JUSTIN STEIL: Good morning, everybody, depending on where you are in the world, good afternoon, I guess, as well, good evening. It's a tremendous pleasure to have with us today Dr. Eddie Bruce-Jones-- I should introduce myself first. My name is Justin Steil, I'm an associate professor of law and urban planning here at MIT.

And I'm tremendously excited and delighted to have with us today Dr. Eddie Bruce-Jones, who is the deputy dean of the School of Law and head of the Department of Law at Birkbeck College at the University of London. Dr. Bruce-Jones has been a visiting fellow at the Max Planck Institute for European Legal History in Germany and a visiting professor of law at Boston University in the United States.

Dr. Bruce-Jones is also an associate academic fellow of the Honorable Society of the Inner Temple. Dr. Bruce-Jones is the author of *Race in the Shadow of Law, State Violence in Contemporary Europe,* and co-author of two forthcoming textbooks on equality law. He's also currently writing a monograph on indentured labor in Jamaica. His scholarship has also been widely published in journals in law and the humanities.

He serves on the boards of directors of the Institute for Race Relations, and the UK Lesbian and Gay Immigration Group, and the advisory board of the Center for Intersectional Justice in Berlin. He's also a comparative law specialist for the Independent Commission on the Death of Oury Jalloh, on police brutality and due process.

We are very excited to have Dr. Bruce-Jones with us today to discuss race, refugees, and Europe, a look back at the last decade. At the end, we'll have time for a question and answer. You can put your questions in the Q&A function in Zoom, and I will ask back them Dr. Bruce-Jones. Thank you, again, Dr. Bruce-Jones for being with us today.

EDDIE BRUCE-JONES: Thanks so much for having me, Justin, and thank you, Laura, for organizing this. It's really great to be talking with colleagues from a range of different backgrounds and disciplines about a topic in migration. And it's really great to hear your questions afterwards, so please stick around for the Q&A afterwards.

I'll have to begin by saying I am-- I'm not a legal practitioner in immigration and asylum law. So there are certain procedural issues that I probably just won't have answers to. And my areas of interest and research are adjacent to, I think-- adjacent to a deeper expertise in asylum law and in certain aspects of policing. It touches upon all of these areas, but I don't think-- I don't consider myself an expert in any one of these areas.

But because I've been working adjacent to a variety of different topics that are important for understanding the relationship between race and racism, and the treatment of refugees, and refugee law in various places in Europe, my standpoint might be a bit of a bird's-eye view on what's been happening in Europe at least over the last 10 years, and both how things are changing in terms of public attitudes and policy regarding the intersection of race and refugees. And a bit of on-the-ground case examples of things that have resonated with what I see as general trends.

So I'm going to try to keep this succinct. I'll probably talk for about 45 minutes, then open it up for questions. And it really is at that level of kind of seeing the panoramic view of what's happening in Europe. Before I begin, I'm going to show a video that was controversial-- it is controversial. And it's maybe a little unfair, I'll have to say, for me to show it because it was withdrawn. But it was produced and it was put out there by the European Union for the purpose of discussing and debating enlargement of the EU.

But it was basically a campaign video to get us to think about the values of the European Union, and the potential enlargement of the European Union. It was produced in 2012 and swiftly withdrawn. But I'm showing it because it gives you a bit of the context that I think brings together migration and race within the European Union context. And we return to some of the themes in the video over the next decade. So while it was controversial as an advertisement, in terms of public policy, there are still some themes that resonate.

So I'm going to share my screen with you. Hold on one moment. Before I do that, let me get this queued. So the video clip is about-- it's about a minute long. So I'm going to share it now.

[VIDEO PLAYBACK]

[GONG CRASHING, MUSIC PLAYING]

[GRUNTS AND KIAIS]

[END PLAYBACK]

EDDIE BRUCE-JONES: So this video really does set a certain tone about difference and about ongoing discussions in the European Union and its member states about integration, particularly cultural integration, religious integration, and migration. And it also in a very overt way characterizes what it means to be European, and what it means to have the authority to kind of put forward European values, and what it means to be non-European.

The three men of color in the video who all entered, barged into this scene in a very violent way, can be seen also to represent the BRIC countries, so-- well, some of them at least-- so Brazil, India, and China, Russia notably missing. And they enter violently. And then they're kind of-- somehow there's this psychic connection where they're taught to meditate and sit-in a circle by the person, a white woman who represents the European Union.

And then they sit-in the circle, and then she multiplies, and then they disappear. So I mean there are so many levels to this imagery. But it's not too far divorced from some social policy that we'll see a bit later. But it also-- it really does encapsulate some of the discourse, the public discourse around things like cultural swamping, cultural capacity for immigration in general. And refugees become a part of that conversation-- and on the ability to ever integrate.

So this is underlying the kind of basic level of understanding of what European Union is capable of doing in terms of integration. And there is a clear racial way-- a which in this is discussed in terms of race. So while we saw it visually in the video, it's also discussed as a form of being able to identify difference or identify values.

It's the kind of level of connecting overt types of racism with cultural racism-- but we'll come back to that. But I just wanted to kind of set out how clearly this is

ingrained into the public discourse in Europe and how that translates in terms of policy, in some sense.

So now I'm going to share a slide show. And I'll begin. So I'm going to be talking about things that have happened over the last decade and in different parts of the European Union. So there are ways in which what I'll mention are trends, but it's more complicated than simply seeing a trajectory from kind of then until now.

But those complications, I think-- some of them are local. So when I talk about the UK, there are local issues that have arisen in the UK that have prompted certain types of social debates-- for example, around counterterror-- that have driven some social policy in ways that haven't happened in other member states. But race, and refugees, and refugee law and protection have been really coordinated and interwoven in a lot of these member state conversations about race.

So I'll talk a bit about race in Europe generally, then refugee law in Europe generally. Then this concept of crimes of solidarity that I'll introduce just to give an added dimension to the ways in which intervention by the public or by NGOs into either political or social types of activism, or the conversation about where to draw the line between securitization and humanitarian relief should be. Then I'll talk a little bit about profiling and policing, and in particular, the ways in which that sometimes ties in not only race and ethnicity because of profiling, but the context for profiling is sometimes an immigration-related context.

So then they become interwoven sets of issues, which is complicated sometimes by the fact that in some spaces establishing that an issue is an issue of race as opposed to an issue of immigration is also important, because you do frequently encounter in the European context that when you identify things that would possibly otherwise-- or maybe by the person experiencing it-- be seen as racial discrimination, it's sort of written off or recast as an issue of migration status, which seems a more permissible form of legal recognition and treatment for many.

And then I'll just touch upon some of the political-- some aspects of political discourse that have shifted to the right. I think that's been, in the past 20 years in Europe, a trend that's been in some countries, quite quick, and in some countries, a slow kind of trend toward the right, and how that's affected public discourse around

race and immigration. And then I'll just kind of leave with a question or two so that we can have a discussion.

So in terms of the spheres of discussing race and migration, and in particular, the migration of people who are applying for asylum, there is political and public discourse that's been shared. And we can already assume that there might be a racial aspect to thinking about migration anyway.

But in terms of the way that participation in public life is framed, whether that's public life in terms of politics or public life in terms of social forms of citizenship, those things are shared in terms of race and thinking about refugees. Sociocultural integration and the possibilities thereof, national belonging and a sense of full citizenship, rather than the kind of conditional forms of social belonging that are ascribed to people who are, in some cases, to non-white citizens, but in other cases to non-citizens.

Legal recognition and debates around-- both in terms of race, the use of the category of race, and the recognition of racism through those categories, and legal recognition in terms of the allowances to those who don't yet have citizenship, including refugees. Structural inequity, and that's about recognizing things that are outside of the purview of legal provisions that already exist. So the average person on the street might think that there are structural inequalities that exist in society and be able to describe them.

But then a lawyer might say, well, those aren't the types of things we can litigate or resolve using the set of legal tools that we have. So the discussion on structural inequity has changed in Europe, and I think in a positive way.

It's not that that's necessarily resulted in lots of results for those who are facing structural forms of discrimination. But there's a shared space in terms of structural forms of violence and lack of provision for people facing racial discrimination with the space that's held by those debates for people who are vulnerable because of their status as asylum applicants or refugees.

And colonialism and contemporary debates around geopolitical history and present. So these discussions happen both at the point of discussing race and at discussing migration politics, and kind of the moral desert around free movement.

So really briefly, and I'm sure the legal scholars at the seminar will probably have lots of things to add and lots of things to debate, but in general, in the European Union, in terms of race, there are protections at the EU level. And those protections are in the main treaty of the European Union-- Article 19 of the Treaty on the Functioning of the European Union, is a nondiscrimination article that includes racial discrimination.

There's also the Race Equality Directive, which was passed in 2000, which defines discrimination and it mandates that national governments prevent discrimination, that they have agencies that are required to promote equality, and to protect against racial discrimination, and to monitor the coherence of the observance of national law of EU policies and laws.

And so there have been-- there have been legal cases on racial discrimination at the European Union level. But basically, European Union directives need to be transferred into the national law. They need to be basically-- what's the word? I'm missing the word-- yeah, implemented through national legislation in order to be in effect.

And so member states have implemented the law that's outlined in the directive so that national laws now include provisions to protect against racial discrimination. I'll talk about some of the problems that come up with that in a few moments. And then recently, in the last year and a half-- and this in some ways is also owed to the heightened awareness that people have around racial discrimination and structural forms of discrimination, as a result not only of George Floyd's death in the United States, but conversations that have been happening in Europe with activists, and scholars, and even politicians in Europe over the decades.

And so in 2020, the European Parliament passed a nonbinding resolution to appraise the international situation which was the death of George Floyd and to make proclamations about combating racism in the European Union. So it's just a position statement, really. Then there was an EU action plan to combat discrimination on the basis of race that set out objectives and recommendations that go from 2020 to 2025, including putting forward ideas about what structural discrimination is. And that's also kind of an advancement at the European Union

level.

The need to address law enforcement's use of racial profiling-- and that's something that member states' national laws typically give quite a lot of discretion to the use of concepts of difference in identifying criminal behavior. So there's the latitude to racially profile even if on the surface of anti-discrimination laws, it would seem to be inappropriate. So the need to address that in member states was identified.

The need to collect disaggregated data on race was identified, and I'll talk about that in a moment as well. And it encourages member states to develop their own action plans to combat racism over the next few years. So it is a positive development.

I think what some of the criticisms have been is that it doesn't actually methodically set out a plan for putting these things into place that is going to be effective in member states. So it's all well and good to say these things and to acknowledge the existence of structural racism, but it's not really going to help unless there is a clear-- unless there's clear guidance that actually has some consequence if that guidance isn't followed.

But tomorrow, on the 19th of March, there is a summit against racism, an EU summit, where things like this are going to be discussed and debated. And I think it is-- I think the public can view parts of it. So it's online if you google EU summit against racism, you should be able to find links and information about the discussions that will happen tomorrow. There we go.

But the question of data that I mentioned a moment ago is a really big one in most of the European Union. So there are problems with conceptualizing what race is. And I think that is also owing to the multiple levels of thinking about what race is as a social construct. So that problem exists anyway.

But the vast majority of European Union countries don't actually even use a concept of race when gathering information on discrimination, for their own monitoring purposes or for the purpose of monitoring their obligations under EU law. And some countries don't allow the collection of this data. So they don't-- not only do they not collect it themselves, but they don't allow others to collect it.

Instead, most EU countries operate policies of prohibition with exceptions with regard to disaggregated data, including using proxies like nationality of birth, nationality of the parents, the language spoken at home, geographical areas of residence within the country, socioeconomic status, education level, and in some cases, ethnicity, which is then defined in ways that are quite specific, and mostly around nationality and country of origin rather than around racial group in terms of being racialized as, for example, Black or Roma.

So two countries that stand out in this regard-- and it's not that they're alone in this regard, although France is quite, I guess, at one end of that spectrum-- are France and Germany. So in France, there's a prohibition on the designation of race, a categorical one that prohibits the collection of racial data. And the categorization is a criminal offense.

So using the category of race as an employer, for example, is a breach of criminal law, which means that someone who's discriminated against in terms of race in an employment context then would need to raise a complaint with the Ministry of Labor that needs to investigate the employer on criminal grounds, which some scholars have argued actually while it seems like a higher bar-- a higher burden on the employer and a more serious type of crime, it actually prevents more cases from being brought because it's a big deal to go to the Ministry of Labor, to have them investigate on criminal grounds, an employer.

The Ministry of Labor doesn't necessarily have the incentive to go to employers and perhaps ruin the relationship that they have with certain employers with such kind of a huge claim. And there's not a lot at-- there's not a huge return on investment for people to bring these claims forward because it's not clear that people are going to then recover financially from being discriminated against as much as they are going to file a criminal complaint.

And additionally, the word race has been removed from the French constitutional equal protection guarantees because it seemed to be a falsehood. So it shouldn't be used as a term of legal categorization. So it's been removed from the Constitution. And so part of the underlying-- the underlying, I guess, idea is one of French republicanism. That being French is more important than the differences that divide French people. And that this division is moreover a false one, so we

shouldn't actually be emphasizing difference, especially if it's a false one. So it should be removed, including the terminology.

So the issue there, of course, is that taking away the word doesn't remove the phenomenon of racism or racial discrimination. But it does make it more difficult to actually identify when [INAUDIBLE] is happening. And it also makes it difficult if they're not going to collect data to see patterns of racism in society.

So these things frustrate the ability for the French model to actually address racial discrimination. But because there are legal ramifications to racism-- theoretically, the criminal offense-- it is at least arguably in line with EU law on racial discrimination. It's probably not, by all accounts, and I think a lot of lawyers would disagree on that. But the latitude that's available for member states in the current setup means that some member states can just not even collect racial data and still be generally within EU laws' obligations.

Germany is a bit different. It doesn't outlaw the classification as such. But the government's position is that it doesn't use the category of race to collect disaggregated data on people. And it uses instead a variety of proxy categories, including migration background, language spoken at home, birthplace of the parents, and names.

But not all people are actually opposed to the state not using the term race because we can think of recent history, where the classification was used by the state for-- obviously, for fascist purposes. And it's a bit in between as well because the term for race in English doesn't actually invoke the same type of response from German people, as [GERMAN] in German, which has a bit more of the connotation of being linked to the Nazi form of biological race.

But in terms of translating that into international law, scholars who argue that race should be-- or [GERMAN] even in the German language-- should be the term of art that's used to describe racialization and racial discrimination, they argue that without the concept of race being used, it's hard to then figure out whether there's compliance with EU and international law standards. And it's hard to have discussions across borders about what race and racism mean. And in Germany as well, there is a debate about whether to remove the term [GERMAN] from the

German Constitution and to provide an adjective-based description of what racial discrimination is.

So refugee law in Europe is also harmonized in some way. And there's also the critique that the member states have lots of latitude, lots of room to maneuver with how to put these into operation. So there's a common European asylum scheme at the European Union level.

And that is Articles 77 to 80 of the Treaty on the Functioning of the European Union that provide for things like a common space, for internal-- a lack of internal borders, referencing the Schengen acquis, which is that the Schengen Zone doesn't have border checks, normally, although they can have border checks for specific purposes.

Then there are three directives that regulate the processes of applying for asylum, the Procedures Directive, which outlines the actual formal procedures for application. The Qualifications Directive, which defines what will qualify for gaining asylum, but also for gaining something that's kind of one tier below asylum, which is subsidiary protection. So that's humanitarian leave to remain that's not based on a ground that is considered within the Geneva Convention definition of refugees.

But still nonetheless, leave to remain because if someone were sent back to the country of origin, they would be treated inhumanely, tortured, or killed, or persecuted-- just not for the grounds in the asylum definition. And the Conditions Directive, which outlines the minimum conditions that have to be kept for asylum applicants and refugees who arrive in Europe. So the conditions of their life, of their stay.

And so these directives leave some room to maneuver for states. For example, in the German context, there was, for a long time, a requirement that asylum applicants, while their claims are being processed and while they're living in asylum residences, shouldn't cross from one district into another, that they were given tokens instead of money for exchange for goods at supermarkets. And there was a fine imposed if they would leave their district, which would then further entrench the kind of financial instability that they faced.

And also, in the German context, at least where it's been made quite substantially

an issue and a claim of asylum and refugee activists, the residences that were established for lots of people claiming asylum to live in were put in areas that weren't always the ones that were the most conducive to friendly relations between local people and asylum applicants. So in kind of hostile areas, in some cases, which exacerbated the possibility of violence against vulnerable people living in these asylum residences.

Then you have the Dublin Regulation. And the Dublin Regulation has also changed over the past 15 years. But the Dublin regulation is a regulation that governs-- the main thing that it does is it governs which state decides-- or should decide-- on the application, the asylum application, of the applicant.

And it has mainly to do with the fact that if an applicant lands in one European Union member state, and then goes to another member state, they'll generally be sent back to the first member state where they passed through in order to make the claim. And it was thought of as a way to distribute the costs and the impact of migration, although it's been criticized as not actually effectively doing that.

And it was heavily criticized for not actually observing the human rights standards that it should have for asylum applicants-- for example, those who were minors that were traveling alone and had family or support in one member state, but then because of Dublin, could not make asylum claims in those member states, but were then sent to a different one.

There have been exceptions built into the Dublin Regulation in more recent years to account for that type of situation, or for a situation where if someone's making an application at the same time as a relative in a different member state, that they could have those applications be joined or make the application in the same place. So those kind of smallish changes have been integrated into the Dublin Regulation. But still, overall, it's seen as something that is not very effective in spreading out the costs of applying for asylum.

And it still has detrimental impacts on many of those making asylum claims, particularly in the sense that there have been cases where one EU member state has sent asylum applicants back to the first EU member state they passed through knowing that that first EU member state would treat asylum applicants quite poorly-

- actually in breach of their human rights under Article III of the European Convention on Human Rights. So that was the case of *MSS versus Belgium and Greece.* And so that seems to be still a liability of the common European asylum system, this process.

Then there's the European Border and Coast Guard Agency, which used to be called Frontex, which it has been-- it polices basically the external border of the European Union and the European border surveillance system that includes high-tech ways to actually see the borders.

And of course, one needs to just kind of do a little research to see that there are very intense criticisms of how the external border of the European Union is policed, including the concept of this kind of fortress of Europe, where people are making a very treacherous journey across the Mediterranean, or across certain parts of the Mediterranean or the Aegean Sea, and drowning-- and I'll get to some more specifics about rescue operations in a moment-- but that Frontex had been seen as complicit in some of the pushbacks-- or the overpolicing of the borders that made it actually a very difficult place to cross and a hostile terrain for people trying to get to safety.

So the European Union has this common European asylum system. The Council of Europe is responsible for the European Convention on Human Rights, and the Council of Europe is made up of more member states than the European Union-- 47 member states.

And the European Convention on Human Rights, in particular Articles 3, which are the freedom from torture and inhumane treatment, and Article 8, which is the right to family and private life, and it also has to do with family reunification and family separation, which can affect people who are on the move. Those are used to adjudicate the human rights even of people who don't have citizenship, so including the rights of migrants and refugees.

And then international law. So the 1951 Geneva Convention on the status of refugees outlines that people shouldn't be sent back to a place where they're going to be tortured or persecuted, including different forms of persecution other than-- well, it's persecution based on things like race, and religion, being part of a

particular social group, political opinion. But that's built in also into the language of the European Union laws themselves. So the definition of refugees has been imported from the Geneva Convention definition into European Union law.

So there's one case, which was seen as a really important case in terms of the jurisprudence of the European Court of Human Rights, which is part of the Council of Europe that determines the European Convention on Human Rights, was the *Hirsi Jamaa and Others versus Italy* case. And that was a ruling on what has become known as the phenomenon of the pushback.

Or basically, when boats of people at sea-- and it can happen on land as well, but in this case, at sea-- if a European vessel is then-- intercepts that boat, or intercepts people at sea, and then sends them back rather than allowing them to make a claim in Europe to asylum or [? refugee ?] [INAUDIBLE] against human rights law. So it's a violation of the Article III rights of those who would have made their claim because, it ruled, that the Italian authorities, in this case, should have known that returning people to Libya would expose them to arbitrary treatment and possibly return to their countries of origin where they could be tortured or killed.

But there have been reports of pushbacks being made on land as well, and in ways that are a bit more clandestine. So there was a report, for example, of a pushback being made in Greece of a person who had registered as an asylum applicant and was awaiting a claim, but then was brought during the night to the border with Turkey and kind of left there. And they wound up wandering across the border into Turkey and had to then find their way to the city, and wound up in Istanbul to make their claim, which is actually against European law. I mean that's kind of done in breach of EU law, really.

So just to move over to profiling and policing-- and these are really snippets, but it's good to see how some of these issues connect up. So it's been reported by the Council of Europe that racial and ethnic profiling happens quite frequently in Europe. And there are certain ways in which this happens in patterns in different places, but the patterns are different depending on which member state you're looking at.

And while overpolicing and instances of fatal police violence can be statistically

evidenced to be connected with race and racial profiling in the UK, for example, where ethnic data and racial data is disaggregated and collected, most European countries can't track these patterns because they don't collect the data. So communities and sometimes NGOs are left to build a case based on their own observations and evidence. Sometimes this is about self-reporting or drawing patterns between cases that might not be statistically representative, but cases that are similar enough to actually tell a story that becomes a pattern because the predictability and the similarity of the stories.

And racial profiling happens frequently. I don't know if it happens most of the time in these situations. I think probably not. It probably happens in a very pervasive way, but it happens frequently in relation to identity checks in transit areas under the assumption that non-white people are more likely to be in breach of immigration rules.

So there was a case in Germany, for example in 2012, I think, where a young man who was German nationally-- nationality was German-- but was of African descent, was profiled 10 times in a year and asked to show ID on a train route that ran near-- I think it was from Kassel to Frankfurt. But it was his route to work. But because it also known as a route of transit coming from a transit hub, it was very frequently-- it was very frequent that the police would profile people on these trains.

But he always noticed that they profiled him and not white passengers on the train. And he queried it, and then the police-- and this is part of shutting down the discussion on racism in kind of a really sad way-- he made a comment to the police that he thought that this reminded him of something. And the way that he said it made it clear that it was reminding him of fascism in Europe, and of targeting people and singling them out.

And the police officer responded, are you calling me a Nazi? And the young man said, no, that's not what I'm saying. But the police brought him to the station-- he finally showed his ID because he refused on the train-- and the police basically brought a slander-- it's kind of an insult-- lawsuit against the young man, who then had to countersue and say, well, the reason I said that was because I was profiled so many times in the last year. And I feel like I am being singled out. So it was my freedom of expression to make this social commentary.

And so the charges were dropped, and the judge agreed that the social commentary was valid. But these types of-- this type of profiling there can be a legal proclamation that it's illegal, but the police during that case argued, well, we have limited resources. And based on our best intelligence and our best knowledge, looking at how someone looks is actually going to help us to best use our resources when it comes to following up on immigration laws.

So the ingrained logic of Europeans with the right to reside in Europe being white translates into policy practice. And I think that's one of the things that needs to be addressed with any forward movement on addressing structural racism and the links between race and immigration in Europe. Oh. OK. I'm going to speed up.

So there are also these crimes of solidarity that have been identified, for example, in a report from the Institute of Race Relations, which was called *Humanitarian, the Unacceptable Face of Solidarity.* And in this report, 26 cases-- instances-- were analyzed from across Europe. There were instances in which people had been criminalized for helping refugees and asylum seekers to actually pursue their rights or to be rescued.

So the report mentions giving lifts and cookies-- so lifts as in a ride, and cookies-- to people seeking protection in Denmark, warmth and shelter and food to those crossing in Italy-- from Italy to France, sea rescues off the coast of Lesbos in Greece, and there are bylaws-- there were bylaws-- or there may still be bylaws in Calais, in France, prohibiting the unauthorized distribution of food and water. Like you might have heard in the United States, there was also that similar case of leaving food in the desert for people who are crossing into the United States.

But so there are member states' laws that are set up to basically make it more difficult to help refugees and those applying for asylum. So in 2019, it was estimated by an NGO that Hungary only allowed in two refugees per day, which is very low compared to other countries in the EU, but also suggests that they're not actually abiding by the laws-- the international and European laws-- to allow these applications to be made.

Or relying on third safe country lists, where they say if you pass through any safe country-- for example, if you pass through Turkey and then come to Hungary, then

you have to be sent back to Turkey. Those types of laws, or provisions, allow countries to then reject the vast majority of asylum applicants. And for Hungary, not only did they do that, but they passed the law in 2018 that imposed jail time for helping undocumented immigrants to apply for asylum.

So this was a period of time where immigration lawyers and NGOs in favor-- or NGOs that supported the rights of asylum applicants were really under threat. And it was in line with a lot of the anti-immigration politics that were being proposed, the policies being proposed by the incumbent government.

And in 2018, Pia Klemp of Germany was charged under an Italian law with aiding and abetting illegal entry when she rescued a distressed boat of people in the Mediterranean. She faced 20 years imprisonment, and a 300,000 euro fine. I don't remember if the outcome has been reached in that case, but it may have been.

And the aiding and abetting was about saying that this rescue was actually cooperating with people who were smuggling-- who were trafficking individuals into Europe. And so this was aiding and abetting illegal entry, but also trafficking. So that was really how this was proposed, a question of securitization as opposed to humanitarian relief.

And since 2014, 12,000 people have died in the Mediterranean between Libya and Europe. And the group that Pia Klemp works for estimates that its rescued 14,000 people. So I mean this really is a substantial-- it's a case that suggests a substantial injury to the ability to rescue people at sea, which is very shocking.

And then to kind of tie-in some of what's been happening in mainstream politics in certain member states that is connected with both the politics of race and the politics of refugee law and refugees in public discourse-- so everyone will have heard of the Brexit campaign, and been following kind of how the UK has left the European Union. And that campaign, really, the issues in the campaign began before the referendum was announced.

And a lot of those issues had to do with the general fear that was stoked in public discourse around growing numbers of people who would be coming to the UK via the rest of Europe to apply for asylum with the idea that a lot of these people were

either not entitled to asylum or it would just be too much for the UK to handle.

I mean, a couple of legal points on that, of course-- as I mentioned with the Dublin Regulation, it wouldn't be that the UK would be hearing the majority of those cases if they did come through the European space, which is kind of a misunderstanding of law. But leaving the European Union would potentially mean leaving-- and it has meant-- leaving the Dublin Regulation, which is the thing that enables people to be sent to the first EU country they pass through.

So it was based on a faulty understanding of European Union law, anyway. But the image that I'm showing is a flyer that I received through my door during the referendum, which shows all the countries of-- the Schengen countries just basically grayed out because those are the countries that are going to be passed through to get from Syria and Iraq to the UK, or from Turkey and Albania, Macedonia, Montenegro, and Serbia to the UK.

And the campaign was pitched-- the Brexit campaign was pitched-- on the idea that being a part of the European Union with the contiguous Schengen Zone is actually a liability in terms of net immigration to the UK. And also, the type of immigration that would raise concerns about terrorism.

So there were questions around this time about the-- because there was the Charlie Hebdo incident, and then there was the bomb that was set off in Brussels. There were debates around this time about how the border needed to be securitized against terrorism. Also in this time, the UK passed a law called Prevent. And it was a policy that devolved the powers to spot radicalization to citizens. So basically, if you see something, report it.

And that became a duty put on schools and universities and public services in order to crack down on terrorism. But it really became a way to target Muslims. And this is something that's still a very controversial debate. But all of this was going on prior to the Brexit referendum.

And so during the referendum, and then after Brexit-- the referendum was successful for leaving the UK-- there was a rise in race-based hate crimes. And Nadine El-Enany, my colleague at Birkbeck, wrote this really insightful book connecting the successive changes in immigration laws that basically made it more

difficult for people in British overseas territories, in particular, in Asia, and the Caribbean, and Africa, to come to the UK, on one hand.

And then this nostalgia for this Britain-first type of Imperial Britain on the other hand, with Brexit are part of a longer trajectory of how race has formed the national political identity in Britain. So it's called *Bordering Britain* I highly recommend it. And just a few more comments on the public policy discourse in the UK, and then I'll move to Germany before I conclude.

The hostile environment policy-- so in 2012, there was a policy that was known internally within government as the hostile environment policy that was later changed that the compliant environmental policy and it was meant to deter illegal immigration, but effectively devolved border control activities to the general public. So employers, landlords, hospitals, schools, universities, service providers needed to check the immigration background of the people who are working for them or getting services from them in ways that it hadn't before, and that raised the level of the scrutiny of private citizens and of service providers-- even private service providers-- around immigration status.

But it also, as the UN Special Rapporteur on contemporary Forms of racism noted, increased racism and xenophobic discrimination more broadly. So there were reports that landlords were less likely to rent to people of color because of the presumption that they might be lying about their immigration status or in need of some leave to remain, whereas those who could be determined without looking at further details-- that they were white and British-- were more likely to be housed, for example.

And this was the beginning of an era of very open public anti-immigrant discourse, really, that's only thinly veiled behind policies of law and order. But it's really about deterrence-- deterring people from migrating to the UK at all.

So there are these vans that became very, very infamous, that Theresa May, when she was the home secretary before she became prime minister, commissioned. And they have these billboards that said, in the UK illegally? Go home or face arrest. Text this number and we'll help you go home. And they were just driven around cities. I mean, it's kind of a shocking thing, but the hostile environment policy, I think the

name says it all.

And then to move to the final example in terms of general public discourse to the right and how it affects people, and how it brings together these ideas of race and immigration, before just opening up for the Q&A is the Alternative for Germany party, which was a party that also started like-- I think like the Brexit party-- started on a very strong anti-immigration platform undergirded by the sense that the rising number of asylum applicants was going to change to the constitution of the country, and the political, and social, and religious order of the country.

And so they basically started in 2013, and by 2017, they were the third largest party in the national parliament, and still have 13% of the seats in parliament. And so this is one of the campaign posters of the Alternative for Germany. And it says, "New Germans? We'll make them ourselves." Then under, it says, [GERMAN]. So, trust yourself-- trust in yourself.

So this type of campaign-- and there were other similar ones-- but this I think is maybe one of the most violent types of posters because, like I mentioned at the beginning, it's not only relying on a cultural integration register of racism, but it really is a return to kind of the eugenic biological form of racism and racial othering. I mean, I don't have to break down the details of this. It's quite clear what this message is saying.

And it's not an isolated type of narrative for this particular party, which is seen in Germany as a far-right party, and was affiliated with other kind of movements that sprung out of the 2013 wave of different far-right movements, like there was this group called Pegida, which was also a very anti-immigrant movement.

And it also stemmed out of this-- there's one incident in Germany that happened which became kind of symbolic for how immigrants, and in particular, refugees, were being framed as basically rapists and attackers. So there was this incident in Cologne during a New Year's Eve celebration, a big, outdoor celebration, where there were a number of women who reported being attacked. And that was seen as a way to then shed light on the issue of men from other groups being attackers of white German women.

And so this short piece from the Council of European Studies, which can be found

online, is just a reflection on that. And it's about the use of women's bodies as border control, and this whole phenomenon not being a new one. That this is a way of articulating to the general public that there's a question of-- we know these tropes of these violent men who are coming in and who are attacking white women, but also unable to integrate and incapable of respecting European values. And that this has to be stemmed because the future of Europe is at stake.

So it's really-- I mean, I have many examples that I can think of, but I don't need to-- I think people get the point. But this is kind of what has driven the-- I think the public sense of an urgency to act around forming political parties around anti-immigration in this new era. But it's using very old discourse.

And it's very tied to biological forms of racism, even if the majority of what's being discussed is at the level of cultural integration, there's a continuity there. And I think the myth of the immigrant rapist and the poster by the AFD that shows this pregnant white belly saying, we'll make our own Germans, is a testament to that and how it informs the general public about what we should do about it.

So I don't have a lot of-- I don't have a lot of deep reflection for this conclusion in terms of where we go from here. But I think one thing is to try to think of ways to implement and act on European Union positions. I'm calling them positions they're not laws or policies yet They're really recommendations and ideas in this action plan.

But things to-- ways to give these plans some teeth and some deep consideration because of course law and policy is not going to solve the problem of kind of structural racism or ideological forms of racism. But we've got to do more than recognize the existence of racism. And in a similar way, the criminalization of helping refugees is kind of-- it's so far removed from what humanitarian laws theoretically set out to do.

But even stepping back from that, it's very hard to get to another place to claim asylum in the first place. I mean, there are issues of-- issues that we can critique about the asylum system not really being fit for the purpose of really helping people who are in need of finding safety.

But in terms of making the situation in Europe better for those who are seeking

safety in Europe, and who are both experiencing racism and discrimination based on migration status, it really is important to think of race and migration in a way that's joined up, but doesn't attribute all forms of racism to questions of xenophobia, and that actually sees people's vulnerability in ways that are specific enough to actually do work in figuring out how to have real policy solutions to these problems.

And I guess the final thing is to support organizations that are working-- that are basically working with and run by people who are seeking asylum and applying for asylum in Europe. And I think that's-- part of the problem is that because of things like the deterrence approach and the securitization approach in lots of member states, people are valiantly expressing their voices, but feel disenfranchised or like they have to live under the radar when making political proclamations and trying to get these new policies off the ground.

So, I mean, it's difficult to know any solutions, but I think it's more about thinking about how the issues are joined it up, and how to do-- to hold member states accountable for the relatively advanced types of principles that are being recognized, such as structural forms of discrimination. So I think I've talked for longer than I should have. And now I will hand it over to I think Laura and Justin for a Q&A.

JUSTIN STEIL: Great. Thank you so much, Eddie. I really appreciate your sharing all of this insight with us I might take the opportunity to ask the first question, which I'm curious if you could speak a little bit about-- just from a very big picture perspective, there's so much-- it seems like there's a fair amount of heterogeneity across European-- across countries within the EU, in terms of the level of their kind of the potential strategies to support refugees and also the level of animosity against refugees.

And I wonder if you could-- if you have any thoughts about some factors that you feel like might be associated with that variation? Does that make sense?

EDDIE BRUCE-JONES: In terms of like public opinion in the different member states?

JUSTIN STEIL: Public policy or public opinion in different member states, yeah.

EDDIE BRUCE-JONES: I mean, I really don't-- I haven't read studies other than some quite now out-of-date studies about media representation because there have been studies about what mass media says about refugees, and how that might influence or at least correspond to, without directly causing, public opinion that's against refugees, for example.

But I think other levels of public discourse around issues that might seem otherwise adjacent. And I think that they do affect public policy-- I mean, sorry-- public opinion and policy towards refugees. So in the UK, for example, there was recently a home office decision to start to house people who are applying for asylum in barracks, in like former military barracks, that weren't really fit for purpose, and we're in the middle of a pandemic, and X, Y, and Z.

And that probably wouldn't have been thinkable prior to this hostile environment type of policy, where the entire frame of immigration control shifted to one where deterrence was the main model, and the public started to kind of just internalize this model of deterrence. It's not to say that deterrence wasn't a model before, but it's become such a central part of home office policy and practice in the UK.

And at the same time, protests have grown around this. But then there is also a crackdown on how protests are dealt with in the UK and kind of a demonization of protests. And so we just had this bill, this policing and crime bill, here passed that put more conditions on-- or it's passing-- that put more conditions on protests-- nonviolent protests-- noise-related conditions, and et cetera.

And so I think the general environment also sets up a situation where it would be surprising if the general public were more proactively in favor of a less punitive, and less surveillance and deterrence-based approach to refugees in the UK. And Brexit and the popular discourse in policy terms seems to embolden people, which has an impact also on the traction that these policy positions have. So I really do think that on different levels, we probably need to put the brakes on this perpetuating of-- or normalizing of these types of ideas because I think they affect both policy and public perception mutually.

JUSTIN STEIL: Thank you, Eddie. We have a lot of questions coming into the question and answer forum. Before we get to those, which we will do, shortly I know that an Anna

Hardman has a question that she was interested in asking, so she's going to ask that on the video.

ANNA HARDMAN: I'm interested because the two European countries I'm most familiar with are England, where certainly the Brexit debate seemed to make it possible to talk more openly-- or to make racist statements more openly than in the England that I knew, so to speak. I came from there-- I'm an English person who's immigrated to the US-- but also to Greece, so I wanted to talk about those two.

And in England, I see much more open racism and really worry about things like the treatment of the Windrush generation, and immigrants being included as a sort of package with any immigrant who doesn't look white. And it frightens me, as do some similar things in the US.

But Greece is an interesting example, because when I first went there 40 years ago, it was a country that was very anti-immigrants of any kind. I remember buying-- when I was working at the central bank, the Bank of Greece-- buying a newspaper and being told, oh, who are you? What are you doing? I'm working at the Bank of Greece.

You can't possibly, you're a foreigner. And I said no, I'm not a foreigner. I'm a Greek citizen. And he says, was your father a Greek? No. Well then, you will never be a Greek. And that from someone who is accustomed to the US norm that you can become an American-- and it certainly doesn't have to be your father, either.

And what I've seen over those 40 years is a softening of that attitude. That in fact, Greeks are very happy to acknowledge that Antetokounmpo is theirs-- he's a Greek. And he's a basketball player whose parents immigrated from Africa. I see-- not just in Athens among educated people, but on an island where I've spent a fair amount of time, and which is close to the coast of Turkey so-- has received a lot of refugees.

And the island really rallied round to welcome the refugees who were making it to the island. The hotelier's out of season made rooms available. There was a big effort. I find it interesting that in one country, I see-- this is not universal. This is not everywhere. There's also real concern, precisely because the government's attitude has continued to be negative, because the state treatment of refugees has been negative.

But I find it interesting the ways in which attitudes are changing. And yet I have seen very little research on that. I wondered if you could comment.

EDDIE BRUCE-JONES: Yeah. It's interesting. I certainly see, as well, that there's-- I mean, there is this kind of heightening of discourse in both ways. There's an attentiveness to structural issues that people are facing-- what the refugees are facing and what people are facing in terms of racism, generally.

And there's an increased awareness, the vocabulary has been building. And I think this is partly due to the direness of the situations in many ways. So there is kind of a scaling up and the building of tools to identify and articulate what's happening, and an increase in care of a lot of people who think it's an issue that is going to affect their lives, whereas maybe 10 years ago, they didn't think it would affect their lives. And now they see it as an issue.

But then on the other hand, there's such a normalization of this kind of-- this racism. And like you say, to see overt racism in the UK-- it's not that it hasn't been there, but in the ways that it's resurfaced with this-- you know, like I said, with the hostile environment policy, and then with Brexit, it's really emboldened people to stay and do things that they otherwise may not have done publicly, for fear of at least violating some social norms.

But like I say, it's so hard to-- it's hard to overstate the impact that like leadership and governmental leadership has on the ways that people will express their racism and their fears in quite shocking ways. And I like your point about the issue of becoming, because that is something in Europe that I sometimes forget to mention to colleagues who are outside of Europe.

And you described it really well, that there is this sense of ethno-nationalism. And like I'm saying it there without necessarily prejudging it, but just to describe the phenomenon that it doesn't cross the minds of many Europeans to think of being authentically from a place as being kind of ethnically kind of representative of that place in a kind of this mythical ethno-nationalist sense.

So many of my friends in the UK who are people of color it was actually a question on the census. Do you consider yourself British, English, Scottish, Welsh, Northern

Irish. And people of color won't pick English if British is there because being British is kind of ideologically a bit more open. And being English sounds-- it sounds like there's already a pre-exclusion of people of color from being English, because that sounds like an ethnic category in a way that it's not only nationality. And that's sometimes easy to forget, because I think it's that way and in most European countries in social life that they encounter that.

JUSTIN STEIL: Yeah. Thank you. So there's a lot of questions, and let me-- maybe I'll group some of them together. So a question from Emma [? Gonzalez ?] [? Puel ?] is, do you believe that the EU has been using that COVID pandemic as a way to make it more difficult for migrants to enter EU countries?

EDDIE BRUCE-JONES: That's a good question. I would assume-- I would assume so. This isn't EU anymore, but I know there were certain zones of the world that were just put on special lists-- from the UK, for example, which put like all of Latin America was on the Red List, so you couldn't actually fly in without quarantining in a hotel.

But I think-- I mean, I think there's room for the EU to really do that. Things change quite quickly, though. And I'm not quite sure what the regulations are right now for travel. But I can imagine that if there are restrictions, they can be country based because countries have the authority to do that based on nationality. But then they can also disproportionately impact people who would typically be coming from certain countries, if certain provisions are put in place that make it difficult for people to meet those provisions.

So my presumption is that there will be the latitude for that to happen. I just am not caught up right now on the actual policies that are being discussed on what's going to happen in the next few months in terms of travel from outside of the EU. Inside the EU, there's regulation, so I would imagine outside it's going to be even more.

JUSTIN STEIL: There's another question from Christian [? Jepsen, ?] with a comment by [? Isabella ?] [? Trombetta. ?] So Christian asks, which EU state has the worst record for criminalizing aid workers? And Isabella proposes-- from her position as an Italian aid worker in the Mediterranean Sea-- that perhaps Italy is leading that unfortunate category. What are your thoughts?

EDDIE BRUCE- Yeah. I mean, I think Italy is certainly a contender. Greece and Italy have been seen

JONES: as-- well, Italy and France have been written up in that report that I mentioned-- and I'll put it in the chat-- as countries that have had either laws or policies forbidding giving food and drink to migrants under the provision that that's aiding and abetting smuggling.

But then there are-- I mean, Hungary, though-- Hungary has laws that are so restrictive, not even just about aiding people in physical transit, but aiding them legally, that I would also say that Hungary is a contender for one of the worst violations because it's about not even allowing the legal aid that's due to them under European and international laws.

Because using anti-smuggling as a way to justify intervening on a rescue and saying then the rescue wasn't a rescue, at least has-- I'm not saying it's genuine-- but at least has a legalistic kind of approach that's being counterbalanced against security, which is usually what's used as a restriction on migration or as increased police powers.

But the Hungary law was just a restriction on legal aid of any kind, and it's very broad. So I think one of those two countries would probably be top of the list. I'm going to put this link into the chat.

JUSTIN STEIL: A troubling strategy to criminalizing-- to criminalize directly access to the law itself.

EDDIE BRUCE-JONES: Yeah. To basically-- and the criminalization is against the--

JUSTIN STEIL: Legal service providers.

EDDIE BRUCE-JONES: Exactly. The people who are helping. So it really does silence that kind of help altogether.

JUSTIN STEIL: Another question is about projections for climate-associated immigration. Obviously with climate change, people are estimating that there will be more and more climate-induced migration and climate refugees. And I think given-- the implication of the question is that given the places that are most likely to experience adverse effects of global heating, that this will continue to mix race and refugee status.

And so the question is, what kinds of help from the UN or from NGOs or others would

help address the needs of host countries and climate refugees? If you were kind of planning longer term, more strategically, how would you approach this?

EDDIE BRUCE-JONES: It's a really good question. And I think-- I mean, first of all, there is a protection gap in terms of protecting people who are on the move. And I say that because you might be on the move within a certain region because of environmental devastation. And it's not considered a convention ground, but there could potentially be some sort of leave to remain.

But it's kind of a-- it's a category that hasn't really been provided for in an asylum law in a particular way, but refugee law kind of under the UN protection scheme for resettlement is dealt with, but also in a way that isn't equitable in terms of the geopolitics because people usually are resettled in neighboring countries, which then are absorbing large numbers of people and might not actually have the resources to take people in.

I mean, I think in general, my idealistic view on this would be that countries that can help should then provide ways that resettlement can happen in those countries. And there are schemes of resettlement that resettle people, including to the United States, and to certain European Union countries-- not really to the UK, which takes very few resettled refugees.

But the issue is the scale. And I think countries with the resources and with the space need to scale up their accommodation of people who are going to be displaced in bigger and bigger numbers in the future because of environmental catastrophes.

And at the very least-- and I've not made this link in a scholarly way, but I know people have-- in the very least, in consideration of the fact that the developed world produces a lot of the reasons that climate catastrophes happen, I mean, thinking of global warming or certain types of investments in resources-- So there is a moral and ethical case to answer in terms of why the Global North, I guess, wouldn't be more proactive in allowing people to resettle because of climate reasons, who would typically only cross borders.

JUSTIN STEIL: I think there's a strong case to be made, as you said, for some type of-- just more responsibility, in general, never mind the additional responsibility of having created

the greenhouse gases-- or a large share of them.

So coming back to the very beginning video, there was a question about who's represented in the video. That you brought up kind of colonialism, and it's this very colonial-- like a neo-colonial relationship with people from formerly colonized parts of the world. And the question was asking, how have North America or other parts of Eastern Europe or not part of the EU been represented in pro-EU expansion messaging?

EDDIE BRUCE-JONES: It's a good question. I mean, I struggle to think of how the US has been depicted in kind of this type of broad register of symbolic messaging. I think in a lot of ways, the EU, in maybe verbal communications, puts forward that the US is a huge and valuable trading partner, and that there's some parity-- that there's kind of an equivalent to parity between the EU as a kind of a single market and the US in terms of size, and strength, and that sort of thing. That was very masculinist terms that I just used. But just in terms of the scale of the markets.

But then I think Eastern Europe has been a-- I think there's been a fraught way in which Eastern European countries have been depicted in the EU. So for instance, Poland, when Poland entered the EU in 2004, there was a transitional period between 2004 and 2013, or something, for being able to work in certain EU countries because of a fear that it would just be too much too quick.

And I think part of that-- of course that could be seen on paper as a purely economic rationale about the numbers of workers in a particular market. But I think in real terms, that also took on a an undertone of disparaging people from Eastern Europe, both culturally and in terms of education level, and in terms of stereotypes.

So you do get this stratification, I think, even within the EU, even now. And it's sometimes around policies and getting people to change policies that these debates arise. But the undertone of kind of a cultural-- the politics of cultural exclusion, I think, takes over when then you see public debates about what Poland is or isn't doing is or isn't doing right in terms of human rights. Or in those beginning years of expansion, the economic policies that were put in place.

But I think that it's interesting because there's also the need for Europe to be

unified. So there isn't a lot of the airing of that on a register of messaging and communicating these ideas of difference in the same way. So that video, I think, was a very particular one that tried to put the European Union on par or in some constellation with BRIC countries that were growing economically very quickly, and that the European Union was going to have to lead that economic growth by kind of subduing and controlling the relationship in the market. But it was put into racial and gendered terms. So yeah, thanks for that question.

JUSTIN STEIL: And we're basically out of time. But I wanted to give you a few seconds to answer the last question, which was just, what role do you see for the EU as an institution playing the perception of immigration? And are there particular legal-- particular laws or legislation that you see coming that would be helpful on that front? Or the [INAUDIBLE].

EDDIE BRUCE-JONES: I think-- I mean, it's interesting because the case law at the European Union level on-- certainly, on race, and also to some extent on refugees, isn't-- I think the strength of the EU is in the legislation and in-- this is probably not completely accurate, what I'm-- am about what I think, even.

So I'll just say it this way. I think the strength of the leadership of the European Union is going to lie in how it tries to implement the changes based on the human rights impacts that it's already recognizing, that are affecting refugees and people of color across the member states.

And I think that recognition is gaining a lot of strength. But I think the leadership is going to be how it sets up a workable model for member states to actually translate into law and policy in those member states. Because member states, if given latitude, will simply say, oh, we're doing it, and this is how we're doing it.

But sometimes, that doesn't actually affect people's lives in the way that one might expect it does. And so I think setting goals and targets, and making-- and holding member states to account to specifics is going to be really important for the EU if it's going to lead.

JUSTIN STEIL: Thank you so much. I think that's a great note to end on. Thank you so much, Dr. Bruce-Jones, for spending this time with us. And thank you to all of the participants who joined. We really appreciate it.

EDDIE BRUCE-JONES: Thanks for having me, Justin. Thanks, everyone.

[MUSIC PLAYING]