup> Ayelet Ben-Yishai, *Common Precedents: The Presentness of the Past in Victorian Law and Fiction* (New York, 2013). The turn to history mirrors broader cultural interests of the era. See, for example, Philippa Levine, *The Amateur and the Professional: Antiquarians, Historians and Archeologists in Victorian England, 1838–1886* (Cambridge, 2003); Patrick Joyce, *Visions of the People: Industrial England and the Questions of Class, 1848–1914* (Cambridge, 1991).

<sup>35</sup> French historian Jules Michelet’s nineteen-volume *History of France*, published between 1844 and 1867, brought histories of religious persecution to the fore.

<sup>36</sup> John Southerden Burn, *The History of the French, Walloon, Dutch and other Foreign Protestant Refugees Settled in England* (London, 1846).

<sup>37</sup> Review of *Histoire des Réfugiés Protestants de France, depuis la Révocation de l’Edit de Nantes jusqu’à nos jours*, by Charles Weiss, *Blackwood’s Edinburgh Magazine* 74, no 453 (July 1853): 12–15.

<sup>38</sup> Robert Letellier, *Meyerbeer’s Les Huguenots: An Evangel of Religion and Love* (Newcastle upon Tyne, 2014), 101 and 122.

memoirs and novels appeared for the broader British public in the first half of the 1850s. William Anderson's 1853 *Blanche, the Huguenot: A Tale* described the harrowing ordeal of one Protestant family in their struggle to remain true to their faith and flee their persecutors. Like the protagonists of fictional and non-fictional accounts of other continental refugees at mid-century, these heroes and heroines were shown to have suffered terribly for their beliefs, refusing to relinquish their faith even as their families were torn apart. While these histories surged in popularity against the backdrop of global refugee crises in the 1840s and early 1850s, the historical texts rarely made mention of the newer refugees seeking shelter on British shores.

In part, the histories enjoyed such popularity because they dovetailed with fears of resurgent Catholicism at home at the same time that the pope, backed by France, reasserted his autocratic rule in Rome. Within Britain, elite and ordinary Protestants felt they had reason to fear for the security of Protestant England. They watched what seemed to them to be a revival of Catholicism in England after 1850. Increasing numbers of Irish in England after the Potato Famine meant a greater demand for Catholic parishes at a time when Anglican church attendance seemed to be on the wane, a source of anxiety made worse with several high-profile conversions by prominent Anglican intellectuals.<sup>39</sup>

While these narratives did not mention the persecuted foreigners of the era, they offered a critical starting point for those who argued on behalf of contemporary asylum seekers. Whereas the Huguenot comparison could be used in the negative by opponents of British asylum as Tony Kushner has shown for the later nineteenth century, the history helped reestablish anti-Catholic rhetoric in defense of refuge at mid-century. Stories of Catholic "aggression" did not mean a wholesale return to the existential confessional divides of the early modern era, however, nor more particularly to the days when being a refugee meant being a persecuted foreign Protestant. Expansive uses of the term *popery* in the late 1840s and 1850s stood in for Britain's fight against illiberal rule more generally. Italian refugees and their British supporters thus emphasized the antagonism between the pope and Italian refugees of the day. Luigi Bianchi, for instance, almost a decade after he was expelled from Malta, used his memoirs to excoriate the colonial governor there for falling prey to Jesuitical influences. Bianchi wrote that he had intended to take up a position at the university in Malta after fleeing Rome, but by his account the island was a haven for continental Jesuits with "hearts burning with anger and hatred, and thirsting for vengeance." To these implacable villains, "the Protestant government of England was a continual irritation," and they worked to "inspire the governor with their feelings towards Italians, and especially towards those who had fought against the Pope, assuring him that our dismissal was his most sacred duty, as a band of desperadoes."<sup>40</sup>

New popular histories of British refuge as a Protestant refuge thus met the political exigencies of a more politically secular era. The expulsion of the little-liked refugees from Jersey provided commentators with an opportunity to integrate this history

<sup>39</sup> Michael Wheeler, *Old Enemies: Catholic and Protestant in Nineteenth-Century English Culture* (Cambridge, 2006). For the social impact of Irish immigration, see Lynn Hollen Lees, *Exiles of Erin: Irish Migrants in Victorian London* (Ithaca, 1979).

<sup>40</sup> Luigi Bianchi, *Incidents in the Life of an Italian: Priest—Soldier—Refugee* (London, 1859), 210–11.

into accounts of past liberality that would consolidate a universal right to refuge robust enough to stand on its own whatever the (un)popularity of its beneficiaries. In the last months of 1855, refugees and British commentators alike retold this longer history of universal refuge, alternatively seeking roots for the practice in the laws of religion and in Magna Carta.<sup>41</sup> These histories, though often little more than post-hoc reconstructions, were nevertheless successful in buttressing a narrative of British refuge as a right that Britain had granted and could not renounce without betraying its ideals and sullyng its national pride.

This shift to an avowedly liberal history of refuge made good rhetorical sense to *L'Homme* editors Charles Ribeyrolles, Charles Hugo, and Victor Hugo. They argued in *L'Homme* that Britain's long and broadly welcoming tradition of asylum ought now to extend to their community on Jersey: to expel refugee republicans, as local authorities threatened, was to betray all that was British. The history they told through *L'Homme* emphasized Britain's long-standing ethical commitment to foreign refugees whose misfortunes alone demanded empathy. In the middle of the expulsion crisis, Ribeyrolles reprinted sections of Michelet's *L'Histoire des Guerres de Religion* that enumerated the wrongs committed against the French Protestants. Ribeyrolles cited Michelet's claim that that the "cruel circumstances" of Huguenot martyrdom led them naturally to a "life of extraordinary purity" and "astonishing fraternity" in their wretchedness.<sup>42</sup> Ribeyrolles's claim, through Michelet, was that the sheer misery of exile ought to excite British sympathy and hence support.

The editors wove together their call for sympathy with an appeal to British identity and precedent. They argued that Britain had for centuries made a political commitment to refuge, saving lives and allowing for the "liberty of grievances." The Protestants of Rochelle had not only found a home in Britain but had become part of the nation: as Britons themselves, the people of Jersey were "this people, the sons of these martyred people."<sup>43</sup> If they spurned the "1848ers," the British people would be turning on the likes of their own ancestors. The editors reminded readers that their hospitable forebears had made a point of looking past confessional antagonisms that might have made a less generous people turn their backs. After all, the priests, the nobles, and the officers who fled the French Revolution of 1789 for Britain had "all been bitter enemies of your institutions, of your religious sects, and whose fathers had drunk Protestant blood."<sup>44</sup> Yet they too had been offered a home in Britain.

<sup>41</sup> Although efforts to modernize law and to lay claim to the parameters of the British Constitution predate the 1850s, this period was particularly fertile for efforts to rationalize Britain's unwieldy legal system. Many of the reforms were focused on particular legal domains, such as international, domestic, and imperial law; the "refugee question"; and the quest to ground the practice of asylum in something more durable as precedent tended to reach across these more specific areas of law.

<sup>42</sup> "[Une] terrible education par le martyre leur rendait naturelle une vie de pureté extraordinaire, dans une étonnante fraternité. L'égalité de misère, de peril, faisait l'égalité d'esprit." Jules Michelet, *L'Histoire des Guerres de Religion*, vol. 9 of *L'Histoire de France, L'Histoire des Guerres de Religion*, as excerpted in "Varieties," *L'Homme*, 24 October 1855, 3–4.

<sup>43</sup> "Vous êtes ce peuple lui meme, les fils de ce peuple martyr, *et vous priszervez!*" Charles Ribeyrolles, "Au Peuple de Jersey," *L'Homme*, 31 October 1855, 2.

<sup>44</sup> "C'étaient des nobles, des officiers, des prêtre catholiques, tous ennemis acharnés de vos institutions, de vos sects libres, et dont les pères avaient bu le sang protestant, le sang des apôtres, la coupe du Christ." Ribeyrolles, 2.

The editors of *L'Homme* were not idiosyncratic in their emphasis on the diversity of persecuted foreigners who had found shelter in Britain. Most commentators did so,<sup>45</sup> as did pro-refugee rallies. Miall at the outset of his comments at the St. Martin's Hall meeting invoked Mazzini as well as "the illustrious Magyar, Kossuth," While much beloved, these refugees' particular political alignments were alleged to matter little (though in reality liberal freedom fighters were preferred!). "We have not thought it necessary to inquire whether these men's political views were in accordance with our own," Miall announced to "much cheering"; "it sufficed for us that they were, from political causes, exiles from their own country; their misfortunes were a sufficient passport to our protection."<sup>46</sup> Although Miall set aside the political affiliations of refugees, his inclusion of the well-liked Kossuth and Mazzini reminded the audience and the broader readership of the proceedings that refugees were not limited to the "distasteful" sort of radical who stooped to libeling the queen. Left-leaning and radical commentators were quick to point out that both Louis Philippe and Louis Napoleon had once been exiles in Britain.<sup>47</sup> From Britain, they too had railed against the then-governments of France and had even plotted their insurrectionary exploits with impunity.<sup>48</sup>

Beyond establishing a sense of a British tradition of refuge, the French on Jersey and their supporters tried to enunciate the basic principles of refuge, turning to a more abstract language of "right." Nearly 22 percent (277 articles) of the 1,278 articles on the Jersey refugees from this period in the British Library's Newspaper Archive Database discuss refuge in terms of rights. Of these 277 articles, 140 (or almost 11 percent of the total) use the exact phrase "right to asylum." In the fall and winter of 1855, campaigners argued that these "rights," though nowhere written in British law, derived from a higher power, though that source of legitimacy varied. At times, the "right to refuge" derived from religion, at other times from natural law or from British constitutionalism dating back to the Magna Carta. In this manner, British commentators tried out several rhetorical tacks in their efforts to establish the principles upon which a right to refuge could be founded.

Some commenters pointed to the Bible for support. References to the biblical injunction to assist the stranger were rarer at mid-nineteenth century than they had been in the 1790s. As these declined, references to "cities of refuge" from the Judeo-Christian tradition became more frequent. Sanctuary towns and churches had been a feature of medieval and early modern ecclesiastical law. Interest in these long-abolished institutions swelled in early 1855, thanks to parliamentary attacks on what remained of canon law at the time.<sup>49</sup> In the wake of the expulsion crisis, commentators returned to this history to support their claims about refuge for

<sup>45</sup> For example, see "Spirit of the Press," *Caledonian Mercury* (Edinburgh), 26 October 1855, 3; Cromwell, letter to the editor, "French Refugees," *Glasgow Sentinel*, 3 November 1855, 4; "The Right of Refuge," *Lloyd's Weekly Newspaper*, 18 November 1855, 1; "The Jersey Refugee Question," *Preston Chronicle*, 24 November 1855, 4.

<sup>46</sup> "The Jersey Exiles—the Rights of Refugees," *Caledonian Mercury* (Edinburgh), 14 November 1855, 2.

<sup>47</sup> "Refugee Meeting at St. Martin's Hall," *London Daily News*, 13 November 1855, 4; "The Expulsion of the Jersey Refugees—Great Meeting at Newcastle," *London Daily News*, 15 November 1855, 3.

<sup>48</sup> "Opinion de la presse libre en Angleterre sur le coup d'état à Jersey," *L'Homme*, 31 October 1855, 3.

<sup>49</sup> The Anglican ecclesiastical courts lost their jurisdiction over civil sexual slander cases in 1855. The ecclesiastical courts were abolished altogether within a decade.

foreigners, but it proved a mixed blessing. For refugee advocates, the injunction to build “cities of refuge” sanctified British refuge in the present; even some more doubtful commentators recognized these practices as a plausible historical origin of contemporary refuge.<sup>50</sup> Yet references to sanctuaries could cut the other way. By some accounts, the sanctuaries had been dens for the worst sort of criminals. Referencing medieval sanctuaries across Europe, one writer called the “right of asylum [that had been] accorded to some churches ... one of the most hideous privileges.”<sup>51</sup> Editorialists like an anonymous writer for the *Bradford Observer* seemed dismayed at the fact that Britain continued the practice of medieval cities of refuge.<sup>52</sup>

Appeals to natural law stood on firmer ground. In a letter to the editor of *L'Homme*, two London-based refugees emphasized that British hospitality was not a favor but a right, one derived from the transcendent “law of human solidarity.”<sup>53</sup> Joseph Cowen emphasized the point when he exclaimed before his Newcastle audience,

Humanity requires that the right of asylum should be inviolable, and its assertion scrupulously respected. Who can tell the name of the next refugee? Him we would protect, whoever he be, whether it be Louis Philippe, Victor Hugo, or Louis Napoleon. There is nothing impossible on the stage of life, and we would be disposed to so frame our laws as to meet the contingency of to-morrow as it has met that of yesterday.<sup>54</sup>

Appeals like Cowen’s were widespread. Even in expressions of doubt among opponents of the French refugees’ cause, one finds ideological support for British refuge, if not for these particular refugees and for their alleged activities in exile. These conservatives recognized a right to asylum but stipulated that it had to be reciprocated by good behavior on the part of refugees. For the authors of an article in the *Caledonian Mercury* (Edinburgh) on 18 October 1855, this reciprocation meant accepting a universal law of hospitality, but not an unconditional one (a point to which I return below).<sup>55</sup>

Natural law, in these accounts, dovetailed with Britons’ self-fashioned international image. The point in both these constructions was to make the British own their obligations to persecuted foreigners while highlighting the costs of abjuring them to their national pride.<sup>56</sup> Other nations might trespass against the higher moral law; Britain did not. As an article in the *London Daily News* reminded readers, it was

<sup>50</sup> “The Right of Refuge,” *Lloyd’s London Newspaper*, 18 November 1855, 1; A Liberal, letter to the editor, *Times* (London), 17 November 1855, 12.

<sup>51</sup> “Ecclesiastical Privilege,” *Bolton Chronicle*, 23 June 1855, 6.

<sup>52</sup> “The Political Refugees,” *Bradford Observer*, 25 October 1855, 4.

<sup>53</sup> Greppo and E. Chevassus, “Au Redacteur de *L’Homme*,” *L’Homme*, 31 October 1855, 3. “L’hospitalité de votre sol new l’acceptons, non comme une faveur, mais comme un droit supérieur qui derive de la grande loi de Solidarité humaine.”

<sup>54</sup> Joseph Cowen, “Expulsion of the Refugees—Address by Cowen,” *London Daily News*, 15 November 1855, 3. Cowen chose Frenchmen as his examples—ironically, Louis Napoleon would indeed be the next major head of state to seek refuge in Britain, in 1870.

<sup>55</sup> “Spirit of the Press,” *Caledonian Mercury* (Edinburgh), 18 October 1855, 4.

<sup>56</sup> Religious references to hospitality to the stranger occurred more regularly during the eighteenth century than in the nineteenth, particularly common in charitable briefs on behalf of the Catholic émigrés in the 1790s and on behalf of liberated Africans whose primary relief providers were missionaries. See Shaw, chaps. 1 and 4 in *Britannia’s Embrace*.

Palmerston's government that had helped the Ottomans safeguard Kossuth and the Hungarian nationalist army just a few years earlier. Together, the British and Ottoman governments had argued that the international moral law of hospitality trumped Austrian interest in obtaining Kossuth.<sup>57</sup> The implication here was that, in setting the standard for refuge, Britain showed itself to be not only *a* great power but *the* great power, the leader in upholding modern (liberal) moral ideals.

Pride mattered internally as well as on the international stage. The situation of the Jersey refugees in particular enabled a pointed conversation about the British constitution. This third mode of argumentation in the media support set up a direct relationship between the right to refuge and basic British liberties. Established more in the negative, denial of refuge was either tantamount to a breach of liberties or came along with other breaches of the law. The shame, in this case, accompanied Jersey's peculiar system of governance but threatened to tarnish the liberties of all Britons on and off Jersey. At the time of the protest meetings on Jersey, advocate François Godfray of Jersey had pleaded with Love to try the editors of *L'Homme* in a court of law before removing them. Other Jersey inhabitants reached out to the metropolitan public, highlighting the apparent abuse of basic liberties. Angelo Gonzales wrote to the *Morning Advertiser* on 31 October with a copy of the law that granted officials the power to expel foreigners, but his point was not to attest the legality of their actions. Rather, it was to deliver a scathing critique of the centralization of power in the hands of two men on Jersey—Love and the French vice-consul. Gonzales claimed that all other officials were “tools only to be used by the said two personages.”<sup>58</sup> None other than Victor Hugo confirmed Godfray's and Gonzales's sense that Jersey officials debased basic liberties. In mid-November, around the time of the protest meetings, newspapers reprinted an article recreating the dialogue between Hugo and the magistrates on Jersey. As Gonzales's article portrayed it, Hugo, not the officials, highlighted the best practices that ought to have been followed. Rather than submit to their commands, Hugo demanded to see the “written order of the British Government” for his arrest. The officials were unable to produce such an order. Hugo then lectured them—and the audience reading the article—on the dangers of inscrutable actions. Whereas Hugo made his complaints clear by publishing them, the “military authority” on Jersey compelled these poor magistrates to act as lackeys. Apparently ashamed of their actions, the “three magistrates made no reply, but remained seated, with downcast looks.”<sup>59</sup>

Metropolitan radicals drew upon these points immediately, decrying Love's disregard for a basic British liberty. In Sheffield, outraged members of the public formed an investigative association that petitioned the queen on the refugees' behalf, advocating proper trial by jury.<sup>60</sup> The petition pointed out the quite real possibility that a trial might have led to a conviction, in which case the due punishment of law would be appropriate. Instead, the lieutenant governor had “brought the terrors of

<sup>57</sup> “London, Monday, Nov. 19,” *London Daily News*, 19 November 1855, 4.

<sup>58</sup> Angelo Gonzales, “The Jersey Affair—Major General Love, Governor of the Island, Disclosures,” *Morning Advertiser* (London), 31 October 1855, 3.

<sup>59</sup> “The Jersey Outrage—Interview between Victor Hugo and the Connectable of St. Clements,” *Glasgow Sentinel*, 10 November 1855, 1.

<sup>60</sup> TNA, HO 45/6188, fol. 50a, “Channel Islands: Refugees, 1855.”



martial trial to bear upon the offenders,” as the *Daily News* observed.<sup>61</sup> An article in the *Cheshire Observer and General Advertiser* of 10 November 1855 proclaimed “these rights of asylum” to be “as much a portion of the constitution as Magna Charter [*sic*] or Habeas Corpus ... [A government] minister would as soon annihilate trial by jury, as he would treat with contempt those sacred rights.”<sup>62</sup> Cowen pursued the same line of argument in his address to the Newcastle meeting about the Jersey refugees. He linked “the right of asylum, the right of free discussion, the privilege of being considered innocent till proven guilty, and trial by jury.” Together, these rights “constituted the bulwark of our liberties.”<sup>63</sup> Speaking at the Newcastle meeting, a Josiah Thomas suggested that the treatment of the refugees on Jersey was tantamount to a reinstatement of the lapsed 1848 Aliens Act. That act had been considered loathsome and in fact had never been enforced. The expulsion from Jersey was even worse, Thomas continued, because it was not the product of proper parliamentary proceedings.<sup>64</sup> An anonymous “English Republican” followed suit, drawing language from the histories of the Huguenots in claiming that the actions of Lieutenant Governor Love and his deputies were “so cunning, disingenuous and Jesuitical as to endeavor to make of this great question a stalking-horse for their own politico-religious nostrums.”<sup>65</sup> The point was twofold: that Love was acting against British interests by using maneuvers worthy only of papal agents, and that these refugees, like others before them, required protection from such illiberal rule. The fact that the refugees in question were Catholic mattered little.

The more mainstream liberal Richard Cobden, though wary of popular political support for refugees’ causes, echoed these concerns in less hyperbolic language. He put the case before the mainstream metropolitan public bluntly in an open letter he sent to the London protest meeting. He called the official actions dangerous, befitting a nation consumed with fear for its own security and dependent on martial law rather than enjoying liberal rule. For Cobden, Love’s summary expulsion represented an unwelcome throwback to the days of Lord Sidmouth, who had tampered with basic liberties in the hopes of quieting reform agitation in the 1810s and 1820s.<sup>66</sup> Chartist and barrister Samuel Kydd, writing to *Reynolds’s Newspaper*, argued that it was Britons’ “duty” to “check the march of barbarism at home” and that

<sup>61</sup> “The Rights of Refugees,” *London Daily News*, 19 November 1855, 3.

<sup>62</sup> “The Rights of the Exile in Danger,” *Cheshire Observer and General Advertiser*, 10 November 1855, 7.

<sup>63</sup> “The Expulsion of the Jersey Refugees—Great Meeting at Newcastle,” *London Daily News*, 15 November 1855, 3

<sup>64</sup> Resolutions on the expulsion of the French refugees from Jersey passed at the public meeting of the Newcastle-on-Tyne Foreign Affairs Committee, 12 November 1855, Cowen Collection, DECOW/A/400, Tyne & Wear Archives Service, Newcastle.

<sup>65</sup> English Republican, “The Expelled Refugees and English Sympathizers,” *Reynolds’s Newspaper*, 18 November 1855, 3. One might expect more of this sort of connection. After all, the British wasted no love on the French emperor’s pretensions of grandeur or his support for the pope in the recent Roman revolution. For the negative view of Napoleon III, see Richard Koebner and Helmut Dan Schmidt, *Imperialism: The Story and Significance of a Political Word, 1840–1960* (London, 1965).

<sup>66</sup> Richard Cobden, “Letter from Cobden Read at St. Martin’s Hall, London,” *Lloyd’s Newspaper*, 18 November 1855, 5. Sidmouth was the Home Office secretary who issued the 1819 Six Acts restricting political and public activities in a time of great agitation for parliamentary reform, restricting liberties to eliminate supposed seditious activity.

foreigners and British nationals must be protected.<sup>67</sup> Love's action therefore could only be understood in this light as summary justice—lynch law or martial rule.

These commentators, unified in their fears for Britons' moral guideposts, diverged on the source of these woes. The writer to the *Cheshire Observer* worried that the pressures of the Crimean War would bring back restrictions on basic liberties. The *Morning Advertiser*, among others, expressed concern that Britain might fall prey to "lynch law." For the *Morning Advertiser's* editors, the illiberal proceedings in Jersey were so foreign to British practice that they suspected "secret agents of alien Monarchs" of leading the authorities astray.<sup>68</sup> For others, the danger was less tied to the exigencies of a moment of war—after all, the war was taking place far from the British Isles.

Despite these differences, pro-refugee commentators all believed that Britain faced a stark choice: either support refugees and the rule of a liberal law and global order, or expel refugees, undoing in the process Britons' basic political moorings and a key source of international pride. Properly understood, refugee supporters argued, a "right to asylum," was already integral to Britain's underlying principles whether derived from religion, from natural law, or from constitution.

## SUCCESS IN A FAILED CAMPAIGN

If the measure of success for this campaign is a national admission that the refugees in question had a right to remain on Jersey, the campaign failed spectacularly. None of the refugees ousted from Jersey in the fall of 1855 would be allowed to return. So long as the officials had acted within the law, no matter how flawed it seemed, officials in London were not going to countermand Love's orders. Even refugees who could argue for familial and business connections on the island were refused the right of return.<sup>69</sup>

But the oddity of the campaign itself lies in the fact that there was a significant disjuncture between the aims of the refugees and their British supporters and the language of a right to asylum or refuge that they used. The foreigners in question were not actually being denied refuge; as base as the expulsions from Jersey were, the forced removal did not require the refugees to return to their homeland, only that they remove to another corner of British soil. In this respect, their move was consistent with other refugee transmigrations, though in reverse. While other refugees—for example, continental Protestants in the early eighteenth century or Eastern European Jews in the later nineteenth—were encouraged to move to outposts of the British Empire, these Frenchmen moved to London. However rife

<sup>67</sup> Samuel Kydd, "The Rights of the Refugees," *Reynolds's Newspaper*, 11 November 1855, 13.

<sup>68</sup> *Morning Advertiser* (London), 2 November 1855, 4. See also letter to the editor, *Morning Advertiser*, 24 October 1855, 4; "The Refugees," *Leader* (London), 3 November 1855, 2.

<sup>69</sup> For Waddington's correspondence on the refugees' fate, see TNA, HO 45/6333/22, Channel Islands: Jersey: Return of those who have been expelled from the island, 1856–1859. For one such case, see TNA, PRO HO 45/6406/3, Channel Islands: Jersey: Application from Edouard Biffi to be allowed to return to Jersey after expulsion in 1855.

with the prejudices of religion, class, and politics, such treatment was in keeping with the refugee advocates' standard operating procedures.<sup>70</sup>

Though a strange case, its power and its real successes lay elsewhere. First, the campaign on foreign refugees' behalf illustrates the degree to which their treatment acted as a barometer for the health of British liberties at home, notably the state of British laws and the creep of barbarism as close to the core of the empire as the Channel Islands. In the discussion, the persecuted foreigners were themselves lost in the mix, the conversation merging into a longer history of attempted legal reform on Jersey. And yet there was a second, more enduring way in which the debate shaped the treatment of refugees. The campaign helped to crystallize an abstracted language of right around the practice of providing refuge, one that became difficult even for opponents of open refuge to ignore either in the moment or in the decades that followed. These two outcomes were linked. By the 1850s, Britons had begun to assume that their nation had shed the political insecurities of the past decades and embraced liberal reforms. While debates over the constitution of Jersey addressed inconsistencies in Britain's complex system of governance, the language of a right to refuge projected that sense of security onto Britons' self-image on the global stage.

Concern about the laws on Jersey maps onto a broader nineteenth-century metropolitan anxiety over despotism at the outposts of empire, as Lauren Benton and Lisa Ford have recently shown. Such concerns did not necessarily generate progressive change, since officials in London often heeded local authorities standing in the way of reform.<sup>71</sup> Yet in the context of Jersey, such anxieties tended to return periodically across generations. Questions about the crown's power to issue writs of habeas corpus in Jersey, for example, had been a live legal question since the seventeenth century, as Paul Halliday has shown.<sup>72</sup> In October 1855, many in the metropolitan public experienced the events on Jersey as an uncomfortable whiff of despotism in their own empire. On 22 October 1855, an editor for the reliably liberal *London Daily News* wrote that he suspected "most Englishmen feel rather ashamed." Having recently overcome the worst of their *ancien régime* in the elimination of the last aliens act, this exercise of "Lynch Law," as the writer called the expulsion, was "barely tolerable in new and remote settlements, where neither police nor regular courts of law exist"; it was "not to be endured" in a country having a fully developed judicial system with all its auxiliaries.<sup>73</sup> The writer's assumption was that Jersey ought to have legal institutions as liberal as those in the rest of metropolitan Britain. Jersey was not, after all, some reactionary continental locale or the United States then under the oppressive yoke of the 1850 Fugitive Slave Act. As public conversation unfolded, however, it became increasingly clear that the constitution of Jersey, an oddity to the rest of Britain, was as well a source of official

<sup>70</sup> Maya Jasanoff, *Liberty's Exiles: American Loyalists in the Revolutionary World* (New York, 2011); Prakash Shah, *Refugees, Race and the Legal Concept of Asylum in Britain* (London, 2000); Shaw, chap. 4 in *Britannia's Embrace*.

<sup>71</sup> Lauren Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800–1850* (Cambridge, MA, 2016).

<sup>72</sup> Paul Halliday, *Habeas Corpus: From England to Empire* (Cambridge, MA, 2010), 227–28, 267–69.

<sup>73</sup> *London Daily News*, 22 October 1855, 4. Whereas scholars have treated Jersey as an extension of metropolitan history, the very question of Jersey's similarity or difference was at the heart of the treatment of the French refugees in 1855.

discontent. It became apparent—and astonishing—that such “despotism” was technically legal under the constitution of Jersey and the special ordinances under which it was ruled.

The generation of metropolitan commentators active in 1855 typically knew little about Jersey prior to the expulsion crisis. In the 1830s and 1840s, travel writers had published several portraits of life on the Channel Islands. These accounts were hardly advertisements for holiday travel to the island. While consistently admiring Jersey for its beauty, the 1843 *Hand-Book on the Channel Islands*, for example, introduced Jersey as a place with “abominable and absurd laws,” “ignorant law-makers,” and an “inefficient and irresponsible police.”<sup>74</sup> Jerseymen and the English comprised two distinct factions.<sup>75</sup> The administration favored the former, the author argued, and the ancient Norman-French used in the courts mystified and disadvantaged Englishmen. Prison sentences were often “interminable,” a “vile mockery of law.”<sup>76</sup> Given “petty jealousies and eternal bickerings” among officials, there was little hope of change for the better: “What Mr. Godfrey proposes, Mr. Le Suer opposes—and what Mr. Le Suer proposes, Mr. Godfrey opposes.” Officials thus became “masters of enacting temporary laws for three years and evading the permanency of the constitution’s spirit.”<sup>77</sup>

Jersey law was indeed an idiosyncratic bricolage of inherited modes of government. Administered jointly between local officials and a British-appointed lieutenant governor drawn from the ranks of the military, Jersey’s legal code itself came from a mixture of English law and Anglo-Norman customary law. For a sizable portion of the Jersey population, these laws were their patrimony and a source of pride.<sup>78</sup> Critics in Britain and on Jersey, however, scorned the system as being rife with abuses of power. This indictment was not new in the 1850s. The government in London had concerned itself fitfully with the idiosyncrasies of Jersey’s governance since at least the end of the seventeenth century. Officials’ first major concern was that Jersey was becoming something of a penal colony for metropolitan prisoners. While in theory English jurisdiction extended to Jersey, local officials in England as late as the 1830s capitalized on the ongoing disputes over the reach of habeas corpus by bundling prisoners off to Jersey.<sup>79</sup> By the late 1840s, the laws of the Channel Islands taken together had become the subject of a royal commission. That commission’s 1847 final report found that the administration of justice on Jersey was incomprehensible to British observers. Investigations found that officials often meted out arbitrary justice, disregarding even the parameters of Norman customary law.<sup>80</sup> Part of the problem, the commissioners reported, was that court

<sup>74</sup> Coghlan, *Hand-Book to the Channel Islands*, 28.

<sup>75</sup> *Ibid.*, 35–36.

<sup>76</sup> *Ibid.*, 50–51.

<sup>77</sup> *Ibid.*, 41, 47.

<sup>78</sup> See, for example, Henry D. Inglis, *The Channel Islands: Jersey, Guernsey, Alderney, Etc.* (London, 1835), 91–92.

<sup>79</sup> Helen Nutting, “The Most Wholesome Law—The Habeas Corpus Act of 1679,” *American Historical Review* 65, no. 3 (April 1960): 537; Paul Halliday, *Habeas Corpus*, 227–28, 267–69; Lisa Haber-Thomson, “Where Is Habeas Corpus? Architecture and Legal Procedure in the British Empire,” paper presented at the Conference for the British Scholars’ Society, London, 22 June 2016.

<sup>80</sup> First report of the commissioners appointed to inquire into the state of the criminal law in the Channel Islands. Jersey, *British Parliamentary Papers*, 1847, 865, xi and xii.

personnel were elected to their positions, and the electorate seemed to prioritize qualities other than legal education.<sup>81</sup> Nevertheless, the commissioners were optimistic that Jersey could readily be brought into line with accepted legal practice in metropolitan Britain, particularly in the critical area of criminal law. Somewhat unaccountably, the commission seemed confident that inhabitants would welcome these improvements and drew up detailed blueprints for reform. However, the prospect of reform polarized the population. While immigrants to the island from England and the Continent tended to favor plans to anglicize the legal system, native-born elites fought for the status quo. (Tellingly, it was an Anglo-Jersey inhabitant who had initially called for the royal commission.<sup>82</sup>) The commissioners themselves noted this pattern of division, which stymied implementation of their final report for more than a decade.<sup>83</sup>

Largely unaware of these debates, the British public received a rapid education in Jersey politics through the campaign for the French refugees on Jersey. The metropolitan press portrayed the island as backward and unfamiliar with the basics of the British constitution, though commentators disagreed on recommendations for reform. One editor of the *Daily News* believed that the powers necessary for the protection of refugees already lay in the hands of the government in London. The editor acknowledged the diversity of British colonial constitutions but highlighted a broader jurisdictional issue: whether summary deportation was “a power legally possessed by the governor of any British possession.” He argued that the foreigner, if illegally banished, “has a plenary right of redress in our superior courts of common law.”<sup>84</sup> According to the writer, if the Jersey case was subject to common law precedent, then there could be no doubt that the refugees had been wrongly treated. They should be allowed to return and, moreover, to plead their wrongs in the British courts.

Others sought a grander statement about the nature of constitutional law. An article in the *Liverpool Mercury* of 9 November 1855 believed some cunning lawyering could doubtless ferret out justifications for high-handed orders of banishment from the “days of the Plantagenets down to those of Eldon and Ellenborough” (c. 1150–1830). But these sorts of excuses would abrogate Jersey inhabitants’ basic civil rights. In an appeal to liberal progress, the writer proclaimed that there could be “no doubt that the general current of modern legal opinion is averse to the assumed right of the Crown to exercise an exceptional power, whether by banishment or otherwise, over foreigners resident on British soil.”<sup>85</sup> The author cited the increasing opprobrium heaped upon the aliens acts for perpetuating this very abuse of power and argued that it skewed the practice of justice against those, like the French radicals on Jersey, whose opinions were unpopular. What would become of basic liberties to freedom of conscience or expression if such abuses

<sup>81</sup> *Ibid.*, xxviii.

<sup>82</sup> Ansted and Latham, *The Channel Islands*, 582.

<sup>83</sup> First report of the commissioners... , *British Parliamentary Papers*, 1847, 865, xlii–xliii.

<sup>84</sup> *London Daily News*, 6 November 1855, 4. The writer based his claim on the 1774 case *Fabrigas v. Mostyn* in which Anthony Fabrigas sued the governor for having had him imprisoned (“falsely”) for trespass. For an analysis of this case with regard to British constitutionalism, see Nasser Hussein, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (Ann Arbor, 2003), 76–78.

<sup>85</sup> “The Refugee Question,” *Liverpool Mercury*, 9 November 1855, 7.

were allowed to continue? Like Cobden, this author glimpsed a possible return to the days of Lord Sidmouth and the oppression that followed the Peterloo Massacre.

Reports like these in the mainstream British press, occasioned by the campaign for the French refugees, struck a nerve on the island. While Jersey officials had government support in their expulsion of the refugees, they felt the need for more positive relations with the British public. Accordingly, Jersey officials appealed to British patriotism. Ignoring arguments like those made in the *Liverpool Mercury*, High Sheriff J. Le Couteur claimed that Jersey was essentially a military fortress. He explained in a letter published in the conservative *Morning Chronicle* that, because of Jersey's strategic location, officials were entitled to treat foreigners differently, even if that meant summary expulsion. Radical claims that the action was "unconstitutional" ignored Jersey's separate legal code. Le Couteur assured the readers that it could never be applied to British subjects, only to foreigners. He continued to cite Jersey's long-tested loyalty to Great Britain. Having deflected multiple threats to the British Isles, the inhabitants of Jersey could be relied upon to do what was best for Britain.<sup>86</sup> Issued as it was at the height of the Crimean War, Le Couteur's defense might have enjoyed some plausibility among conservatives especially. While few asserted that Jersey was a defensive lynchpin when it was so far from the Crimean battlegrounds, the broader international context at a time of war did indeed influence Britain's relationships with foreign refugees.<sup>87</sup>

I return to this broader point about refuge and international relations below. As far as Jersey's governance was concerned, however, debates over constitutional reform had stalled at the start of the Crimean War. The 1855 expulsion crisis renewed parliamentary interest in legal reform for the Channel Islands, but it remained mired in local political divisions. From London, officials continued to pressure Jersey to reform its laws, to modernize them. Jersey officials remained deeply leery of external criticisms, whether from refugees or Whitehall officials. While Parliament managed some reforms in the early 1860s, Jersey remains something of a legal outlier even today.<sup>88</sup>

If the Jersey campaign became an inflection point in the discussion of legal reform, it also marked a significant turning point in the rhetoric surrounding refuge for persecuted foreigners. In the midst of the 1855 campaign, the crystallization of the language of refuge became apparent in the admission even among opponents that there existed a more abstract responsibility to provide to asylum. Editors of the *Times* of London, generally unsympathetic to the Jersey refugees, clearly highlighted in a 17 October article that there was a "law of national hospitality."<sup>89</sup> The *Times's* editorial commentary would be reprinted in papers across the United Kingdom in a

<sup>86</sup> "The Expulsion of the French Refugees from Jersey," *Morning Chronicle* (London), 6 December 1855, 4.

<sup>87</sup> See footnotes 90–94.

<sup>88</sup> Ansted and Latham, *The Channel Islands*; 1862 (76) Jersey. Copies and extracts of further correspondence with the authorities of the isle of Jersey, on the subject of the report of the Royal Commission (in continuation of Parliamentary Paper, no. 336, of session 1861), *British Parliamentary Papers*, 1862, 76.

<sup>89</sup> *Times* (London), 17 October 1855, 6. Palmerston had been an advocate of this position as early as 1851. See, among others, Sir George Cornewall Lewis, *On Foreign Jurisdiction and the Extradition of Criminals* (London, 1859), 69, quoting Palmerston before the House of Commons on 1 March 1853.



matter of days.<sup>90</sup> This consensus position, that there was a moral responsibility to shelter the persecuted, cautiously sidestepped the question of “right” raised in the pro-refugee campaigns. Consciously deemphasizing a notion of right, the article encapsulated the conservative anti-French refugee position. The point was that, while refuge was a moral duty, other concerns might have to take precedent. Refuge, while ordinarily an obligation, did not always have to be one.

The *Times* editorial and those that followed its lead emphasized a number of considerations that would qualify open refuge. For the *Times* editorialist of 17 October, the point was that refugees had to be equally subject to the laws of England.<sup>91</sup> Just as the English were answerable at law for libel, so were refugees. While this *Times* editor did not hint that a libelous refugee deserved outright expulsion from Britain, an Oxford man writing to the *Morning Post* did. It would be a shame, he wrote, if bad behavior by refugees brought about the reintroduction of an aliens act. “Common gratitude” ought to lead refugees to behave better, he lamented.<sup>92</sup> This had been the position of officials on Jersey too. The 13 October protest meeting in St. Hélier had noted with sorrow that the behavior of these particular refugees would mean that Britain’s long-standing practice of providing asylum could not be maintained.<sup>93</sup>

Conservatives cited a second qualification to universal refuge: international relations. Radicals and liberals like Cobden drew upon antiwar sentiment, anxiously highlighting the alliance between Britain and authoritarian France and Austria during the Crimean War. Addressing a more conservative, pro-alliance establishment, opponents of the French refugees argued that harboring these particular foreigners could be disastrous to Britain’s allies. An 18 October article in the *Caledonian Mercury* from Edinburgh, for example, cited the comity of nations—the convention in diplomatic relations that requires friendly states to respect each other’s internal affairs—as a counterbalance to the universal law of hospitality. In practice, this principle meant that the British could not countenance activities on their shores that might undercut the internal stability of allies.<sup>94</sup> In the *Times* of 31 October 1855, one writer argued that, despite Britain’s long history of asylum, it was not always in Britain’s best interests: “No commonplaces about hospitality and the right of exile can be an answer to the question—What shall we do when there are men among us whom we know to be plotting against our ally, and consequently against ourselves?”<sup>95</sup> The writer admitted that few Britons admired the French emperor; nevertheless, “If the great war in which we are engaged is not a comedy to be lightly and carelessly considered, it was necessary for a state like England to interfere in the present case.”<sup>96</sup>

<sup>90</sup> The *Times* (London) article of 17 October was reprinted with slight differences in newspapers across the United Kingdom, including in the *Dublin Evening Mail*, 19 October 1855, 4; the *Belfast Mercury*, 19 October 1855, 4; and the *Sheffield Daily Telegraph*, 20 October 1855, 4.

<sup>91</sup> *Times* (London), 17 October 1855, 6.

<sup>92</sup> Henry Blew, “The Jersey Refugees,” *Morning Post* (London), 2 November 1855, 2.

<sup>93</sup> “Indignation Meeting at Jersey,” *Examiner* (London), 20 October 1855, 9.

<sup>94</sup> “Spirit of the Press,” *Caledonian Mercury* (Edinburgh), 18 October 1855, 4.

<sup>95</sup> “Such Proceedings as Those of Democratic...,” *Times* (London), 31 October 1855, 6.

<sup>96</sup> *Ibid.*

For their part, pro-refugee campaigners seized on the consensus position that refuge was a basic responsibility—indeed, a right. They emphasized the idiosyncrasies of Jersey law and argued that the thirty-seven expelled from Jersey were in fact law-abiding.<sup>97</sup> Moreover, campaigners further played upon fears for British sovereignty, noting how officials at the local levels were in the pockets of continental leaders, as Jersey resident Angelo Gonzales had noted. While their arguments did not save these particular refugees from expulsion, the crystallization of a consensus position around responsibility to refugees and a right to refuge had profound consequences in the decades to come. The language of right would be used successfully in later cases, just as concerns about the qualifications on this right or responsibility would force refuge into its strange present-day position as a quasi-right in the pantheon of modern human rights.

In the British context, the radical insistence on a right to refuge proved surprisingly enduring even in the face of ongoing concerns over the nature of refugee activities on British soil. After Felice Orsini's failed attack on Napoleon III's carriage in January 1858, British officials were quick to bring his co-conspirator, Dr. Simon Bernard, then resident in Birmingham, to trial. The actions of foreigners like Bernard confirmed for naysayers the violent propensities of *some* refugees. These critics became increasingly vocal as time passed, and the British public found it harder to sympathize with anarchists and other political extremists among latter-day refugees.<sup>98</sup> And yet public commentators continued to uphold a right to refuge. Rumors that Palmerston was considering an aliens act at the behest of Louis Napoleon in 1857 provoked profound concern from both the mainstream and radical press.<sup>99</sup> In Parliament, William Williams (MP for Lambeth) demanded to know whether it was true, and Palmerston denied the rumor.<sup>100</sup> When Palmerston did seek a new conspiracy-to-murder bill in 1858 after Orsini's attack in Paris, he met with insurmountable resistance on the grounds that the proposed bill seemed to many in Parliament to be an aliens act in disguise. In terms that replayed the discussion following the Jersey expulsion, the bill went down to defeat on the grounds that it abjured long-standing British asylum.<sup>101</sup> Much to everyone's surprise, Dr. Bernard himself was acquitted in his trial on similar terms. In speech for Bernard's defense, Edwin James emphasized the "right to asylum" at regular intervals. Again echoing language used in the years immediately prior, James suggested that, by condemning Bernard, the jury would have "destroyed" the "sacred right of asylum hitherto offered to foreigners."<sup>102</sup> British refuge was to remain sacrosanct. Even the 1905 Aliens Act, rightly

<sup>97</sup> A. Liberal, "The Jersey Refugees," *Times* (London), 17 November 1855, 12; Ernest Jones, "The Foreign Refugees," *Times* (London), 21 November 1855, 5.

<sup>98</sup> Shaw, chap. 6 in *Britannia's Embrace*.

<sup>99</sup> "The Foreign Refugee Question," *South Eastern Gazette*, 28 July 1857, 4. The article draws on coverage in the *Times* and the *Daily News*. See also the *Bolton Chronicle*, 1 August 1857, 2–3; "Our Imperial Ally," *Liverpool Mercury*, 10 August 1857, 8.

<sup>100</sup> Williams, speech to the House of Commons, 21 August 1857, *Parliamentary Debates*, Commons, 3rd series, vol. 147, col. 1972. See also debate in the House of Commons, 5 February 1858, *Parliamentary Debates*, Commons, 3rd series, vol. 148, cols. 762–71.

<sup>101</sup> Discussion on 19 February 1858, *Parliamentary Debates*, Commons, 3rd series, vol. 148, cc. 1741–1844.

<sup>102</sup> Edwin James, *The Speech of Edwin James, Esq., One of Her Majesty's Counsel, in Defense of Dr. Simon Bernard* (London, 1858), 12. James uses nearly the same construction on pages 8 and 28; on page 28

loathed for its restrictions on the immigration of destitute foreigners, would still contain an exemption for bona fide refugees.<sup>103</sup>

In the face of popular enthusiasm, legal experts would go on a quest to find for themselves where in international law a right to refuge or the law of hospitality resided, collecting accounts from across the globe, including from British colonies and from Her Majesty's embassies and ships in foreign lands. What they found flew in the face of the cultural consensus at home: the experts found there were no formal, legal obligations and only serial global revolutions had made it seem that there was a more fundamental responsibility to provide refuge.<sup>104</sup> On the one hand, such legal discoveries did not matter; they neither changed public discourse in metropolitan Britain nor absolved British officials of admitting those undeniably fleeing dangers to life and limb. On the other hand, the careful dance between official reticence and humanitarian pressures ought to feel quite modern to readers familiar with twentieth and twenty-first century discussions of asylum.

This dance importantly previews the considerations that have been at the heart of refugee law in relationship with human rights law. By the time of the drafting of the UN Universal Declaration of Human Rights in 1948, a right to refuge was on the table. Concerns for national sovereignty, for protecting resources and patrolling borders, took precedent. The right enshrined in the moment was thus not a right to asylum per se but a right to an asylum-seeking process. In keeping with the more conservative British position in the 1850s, there remains a consensus that refuge is a responsibility to be upheld—but also that it will be qualified by the exigencies of the moment.

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(nearing the end of the speech), he asks whether the jury is willing “destroy the right of asylum which our country has ever held out to the unfortunate of other lands.”

<sup>103</sup> Shaw, chap. 8 in *Britannia's Embrace*; Alison Bashford and Jane McAdam, “The Right to Asylum: Britain's 1905 Aliens Act and the Evolution of Refugee Law,” *Law and History Review* 32, no. 2 (May 2014): 309–50.

<sup>104</sup> Royal Commission on Fugitive Slaves, Report of the Commissioners and Minutes of the Evidence [C.-1516.], British Parliamentary Papers, 1876; TNA, Kew: FO 84/1437-1441, Fugitive Slave Commission, 1876.