Transcending Borders:

the evolution of the refugee diaspora
in 'bounded' and 'moebius' space

— by —

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Image overleaf – ‘Horseman’ (1946), M. C. Escher, available at <http://www.mcescher.com/Gallery/gallery-back.htm> (accessed 22 January 2013).

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*“Before I built a wall I'd ask to know
What I was walling in or walling out,
And to whom I was like to give offense [...]
Bringing a stone grasped firmly by the top
In each hand, like an old-stone savage armed.
He moves in darkness as it seems to me,
Not of woods only and the shade of trees.
He will not go behind his father's saying,
And he likes having thought of it so well
He says again, 'Good fences make good neighbors.’”¹*

¹ Robert Frost, “Mending Wall” (1914)., available at <http://www.poets.org/viewmedia.php/prmMID/15719> (accessed 21 July 2012).

Abstract

The emergence of 'transnational refugee theory' and the rubric of the 'refugee diaspora' have reignited refugee studies, and elicited an exciting theoretical vantage-point from which to explore refugee communities. This paper seeks to disentangle the core precepts of transnational refugee theory and, drawing upon compelling empirical evidence strengthen our understanding of the dynamic interaction between the refugee diaspora and the environment within which it evolves – in particular how the entrenched international refugee regime ontology impacts directly the effective functioning of the refugee community.

Echoing Giddens' Structuration Theory, what is proposed is that the refugee community exists within a 'middle space' – a synthesis of endogenous and exogenous factors that together establish the 'boundaries' that shape the diaspora space, and ultimately support or undermine the activities of those communities located within it. Accordingly, a refugee 'middle space model' is outlined, which defines a core set of economic, political and socio-cultural activities, and the endogenous and exogenous factors that shape their realisation in situ.

This theoretical construct is applied to two case studies. Firstly, the 'bounded' space of Dadaab and Kakuma refugee camps in Kenya is shown to not only disregard but also actively undermine the transnational character of refugee displacement. Moreover, while the refugee community remains active in circumventing these boundaries, there remains an inherent ambiguity in this transnational activism, giving rise to a perversion or 'transmutation' of the bounded refugee space. In stark contrast, the Free Movement Protocols of the Economic Community of West Africa (ECOWAS) are establishing a fluid 'moebius' space that both acknowledges and facilitates the transnational foundations of the refugee diaspora – as both a 'bottom-up' (endogenous) and 'top-down' (exogenous) process. However, the nascent UNHCR-ECOWAS partnership remains mired in an incoherent demarcation of responsibilities and a dearth of cohesive regional processes.

Notwithstanding these limitations, the moebius middle space clearly offers an invigorating alternative to the prevailing UNHCR containment model – providing a truly 'durable solution' for those transnational communities dispersed across the refugee diaspora.

Note: Monetary figures in this paper are primarily quoted in local Kenyan Shillings (KES). As of January 2013, just over KES85 equates to US\$1. See <http://www.xe.com/ucc/> (accessed 27 January 2013).

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Introduction: the refugee – dislocated in space and time

The 'Problem' with the Refugee

The UNHCR has for more than half a century been mandated with “providing international protection [...] and of seeking permanent solutions for the problem of refugees”.² Accordingly, the international ‘durable solutions’ refugee response framework was conceived of as either a reclamation of nationality (repatriation to the homeland), or the acquisition of a new nationality (as integration within the country of asylum, or resettlement into a third country).³ Furthermore, these three solutions were explicitly aligned with three distinct *physical locations* – the home country, the host country of asylum, and resettlement countries located (in general) further afield.⁴ And as the central pillar to a global refugee response framework, the UNHCR emphasised *short-term* protection and targeted support *en masse* in formal ‘camps’, located within states of first asylum.

This ‘warehousing’ or ‘containment’ approach to refugees remains the standard approach – in many ways for want of a better alternative. Indeed, in the “triptych of a refugee’s life, camps are the central panel”.⁵ However, as Van Hear succinctly notes, “the real world is messier than in this ideal scheme”.⁶ Firstly, the ‘temporary’ nature of displacement is proving to be a fallacy. Prolonged conflict and displacement is the refugee condition *du jour*, as exemplified by the burgeoning and entrenched incidence of Protracted Refugee Situations (or PRS).⁷ Secondly, the achievement of successful integration in host countries is becoming increasingly difficult, with those displaced

² ("Statute of the Office of the United Nations High Commissioner for Refugees," 14 December 1950) Chpt.. 1 (1).

³ (Kibreab, 1999), p. 389. See also (Chimni, 2004); and (Van Hear, 2003).

⁴ (Van Hear, 2003), p. 2.

⁵ (Verdirame, 2011), p. 270. See also (Harrell-Bond, 1995).

⁶ (Van Hear, 2003), p. 2.

⁷ A PRS is a situation “in which 25,000 or more refugees from the same nationality have been in exile for five years or more in any given asylum country.” (“Global Trends 2011,” 2011), p. 12. See also the UNHCR Conclusion on Protracted Refugee Situations No. 109 (LXI) (2009), available at www.unhcr.org/4b332bca9.html (accessed 23 January 2013). As at the end of 2011, of the estimated 10.4 million refugees receiving assistance from the UNHCR, almost three quarters (7.1 million) were living in a PRS. Moreover, while the average length of stay in a refugee camp in the 1990s was nine years, that average is now twenty. See (“Global Trends 2011,” 2011), p. 12., and (Milner & Loescher, 2011), p. 3.

developing “ambiguous relationships towards the places in which they find themselves.”⁸ And thirdly, resettlement as a ‘durable solution’ remains a privilege for a profoundly limited number of refugees. According to the UNHCR, in 2011 less than 1% of refugees were given the opportunity to resettle.⁹

It would appear therefore, that the successful ‘resolution’ of refugee situations remains the exception to the rule rather than the norm, the victim of a parsimonious ontology which ‘compartmentalises’ the highly-complex refugee phenomenon into discrete locations, categories and conditions.¹⁰ While there is nothing inherently wrong with making theoretical distinctions – indeed they serve as vital mechanisms for understanding the world around us – any assumption creates a “set of expectations of the people and territories involved”, and can have both positive and negative outcomes for the lived realities of the individuals and communities described.¹¹ As a consequence, and despite the best efforts and intentions of the UNHCR and international community, “[c]hronic and stagnating refugee situations have been a long-standing challenge to the international community over the past six decades”.¹²

The ‘Transnational’ Refugee and the Refugee Diaspora

Within the past two decades, the emergence of ‘transnational refugee theory’, and the rubric of the refugee ‘diaspora’ has elicited an exciting new theoretical vantage-point from which to explore, and understand the refugee. The notion of a transnational refugee emphasises engagement with the global geo-political, economic and social landscape – not as a passive victim ‘in exile’, but rather as a dynamic actor embedded within and supported by a complex web of networks that link individuals and communities across time and space. Moreover, it is increasingly being acknowledged that notwithstanding the forced nature of displacement, one of the most vital mechanisms for refugee protection and support is engagement with this wider diaspora.¹³ Indeed, “transnational networks”,

⁸ (Van Hear, 2003), p. 2. See also (“The State of The World’s Refugees 1997: A Humanitarian Agenda,” 1997), Chpt. 2, p. 5.

⁹ (“Global Trends 2011,” 2011), p. 17.

¹⁰ Rosenau describes an ontology as “the broad assumptions that people make about the nature of reality”, which form the “social construction of reality”. See (Rosenau, 1999), p. 289.

¹¹ (Van Hear, 2003), p. 14. See also (Moore, 2000)

¹² (Milner & Loescher, 2011), p. 8.

¹³ See for example (Al-Ali, Black, & Koser, 2001); (Harvey, 1990); (Portes, Guarnizo, & Landolt, 1999); (Van Hear, 2003); and (Wahlbeck, 2002).

Horst argues, “and the flows of resources, people and information that they enable, are crucial to an understanding of any refugee situation”.¹⁴

The Refugee Diaspora as a Middle Space – ‘Bounded’ and ‘Moebius’ space

Fundamental to an understanding of transnationalism is a recognition that it is not a ‘state of being’, but “is itself a dynamic process.”¹⁵ For the refugee in particular, this process embraces a set of unique factors that together can facilitate or undermine the functioning of the diaspora, and impact directly the activities of the refugee community during displacement. As such, Van Hear argues that rather than a fragmented, ‘piece-meal’ approach to elucidating the mechanisms that underpin the refugee diaspora, a more holistic and integrated perspective is necessary – “both to understand the societies concerned and to help devise appropriate policy interventions.”¹⁶

This paper aims to further our understanding of the convergence of the refugee diaspora and the contextual environment within which it is created – in particular how different state policies impact upon the activities of the refugee community during regional displacement. What is proposed is that the refugee exists within a ‘middle space’ – a synthesis of multiple endogenous (individual, household and community-level motivations and strategies) and exogenous factors (the structural characteristics of the state, refugee regime and international community). These myriad factors together establish the ‘boundaries’ that shape the diaspora ‘space’, and ultimately support or undermine the functioning of the refugee communities within it.

This paper will explore and contrast this ‘middle space’ refugee model through two empirical case studies: firstly, the ‘bounded’ space of the prevailing refugee encampment policy noted above, and thereafter the more ‘fluid’ and dynamic space encapsulated by the Economic Community of West Africa (ECOWAS). This paper proposes that in contrast to the restrictions and limitations of the former, the ECOWAS space facilitates refugee transnationalism through its Free Movement Protocols. While much remains to be done to ensure the *in praxis* reality of this ideal, such a regional fluidity or ‘permeation’ of the state and refugee space, greatly enhances refugee support and protection by bolstering the activities and agency of those transnational communities displaced across the refugee diaspora.

¹⁴ (Horst, 2006b), p. 208.

¹⁵ (Al-Ali et al., 2001), p. 633.

¹⁶ (Van Hear, 2006), p. 11.

Drawing on Agamben's 'model of new international relations', such a refugee space "would not coincide with any homogeneous national territory, nor with their *topographical* sum, but would act on these territories, making holes in them and dividing them *topologically* like in a Leiden jar or in a Moebius strip, where exterior and interior are indeterminate."¹⁷

Paper Outline

This paper will firstly explore the development of transnational migration theory, and how this paradigm has been applied to refugee displacement. It will then locate the 'transnational refugee' within the wider refugee diaspora, and examine how endogenous and exogenous factors interact to shape and transform this tripartite space. A refugee 'middle space model' will then be outlined, which defines the primary economic, political and socio-cultural activities of the refugee community and the environmental factors that shape (or 'bind') their realisation *in situ*.

In the second and third sections, this middle space model will be applied to two refugee 'domains' within the near diaspora – specifically the Kenyan refugee camp and the ECOWAS regional body – in order to assess how each supports and obstructs, and ultimately shapes the refugee community and its embeddedness within the wider diaspora. This empirical research will reveal how the 'boundaries' created by the prevailing UNHCR-based refugee response framework fail to acknowledge the vital transnational character of refugee displacement, and undermine the creation of effective and functional refugee communities. In contrast, the fluid boundaries that demarcate the 'moebius' ECOWAS space engenders a more dynamic and supportive environment for the refugee community, and more accurately reflects the transnational identity of those dispersed across the refugee diaspora.

Such a conclusion is of profound significance for the international community. For if we are to fully embrace the rhetoric of the transnational refugee, we must transform the *practical realities* of our theoretical understanding, and shift from the institutionalised approach of the bounded refugee camp model to one that embodies the fluidity of a regional moebius space. While this requires a dramatic paradigm shift, it is however absolutely vital if the international community is to realise truly durable 'solutions' for the millions that are languishing in bounded refugee spaces across the globe.

¹⁷ (Agamben, 1995), p. 118. (Emphasis in original.)

section one:

– the transnational refugee as a theoretical construct –

Arendt and the ‘Refugee Vanguard’

First published in 1943, Hannah Arendt’s ‘We Refugees’ provides a vivid description of the struggle of Jewish ‘newcomers’ who, having fled Nazi Germany attempt to forge new lives in the ‘West’:

“We lost our home, which means the familiarity of daily life. We lost our occupation, which means the confidence that we are of some use in this world. We lost our language, which means the naturalness of reactions, the simplicity of gestures, the unaffected expression of feelings. We left our relatives in the Polish ghettos and our best friends have been killed in concentration camps, and that means the rupture of our private lives.”¹⁸

In being ‘saved’, Arendt describes navigating the path between ‘conscious pariah’ and parvenu, requiring the disassociation from, and even abrogation of the past and the creation of a people *sans* history. “The less we are free to decide who we are or to live as we like” she argues, “the more we try to put up a front, to hide the facts, and to play roles” – becoming the world’s first ‘*prisonniers volontaires*’.¹⁹

In response, Arendt describes how many of those displaced fought “like madmen for private existences with individual destinies”, in order to not become “part of that miserable lot of *schnorrers*” (‘beggar’ or free-loader).²⁰ For these few individuals, “history is no longer a closed book to them and politics is no longer the privilege of the Gentiles.” Instead, these refugees “represent the vanguard of their peoples”.²¹

Such an emotive essay describes clearly the transnational character of forced displacement – whereby the refugee exists not in a single geographically-defined space, but in the socially-created

¹⁸ (Arendt, 1994), p. 110.

¹⁹ (Arendt, 1994), p. 115.

²⁰ (Arendt, 1994), p. 114.

²¹ (Arendt, 1994), p. 119.

duality of both homeland and host country realities. Yet despite these early insights, and ongoing efforts by an array of scholars from Agamben to Zetter who have argued for a revitalised theoretical and practical approach to forced displacement, the refugee has remained for most of the 21st century a highly misunderstood anomaly in the prevailing international state system.²² Indeed, while migration (forced or otherwise) has emerged as a fundamental feature of international relations, “popular thinking remains mired in nineteenth-century concepts, models, and assumptions.”²³ Furthermore, any development that has occurred, has done so in relative isolation, leading to a fragmented array of not only migration theories, but also policies and practices of states and institutions.

Rather, what is required for a comprehensive understanding of contemporary migration – and in particular refugee displacement – is a “sophisticated theory that incorporates a variety of perspectives, levels, and assumptions.”²⁴ And almost three-quarters of a century after Arendt’s *We Refugees*, it would appear that transnationalism offers just such an analytical tool, reconciling the dislocated refugee with temporal, geographic and socio-political space. Let us now briefly examine the evolution of transnational theory, and then explore how it has influenced the study of forced migration.

Migration Theory: reconciling discrete concepts

A Synthesis of Migration Models

Traditional theories that sought to explain the international movement of people across borders highlighted those variables that operated at distinct ‘levels’, including the individual, household, community, nation-state and international. Notably, ‘neo-classical economics’ emphasises the wage and employment differentials that exist between countries, explaining movement as an individual

²² See (Agamben, 1995); (Bauböck, 2010); (Horst, 2006b), p. 177.; and (Zetter, 2011). As Agamben notes, the refugee “unhinges the old trinity of state-nation-territory”, and as such “deserves instead to be regarded as the central figure of our political history.” (Agamben, 2008), p. 93.

²³ (Massey et al., 1993), pp. 431-432.

²⁴ (Massey et al., 1993), p. 432.

decision for income ‘maximization’.²⁵ Emerging from this minimalist model, the ‘new economics of migration’ offers a more comprehensive approach which embraces multiple ‘markets’ – not simply labour – and views migration as a household decision which draws upon an adaptive, dynamic migration ‘portfolio’ as a means to minimise collective risk and maximise collective gains.²⁶

However, both these models operate primarily at the ‘micro-level’, placing emphasis on the individual or household as the referent who seeks to maximise utility through rational decision-making processes. By way of contrast, ‘Dual Labour Market Theory’ and ‘World Systems Theory’ move beyond micro-level factors, focusing on ‘higher levels of aggregation’.²⁷ The former places migration at the state-level, as a response to the structural requirements of industrialised economies, while the latter operates at an even higher level of analysis – placing migration as a consequence of international capitalist market globalisation. International migration is therefore envisaged as an *inevitable* consequence of macro-level structural properties that are bounded within historic social, economic and political developments, rather than individual or household decision-making processes.

While useful for elucidating the various factors operating at both the micro- and macro-level, these discrete perspectives fail to adequately embrace the complex and dynamic nature of international migration. Indeed, as migration proceeds a number of new factors arise that “come to function as independent causes themselves”, and precipitate subsequent movement in a process referred to as ‘cumulative causation’.²⁸

‘Cumulative Causation’ and Network Theory

International migration sustains itself through a process of continual ‘feedback’, which Myrdal refers to as ‘circular and cumulative causation’.²⁹ Feedback is cumulative in that “each act of migration alters the social context within which subsequent migration decisions are made, typically in ways that make additional movement more likely.”³⁰ This introduces an ‘inter-temporal dependency’ to

²⁵ (Massey et al., 1993), p. 432. See also (Todaro, 1969); and (Todaro, 1980).

²⁶ See (Stark & Bloom, 1985).

²⁷ (Massey et al., 1993), pp. 443-444. See also (Wallerstein, 2004); and (Wallerstein, 2011), available at <http://monthlyreview.org/2011/03/01/structural-crisis-in-the-world-system> (accessed 22 January 2013).

²⁸ (Massey et al., 1993), p. 448.

²⁹ (Myrdal, 1958). See also (Massey, 1990).

³⁰ (Massey et al., 1993), p. 451.

the multi-level characteristics (i.e. individual, household and structural) of international migration, which gives rise to a powerful ‘internal momentum’.³¹

Actions are therefore not undertaken by atomised migrants, but “are embedded in ongoing networks of personal relationships”³² These ‘migrant networks’ link homes and destinations, and act as powerful channels for support between individuals and communities.³³ As Charles Tilly famously noted, ‘networks migrate’ and rather than individuals, households or structures, it can be argued that the ‘effective units of migration’ are therefore “sets of people linked by acquaintance, kinship, and work experience.”³⁴

By providing a form of ‘social capital’, these networks reduce the risks and costs associated with mobility and heighten expected gains, which in turn promotes further migration and network augmentation.³⁵ Network theory asserts that once initiated, this cyclical progression will continue until the web of transnational networks become so pervasive that all those who wish to migrate can do so. Moreover, once the strength of networks reaches a ‘critical threshold’, migration becomes self-perpetuating – growing independent of those causal factors that initiated it. Over time, migration flows therefore become less selective and reflective of underlying economic or socio-political conditions, and more broadly representative of the home community.³⁶

Network theory suggests that international migratory patterns are dynamic, fluid and evolving systems that function not only *in response*, but also as a *causal factor* in the motivations to human

³¹ (Massey, 1990), p. 9.

³² (Vertovec, June 30-July 1, 2001).

³³ Migrant networks are “sets of interpersonal ties that connect migrants, former migrants, and nonmigrants in origin and destination areas through ties of kinship, friendship, and shared community origin.” (Massey et al., 1993), p. 448.

³⁴ (Tilly, 1990), p. 84. Networks can be understood in terms of ‘strength’ (or their frequency, duration and intensity), and ‘durability’ or ‘embeddedness’ (a function of time and potential). See (Vertovec, June 30-July 1, 2001), p. 7.

³⁵ (Faist, 2000), p. 96. Portes defines ‘social capital’ as the “capacity of individuals to command scarce resources by virtue of their membership in networks or broader social structures”. As such, rather than inherent to the migrant or the resources themselves, social capital is a product of “an individual’s *ability* to mobilize them on demand”. (Portes, 1995), p. 12. (Emphasis in original).

³⁶ When it has attained this ‘critical mass’, “migration becomes self-perpetuating because migration itself creates the social structure to sustain it.” (Massey, 1990), p. 8. For an excellent study of the escalation of Mexican migration to the US in the 1970s, see (Massey & España, 1987).

mobility.³⁷ Widespread acknowledgement of this inherent mobility, and the interconnectedness of societies across space and time led to the rise of a new era of migration theory – referred to as ‘transnationalism’.

The Fulcrum of Migration Theory – ‘Transnationalism’

Transnationalism first emerged as the notion of a ‘trans-national America’ – in response to what Gleason later referred to as the ‘fusion and confusion’ of the melting-pot ideologies and practices of the early 20th century US.³⁸ In his seminal essay, Bourne describes the apparent failure of attempts to assimilate the ‘alien’ into the Anglo-Saxon American tradition:

“We found that the tendency, reprehensible and paradoxical as it might be, has been for the national clusters of immigrants, as they became more and more firmly established and more and more prosperous, to cultivate more and more assiduously the literatures and cultural traditions of their homelands. Assimilation, in other words, instead of washing out the memories of Europe, made them more and more intensely real.”³⁹

Yet while transnationalism may have to some extent always existed, it has only recently acquired “the critical mass and complexity necessary to speak of an emergent social field.”⁴⁰ Over the next half-century, transnationalism as a concept was shaped and reshaped, and against an increasingly complex global landscape of migration, settlement, citizenship and identity emerged as a theoretical understanding of what has been referred to as “communities without propinquity”.⁴¹

The work of anthropologists including Liisa Malkki and Nina Glick Schiller in the early 1990s has been particularly instrumental in shaping the concept – with the latter describing transnationalism as the processes by which migrants were “forging and sustaining multi-stranded social relations that linked

³⁷ As Massey *et al.* notes, “the conditions that initiate international movement may be quite different from those that perpetuate it across time and space”. (Massey *et al.*, 1993), p. 448. . See also (Van Hear, 1998), pp. 2-6.

³⁸ (Kivisto & Faist, 2010), p. 127.

³⁹ (Bourne, 1916), available at <http://www.swarthmore.edu/SocSci/rbannis1/AIH19th/Bourne.html> (accessed 24 December 2012).

⁴⁰ (Portes *et al.*, 1999), p. 217. See also (Faist, 2000), pp. 211-212.; and (Portes *et al.*, 1999), pp. 223-224.

⁴¹ Webber, Melvin M. (1963). ‘Order in Diversity: Community without Propinquity’, in Lowdon Wingo (ed.), *Cities and Space: The Future Uses of Urban Land*. Baltimore: Johns Hopkins Press, 23–54., cited in (Faist, 2000), p. 197. See also (Kivisto & Faist, 2010), p. 129.

their societies of origin and settlement”, thereby establishing “social fields that cross geographic, cultural, and political borders”.⁴²

While physically existing within the bounds of the nation-state, the transmigrant actively creates a new fluid ‘social space’ which embodies multiple locations, and is founded upon a web of social, economic and political relationships or networks. Transnational communities therefore “sit astride political borders” and are “‘neither here nor there’ but in both places simultaneously”.⁴³ As such, Glick Schiller argued that current theoretical frameworks were inadequate, noting how transnational scholars had begun to “rethink the paradigms within which they study migration and the incorporation of immigrants, discarding previous categorizations of return, circulatory, or permanent immigration.”⁴⁴

The ‘Inertia’ Fallacy

Transnationalism in many ways erodes both the theoretical and physical barriers to migration, including the prevailing belief that humans inherently *do not like to move* – what Everett Lee referred to as the “the natural inertia which always exists”.⁴⁵ Indeed, humans move and continue to move, as a result of not only coercion, labour or wage differentials or inequalities, but because increasingly, they can.⁴⁶

In addition, it has long been assumed that migrants will settle in the host community and undergo the inevitable, albeit gradual process of integration and assimilation. However, assimilation has in many ways now come to be regarded as ‘a worn-out theory’, and while previously “economic success and social status depended exclusively on rapid acculturation and entrance into mainstream circles of the host society, at present they depend (at least for some) on cultivating strong social networks across national borders.”⁴⁷

⁴² (Schiller, Basch, & Blanc-Szanton, 1992a), p. ix. See also (Schiller, 1997), p. 158.

⁴³ (Portes, 1997), p. 3.

⁴⁴ (Schiller, 1997), p. 158.

⁴⁵ (Lee, 1966), p. 51.

⁴⁶ Transnationalism also runs counter to the enduring presumption that “the right to be mobile is the badge of the global elite, while the poor are meant to stay at home”. Bauman, Z. 1998. *Globalization: the Human Consequences*. Cambridge: Polity., cited in (Castles, 2009).

⁴⁷ (Alba & Nee, 1997), p. 826.; and (Portes et al., 1999), p. 229.

The Causes of Transnationalism

Transnationalism can be the result of the grassroots activities of individuals and migrant communities in the homeland and destination, or the activities of powerful 'structural' agents such as institutions or state governments. This categorisation has been termed respectively, transnationalism 'from below' and 'from above'.⁴⁸

The socio-political and economic pressures placed upon migrants (both at home and abroad) can be a powerful catalyst in the creation of 'alternative' transnational networks. This grassroots transnationalism emerges as migrants sort through the evolving 'portfolio' of resources and opportunities available to them, in a cumulative, progressive and adaptive process which transforms individual migrant 'pioneers' into a 'transnational community', embodying dense and far-reaching networks of relationships across space and time.⁴⁹

In addition, much has been written of transnationalism 'from above' – emphasising the role of international institutions and states, and burgeoning structural interdependence due to globalisation.⁵⁰ What must be avoided in any study of transnational migrants however, are "atomistic theories that deny the importance of structural constraints on individual decisions, and of structural theories that deny agency to individuals and families."⁵¹ Rather, embracing transnationalism as a holistic and dialectic process will allow not only the theoretical extrapolation of global migratory systems and structures, but also "the analysis of the everyday networks and patterns of social relationships that emerge in and around those structures."⁵²

The 'Simple' Transnational Refugee

As was shown in the brief overview above, the close of the 20th century saw the emergence of a new conceptualisation of migration, as a dynamic and socially-embedded transnational process spanning

⁴⁸ See (Guarnizo, 1997)

⁴⁹ (Portes, 1997), p. 17.

⁵⁰ (Portes et al., 1999), p. 223. Notably, while largely hesitant to initiate transnationalism, "governments enter the picture as the importance of the phenomenon becomes evident." (Portes, 1999), pp. 466-467.

⁵¹ (Massey et al., 1993), p. 455.

⁵² (Portes, 1997), p. 3.

the globe. Notably, those individuals who become enmeshed within transnational networks and communities “are not simply exploitable objects”, but highly empowered individuals “capable of reacting creatively to the new situation in which they find themselves”, which may mean upsetting the long-held global *status quo*.⁵³ Yet despite the pervasiveness of the concept in contemporary migration and international relations literature, transnational theory remains “a highly fragmented, emergent field which still lacks both a well-defined theoretical framework and analytical rigour.”⁵⁴

Emergence of the Transnational Refugee

Transnationalism does however, present a particularly useful theoretical tool for understanding the mechanics of forced displacement and the dynamics of refugee communities dispersed across the globe, for a number of reasons.⁵⁵ When migration is large-scale and motivated by coercive forces, “it is likely that immigrants remain morally tied to kin and communities left behind and, hence, are more likely to engage in a variety of activities to bridge the gap and sustain a common bond.”⁵⁶ Moreover, the general rule applies that the greater the obstacles to mobility, the greater the role of transnational networks – as they reduce costs and increase gains.⁵⁷ And while international movement presents migrants with a varied degree of difficulty, those undertaking ‘illegal’ migration face a plethora of obstacles during displacement, not the least of which the risk of arrest and deportation.⁵⁸ And finally, if the ‘alien’ community is discriminated against, or afforded an inferior

⁵³ (Portes, 1997), pp. 7 & 19. The latent potential of transnationalism is particularly salient when it is recognised that not all transnational activities are positive and beneficial. Indeed, this Janus-like quality explains how, while a powerful mechanism for community integration, support and development, transnationalism can also engender discord and perpetuate conflict. This can be the result of migrant affiliations and activities, or the “co-optive activities of established elites”. (Portes, 1997), p. 19. See also (Van Hear, 1998), p. 256.

⁵⁴ (Portes et al., 1999), p. 218.

⁵⁵ ‘Forced’ migration refers to “individuals or communities compelled, obliged or induced to move when otherwise they would choose to stay put; the force involved may be direct, overt and focused or indirect, covert and diffuse.” (Van Hear, 1998), p. 10.

⁵⁶ (Portes, 1999), p. 464. On the other-hand, when migration is an individual (or household) decision, and based upon a rational calculation of the costs and benefits involved, any transnational engagement is largely selective, and less normative or common-place.

⁵⁷ (Massey et al., 1993), p. 460.

⁵⁸ Conversely, as Van Hear notes, in the current global climate of change and uncertainty “the stronger the transnational condition, the greater the vulnerability to forced mass exodus.” (Van Hear, 1998), p. 264.

status and excluded from the local society, it provides impetus to the creation and maintenance of transnational networks and ‘adaptive strategies’.⁵⁹

Yet despite such significant theoretical insights, refugee studies have been slow to embrace transnationalism. This is in part because it challenges the conceptual foundations upon which the refugee paradigm has rested for more than three quarters of a century, predicated upon the irreconcilable *separation* of homeland and states of asylum.⁶⁰ Moreover, as Portes cautions, transnationalism can only be said to truly exist when the process “involves a significant proportion of persons in the relevant universe” and exhibits “certain stability and resilience over time”.⁶¹ Therefore, while this paper refers to ‘transnational refugee communities’, it is acknowledged that this label is in a sense premature.

Locating the Transnational Refugee *in situ*

Notwithstanding these concerns, it is becoming increasingly accepted within the refugee literature that rather than a community ‘in exile’, refugees are “not bound by the geographical borders of either the countries of origin or the countries of settlement.”⁶² Furthermore, the specific forced nature of displacement and asylum, and the distinct relationship the refugee engenders with the homeland and the host society, as well as other members of the transnational refugee community, gives rise to a particularly robust form of transnationalism both ‘from below’ and ‘above’. As Kunz noted almost forty years ago, “it is the reluctance to uproot oneself, and the absence of positive original motivations to settle elsewhere, which characterises all refugee decisions”, and underpins the transnational character of refugee communities.⁶³

This resilient form of transnationalism fosters the development of what has been termed the ‘refugee diaspora’, and it is to this that this paper now turns – as providing a more dynamic and

⁵⁹ (Portes, 1999), p. 465.

⁶⁰ Indeed, most refugee research prior to this theoretical ‘rebirth’ has been described as “tactical, *ad hoc*, diffuse and reactive”. Robinson, V. (1993) ‘The nature of the crisis and the academic response’, in Robinson, V. (ed.) *The International Refugee Crisis: British and Canadian Responses*. London: Macmillan, 3-13., p. 6., cited in (Wahlbeck, 2002), p. 221. See also (Van Hear, 2003); (Crisp, 1999a); and (Horst, 2006b).

⁶¹ Alejandro (Portes et al., 1999), p. 219. Indeed a ‘transnational refugee’ is in many ways a normative ideal that is yet to be fully realised, which this paper will explore more fully in the case study sections.

⁶² (Wahlbeck, 2002), p. 228. The transnational refugee canon has now come to include multiple disciplines (including Anthropology, Geography, as well as Migration Studies and International Relations). See for example (Al-Ali et al., 2001); (Basch, Schiller, & Szanton Blanc, 2003); (Horst, 2006b); (Kibreab, 1999) and (Malkki, 1995).

⁶³ (Kunz, 1973), p. 130.

inclusive theoretical framework for analysing the refugee community *in situ*. Indeed, the ‘refugee diaspora’ can “bridge the artificial ‘before’ and ‘after’ distinction commonly applied to migration” by encapsulating the complex transnational relationships refugee communities have with the homeland, other communities dispersed across the globe, as well as host communities and states. ⁶⁴

‘Complex’ Transnational Refugee Theory: the refugee diaspora

Diaspora as a Theoretical ‘Chameleon’

While transnationalism and diasporas have been pivotal concepts in the evolution of modern migration theory, definitions have varied significantly over time. ⁶⁵ Having examined the former, let us turn now to the evolution of the ‘diaspora’. The term itself is derived from the Greek *speiro* meaning ‘to sow’, and *dia* meaning ‘over’, and can be found in the earliest Greek translation of the Old Testament in existence, dating from the 3rd century BC. ⁶⁶ However, the concept has roots even further back, traditionally used to refer to the Jewish exile from the Kingdom of Judah following the Babylonian conquest in the 6th century BC, and has subsequently become strongly associated with Jewish displacement, including those fleeing persecution in Europe in WWII. ⁶⁷

This enduring notion of a Jewish ‘diaspora’ (or *galut*), has imbued the concept with strong connotations of *forced* and *temporary* displacement, and the term has now come to encompass “a motley array of groups such as political refugees, alien residents, guest workers, immigrants, expellees, ethnic and racial minorities, and overseas communities.” ⁶⁸ Notably, the term has also

⁶⁴ (Wahlbeck, 2002), p. 232.

⁶⁵ See (Vertovec, June 30-July 1, 2001), p. 25.

⁶⁶ Translating the text from Hebrew, the term was used to describe the defeat and dispersal of those who disobeyed God – “Thou shalt be a diaspora in all kingdoms of the earth”. Deuteronomy 28:25., Oxford English Dictionary., cited in (Shuval, 2000), p. 42.

⁶⁷ (Shuval, 2000), p. 42.

⁶⁸ (Shuval, 2000), p. 42. See also (Wahlbeck, 2002), p. 229.; and (William Safran, 2005), p. 36. While integral to the understanding of the diaspora, it is possible to overemphasise the role coercion plays in its formation, overshadowing the more benign or positive manifestations inherent within the term. Indeed, the Greek root of the word – ‘to sow’, while

come to be used increasingly by refugee communities themselves, “who feel, maintain, invent or revive a connection with a prior home.”⁶⁹

What formally constitutes a diaspora is widely attributed to William Safran, writing in the inaugural edition of the eponymously entitled journal *‘Diaspora’*. Firstly, he argued that a community must have been dispersed from a single origin, to be located within two or more new locations (creating multiple transnational communities as discussed previously). Secondly, this exile must be ‘enduring’ and there must exist a degree of alienation from the host community. Fourthly, there must persist a “collective memory, vision, or myth” regarding the homeland, which engenders a sense of solidarity and commitment to its preservation, and a desire to return.⁷⁰ And finally, the community must continue to engage ‘personally or vicariously’ with the homeland, utilising transnational networks that link the multiple locations and communities embodied within the diaspora and giving rise to an ‘ethnocommunal consciousness and solidarity’.⁷¹

The Refugee Diaspora as an Analytical ‘Tool’

The diaspora provides a malleable lens through which to view transnational communities in a number of novel ways.⁷² Most notably in the field of International Relations, the diaspora allows an understanding of the complex economic, social and political foundations upon which transnational communities are built. In this way, the diaspora becomes a dynamic, multi-polar global social entity or ‘polis’, spanning both physical space and time.⁷³ And it is in this conceptual form that the diaspora is of particular relevance to the study of refugees, and forms the framework for this paper.

implying the use of force or an action of dispersal, has associated positive connotations of germination and growth. See (Van Hear, 1998), pp. 5-6.

⁶⁹ (Shuval, 2000), p. 42.

⁷⁰ (William Safran, 1991), pp. 83-84.

⁷¹ (William Safran, 1991), pp. 83-84. See also (Wahlbeck, 2002); (Van Hear, 1998), pp. 5-6.; and (William Safran, 2005).

⁷² For example, Vertovec’s notion of a ‘diaspora as consciousness’ infers “a variety of experience, a state of mind and a sense of identity”, embodying both negative (discrimination and exclusion), and positive elements (including identification with a historically or globally-located foundation). Vertovec also describes the diaspora as a ‘mode of cultural production’. See (Vertovec, 1997).

⁷³ (Wahlbeck, 2002), p. 229. This corresponds with what Vertovec described as “diaspora as a social form”. See (Vertovec, 1997).

This theoretical utility has consequently led to the creation of a number of refugee diaspora ‘typologies’.⁷⁴ Yet while such theoretical fervour is a welcome change for a field that has long been stagnating, the scope and diversity of this discourse can be overwhelming and convoluted. Acknowledging as Wahlbeck does that within the nascent field of transnational refugee research “an emphasis on complexity and variety is not fruitful”, this paper will now disentangle some of the core conclusions drawn to date regarding refugee diaspora creation, function and (d)evolution.⁷⁵

The Refugee Diaspora – a Fluid Tripartite ‘Space’

As noted earlier, the transnational migrant has access to a ‘portfolio’ of networks that offer a multitude of opportunities, resources and support mechanisms that together shape international migration. For those facing conflict and forced displacement, this portfolio is highly significant, giving rise to discernable spatial patterns of forced displacement. While some household members will stay within the home community, the majority of those displaced will seek refuge in other parts of the country as internally displaced persons (IDPs). A smaller cohort will cross an international border, to become refugees and asylum seekers.⁷⁶ Secondary movement will also occur as refugees initially residing in regional states of asylum are provided the opportunity to settle in countries further afield through resettlement quotas and other state migration policies (or undertake ‘irregular secondary movement’).⁷⁷

Over time as displacement persists and people ‘consolidate themselves’ within new locations and communities, “complex relations will develop among these different domains of what we may call the ‘refugee diaspora’”.⁷⁸ This pattern of displacement and consolidation creates a ‘tripartite space’ – see Figure One below.

⁷⁴ See for example (Crisp, 1999a); (William Safran, 1991); (Shuval, 2000); (Van Hear, 1998); (Van Hear, 2009); and (Wahlbeck, 2002).

⁷⁵ (Wahlbeck, 2002), p. 230.

⁷⁶ This assertion is supported by UNHCR figures. As at the end of 2011, there were 25.9 million displaced persons in the world. Of these, 15.5 million were IDPs and 10.4 million refugees. See (“Global Trends 2011,” 2011), p. 2.

⁷⁷ (Van Hear, 2009). p. 181. See also (Van Hear, 2006), p. 12.

⁷⁸ (Van Hear, 2006), pp. 9-10.

Figure One: The 'Tripartite Diaspora Space' ⁷⁹

In defining the refugee diaspora 'space', three core domains can therefore be identified: the 'homeland' or country of origin; the country or countries of first asylum, termed the 'near diaspora' (often a neighbouring country to the homeland); and those more distant countries of asylum and resettlement within the 'wider diaspora'. ⁸⁰

Transnational Networks across the Diaspora Space

The above schema also reveals the primary set of transnational networks upon which the diaspora space is founded. These 'organic' social networks are crucial mechanisms for sustaining displaced communities, through the exchange of remittances, information about travel options and border crossings, expanding employment opportunities and socio-cultural support strategies, and facilitating the adaptation to (and integration within) new socio-political environments – providing what can be termed 'transnational assets'. ⁸¹

The Refugee Diaspora *in praxis*

While on a general level the transnational networks that span the three domains are bi-polar, every relationship is heavily influenced by others within the diaspora space, in what is a deeply interconnected and complex 'web' of exchanges. As a consequence of this fluctuation, the prominence of each domain can alter over time. Moreover, there is an ambiguity inherent in these transnational networks and affiliations – while under certain circumstances they can serve as

⁷⁹ The 'Tripartite Space' is based upon the schema outlined in (Van Hear, 2006), p. 11.; and (Van Hear, 2003), pp. 3-4.

⁸⁰ (Van Hear, 2003), p. 12. Notably, while the study of forced migration has to date focused primarily on those that have moved, transnational refugee theory and the refugee diaspora emphasises the role of those that remain in the homeland. See (Van Hear, 1998), p. 45.; and (Shuval, 2000), p. 46.

⁸¹ (Van Hear, 1998), pp. 59-60.

positive support mechanisms, these “political, economic, and other relations are highly volatile” and can perpetuate division, conflict and instability within the diaspora.⁸²

Skewed Demographics

Most notably, spatial distribution within the diaspora reflects the ‘transnational-empowerment’ of refugees. It is primarily only those who have access to strong networks that can successfully undertake international migration and reach the furthest reaches of the diaspora, while those with access to fewer transnational assets will be limited to the near diaspora, or be forced to remain in the homeland.⁸³ Transnationalism may therefore reinforce the inequality and tensions that are inherent within the ‘pre-displacement’ homeland community, and shape the demographics of the refugee communities that span the near and wider diaspora space.⁸⁴ As Van Hear notes, “it tends to be those who are already better off who take prime positions in the transnational arena: encouragement of transnationalism may therefore reinforce inequalities.”⁸⁵

However, as noted earlier transnational networks expand and strengthen over time, fostering the collective accumulation of transnational assets. As a result, communities facing protracted insecurity will experience *escalating levels of displacement* which over time will also become *less selective*. As a result, the initial movement of ‘transnationally-empowered’ individuals will be supplanted by the heightened mobility of those less empowered segments of the community.⁸⁶

What this reveals in our exploration of refugee diaspora theory is that transnational networks shape the *spatial demographics* as well as the *temporal characteristics* of refugee communities, and the wider diaspora space. Let us examine these latter temporal changes in more detail.

Mixed Migration and the Hybrid Refugee Diaspora

Within migration theory there has long prevailed an analytical distinction between ‘refugees’ and

⁸² (Van Hear, 2006), p. 11.

⁸³ The capacity to migrate has been described as a product of “class or socioeconomic standing, access to resources, and associated networks.” (Van Hear, 2009), p. 181. See also (Massey, 1990), p. 8.

⁸⁴ Work by the UNHCR Evaluation and Policy Analysis Unit for example, has shown that Africa’s refugee camps (as prominent sites of asylum within the near diaspora) are characterised by a high proportion of people with special needs, including young people, women and the elderly. See (Zetter, 2011); and (Nowrojee, 2000).

⁸⁵ (Van Hear, 2006), p. 13. Moreover, increasingly restrictionist immigration and asylum policies of states (particularly in the more developed global North) have exaggerated this inherent disparity, with access to the wider refugee diaspora becoming progressively more difficult. See (Guild, 2006); and (Hollifield, 2000), pp. 140-141.

⁸⁶ See (Van Hear, 1998), p. 259. ; and (Massey, 1990), p. 8.

‘migrants’, cast as a political-economic, or involuntary-voluntary polarity.⁸⁷ While the notion of a ‘refugee diaspora’ as a discrete phenomenon would therefore be welcomed by many in the international community, an understanding of transnationalism recognises that “almost all migrants in reality move for mixed motivations, including social reasons”.⁸⁸ Indeed, the demarcation of migrant categories has long been blurred by shifting roles that occur “sometimes as a matter of strategy, sometimes by chance or circumstance.”⁸⁹ As the UN noted more than two decades ago, people “are prompted to leave their own country by a mixture of fears, hopes and aspirations which can be very difficult, if not impossible, to unravel.”⁹⁰

The temporal transformation of the diaspora exposes the dynamics of this ‘mixed-migration’ dilemma clearly. A diaspora may be the product of the evolutionary process of ‘cumulative causation’ as noted above, or alternatively, the result of more acute events (or sets of factors) which instigate a ‘migration crisis’.⁹¹ Refugee displacement may therefore instigate an entirely new diaspora, or permeate and alter the structure of one already in existence. Most commonly however, a refugee diaspora will be shaped by a combination of both cumulative and acute factors, which in aggregate “add to, reinforce or consolidate diaspora communities already existing”.⁹²

The temporal evolution of the refugee diaspora can therefore be understood in three phases. The earliest migrants will often be professionals who in anticipation of state insecurity pursue alternative transnational opportunities. These ‘early refugees’ generally permeate extant economic, political or social networks that, while facilitating more ‘legitimate’ transnational movement can be

⁸⁷ This prevailing dichotomy “is maintained in the policy world, where the governance of international migration is shaped by a widespread view that ‘voluntary’ and ‘forced’ migration are mutually exclusive categories.” (Van Hear, 2009), p. 183.

⁸⁸ (Al-Ali et al., 2001), p. 616. See also (Crisp, 1999a), p. 3.

⁸⁹ (Van Hear, 1998), pp. 50-51. As the UNHCR concluded at the close of the millennium, “migration and refugee flows were for many years regarded as discrete phenomena, and the task of distinguishing refugees from ordinary migrants did not present any serious difficulties to states.” However, it has become “increasingly difficult to make a clear distinction between ‘voluntary’ and ‘involuntary’ movements” as complex causal variables overlap and interact. (UNHCR, 1998), p. 46. See also (“Refugee Protection and Durable Solutions in the Context of International Migration,” 2007).

⁹⁰ *Technical Symposium on International Migration and Development, The Hague, 29 June - 3 July 1998*, UNFPA, New York, 1989, p. 70., cited in (Crisp, 1999a), p. 4.

⁹¹ (Van Hear, 1998), p. 22. See also (Massey et al., 1993), p. 451.

⁹² (Van Hear, 1998), p. 47. Indeed “a look at history shows that migration crises are rarely single events coming from nowhere – even though they are regrettably often perceived as such by organizations charged with dealing with them; rather they have antecedents which should inform our investigation of them and the ways they are to be handled and resolved.” (Van Hear, 1998), p. 241.

appropriated by these ‘mixed-migrant’ flows.⁹³ Over time however, a greater number of ‘primary’ refugees will be forced to flee, building upon those transnational networks available and also creating new pathways as the need for, and legitimacy of asylum grows – embedding what is now principally a ‘refugee’ diaspora within the tripartite space. Finally, and as conflict abates, other family and household members will join the multiple (mixed) refugee communities now dispersed across the diaspora, reflecting a wider segment of the homeland and returning the momentarily ‘pure’ refugee diaspora to its earlier mixed-migratory, and ultimately voluntary character.⁹⁴

The ‘refugee diaspora’ therefore does not develop as a distinct entity, but is instead a ‘hybrid’ that blurs the conceptual distinction between those who flee conflict and persecution, and those who come before or after. Indeed, the concept of a purely ‘refugee diaspora’ is more often than not, a theoretical fallacy.⁹⁵

Rather, contemporary migration is distinguished by ‘extreme diversification’ in movement types, including ‘cross-cutting’ categories where individuals shift from one form of migration to another over time and migrant communities “straddle the blurred division between ‘economic’ and ‘forced’ migrants that informs scholarly and policy debate”.⁹⁶ We need not go as far as Crisp suggests when he argued that “it is almost certainly more profitable to focus on such communities as a whole, rather than on those people who have been recognized as refugees.”⁹⁷ However, it is useful to recognise that refugee diasporas are a dynamic system that is influenced by, and itself influences the broader social, economic and political contexts in which they emerge.

Moreover, while this heterogeneous ‘incoherence’ could be considered a hindrance to the refugee diaspora, as migration patterns shift and transform individuals and communities accumulate what Van Hear refers to as ‘complex migration biographies’ and ‘histories’. Refugee (or rather hybrid)

⁹³ (Van Hear, 2009), p. 182.

⁹⁴ (Van Hear, 2009), pp. 182-183.

⁹⁵ This hybridisation is clearly visible in empirical studies. For example, following the disintegration of Yugoslavia in the 1990s almost 4 million people were forced to flee their homes. What were well-established labour networks were quickly transformed into an extensive refugee diaspora. While displacement followed complex patterns, “[i]t is no accident that the largest number of refugees [...] made for Germany, the destination of the bulk of Yugoslav labour migrants before the crisis”. (Van Hear, 1998), pp. 29-30. See also (Kunz, 1973), p. 128.

⁹⁶ (Van Hear, 1998), p. 7. Nevertheless, refugees are still regarded as distinct from other categories migrant in international law. See (Nyberg-Sorensen, Van Hear, & Engberg-Pedersen, 2002), pp. 15-16.; and (Shuval, 2000), p. 45.

⁹⁷ (Crisp, 1999a), p. 4.

diasporas therefore encapsulate communities with particularly complex migration histories and robust sets of transnational assets – allowing individuals to respond to the social, political and economic fluctuations that are a feature of forced displacement.⁹⁸

Space, Structure and Agency

While it may appear otherwise, the creation of transnational communities and the wider diaspora space within which they exist is not an inevitable result of migration (forced or otherwise). Rather, diasporas are the “exemplary communities of the transnational moment”.⁹⁹ They represent the cumulative synthesis of attachment to a homeland and host state, and a multiplicity of actively-maintained relations spanning the transnational space.¹⁰⁰ Indeed, as Castells neatly paraphrases, space “is the expression of society”.¹⁰¹

Social ‘Fields’ and ‘Spaces’

It is therefore worthwhile at this point to briefly explore the conceptual development of ‘space’ in social theory, to further our understanding of the dynamics of the refugee diaspora. Largely attributed to anthropologists Nina Glick Schiller, Linda Basch and Cristina Blanc-Szanton, the influential notion of ‘transnational social fields’ can be defined as “a series of inter-connecting relationships all of which in some way influence one another”, with each field “a segment of the social system.”¹⁰² Further bolstering this theoretical foundation is the instrumental work of Thomas Faist, who sought to leave behind what he regarded as the ‘container concept of space’ in favour of a ‘transnational social space’ – which referred not only to physical location but also “larger

⁹⁸ (Van Hear, 1998), p. 51.

⁹⁹ (Tölölyan, 1991), p. 5.

¹⁰⁰ (Shuval, 2000), p. 44.

¹⁰¹ Moreover, “[s]ince our societies are undergoing structural transformation, it is a reasonable hypothesis to suggest that new spatial forms and processes are currently emerging”. Castells, M. (1996) *The Rise of the Network Society*, Oxford: Blackwell., p. 410., cited in (Vertovec, June 30-July 1, 2001), p. 22.

¹⁰² While a social system comprises a number of ‘overlapping’ social fields, it was however not well-established whether this system comprises “the aggregate of social fields or whether it should be thought of as a ‘field of fields’”. Mitchell, J.C. (1966) ‘Theoretical orientations in African urban studies,’ in *The Social Anthropology of Complex Societies*, M. Banton (Ed.), London: Tavistock, pp. 37-68., p. 57., cited in (Vertovec, June 30-July 1, 2001), p. 24. See also (Schiller, Basch, & Blanc-Szanton, 1992b).

opportunity structures, the social life and the subjective images, values, and meanings that the specific and limited place represents to migrants.”¹⁰³

As a process in which two or more nation-states are ‘penetrated’ and a new singular space established, transnational social space seeks to move beyond the mere acknowledgement of transnational relationships connecting communities, “towards a recognition of the practices of migrants and stayers connecting both worlds and the activities of institutions such as nation-states that try to control these spaces.”¹⁰⁴

Bringing Space Back to Earth – The Influence of Structural ‘Anchors’

Such a recognition of the active creation (and obstruction) of social space is central to our analysis of the refugee diaspora. Transnational fields and spaces have existed previously, and the dramatic increase in modern global migration and communication networks has created myriad social spaces that extend “over and beyond, rather than between or in, the nation-states.”¹⁰⁵ Indeed, Beck has described ‘globalisation’ as the processes “through which sovereign national states are criss-crossed and undermined by transnational actors with varying prospects of power, orientations, identities and networks.”¹⁰⁶ Yet while globalisation is largely ‘decentred’ from the territory of the nation-state (as encapsulated within the Marxist notion of an ‘annihilation of space by time’, or Harvey’s ‘time-space compression’), Faist argues that transnational spaces are “anchored in and span two or more nation-states, involving actors from the spheres of both state and civil society”.¹⁰⁷

As such, our earlier delineation of transnationalism ‘from below’ and ‘from above’ must be seen as a confluence – rather than as ‘discrete parallel phenomena’.¹⁰⁸ A comprehensive understanding of the refugee diaspora ‘space’ therefore recognises the ‘dialectic interplay’ between refugees and

¹⁰³ (Faist, 2000), p. 45.

¹⁰⁴ (Faist, 2000), p.12.

¹⁰⁵ (Wahlbeck, 2002), p. 223. Historically, migration was in many ways a consideration of geographic space, with only those destinations of a close proximity linked by a robust set of transnational ties. Contemporary migration however, and the creation of ‘transnational spaces’ no longer hinges on this ‘distance barrier’. Transnationalism while distinct, can therefore be regarded as a product of globalisation, or perhaps a congruent evolutionary trait. See (Koser, 2010); and (Portes et al., 1999), p. 224.

¹⁰⁶ Beck, U. (1999) *What is Globalization?* Cambridge: Polity., p.11., cited in (Wahlbeck, 2002), p. 223.

¹⁰⁷ (Faist, 2000), p. 211. See also (Harvey, 1990), p. 426.; and Marx, K. *The Grundrisse: Notebook V* (1858), available at <http://www.marxists.org/archive/marx/works/1857/grundrisse/ch10.htm> (accessed 2 February 2013).

¹⁰⁸ (Kivisto & Faist, 2010), pp. 140-141.

communities dispersed across multiple domains, and the ‘power structures’ of the institutions and international state system within which the diaspora is anchored.¹⁰⁹ States have not disappeared, but instead “we live in a ‘glocalized’ social reality where both the local and the global exist side by side and in relation to each other.”¹¹⁰

Agency, Structure and the Duality of Endogenous and Exogenous Factors

It is clear therefore, that alongside transnational activities and agency, central to the shaping of the diaspora space is “the discourse on the *nation state* and its authority.”¹¹¹ Indeed, ‘agency’ refers “not to the intentions people have in doing things”, Giddens asserts, “but to their capability of doing those things in the first place”.¹¹² Agency implies a degree of choice, reflecting the structural circumstances that may or may not constrain that choice, and also a degree of power – establishing the individual as a ‘perpetrator’ in that they could “at any phase in a given sequence of conduct, have acted differently.”¹¹³ Moreover, ‘structure’ is marked by “an absence of the subject”, yet it is not ‘external’ to the individual – the structural properties of social systems “are both medium and outcome of the practices they recursively organise”.¹¹⁴

Therefore, rather than two independent phenomena or a *dualism* of actor and structured social system, Giddens’ Structuration Theory reveals a *duality* – whereby actors are both enabled and constrained by, and simultaneously themselves shape the structured system.¹¹⁵ The refugee

¹⁰⁹ See (Wahlbeck, 2002), p. 232.; (Portes et al., 1999), p. 220.; and (Kivisto & Faist, 2010), p. 132. Indeed, notwithstanding the increasing marginalisation of refugee communities and incidence of ‘refugees in orbit’, “people do live in very concrete localities”. (Wahlbeck, 2002), p. 233. See also the UNHCR “General Conclusion on International Protection No. 71 (XLIV)” (8 October 1993), available at <http://www.unhcr.org/refworld/docid/3ae68c6814.html> (accessed 19 February 2013).

¹¹⁰ (Wahlbeck, 2002), p. 233. See also (Bauman, 1998); and (Schiller, 1997) . Interestingly, over time the distinctions between ‘migrant’, ‘host’ and ‘homeland’ communities may become less pronounced - as all three homogenise into a unified transnational space. Yet while entrenched within institutionalised global groupings such as the nation-state, transmigrants cannot be understood without “explicit reference and consideration of both local and transnational ties in the places of origin and destination.” Faist, *The Volume and Dynamics of International Migration and Transnational Social Spaces.*, p. 242.

¹¹¹ (Shuval, 2000), p. 45. (Emphasis in original.)

¹¹² (Giddens, 1984), p. 9.

¹¹³ (Giddens, 1984), p. 9.

¹¹⁴ (Giddens, 1984), p. 25.

¹¹⁵ Structuration Theory proposes that “the rules and resources drawn upon in the production and reproduction of social action are at the same time the means of system reproduction (the duality of structure).” (Giddens, 1984), p. 19. Giddens

diaspora is such a dynamic ‘entity’ – created by the interaction of endogenous (emanating from within the diaspora as refugee agency and activity) and exogenous factors (the structural system in which the diaspora exists) operating across the diaspora tripartite space. Together these factors shape the diaspora *in situ*, creating ‘boundaries’ around the domains and communities embedded within the diaspora space.¹¹⁶

These factors are particularly salient for refugee communities, as they navigate the highly bounded nature of their refugee condition.¹¹⁷ Let us now examine these endogenous and exogenous factors in more detail, and how they shape the refugee communities dispersed across the diaspora space.

The ‘Making and Unmaking’ of Communities: the refugee diaspora as ‘middle space’

To borrow from Van Hear, what factors ‘make and unmake’ the refugee diaspora?¹¹⁸ In other words, what endogenous and exogenous factors influence the formation and evolution of the diaspora, and shape the refugee communities dispersed within it?

‘Migration orders’ (defined as discernable patterns of movement that operate in a given tempo-spatial instance) Van Hear asserts, are not static flows that exist in equilibrium, but are shaped by the factors that operate within six different levels of analysis or ‘dimensions of migration’.¹¹⁹ These dimensions provide a robust analytical framework in which to situate the refugee diaspora ‘space’ and the myriad endogenous and exogenous factors that influence its evolution *in situ*.

i. Individual Motivation: While migration orders (and the refugee diaspora) represents a collective pattern of movement, these patterns are created by the decisions and actions *of individuals*.

does note however, that this duality does not prevent a structured social system from “stretching away, in time and space, beyond the control of any individual actors.” (Giddens, 1984), p. 25.

¹¹⁶ As Van Hear acknowledges, there are “significant cleavages within and among different domains of the [refugee] diaspora.” (Van Hear, 2003), p. 12.

¹¹⁷ See (Crisp, 1999a), p. 9.; (Portes et al., 1999) and (Portes, 1997).

¹¹⁸ (Van Hear, 1998), p. xii.

¹¹⁹ (Van Hear, 1998), pp. 11-14. These dimensions are based upon those levels of analysis outlined in Massey *et al.*’s overview of migration theories. See (Massey et al., 1993).

Decisions may be based upon economic cost-benefit calculations (as embodied by neo-classical economic theories of migration discussed earlier), however other considerations are equally important, including socio-cultural motivations, and considerations of human security.¹²⁰

ii. Household Strategies: The role of the family or household is also acknowledged as a powerful driver in migration, as reflected in ‘new economics of migration’ and Stark’s ‘portfolio’ of household strategies. These portfolios again include socio-cultural considerations, as well as notions of human security that are particularly relevant to our analysis of refugee displacement.¹²¹

iii. Disparities between Locations: A key catalyst in shaping migration is a disparity (whether real or imagined) between home and destination. These push and pull factors include Marxist traditions of exploitation and class (encapsulated in ‘dependency’ and ‘world systems theory’ as noted earlier), and inequalities in economic and socio-political spheres including human rights and relative human security.¹²² Such perceptions of disparity, which can also be referred to as ‘**politics of the diaspora**’, can both bind and fracture transnational communities, and have significant influence upon the formation of a cohesive and fully-functioning diaspora.¹²³

iv. Transnational Networks: As explored at length in this paper thus far, scholars now recognise the ‘profound’ significance of migrant networks in shaping migration patterns. Concepts such as ‘cumulative causation’, ‘social capital’ and ‘transnationalism’ capture the more socially reflexive and holistic nature of migration orders, as a systemic process that derives from myriad interconnected factors.¹²⁴

¹²⁰ (Van Hear, 1998), p. 14. See also (Kunz, 1973).

¹²¹ (Van Hear, 1998), p. 14. See also (Stark & Bloom, 1985).

¹²² (Van Hear, 1998), p. 241. The rubric of ‘human security’ encapsulates many of the socio-cultural, economic and political factors that shape migration orders at the individual, household and community level. The UNDP’s *Human Development Report 1994* provides the keystone to contemporary human security – defining ‘Freedom from Fear’ and ‘Freedom from Want’ as encapsulating economic, food, health, environmental, personal, community, and political security. See the Universal Declaration of Human Rights, available at <http://www.un.org/en/documents/udhr/index.shtml#atop> (accessed 20 January 2013). See also (Wolfers, 1952); (“Human Development Report,” 1994), p. 22. (Baldwin, 1997); (Buzan, 1984); and the UN General Assembly 2005 World Summit Outcome Document, available at <http://www.un.org/summit2005/documents.html> (accessed 23 January 2013).; and (Roland, 2001)

¹²³ (Al-Ali et al., 2001), pp. 630-631. See also (Van Hear, 1998), p. 2.

¹²⁴ See (Van Hear, 1998), p. 15.; (Basch et al., 2003) ; and (Portes, 1997).

v. The ‘Migration Regime’: The migration regime encapsulates the “national and international body of law, regulations, institutions and policy dealing with the movement of people.”¹²⁵ Indeed, state legislation and policies regarding refugee movement, integration and management, and the actions of international organisations attempting to provide structure and order to these strategies have significant impact on refugee diasporas.

vi. The ‘Macro-Political Economy’: This final dimension encapsulates the distribution and dynamics of power and resources across the globe. This includes the patterns of production, supply and consumption, trade and financial relationships, military strength, populations, environmental resources (land, water, forests), political agendas, and the development of, and access to transport and communications structures. This domain emphasises macro-level regional and international relationships, and those processes inherent within ‘globalisation’ noted above.¹²⁶

The Refugee Diaspora as ‘Middle Space’ – a theoretical framework

These dimensions encompass both endogenous (i.e. the motivations of individuals, households and communities located within the three core domains of the diaspora space) and exogenous factors (i.e. the structural characteristics of the macro-political economy and the international refugee regime that bind the diaspora *in situ*).

In aggregate, these dimensions create the boundaries that shape the diaspora space – “within which migrants make choices or have decisions thrust upon them [...] the dynamics of which may encompass several countries of origin, transit and destination.”¹²⁷ While different weighting may be placed on each dimension as environmental and empirical parameters fluctuate, such a robust and integrated analytical approach to the refugee community “has the advantage of inclusivity, coherently linking the spatial and temporal dimensions of migration, its stages and components.”¹²⁸

This theoretical framework therefore locates the diaspora as a truly ‘middle space’ – the nexus of refugee communities and the external environments in which they are located.

¹²⁵ (Van Hear, 1998), p. 16. See also (Rosenau, 1999).

¹²⁶ (Van Hear, 1998), p. 16 & 19.

¹²⁷ (Van Hear, 1998), p. 21.

¹²⁸ (Van Hear, 1998), p. 18.

Figure Two: The Refugee Diaspora as ‘Middle Space’ ¹²⁹

As Figure Two above reveals, conceptualising the refugee diaspora as a ‘middle space’ reconciles the horizontal (or spatial and temporal) development of the diaspora with the vertical (or multi-dimensional) environmental context within which it is situated. No longer a solitary and passive ‘victim’, the refugee is therefore revealed as a powerful transnational actor located within an interconnected, fluid and dynamic diasporic space.¹³⁰

Next this paper will explore in depth the dynamics of this middle space, in particular how the myriad factors and dimensions outlined above shape the ‘boundaries’ of the diaspora middle space, and impact upon the lives of those refugee communities dispersed within it. For while it is useful to

¹²⁹ This schema is based upon the diaspora domains and dimensions defined by Van Hear in (Van Hear, 2006), p. 11. and (Van Hear, 1998), pp. 14-16.

¹³⁰ The middle space is therefore the *in praxis* embodiment of Giddens’ Structuration Theory noted above. See (Giddens, 1984).

disaggregate the diaspora middle space, it must be understood “in terms of multiple and differential embeddedness”.¹³¹ That is, each domain within the diaspora space (i.e. the homeland, near and wider diaspora) embodies a unique set of factors and “it is the confluence of these that colour the nature and development of any social space and, thereby, the community that inhabits it.”¹³²

The Refugee ‘Middle Space’ Model

Having located the refugee diaspora as a ‘middle space’, it is now possible to construct a theoretical refugee model that a) identifies the core activities of the refugee community, and b) explores how the particular endogenous and exogenous factors within each domain of the diaspora shape these activities – see Table One below.

Such a robust and yet malleable analytical tool will greatly bolster the empirical study of refugee displacement *in situ*, by allowing the comparative analysis of those factors that both facilitate and undermine the evolution of the refugee diaspora. Such findings may inform not only our theoretical precepts but also the policies and strategies employed by the international community. Indeed, international theories, intentionally or otherwise “do not simply explain or predict, they tell us what possibilities exist for human action and intervention; they define not merely our explanatory possibilities, but also our ethical and practical horizons.”¹³³

¹³¹ (Vertovec, June 30-July 1, 2001), p. 25.

¹³² (Vertovec, June 30-July 1, 2001), p. 25.

¹³³ (Smith, 1996), p. 13. Indeed, diasporas “formed as a result of conflict have arguably consolidated themselves into an element integral to the current world order.” (Van Hear, 2009), p. 185.

Table One: The 'Refugee Middle Space Model': an analytical tool for *in situ* community assessment ¹³⁴

	Refugee Community Activities	Exogenous and Endogenous Factors
Economic	<ul style="list-style-type: none"> • Employment, Business & Labour Activities • Remittance Exchange 	vi. The Macro-Political Economy
Political	<ul style="list-style-type: none"> • Political Engagement, Mobilisation & Activism 	v. The Migration Regime
Socio-Cultural	<ul style="list-style-type: none"> • Physical Movement • Information Dissemination • Social Cohesion & Community Security • Host Community Engagement & Advocacy 	iii. Politics of the Diaspora ii. Household Strategies i. Individual Motivation

¹³⁴ This table draws on and develops those activities and variables identified by (Al-Ali et al., 2001), pp. 619 and 627.; (Van Hear, 1998), pp. 14-16.; and (Shuval, 2000), pp. 50-53.

The Refugee Middle Space Model

– a synergy of activities and environmental factors

It can be seen that the refugee community undertakes a number of core activities. There are of course numerous other activities that may be identified, however this set of ‘building-blocks’ provides a vital foundation upon which a robust, effective and transnationally-embedded refugee community may be built. Moreover, while categorised as economic, political and socio-cultural endeavours, these are not discrete variables as they interact and transform according to the evolution of the diaspora middle space. Furthermore, reflecting the duality of Giddens’ Structuration Theory, these activities are directed both ‘inward’ towards the refugee community and diaspora, as well as ‘outward’ to embrace host communities and states.¹³⁵

The refugee model also incorporates the multi-dimensional exogenous and endogenous factors outlined above, which influence the realisation of the community activities within each domain, and thereby shape the evolution of the refugee diaspora as a dynamic ‘middle space’. By applying the above model to specific domains and communities within the diaspora, we can therefore explore the convergence of activities and factors as a context-specific process, and ultimately unravel the strengths and weaknesses of international refugee protection *in praxis*. Let us now briefly examine the model activities, factors and assumptions – each will be examined in greater detail in the following case study sections.

Economic Activities

Employment, Business & Labour Activities:

Vital not only to daily subsistence, but also for providing adequate shelter, accessing healthcare and education services, local community and transnational engagement and the ongoing socio-cultural cohesion and development of the refugee community is secure employment, a regular income and the ability to undertake economic and business initiatives.¹³⁶

However, employment and business activities are shaped by a number of factors that are unique to the refugee community – including language ability, education, employment capacity (undermined

¹³⁵ This duality will be examined further in our subsequent empirical studies. See (Al-Ali et al., 2001), pp. 619-620.; and (Van Hear, 2009), p. 184.

¹³⁶ (Crisp, 1999a), pp. 7-8. Interestingly, the economic enterprises which provide employment for both refugees and other migrants are themselves often transnational – embedded within wider migrant networks that see the exchange of goods, labour and capital between multiple domains. See also (Al-Ali et al., 2001), p. 627.

by physical and mental trauma resulting from conflict and displacement), inherent discrimination and exclusion, and the particular market characteristics of the host community and state. Within the near diaspora, these factors can be particularly debilitating, with the vast majority of states of first asylum those less-developed countries of the global 'south', which suffer from failing infrastructures, economic stagnation, widespread poverty, and few vocational training and welfare services.¹³⁷

Remittance Exchange

The transfer of remittances are an integral component of what Van Hear terms a "transnational relief and social welfare system" – through which significant resources are channelled from more prosperous domains within the diaspora to provide a 'safety net' for those less affluent and more vulnerable refugees and communities.¹³⁸ Within the refugee diaspora these exchanges are not merely financial transfers, but engender vital socio-cultural networks and relations.

Remittances include financial transfers, investments and donations which are used for basic food, healthcare, education and housing needs. Refugee remittances may also be used to pay for households' (illicit) passage within or between countries.¹³⁹ While generally between individual and households, the transfer of goods and finances can also occur through 'collectives' or organisations, including churches, mosques, community groups and hometown associations. These 'collective remittances' provide funds that can be channelled into larger projects – such as hospital, schools and other community development initiatives – the significance of which "may extend beyond their immediate economic and material effects, since they can help repair a social fabric shredded by years of conflict."¹⁴⁰

¹³⁷ Indeed, as the economic, social and environmental costs of refugee populations in these generally 'weaker and more vulnerable' host communities grows, so too does the "tendency to think of refugees as a burden". ("Framework for Durable Solutions for Refugees and Persons of Concern," 2003), p. 9. See also (Kelley, 2007).

¹³⁸ (Van Hear, 2009), p. 184. Remittances remain a primary activity for communities dispersed within the diaspora. For example, in a study of Bosnian refugees living in the UK and the Netherlands, 80% sent remittances to relatives still living at home. (Al-Ali et al., 2001), p. 620.

¹³⁹ Garnering the financial resources necessary for movement appears to be an increasingly vital function for transnational networks. As the borders of those states of the global 'north' become increasingly securitised, and more stringent control mechanisms seek to restrict international mobility, a comprehensive human trafficking industry has evolved, with an associated increase in costs (and risks) for irregular migrants. See (Crisp, 1999a), p. 6.; and (Salt, 2000).

¹⁴⁰ (Van Hear, 2009), p. 184. Indeed, notwithstanding the potential of these transfers, their impact is in many ways more symbolic than practical. Moreover, collective remittances often reflect the wider norms of host societies and the

Acknowledging the other side of the remittances ‘coin’ however, collective remittances can also be used to fuel political causes and insurgent groups, and thereby perpetuate or heighten conflict – whether for the greater ‘good’ or ‘bad’. ¹⁴¹ In addition, information and access to efficient banking services and remittance systems are all essential to financial acumen and the realisation of refugee community activities. ¹⁴²

Political Activities

Political Engagement, Mobilisation & Activism

Perhaps the most important factor influencing the refugee community – underpinning almost all the economic and socio-political activities and functions it may perform – is the legal status accorded it by the host state. However, refugee engagement and mobilisation is highly reflective of the ‘political landscape’ of both the host state and the homeland, and the highly politicised nature of forced displacement and asylum. ¹⁴³

Despite these obstacles, many refugees continue to remain active in the political developments in the homeland. ¹⁴⁴ This ‘political transnationalism’ can have significant impact on refugee communities ‘in exile’ as well as those left behind in the homeland. Indeed, nation-states “have been created from abroad and dictatorial regimes overthrown by the efforts of exiled citizens.” ¹⁴⁵ While remaining politically engaged with the homeland bolsters “an identity and a sense of order and purpose in the fragmented lives of the refugees”, affiliations often echo the dissension that

international community, for example mirroring the objectives of the humanitarian and human rights advocacy groups that operate during conflict and displacement.

¹⁴¹ See (Van Hear, 2009), p. 184.

¹⁴² (Al-Ali et al., 2001), p. 628.

¹⁴³ Rather than “a footloose, transient population”, the effective functioning of transnational communities “is predicated on reasonably secure attachment to the place of exile”. (Van Hear, 2006), p. 12. See also (Al-Ali et al., 2001), pp. 629-630.

¹⁴⁴ See (Wahlbeck, 2002), p. 227.

¹⁴⁵ (Portes, 1999), p. 475. While homeland governments may view the refugee in exile with suspicion if not outright hostility, many are now coming to view the diaspora as a valuable asset to national development, and are ‘courting’ the diaspora. See for example The New African “Why the AU is Courting the Diaspora” (26 July 2012), available at <http://www.newafricanmagazine.com/special-reports/other-reports/10-years-of-the-au/why-the-au-is-courting-the-diaspora> (accessed 12 February 2013).

permeates the homeland. This can lead to significant conflict within the refugee community, and greatly undermine social cohesion.¹⁴⁶

In addition, the refugee community can also bring about change in the political structures of the host country. Indeed, if the refugee community is politically significant, both the host and the homeland may manipulate the diaspora in terms of its own political agenda.¹⁴⁷

Socio-Cultural Activities

Physical Movement

Freedom of movement, both within the host state and across the wider diaspora, is also of paramount importance to the refugee community, and the relationships and activities that bind them.¹⁴⁸ Such movement fosters a sense of unity and cohesion, and is often in response to socio-cultural obligations (relating to family, clan or community), and economic or bureaucratic activities such as relating to market activities and property.¹⁴⁹

However, state policies can severely restrict refugee mobility, and concomitant local community discrimination can make any such movement extremely risky. As such, refuge communities across the diaspora are powerful mechanisms for supporting movement, by providing vital information and support structures both *en route* and at the final destination.¹⁵⁰ Moreover, ongoing movement strengthens refugee ‘migration biographies’, and bolsters the transnational assets that are made available.¹⁵¹ In addition, the disparity between those seeking to cross state borders, and the ability

¹⁴⁶ (Wahlbeck, 2002), p. 226. See also (Al-Ali et al., 2001), p. 622. Indeed, within refugee communities “political divisions and allegiances often play a far more important role than ethnic identities”, and have been found to be a common obstacle in creating viable, inclusive refugee organisations. Conversely, these divisions can provide a strong impetus for smaller groups and associations to emerge. See (Wahlbeck, 2002), pp. 227 & 234.

¹⁴⁷ See (Shuval, 2000), p. 47.

¹⁴⁸ It is noteworthy that while policy-makers often regard visits to the homeland as a positive step towards repatriation, they are often a pivotal motivation in decisions to remain ‘in exile’. While reunions with kin and friends are generally welcomed, resentment and changing socio-cultural environments both in the homeland and exiled communities, can undermine any thoughts of permanent return. For a dramatic example of these mixed fortunes, see (Al-Ali et al., 2001), p. 623.

¹⁴⁹ See (Wahlbeck, 2002), p. 225.

¹⁵⁰ As Crisp notes, refugees with access to such information “are evidently better placed to negotiate entry” than those who do not. (Crisp, 1999a), p. 6.

¹⁵¹ This is particularly pertinent when the community, and the movement itself is by definition ‘illegal’ or irregular, and circumvents official pathways. See (Crisp, 1999a), p. 7.

to do so legally has created a “lucrative economic niche for entrepreneurs and institutions dedicated to promoting international movement for profit” – resulting in a burgeoning ‘black market in migration’.¹⁵²

Information Dissemination

In addition, access to information is vital in facilitating the above community activities. Indeed, the particular uncertain and insecure nature of the refugee community places heightened emphasis on the dissemination of information, concerning what are constantly shifting opportunities and risks.¹⁵³

Access is however, not the only consideration in the utility of information within the community. The *quality* of the information provided is also of consequence to refugee decision-making and activities – with the less accurate the information transmitted, the greater its impact. Yet “as a rule migrants pretend to be better off than they actually are [...] information is often transmitted through informal channels, and at each new link in the transmission process, the success story tends to be further magnified”.¹⁵⁴

Social Cohesion and Community Security

The ‘cohesion’ and resilience of the refugee community has a direct impact upon what transnational activities can be undertaken, and how successful they are.¹⁵⁵ Consequently, a key function of the refugee community is the exchange of shared ideas, values and norms (what has been termed cultural ‘artefacts’ or ‘social remittances’), and the fostering of a ‘collective consciousness’.¹⁵⁶

¹⁵² (Massey et al., 1993), p. 450. While prone to abuse by these human traffickers, their activities are often supported by, and interwoven with the refugee networks and communities themselves – revealing the difficulty in drawing a line between network-facilitated refugee migration, and the more insidious and predatory process of trafficking. See (Crisp, 1999a); (Ghosh, 1998), p. 70. (Van Hear, 1998), pp. 258-259.; (“Refugee Protection and Human Trafficking: Selected Legal Reference Materials,” 2008); (Salt, 2000); and (Adepoju, 2005b).

¹⁵³ (Al-Ali et al., 2001), p. 630.

¹⁵⁴ (Ghosh, 1998), p. 67.

¹⁵⁵ As Van Hear notes, “people at home and in exile may operate in a single social field, or at least in linked social fields.” (Van Hear, 2003), p. 2.

¹⁵⁶ See (Levitt, 1998). Such a collective consciousness provides migrants with what Bourne eloquently described as a ‘spiritual country’. These ‘centripetal’ forces he argued, “make for the intelligence and the social values which mean an enhancement of life”, and counter those opposing influences ‘at the fringe’ which “make for detached fragments of peoples.” (Bourne, 1916), available at <http://www.swarthmore.edu/SocSci/rbannis1/AIH19th/Bourne.html> (accessed 24 December 2012).

Multiple factors can strengthen community cohesion, including a shared sense of security, 'belonging' and support, and the facilitation of cultural norms and social structures that heighten a sense of collective identification and engagement.¹⁵⁷ However, uncertain legal status, marginalisation, and the insecurity that comes from restricted economic, socio-cultural and political opportunities can significantly undermine these cultural structures, in particular eroding generational hierarchies, leadership and gendered relationships.¹⁵⁸

Refugee 'identity' can therefore be understood as the product of continued engagement, synthesis and transformation encapsulating the near and wider diaspora, as well as homeland and host communities.¹⁵⁹ Indeed, the 'language of the diaspora' is increasingly being used by displaced individuals and communities, whereby defining oneself (and being defined by others) as a "people with historic roots" places you outside of the time-space boundaries of the nation state, and "provides a sense of power and legitimacy to claims of oppression or disadvantage."¹⁶⁰

This can explain the essentialist nature of 'collective consciousness' – as differences are suppressed by a reified notion of homeland and nationhood. This is acknowledged by Gans' theory of 'symbolic ethnicity', whereby (particularly second and third generation) migrant communities foster "a nostalgic allegiance to the culture of the immigrant generation, or that of the old country", and therefore seek out "ways of expressing their identity [...] that do not conflict with other ways of life".¹⁶¹

¹⁵⁷ Community advocacy and socio-cultural activities are an important means for fostering the language, religion, norms, values and ideology (the 'narratives') of the homeland. See (William Safran, 2005), p. 36. Moreover, the internet is joining telephone and radio as a key mechanism for the exchange of information and social remittances across the diaspora – providing a 'virtual' environment that allows for time-space compression, and the shaping of transnational identities and consciousness. See (Al-Ali et al., 2001), p. 624.; and (Wahlbeck, 2002), pp. 225-226.

¹⁵⁸ A pervasive sense of disillusionment amongst younger generations has led many elderly refugees to admonish "a lack of 'national consciousness' amongst youngsters". (Al-Ali et al., 2001), p. 631. However, it is equally clear that much of the socio-political activism that occurs within the refugee diaspora is undertaken by younger refugees.

¹⁵⁹ Indeed, over time this collective diasporic identity can become a 'centre for cultural creation' – while maintaining a (real or mythical) ideological link with the homeland. (William Safran, 2005), p. 36. See also (Wahlbeck, 2002), p. 228. Shuval for example, describes an 'eschatological stance' towards repatriation, conceptualising it as an undefined utopian goal that will occur at *some point* in the indeterminate future. See (Shuval, 2000), p. 47.

¹⁶⁰ Clifford 1994. "Diasporas". *Cultural Anthropology* 9(3): 302-338., cited in (Shuval, 2000), p. 48.

¹⁶¹ (Gans, 1979), pp. 8-9. See also (Kivisto & Faist, 2010), p. 110.; and (Portes, 1999), p. 472.

Local Community Engagement & Refugee Advocacy

It follows that the level of engagement and integration with the host community is one of the primary indicators of refugee community strength, and is integral to the successful realisation of the majority of the activities outlined above.¹⁶²

While discrimination and marginalisation greatly undermines the activities of the refugee community, host communities can also facilitate access to local economic opportunities, social support services, and strengthen legal rights and freedoms.¹⁶³ However, the degree of local engagement is not only the consequence of host actions. The prior existence of local community affiliations – based upon histories of trade, migration or social and ethnic networks are crucial determinants of community integration. Refugee initiatives such as the establishment of advocacy groups and nascent trade or social initiatives also act as important vehicles for refugee-host amity.¹⁶⁴

The Refugee Middle Space Model as an Empirical Tool

As has been shown, while refugee communities undertake a number of vital activities and functions, there is a significant distinction that must be made between the *potential* and *ability* of refugees to participate in these activities. There are an array of factors (both endogenous and exogenous) that influence whether communities have the capacity and ability to successfully engage in the multiple activities that are vital to the lives of those displaced.

These factors are specific to the particular domain in which the community is located, and can be categorised within the migration dimensions discussed previously, namely Individual Motivations; Household Strategies; ‘Politics of the Diaspora’; the Migration ‘Regime’ and the ‘Macro-Political Economy’.¹⁶⁵ By reconciling the core activities of the refugee community with the specific contextual factors that mould the domains of the diaspora, we can garner a clear understanding of the lives of the refugee *in situ*.

Middle Space as a Weberian ‘Ideal Type’

The diaspora is a dynamic, fluid and changing synthesis of internal and external reality. Therefore what is considered a significant factor or function in one instance may not be relevant in another. In order to function as an analytical tool, the conceptual refugee model outlined above must therefore

¹⁶² (Van Hear, 1998), p. 60.

¹⁶³ See (Massey et al., 1993), p. 450.

¹⁶⁴ (Al-Ali et al., 2001), p. 624.

¹⁶⁵ (Van Hear, 2009), pp. 184-185.

be treated as an 'ideal type'. As Weber notes, by gathering together into one homogeneous, stable concept "the most multifarious nuances of form and content, clarity and meaning", we are "applying a purely analytical construct created by ourselves."¹⁶⁶ Indeed, such a fusion of 'countless concrete relationships' is "a synthesis which we could not succeed in attaining with consistency without the application of ideal-type concepts."¹⁶⁷

The creation of an ideal-type is therefore 'ideal' in the sense that it does not exist empirically in this 'pure' form.¹⁶⁸ The value of such an abstraction "lies in its usefulness in describing and explaining reality in terms of clearly understandable concepts" – which select and emphasise certain characteristics and variables.¹⁶⁹ This allows the comparison of individual cases that gauge how much reality embodies or diverges from this theoretical contrivance.

In order to be theoretically constructive, the refugee middle space as an ideal type is however, open to critical analysis and development, as further empirical and theoretical evidence reveals characteristics not recognised by the initial proposition. By providing a foundation however, this paper seeks to fuel the development of a refugee model that clearly articulates the interconnected reality of forced displacement across the globe.¹⁷⁰

In summation, this section has revealed how transnational theory and the concept of the diaspora has had a profound impact upon refugee studies. In order to disentangle and develop this burgeoning theoretical canon, a refugee model was proposed that provides a useful analytical tool with which to explore the dynamics of the diaspora *in situ*, and the influence of the contextual environment upon those refugee communities dispersed across the tripartite middle space. For as Vertovec cautions, "[a]ny concepts brought into a field of study should remain 'operationalizable' by way of gathering and analysing empirical and ethnographic data."¹⁷¹

¹⁶⁶ (Weber, 1949), p. 96.

¹⁶⁷ (Weber, 1949), p. 96.

¹⁶⁸ The ideal and reality may vary greatly – and as such, the former concept does not propose a hypothesis but rather "offers guidance to the construction of hypotheses. It is not a *description* of reality but it aims to give unambiguous means of expression to such a description." (Weber, 1949), p. 90. (Emphasis in original.) See also (Aronovitch, 2012).

¹⁶⁹ (Wahlbeck, 2002), p. 230.

¹⁷⁰ Indeed, diaspora theory "is still very underdeveloped and, in terms of theory generation, there is much work to be done." (Wahlbeck, 2002), pp. 231-232.

¹⁷¹ (Vertovec, June 30-July 1, 2001), p. 28.

Let us now apply this refugee middle space model to two empirical case studies, in order to explore the complex dynamics of those refugee communities which have thus far been the subject of our theoretical conjecture. Specifically, this paper will explore the refugee community as it exists within the African near diaspora – firstly as ‘bounded’ within the rubric of the refugee camp, and then secondly those refugee communities located in the more fluid or ‘moebius’ space of the ECOWAS regional body.¹⁷²

¹⁷² The middle space model can however, be applied to any domain(s) within the diaspora in order to garner a clearer understanding of the refugee diaspora as it evolves and functions across the tripartite space. Indeed, future research may benefit from using the model to explore the multiple domains within one particular diaspora (for example analysing the Somali communities within the homeland, near and wider diaspora), or as undertaken by this paper, contrast different instances of one domain to identify those factors that facilitate or obstruct the embedded functions of refugee communities.

section two:

– a study of ‘bounded’ refugee space –

Refugees, Displacement and the Primacy of the ‘Near’ Diaspora

In order to elucidate the dynamics of the ‘standard’ refugee community, it is pertinent to undertake a case study drawn from the near diaspora, and in particular within developing states of the global ‘south’. This is due to a number of reasons. Firstly, the two guiding tenets for refugee displacement and protection hinge upon the principles of *non-refoulement* and geographic proximity to the origins of displacement.¹⁷³ As a consequence, “most refugees having fled to neighbouring countries, remain in the same region.”¹⁷⁴ Moreover, as the nature of contemporary conflict shifts from a predominance of inter-national to intra-national or civil conflict, it is those states in the global south that generate the largest number of refugees, and assume the greatest responsibility for their protection.¹⁷⁵

According to UNHCR estimates as of the end of 2011, developing countries hosted approximately 8.4 million refugees, or around 80% of the global refugee population of 10.4 million. The Asia and the Pacific region remains the greatest host (35% of refugees), followed by Sub-Saharan Africa (25%), the Middle East and North Africa (17%), Europe (15%) and the Americas (8%).¹⁷⁶ In terms of

¹⁷³ *Non-refoulement* refers to Article 33 of the 1951 Convention Relating to the Status of Refugees, which prohibits states from repatriating someone to their home country, if a threat to safety remains. This will be discussed in greater detail in the ‘Macro-Political Economy’ discussion below. See (Harrell-Bond, 1995); and (“Convention and Protocol Relating to the Status of Refugees,” 2010)., Article 33.

¹⁷⁴ (“Global Trends 2011,” 2011), p. 11.

¹⁷⁵ According to UNHCR figures, by the end of 2011 the ‘major refugee-generating regions’ were themselves hosting between 75 and 93% of the world’s total refugee population. Indeed, in Africa some 80% of refugees remain within their region of asylum. See (“Global Trends 2011,” 2011), p. 11. For an examination of the shifting nature of contemporary conflict, see (“Human Security Report 2009/2010: The Causes of Peace and The Shrinking Costs of War,” December 2010), Chpt. One.

¹⁷⁶ (“Global Trends 2011,” 2011), p. 11.

individual refugee host states, Pakistan hosted the greatest number of refugees (over 1.7 million), followed by Iran and Syria (with over 885,000 and 755,000 refugees respectively), Germany and Kenya (each housing more than half a million).¹⁷⁷

Kenya and the 'Standard' Refugee Camp

Faced with ongoing displacement, and overwhelming numbers of refugees, there have evolved many forms of refugee settlements – from informal 'self-settlement' and integration, 'organised-settlements' to highly segregated 'refugee camps'.¹⁷⁸ This latter 'encampment model' developed during the latter half of the 20th century as rampant instability and displacement spread across large swathes of Africa and Asia. In response, the international community emphasised short-term and targeted support *en masse* in formally-established camps.¹⁷⁹ However, "as refugees do not choose to live in camps but are forced to reside there, camps become means of 'warehousing' refugees, marginalising and often segregating them from the host population."¹⁸⁰ Indeed, the debate surrounding the advantages and disadvantages of self-settlement and formal encampment has been called the "most sustained single controversy in African Refugee Studies".¹⁸¹

Notwithstanding widespread criticisms, camps remain the most egregious exemplar of conspicuous refugee support, and the keystone in the international refugee response framework.¹⁸² Of the 7.7 million refugees whose type of accommodation was known at the end of 2011, while more than half were reported as living in 'individual accommodation' (i.e. self-settled in primarily urban areas),

¹⁷⁷ ("Global Trends 2011," 2011), pp. 11 & 14.

¹⁷⁸ See (Schmidt, 2003); and (Jacobsen, 2001), p. 6. For an excellent overview of 'self-sustainable' African refugee settlements, see ("Older Refugee Settlements in Africa: Final Report," 1985).

¹⁷⁹ See (Harrell-Bond, 1995). Some theorists have argued that the preponderance for containment arises from a desire to perpetuate the (profitable) 'relief model' of refugee assistance. Others argue that while the international community has geo-political and economic interests vested in certain regions and seek therefore to defer the "destabilising consequences of mass population displacements", they often lack these incentives in other areas – including Africa. See (Crisp, 2002), pp. 1-2.; and Eldis "Is the UNHCR doing its job? Combining refugee relief with local development in Africa" (12 June 2003), available at <http://www.eldis.org/id21ext/s10csg1g1.html> (accessed 12 February 2013).

¹⁸⁰ (Verdirame, 2011), p. 270.

¹⁸¹ Kibreab, G., The State of the Art Review of Refugee Studies in Africa, Uppsala Papers in Economic History, Research Report No. 26, 1991., cited in (Schmidt, 2003), p. 1.

¹⁸² See (Schmidt, 2003), p. 7.; (Crisp, 1999c); and Black, R. and K. Koser (eds). 1999. *The end of the refugee cycle? Refugee repatriation and reconstruction*. Oxford: Berghahn., cited in (Van Hear, 2003), p. 2.

refugee camps and other 'planned' settlements equated for an estimated 44%. Moreover, the majority of these camps (60%) were located in Africa.¹⁸³

As such, it can confidently be concluded that life in a Kenyan refugee camp is the archetypal reality for a significant proportion of refugees in the region, and across the globe.¹⁸⁴ Indeed, as was noted more than half a century ago, "although the physical conditions of camps may vary widely, from hell to hotels, the effects tend to be uniform", including:

"segregation from the host population, the need to share facilities, a lack of privacy, plus overcrowding and a limited, restricted area within which the whole compass of daily life is to be conducted. This gives the refugees a sense of dependency, and the clear signal that they have a special and limited status, and are being controlled."¹⁸⁵

The Kenyan refugee camp will therefore serve as the first case study which, through the lens of the refugee middle space model, will examine the dynamics of the refugee community as a 'bounded' space within the refugee diaspora.

FACTOR 1: Macro-Political Economy

North Africa, Regional Fluidity and Prevailing Instability

Africa is widely regarded as "a continent of people on the move".¹⁸⁶ In particular, migration in East Africa and the Horn of Africa has for generations been characterised by extensive and robust circular movement and socio-cultural affiliations, as traditionally nomadic pastoralist communities follow seasonal grazing patterns, and fluctuating environmental, political and economic circumstances across the region. However, colonial rule and the imposition of contract labour substantially altered

¹⁸³ ("Global Trends 2011," 2011), p. 35. More than 170 refugee camps are currently in operation on the continent. See (Jamal, 2003), p. 4.

¹⁸⁴ (Konzolo, 2010), pp. 6-7.; and ("Global Trends 2011," 2011), p. 23.

¹⁸⁵ Murphy, H. B. M., 'The Extent of the Problem,' in Murphy, H. B. M. (ed.), *Flight and Resettlement*. Paris: UNESCO, 1955., cited in (Schmidt, 2003) As refugees in Mishamo, Tanzania have argued, "it is a camp because we cannot leave when we want to". (Malkki, 1995), p.139.

¹⁸⁶ (Bakewell & de Haas, 2007), p. 95.

community livelihoods and networks, and mutated this historic ‘free ranging’ mobility.¹⁸⁷ Indeed, as a consequence of the ‘scramble for Africa’ in the late 1880s, many communities “found themselves thrown together in their particular regions with other ethnic groups with whom they had little, if any, prior relationships”.¹⁸⁸

The political boundaries that demarcate Kenya and its neighbours within the Horn of Africa, and the ‘fiction of an inherent national unity’ therefore belie the underlying complexities of the interrelated communities and ethnic groups which span the region.¹⁸⁹ Kenya and Somalia for example, share a common ethnicity, language and religion – in particular those communities that occupy the border region between the two states. Moreover, there is a long history of trade and movement between the two countries, and this has served as a solid foundation upon which myriad transnational networks have been built.¹⁹⁰ For an overview of the ethnic landscape in the region, see Figure Three overleaf.

These transnational affiliations have however, also given rise to a history of tension between the two nation-states. From 1963 to 1967 Kenya fought a war against ethnic Somali-Kenyan secessionists who sought to incorporate the north-east of the country within a ‘Greater Somalia’. The ‘*Shifita* War’ (meaning ‘bandit’ in Somali) was “a war imbedded in the social and historical context of a people resistant to any authority outside their clan groups”.¹⁹¹ As such, areas to the far north and east of the country remain ‘weakly governed’ and insecure, “characterized by banditry, cattle rustling and insurgency, as well as violent clashes between the Kenyan army and local armed groups.”¹⁹²

¹⁸⁷ (Bakewell & de Haas, 2007), p. 101.

¹⁸⁸ (Keller, 1997), p. 301.

¹⁸⁹ Kenya alone encapsulates more than 40 ethnic groups. The widely echoed African maxim – “we must die as tribes so that we can be born as a nation” – has a particularly salience in this multi-ethnic context. See (Keller, 1997), p. 301.

¹⁹⁰ (Pavanello, Elhawary, & Pantuliano, 2010), p. 13.

¹⁹¹ (Ringquist, 2011), p. 100.

¹⁹² (Crisp, 1999b), p. 19.

Figure Three: African Ethno-linguistic Groups ¹⁹³

Protracted Regional Instability

Such instability is not limited to Kenya. The substrata of transnational ‘fluidity’ and the creation (and re-creation) of an array of nascent yet ‘fragile’ states following decolonisation has over the last half century seen the region “scarred by long and pervasive conflicts”. ¹⁹⁴ Adding fuel to this volatile mix, the Cold-War concerns of the global powers saw Soviet and US interests collide in the posturing of proxy wars fought across Africa and the Middle East. ¹⁹⁵ This has culminated in intense and

¹⁹³ Detail of ‘Africa Ethnolinguistic Groups’ map, Central Intelligence Agency, Washington, D.C. (1996), available at Library of Congress Geography and Map Division http://memory.loc.gov/cgi-bin/query/D?gmd:2:/temp/~ammem_JfOn:: (accessed 10 February 2013).

¹⁹⁴ (Bakewell & de Haas, 2007), p. 102. Central to the process of decolonisation was the UN ‘Declaration on the Granting of Independence to Colonial Countries and Peoples’, adopted in December 1960. See <http://untreaty.un.org/cod/avl/ha/dicc/dicc.html> (accessed 22 January 2013).

¹⁹⁵ The Ethiopian army for example increased from 54,000 in 1977 to an estimated 600,000 in 1991, with a defence budget that more than quadrupled to reach \$472 million over the same period. See (Keller, 1997), p. 304.

protracted intra- and inter-state conflict that has plagued *inter alia* Rwanda, Burundi, Uganda, the Democratic Republic of Congo (DRC), Somalia, Sudan, Ethiopia, and Eritrea.

State governments and communities in the region can therefore be said to have 'legitimate' security concerns.¹⁹⁶ For Kenya such concerns are particularly well-founded – as insecurity continues to 'spill over' into the country.¹⁹⁷ Extensive transnational rebel activity, a 'flood' of arms trafficking, local recruitment and training by militia groups, and the harassment of local communities seriously undermine efforts to establish stability both within the country and across the region.¹⁹⁸

Transnationalism can thus be understood as both a cause, and consequence of regional insecurity, as both local communities and insurgents are driven back and forth across state borders – "in 'search of cool ground' as violence has waxed and waned".¹⁹⁹

The Somali Civil War

One of the major catalysts in regional insecurity pertinent to our case study is the Somali civil war. In 1991, following the demise of the twenty-year Siad Barre dictatorship, the State of Somalia collapsed. By the end of the decade, the lack of a central government, protracted and widespread conflict, and recurrent drought, disease and famine had led to the death of over half a million Somalis, with a further 3 million (or almost half the population) displaced internally or living as refugees in neighbouring countries including Djibouti, Ethiopia, Kenya and Yemen.²⁰⁰ By late 2004 the country was coming to be regarded with 'cautious optimism' by the international community, as the Somali peace process made significant inroads towards establishing an interim national

¹⁹⁶ (Nowrojee, 2000), available at <http://reliefweb.int/report/kenya/name-security-erosion-refugee-rights-east-africa> (accessed 14 January 2013).

¹⁹⁷ As Buzan and de Waever explain, "since most threats travel more easily over short distances than over long ones, security interdependence is normally patterned into regionally based clusters" – in what they termed 'regional security complexes'. (Buzan & Wæver, 2003), p. 4. For an overview of the widespread insecurity in the region, see ("The miniAtlas of Human Security," 2008) .

¹⁹⁸ Indeed, some of the earliest attacks on the country's refugee camps in the 1990s followed the UN's 'Operation Restore Hope' in Somalia, which dislodged a number of bandit and militia groups across the border into Kenya. See (Crisp, 1999b), pp. 19-20.

¹⁹⁹ (Bakewell & de Haas, 2007), p. 102.

²⁰⁰ See ("Framework Document for the Comprehensive Plan of Action (CPA) for Somali Refugees," September 2005), p. 3.; and ("Background Document: Initiatives that could benefit from the Convention Plus FORUM/ 2003/ 03," June 2003), p. 17.

governing body.²⁰¹ However, the December 2004 tsunami and a severe drought the following year saw instability and conflict intensify, with an estimated 1.7 million Somalis in need of humanitarian assistance in 2005 – placing even greater strain upon regional security, and a faltering international response.²⁰²

More recently, security concerns have again peaked in the region. Following a devastating drought in 2011, Somalia again fell into civil disarray, with an estimated 160,000 refugees pouring across the border into Kenya.²⁰³ Moreover, Nairobi's decision to send troops into southern Somalia in pursuit of heightened al-Shabaab militant activity saw a dramatic escalation of border insecurity, as tensions between insurgents, the Kenyan army, and local communities erupted into violent hostilities.²⁰⁴

Kenyan National Insecurity

Stirring these undercurrents of regional instability, Kenya is itself a volatile regional lynchpin.²⁰⁵ The upcoming 2013 elections pose a significant test of the incipient multi-party democratic system established two decades ago, and the cautious stability of what has been termed the 'anchor state' of East Africa.²⁰⁶ Such fears are well-founded, with the previous elections in 2007 seeing 1,133 dead and almost 600,000 displaced as disputed poll results provided an outlet for rampant socio-cultural

²⁰¹ The Somalia National Peace ('Djibouti') Conference in 2000 resulted in the 'Arta Declaration' and the formation of a Transitional National Government (TNG). Three years later, the TNG evolved further into the more comprehensive Transitional Federal Government (TFG), aided by efforts from the Intergovernmental Authority on Development (IGAD), the African Union, Arab League and UN. See the African Union Mission in Somalia, available at <http://amisom-au.org/about-somalia/somali-peace-process/> (accessed 10 October 2012).

²⁰² ("Global Report 2005,"), pp. 194-195.

²⁰³ ("The Human Costs of the Funding Shortfalls for the Dadaab Refugee Camps," July 2012), p. 1.

²⁰⁴ See for example Al Jazeera "Deadly grenade attack in Kenya's Dadaab camp" (5 January 2013), available at <http://www.aljazeera.com/news/africa/2013/01/20131571854963314.html> (accessed 13 January 2013).; and Voice of America "Refugees Fear Insecurity in Kenya, Return to Somalia", (10 January 2013), available at http://www.voanews.com/content/refugees_fear_insecurity_in_kenya_return_to_somalia/1581256.html (accessed 13 January 2012).

²⁰⁵ Kenya is pivotal in assuaging tensions between Sudan and South Sudan, and has long played an active role in the ongoing peace process in Somalia, including hosting the Mbaguthi Peace Process and President Abdullah Yusuf Ahmed's government-in-exile in 2004. See (Loescher & Milner, 2005), p. 169.

²⁰⁶ See Relief Web "Electoral Violence in Kenya" (9 January 2013), available at <http://reliefweb.int/report/kenya/electoral-violence-kenya>; and BBC News "Viewpoint: Can Kenya avoid election bloodshed?" (16 October 2012), available at <http://www.bbc.co.uk/news/world-africa-19948429> (accessed 10 January 2013).

and ethnic tensions, and dissatisfied political factions within the country – almost culminating in the collapse of the state.²⁰⁷

Two months of intense negotiations facilitated by (former) UN Secretary General Kofi Annan and the US saw a 'National Accord' secured, along with an agreed host of local and state reforms including the drafting of a new constitution. However, with many reforms unrealised (in particular the enactment of the 'Integrity and Leadership Bill'), and the deep ethnic, social and political divisions that plague the country still unresolved, the upcoming elections may again expose a significant threat to both national and regional stability.²⁰⁸

The Macro-Political Economy and 'Bounded' Refugee Space

As can be seen, Kenya is located at the heart of a historically 'fluid' and highly volatile region – whereby an interwoven fabric of socio-cultural and ethnic affiliation has given rise to both resilient transnational networks and migratory support structures, and unbridled conflict, insecurity and displacement. The influx of significant numbers of refugees into the country, and the subsequent establishment of large refugee communities are therefore not isolated phenomena, but are the result of, and continue to be heavily circumscribed by the specific macro-political characteristics of the region.

The Creation of Kakuma and Dadaab

Following independence in 1963, Kenya largely allowed refugees to settle freely in the country. The only refugee 'camp' was the small Thika 'reception area' outside of Nairobi that provided temporary support for those awaiting formal refugee status determination (RSD). However, in 1991 approximately 17,000 Sudanese 'Lost Boys' entered the country, having fled the violence that

²⁰⁷ Two of the presidency candidates, former Finance Minister Uhuru Kenyatta and minister William Ruto are awaiting trial at the International Criminal Court in the Hague, charged with crimes against humanity. See BBC News "Kenyatta and Ruto to face ICC trial over Kenya violence" (23 January 2012), available at <http://www.bbc.co.uk/news/world-africa-16675268> ; and Think Africa Press "The ICC, Kenyatta and Mungiki" (25 October 2011), available at <http://thinkafricapress.com/kenya/icc-kenyatta-mungiki> (accessed 10 January 2013).

²⁰⁸ National security concerns, and in particular the threats emanating from Somalia including al-Shabaab, border secessionists and "by extension the entire Somali community in Kenya (including refugees)" is likely to become a campaign issue. See ("Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor," June 2012), p. 39.

engulfed the southern regions of (then) Sudan.²⁰⁹ To ensure adequate support for this sizeable refugee community, the Kenyan government was forced to establish Kakuma refugee camp. Continued regional instability generated further displacement, with refugees from Burundi, Ethiopia, Somalia, and the DRC stretching Kakuma's capacity and leading to the creation of Kakuma II and Kakuma III. According to UNHCR statistics the refugee population within the Kakuma 'complex' has now again exceeded capacity, topping 100,000 in July 2012.²¹⁰

Kakuma is dwarfed however, by 'the biggest refugee camp in the world'.²¹¹ Incorporating three core camps – Ifo, Dagahaley and Hagadera – the Dadaab refugee complex was originally built to house Somali refugees fleeing civil war in 1991. With an original capacity of 90,000 refugees, numbers have continued to grow at such a rate that 'extension' camps (Ifo 2 East, Ifo 2 West, and Kambioos) have been created to house the overflowing population – see Figure Four below. According to UNHCR figures as of November 2012, Dadaab housed 454,098 refugees, of which 436,043 (or 96%) are Somali.²¹²

²⁰⁹ Ranging from 10 to 17 years of age, the boys had initially walked to camps in Ethiopia, but following the collapse of the Mengistu regime (which had supported the efforts of the Sudan People's Liberation Front), were forced to flee once again into Kenya. See (Aukot, 2003), p. 74.

²¹⁰ See UNHCR "Kakuma camp in Kenya surpasses its 100,000 capacity" (6 August 2012), available at <http://www.unhcr.org/501fdb419.html> (accessed 12 January 2013).; and UNHCR "Registered Somali Refugee Population" available at <http://data.unhcr.org/horn-of-africa/region.php?id=12&country=110> (accessed 10 January 2013). See also (Verdirame, 1999), p. 40.; and the 2012 UNHCR Country Operations Profile – Kenya, available at <http://www.unhcr.org/pages/49e483a16.html> (accessed 6 January 2013).

²¹¹ See Al Jazeera, "Dadaab, the world's biggest refugee camp" (11 July 2011), available at <http://www.aljazeera.com/indepth/features/2011/07/201171182844876473.html> (accessed 10 January 2013).

²¹² ("Camp Population Statistics by Country of Origin, Sex and Age Group," 25 November 2012), available at <http://data.unhcr.org/horn-of-africa/region.php?id=3&country=110> (accessed 10 January 2013). As of July 2012, there were an additional 20-30,000 refugees sheltered on the outskirts of Hagadera camp – unable to access services and protection in the overwhelmed official camp. See ("The Human Costs of the Funding Shortfalls for the Dadaab Refugee Camps," July 2012), p. 3. The UNHCR also estimates that there are upwards of 46,000 refugees living in Nairobi (2010 figures). However, unofficial figures place the figure at closer to 100,000. See (Pavanello et al., 2010).

Figure Four: UNHCR presence in Kenya (as of July 2012)²¹³

²¹³ Map adapted from the UNHCR 'Kenya Atlas Map – July 2012', Geographic Information Systems and Mapping Unit, Europa Technologies Ltd., available at <http://www.unhcr.org/pages/49e483a16.html> (accessed 23 January 2013).

One of the most definitive characteristics of both Kakuma and Dadaab is their geographical location. Both camps are located in semi-arid border regions that are highly marginalised – excluded from core state infrastructure and largely neglected by the Kenyan authorities, and underpinned by widespread insecurity and conflict.²¹⁴

Kakuma is located in Turkana District of Rift Valley Province – one of the poorest, most remote and inhospitable regions of the country. The intensely harsh climate (often reaching upwards of 40 degrees Celsius) and persistent shortage of water means there is little possibility for agricultural activities or subsistence farming.²¹⁵ The local host community (or Turkana) are nomadic pastoralists, and are among the 43% of the Kenyan population described as living in ‘absolute poverty’.²¹⁶ Dadaab lies in a similarly isolated area of North Eastern Province, where the majority of the region’s local inhabitants are ethnic Somali-Kenyan pastoralists who struggle to survive in the extremely harsh climate. The province is also plagued by conflict – the border region was disputed in the *Shifita* War noted above, and “has a history of strife and insecurity.”²¹⁷

Host Community Engagement and Advocacy

Having explored the primary characteristics of the Macro-Political Economy, let us now turn to the impact it has upon specific refugee community activities.

Localised Competition and Insecurity

As a direct consequence of camp location, local community relations are highly volatile, with competition over the limited natural resources available a common cause of refugee-host tensions.

²¹⁴ Indeed, it has been suggested that one of the reasons the government was, and remains reluctant to establish refugee camps, is the lack of ‘suitable’ land. According to the UNHCR, site selection should include consideration of proximity to towns and infrastructure, land use, soil condition and water availability, climatic conditions, and vegetation. However, with only 20% of the country arable, the needs of the Kenyan populace are very firmly set against those of the more than half a million refugees that have entered the country. See (Verdirame, 1999), p. 40.; and (“Handbook for Emergencies - 3rd Edition,” 2007), pp. 204-225.

²¹⁵ For a visual perspective on the region and host population, see The Guardian (14 October 2011), “Rankin: It’s time to fix the world’s broken food system” photo essay available at <http://www.guardian.co.uk/commentisfree/gallery/2011/oct/14/kenya-rankin-famine-in-pictures#/?picture=380426292&index=2> and <http://www.guardian.co.uk/commentisfree/2011/oct/14/rankin-broken-food-system-kenya-drought-famine> (accessed 14 January 2013).

²¹⁶ According to aid workers, during the late 1990s the level of malnutrition amongst the Turkana was greater than amongst the refugee population in Kakuma. See (Aukot, 2003), p. 74.; and (Crisp, 1999b), p. 19.

²¹⁷ (Horst, 2002), p. 2.

As nomadic pastoralists, the Turkana for example are heavily reliant on the local environment for livestock (and community) survival. However, Kakuma refugees often travel upwards of 5km outside of camp boundaries in search of firewood and building materials, aggravating local deforestation, environmental degradation and community hostilities. Refugees have responded to growing hostilities by forming ‘well-armed’ gangs, and Turkana have themselves retaliated by sourcing weapons from militia groups operating along the border with Sudan and Uganda.²¹⁸

Closely aligned with tensions over scant resources, one of the greatest sources of conflict between Turkana and the refugee community arises from the ownership of livestock. Competition over cattle and grazing rights amongst local tribes is fierce, and cattle rustling, violence and banditry are commonplace.²¹⁹ However, as raising livestock is largely prohibited (and unfeasible), refugees are forced to purchase animals for slaughter from markets located on the periphery of the camp. This practice greatly fuels local tensions and disputes, with the theft of newly-purchased animals a regular occurrence.²²⁰

Moreover, despite the ability of local communities to freely access many camp services, including boreholes, healthcare and education services (in an effort by authorities to bridge host-refugee community tensions), in the words of a local NGO worker, “the locals feel that the refugees are getting all the goodies.”²²¹ This has resulted in the common practice of scapegoating the refugee, whereby the camp is portrayed as the source of all socio-political and economic ills, including theft, violence, alcohol and drug abuse, and the erosion of (conservative) local customs, law and order.²²²

Echoing a UNHCR official working in Kenya who noted “you cannot create island of security in a sea of insecurity [sic]”, it is therefore clear that the establishment of refugee camps comprising over half a million people in such marginalised and volatile areas of the country has resulted in a ‘geographical

²¹⁸ Local communities claim that land in Kakuma, Kalobeyei, Letea, and Lopur has been ‘destroyed’ as a result of the refugee population. See (Aukot, 2003), pp. 76-78.

²¹⁹ Local Turkana have for generations conflicted with numerous neighbouring tribes, including the Pokot and Karamojong over cattle and resources. See (Aukot, 2003), p. 74 & 76.; (de Montclos & Kagwanja, 2000), pp. 213-214.; and (Verdirame, 1999), pp. 40-41.

²²⁰ As one refugee elder explained, “the Turkana say, these are not your animals. You are not supposed to keep them. You are refugees and you are on the move. They are our animals and we will take them.” See (Crisp, 1999b), p. 12.

²²¹ (Crisp, 1999b), p. 19. See also (“In search of Protection and Livelihoods: Socio-economic and Environmental Impacts of Dadaab Refugee Camps on Host Communities,” 2010), p. 9.

²²² See (Aukot, 2003), p. 76.

concentration' to local insecurity.²²³ As Crisp rather glibly states, there are "simply more items to steal, more people to rob and more women to rape in and around the camps than in other parts of the two provinces."²²⁴

Regional Transnational Networks

A second and associated set of factors in shaping local engagement are the extant economic, socio-cultural and ethnic networks that span the region. Indeed, for refugee communities living in what has been shown to be isolated and insecure regions of the country, these transnational relationships become even more salient. Ethnic affiliation in particular is of paramount importance in the region, and has a profound impact on community engagement.²²⁵

The Sudanese refugee community in Kenya has access to few transnational networks – with extensive ethnic and cultural differences, and a limited history of trade and social interaction between the two nation-states.²²⁶ The Sudanese in Kakuma are therefore largely marginalised by the local Turkana (or any of the approximately ten other ethnic groups that inhabit the area), and with few transnational assets to draw upon, enjoy limited engagement with life outside of the camp. Indeed, as noted by the UNHCR, there is "a persistent climate of suspicion" between Sudanese refugees and the local Turkana community.²²⁷

In contrast, as noted above the extensive ethnic affiliations that exist between Somalia and Kenya (including the substantial Somali-Kenyan minority which spans the border region), bolstered by a vigorous history of movement and trade, serves as a solid transnational foundation upon which consequent migration – forced or otherwise – can be built.²²⁸ For example, the longstanding cross-

²²³ (Crisp, 1999b), p. 19. Both Kakuma (with a pre-refugee population of 8,000) and Dadaab (with a population of 5,000) had a human density of less than 0.5 inhabitants per hectare before 1991 (in contrast to other less isolated rural districts such as Kisii that has a density of almost 5). Just over two decades later, the two areas boast a population of just over 100,000 and just under 500,000 respectively. See (de Montclos & Kagwanja, 2000), pp. 207-209.

²²⁴ (Crisp, 1999b), p. 20.

²²⁵ Over 47 ethnicities are found in Kenya alone – fostering the intense community resilience, and divisions that continue to shape the nation-state. See (Aukot, 2003), p. 77.

²²⁶ (Banki, 2004), p. 13.

²²⁷ (Crisp, 1999b), p. 12.

²²⁸ ("Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor," June 2012), pp. 81-82. Rather than building upon 'a *tabula rasa*', following the 1973 Gulf Oil Crisis as well as the outbreak of civil war two decades later, the web of extant Somali networks were important in "shaping who was able to

border cattle trade between Somalia and markets in northern Kenya provides a vital link between communities dispersed across the region, and has fostered the growth of expansive Somali business networks selling “everything from shoes to clothes and perfume.” ²²⁹

As a consequence, for the 96% of refugees in Dadaab who are Somali, “the distinction between ‘refugees’ and the ‘local population’ is in many ways a fuzzy one”. ²³⁰ This has allowed the ‘merging’ of both communities, and engendered significant economic and social integration. Moreover, such permeability is not one-directional. Studies of the area surrounding Dadaab in 2012 for example, revealed that more than 40,500 members of the local community (or 27%) within 50 km of the camps held refugee ration cards. ²³¹

Ethiopian refugees have even greater access to regional transnational networks and assets, and are therefore the most successful at integrating within the local community and undertaking economic and socio-cultural activities. Indeed, registration with the UNHCR is generally not a means of accessing support and protection, but rather a strategy for resettlement. According to internal UNHCR statistics, of the approximately 14,000 ‘persons of concern’ from Ethiopia in Kenya in 2001, almost 9,000 underwent RSD and were assigned to a refugee camp – yet failed to show up. ²³²

The prior existence of transnational affiliations is therefore a primary factor in successful local engagement, providing a crucial foundation for *inter alia* establishing economic ventures, socio-cultural integration and protection from discrimination by local authorities. However, extant transnational relations can also significantly destabilise both local and refugee communities. As instability in Somalia continues to drive insecurity across the border, the ‘fuzzy’ divide between ‘local’ and ‘refugee’ undermines the security of *both* communities, with the widely-held belief that

go, as well as how and where the later and much larger numbers of refugees went”. (Horst, 2002), p. 6. See also (Bakewell & de Haas, 2007), p. 112.

²²⁹ See (Pavanello et al., 2010), p. 23.

²³⁰ (Crisp, 1999b), p. 12.

²³¹ (“In search of Protection and Livelihoods: Socio-economic and Environmental Impacts of Dadaab Refugee Camps on Host Communities,” 2010), p. 8. Surrounding communities from Yumbis, Alnijukur, Anole and Kulan have settled on the periphery of Dadaab in small hamlets or *manyata*, while others have moved into the camps themselves – Dagahaley and Hagadera in particular are an amalgam of local and refugee populations. See (de Montclos & Kagwanja, 2000), p. 209.

²³² See (Banki, 2004), p. 14.

communities in and around Dadaab are “harbouring terrorist elements who pose a threat to Kenya’s national security.”²³³

Political Engagement, Activism and Mobilisation

Against this ambiguous macro-political backdrop, refugee camps provide “a locality for growing social conflict, economic decline, and political abuse.”²³⁴ Refugee political activism is widely prohibited – it is generally the view of local authorities that refugees “shall not even question the attitude of government agents towards them.”²³⁵ However, with more than half a million refugees in the country (equating to a refugee-Kenyan ratio of approximately 1:100), it is in the political interests of some to ‘capitalise’ on anti-refugee sentiment, and for others to ‘court’ and support the refugee population.²³⁶ Indeed, such is the potential of the refugee ‘political base’ that national IDs have previously been issued by politicians seeking to bolster votes in certain areas of the country.²³⁷ And in the lead-up to the state elections in early 2013, there is a serious risk that refugees could again find themselves “thrown into the mix of party political one-upmanship”.²³⁸

National Security and Political Affiliations

Closely aligned with this refugee politicisation, concerns regarding national security heavily shape the activities of refugee communities housed in the country. Both Kakuma and Dadaab are considered to be at a ‘safe’ distance from state borders, (the former being located some 125km from the Sudanese border, and the latter around 100km from Somalia).²³⁹ Yet life in the camps is directly

²³³ (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), pp. 82.

²³⁴ (Aukot, 2003), p. 74.

²³⁵ (Aukot, 2003), p. 79. Indeed, scholars suggest that the Kenyan government has continued to refuse refugees long-term settlement rights due to fears of secessionists in the border regions of the state. (Crisp, 1999b), p. 17.

²³⁶ The US Committee for Refugees and Immigrants, “World Refugee Survey 2009”, p. 31., available at <http://www.refugees.org/resources/refugee-warehousing/archived-world-refugee-surveys/2009-world-refugee-survey.html> (accessed 12 January 2013).

²³⁷ (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 80.

²³⁸ (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 82.

²³⁹ The OAU Refugee Convention states that “for reasons of security, countries of asylum shall, as far as possible, settle refugees at a reasonable distance from the frontier of their country of origin.” (“Convention Governing the Specific Aspects of Refugee Problems in Africa,” 1969), Article 2: 6. While the notion of a ‘reasonable distance’ has never been formally

affected by the socio-political events which take place in the refugees' countries of origin.²⁴⁰

Recently, growing reports that al-Shabaab is active within Dadaab and recruiting new combatants, has greatly fuelled national security fears.²⁴¹ Indeed, while xenophobic attitudes pre-date the major waves of refugees in the early 1990s, they have escalated in the past decade, "fed by media portrayals of Somalis as pirates, terrorists and arm smugglers."²⁴²

The Kenyan government also reflects this burgeoning transnational prejudice, with the Ministry of State for Immigration and Registration of Persons (MIRP) recently warning that "Islamic radicals may use the [Somali] refugee flow to smuggle weapons and people into Kenya to engage in terrorist attacks."²⁴³ While such security concerns may be valid, the guise of 'national security' has justified "random round-ups, confinement to camps, harassment, and the daily infringement of refugees' rights".²⁴⁴

Exemplifying this national security- refugee protection nexus, the Kenyan government officially closed the border with Somalia in 2007 following an escalation of fighting in Mogadishu, and growing security concerns regarding the activities of the Islamic Courts Union militia (which would later splinter into al-Shabaab and other militant groups active in the region). However, refugees (and other migrants) continue to enter the country – their movement merely forced 'underground'.²⁴⁵

defined, 50 kilometres has generally been accepted as the acceptable distance for a camp to be distanced from a state border.

²⁴⁰ (Crisp, 1999b), p. 23. See also (Verdirame, 1999), p. 62. As Nowrojee notes, insecurity caused by 'extremists' within refugee communities has led to "a growing hostility and unwillingness to keep refugees in East Africa". (Nowrojee, 2000), p. 1.

²⁴¹ (Pavanello et al., 2010), p. 14. Such security fears are not only held by host communities. Interviews conducted by the Refugee Consortium of Kenya (RCK) in Nairobi found the fear of child recruitment by al-Shabaab to be one of the main reasons refugees left Dadaab. ("Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor," June 2012), p. 63.

²⁴² (Pavanello et al., 2010), p. 27.

²⁴³ ("Strategic Plan 2008-2012," 2009), p. 14. Such sentiments are echoed by a number of security theorists, including Myron Weiner who argues that increasing international migration poses a direct threat to global stability and security, particularly in 'fragile states'. Huntington goes even further to postulate that in the post-cold war era, failure to control borders is the "single biggest threat to the national security in the United States". See (Hollifield, 2000), pp. 140-141.

²⁴⁴ (Nowrojee, 2000), p. 2. See also (Hulme, 2010), p. 198.

²⁴⁵ Reports suggest that Somali refugees are forced to pay bribes of upwards of KES7,500 to cross the border and secure transport to Dadaab. See ("World Refugee Survey 2009 - Kenya," 2009), available at

Rather than mitigating state concerns, the cessation of border screenings has therefore resulted in *increased* security risks, with criminal and militant activity intensifying across the border region and within Dadaab.²⁴⁶

Moreover, the associated closure of the refugee transit centre in Liboi, (located 15km from the border and 80km from Dadaab), has removed an important 'safe house' and reception facility for newly-arrived refugees, undermining essential support services and contributing significantly to the abuse of refugees by local authorities and criminal groups.²⁴⁷ Efforts by the Kenyan authorities to address state security concerns therefore "has had a markedly negative effect on the asylum space, and made the already difficult circumstances that Somali asylum-seekers find in Kenya almost intolerable".²⁴⁸

Of note however, the politicisation and securitisation of the refugee community is not only a reactive response to refugee socio-political affiliations and activities (whether real or otherwise). The refugee is also a powerful tool in wider regional security and political agendas. A campaign by the Kenyan Defence Force in 2009 for example, sought to recruit refugees in the camps to the forces of the Somali Transitional Federal Government (TFG). Following widespread international criticism the campaign, which constituted "a grave breach of refugee rights" and international law, was halted.²⁴⁹

<http://www.unhcr.org/refworld/country,,USCRI,,BDI,,4a40d2aa76,0.html> and the UN Information Centre in Nairobi (3 September 2007), available at http://www.unhcr.org/kenya_somali.asp (accessed 6 January 2013).

²⁴⁶ See (Konzolo, 2010).

²⁴⁷ The closure of Liboi has been described as "an egregious protection failure", contributing directly to refugee mortality rates during the critical first days following arrival in the camps. Moreover, 27% of refugees who encountered police as they travelled to Dadaab during 2011 report being subject to arrest, threats or extortion. See ("Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor," June 2012), p. 88.; and ("Welcome to Kenya": Police Abuse of Somali Refugees," 2010).

²⁴⁸ ("Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor," June 2012), p. 38.

²⁴⁹ New recruits were transported to a paramilitary base near Mombasa for training, and reports suggest the entire operation was conducted with UN backing. ("Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor," June 2012), pp. 63-64. See also (Pavanello et al., 2010), p. 14.; and Human Rights Watch "Kenya recruits Somali refugees to fight Islamists back home in Somalia" (November 2009), available at <http://www.hrw.org/news/2009/11/16/kenya-recruits-somali-refugees-fight-islamists-back-home-somalia> (accessed 2 February 2013).

Keeping 'Feet on the Ground'

– Recognising the Macro-Political Economy

As has been revealed, the Macro-Political Economy plays a significant role in shaping the refugee community in Kenya. Characterised by a strong history of circular movement and trade, and deeply embedded socio-cultural, political and ethnic affiliations that span multiple nation-states, the region provides a dynamic and fertile, yet highly volatile transnational foundation upon which the refugee community rests.

However, the outcome for refugees from this transnational foundation is ambiguous – an inherent trait that will be revisited time-and-time-again throughout both case studies. Indeed, macro-political factors can both facilitate community activities (as evidenced by the transnational community cohesion, engagement and support of Somali refugees in Dadaab), or undermine and ostracise the displaced community (as revealed in localised Sudanese-Turkana hostilities, and the wider state-level vilification and politicisation of the Somali community as a vehicle for terrorism and insecurity). Indeed, as the UNHCR remarked, regarding the insecurity in Kakuma, “everything is linked to the country of origin”. ²⁵⁰

It is therefore vital that a holistic understanding of the refugee community does not remain abstracted from the transnational realities on the ground – in particular how regional macro-political characteristics not only underpin refugee displacement, but also shape subsequent community development, activities and support strategies. As was argued by the International Rescue Committee in defence of its purported abuse of local community relationships – international organisations must remain “above local politics”. While this may to some degree ring true, as the Turkana elders noted in response, “anybody above local politics on our soil should operate in the air”. ²⁵¹

²⁵⁰ See (Crisp, 1999b), p. 24.

²⁵¹ (Aukot, 2003), p. 77.

FACTOR 2: The Migration 'Regime'

The International Refugee 'Regime' ²⁵²

As the UNHCR's founding document, the 1951 'United Nations Convention Relating to the Status of Refugees' (hereafter the 1951 Refugee Convention) consolidated previous nascent international instruments, provided a formal definition of the 'refugee' and outlined the responsibilities of states and the international community. ²⁵³ Founded upon Article 14 of the 1948 Universal Declaration of Human Rights, the universally-recognised definition of a 'refugee' is a person who:

"owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country". ²⁵⁴

As of January 2013, a total of 145 states are party to the 1951 Refugee Convention, which along with its 1967 Protocol remain "the centrepiece of international refugee protection" to this day. ²⁵⁵ Kenya acceded to the 1951 Refugee Convention in May 1966, but has not ratified it.

²⁵² 'Regimes' are defined as "sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations". (Krasner, 1982), p. 186. For the purposes of this research, the term 'International Refugee Regime' encapsulates those refugee protection norms, policies and procedures embodied by the UNHCR, state governments, international humanitarian agencies and implementing partners, including international and regional non-governmental organisations.

²⁵³ See the ("Convention and Protocol Relating to the Status of Refugees," 2010).

²⁵⁴ See Article 1 of the ("Convention and Protocol Relating to the Status of Refugees," 2010). Article 14 of the UDHR states that "everyone has the right to seek and to enjoy in other countries asylum from persecution". See the UNDHR available at <http://www.un.org/en/documents/udhr/> (accessed 20 January 2013).

²⁵⁵ ("Convention and Protocol Relating to the Status of Refugees," 2010), Introductory Note, pp. 2-3. See also the United Nations Treaty Collection – Convention Relating to the Status of Refugees, available at http://treaties.un.org/pages/ViewDetailsII.aspx?&src=UNTSOnline&mtdsg_no=V~2&chapter=5&Temp=mtdsg2&lang=en (accessed 6 January 2013). While the 1951 Refugee Convention was restricted to those refugees displaced by events in Europe before 1 January 1951 (see Article 1: b), and limited to a mandate of three years, the UNHCR expanded its remit with the 1967 Protocol – which removed any geographical and time restrictions. See ("Convention and Protocol Relating to the Status of Refugees," 2010), p. 46.

Development of an Integrated African Refugee Policy

While the 1951 Refugee Convention provides a robust foundation, one of the cornerstones to an African-centric refugee response framework was the 'Convention Governing the Specific Aspects of Refugee Problems in Africa', adopted by the Organization of African Unity (OAU) in 1969.²⁵⁶ The OAU Convention is described as a 'regional complement' to the 1951 Convention, broadening the refugee definition and providing legal protection to a wider array of asylum seekers in response to the "growing refugee problem in the continent" – both individually and *en masse* through *prima facie* recognition.²⁵⁷

All 41 African states that were independent at the time signed the OAU Convention (although a number have not acceded to its 1951 counterpart). Refugee policy in Africa therefore is a synthesis of three international instruments – the 1951 Refugee Convention, its 1967 Protocol and the 1969 OAU Convention – as a response "to the individual as well as the mass character of the refugee problem in Africa."²⁵⁸

Kenyan Refugee Policy

As noted above, after gaining independence in 1963 Kenya was recognised for its 'generous' refugee policies, allowing refugees from *inter alia* Ethiopia, Somalia, Sudan, Uganda, the DRC, Burundi and

²⁵⁶ See the ("Convention Governing the Specific Aspects of Refugee Problems in Africa," 1969).

²⁵⁷ ("Persons covered by the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and by the Cartagena Declaration on Refugees (Submitted by the African Group and the Latin American Group)," 1992), I. C: 8. See also I. A: 6 and I. B: 4 & 5.

For an overview of the *prima facie* determination of mass-influx refugee groups – as is characteristic of African refugee status determination (RSD), see (Albert, 2010); and ("Protection of Refugees in Mass Influx Situations: Overall Protection Framework," 2001).

²⁵⁸ ("Persons covered by the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and by the Cartagena Declaration on Refugees (Submitted by the African Group and the Latin American Group)," 1992), I. A: 1. In addition, Kenya has acceded to a number of international humanitarian instruments that are relevant to refugee policy, including the 1966 International Covenant on Civil and Political Rights (not ratified); 1966 International Covenant on Economic, Social and Cultural Rights; the 1981 African Charter of Human and Peoples' Rights and 1998 Protocol relating to the Creation of an African Court for Human Rights; the 1998 Statute of the International Criminal Court; the 1999 African Charter on the Rights and Welfare of the Child; and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Kenya is also a member of the East African Community (EAC) and the Common Market for Eastern and Southern Africa (COMESA). See (Konzolo, 2010), pp. 9-10.

Rwanda to seek asylum in the country with relative ease.²⁵⁹ The Kenyan Government was solely responsible for formal RSD, with the UNHCR acting only in an advisory or 'observer' role.²⁶⁰ Those seeking asylum were met by the National Refugee Secretariat's designated 'Eligibility Committee' under the of the Ministry of Home Affairs and National Heritage in Nairobi, supported by the Thika 'Reception Area' located a short distance north of the capital.²⁶¹

As the Committee was largely assessing *individual* claims for asylum, the 1951 Refugee Convention provided the primary framework for state RSD. However, the process was hampered by a number of inherent factors, including a dearth of cohesive national refugee legislation and policy, limited access to asylum information and resources, and an inability to enforce RSD outcomes (those denied asylum often chose not to return home, instead simply merging with the host population).²⁶²

Despite these shortcomings, the *ad hoc* Kenyan refugee response provided a fairly generous – if somewhat *laissez faire* – welcome to those seeking refuge in the country.

During the 1970s and 1980s the refugee population in Kenya remained relatively small (not exceeding 15,000), and the majority of refugees were readily absorbed into the country's socio-economic landscape.²⁶³ However, rampant regional conflict in the early 1990s – including the overthrow of Ethiopia's Mengistu Haile Mariam (which saw some 13,000 refugees seeking asylum in the country by mid-1991, reaching 46,500 a year later), the outbreak of war in Somalia noted above (culminating in an estimated 3,000 border-crossings per day by early 1992), and the significant influx of refugees from Sudan (including almost 20,000 Lost Boys) – saw the country's refugee response

²⁵⁹ Indeed, the local integration of refugees from Mozambique, Rwanda and Uganda was "an accepted fact". (Banki, 2004), p. 12.

²⁶⁰ As the OAU Convention asserts, "[i]t is a collective undertaking by the Member States of the OAU to receive and protect refugees in accordance with their respective national legislations." ("Persons covered by the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and by the Cartagena Declaration on Refugees (Submitted by the African Group and the Latin American Group)," 1992), I. A: 1.

²⁶¹ Indeed, until the profound shift in refugee response in the early 1990s, the involvement of foreign aid agencies in the country was "negligible compared to other countries." (Verdirame, 1999), p. 6.

²⁶² (Verdirame, 1999), p. 5. For example, the Undersecretary of the National Refugee Secretariat had a staff of only three persons yet was responsible for more than 250,000 refugees when it was absorbed by the Ministry for Immigration, Registration of Persons in 2005. See ("Analysis of Refugee Protection Capacity Kenya," 2005), p. 8.; and (Kelley, 2007), p. 407.

²⁶³ (Crisp, 1999b), p. 17.

framework falter under immense pressure, leading to the ultimate collapse of state RSD and support mechanisms.²⁶⁴

Kenya, the UNHCR and the Development of an Implicit ‘Encampment Policy’

By December 1992, the refugee population in Kenya was upwards of 287,000 – an increase of 2,000% over two years.²⁶⁵ In order to obtain the international humanitarian assistance necessary to support this substantial refugee population, the Kenyan government was forced to acquiesce to the precepts of the international refugee regime.²⁶⁶ After 1991 the country moved quickly to adopt the ‘refugee containment model’, which saw refugees housed within formally-designated camps where a ‘standard relief package’ of aid and protection could be provided *en masse* – “until a durable solution is found”.²⁶⁷ The UNHCR consequently established a number of camps on land provided by the government, including Dadaab, Kakuma, Mandera (in the north-east) and Utange (on the east coast 5km from Mombasa).

By the end of 1992, Nairobi’s stance towards refugees had therefore taken a dramatic about-turn, from a generous, to increasingly overwhelmed and hostile host. Under pressure from local authorities and communities, the smaller urban camps were closed and refugees assembled in the

²⁶⁴ See the Refugee Consortium of Kenya, available at <http://www.rckkenya.org/index.php/facts-and-faqs/refugees-asylum-seekers-returnees.html> (accessed 9 February 2013). The Thika Reception Centre, which was built as a temporary ‘holding camp’ for between 300-500 refugees pending RSD, had by 1993 reached 5,000 inhabitants and was rife with disease, hunger and conflict. See (Martin, 23 January 1993). Inflation rates are also reported to have sky-rocketed in the early 1990s, reaching a 45% increase (year-on-year) in 1993. See the IndexMundi Kenya Inflation Rate (consumer prices) available at http://www.indexmundi.com/kenya/inflation_rate_%28consumer_prices%29.html (accessed 8 January 2012).

²⁶⁵ The World Bank places the number of refugees in the country even higher – at just over 402,000 in 1992. See the World Bank “Refugee population by country or territory of asylum”, available at <http://data.worldbank.org/indicator/SM.POP.REFG?page=4> (accessed 5 February 2013).

²⁶⁶ At the close of 1990, the UNHCR’s budget for Kenya was US\$2.7million. By December 1992, it had increased to US\$45.3million. The state continues to rely heavily on international humanitarian assistance. According to the Ministry for Immigration and Registration of Persons (MIRP), the 2008-2012 development budget of KES1.2billion ‘falls short’ of what is needed to manage the Ministry’s remit (which includes refugee affairs), and “additional resources will have to be mobilized through mutual collaboration with our development partners, NGOs and UN bodies like the United Nations High Commissioner for Refugees”. See (“Strategic Plan 2008-2012,” 2009), p. vii. ; and the Refugee Consortium of Kenya, available at <http://www.rckkenya.org/index.php/facts-and-faqs/refugees-asylum-seekers-returnees.html> (accessed 9 February 2013).

²⁶⁷ (Verdirame, 1999), p. 6. See also (Damme, 1999), p. 37. As noted earlier, while refugee settlement can occur ‘spontaneously’, once the UNHCR and humanitarian aid agencies become involved, they “swiftly introduce the ‘registration = food aid logic’ followed by the establishment of refugee camps.” (Verdirame, 2011), p. 270.

two main refugee ‘complexes’ at Dadaab and Kakuma, in what became an implicitly-recognised state ‘encampment policy’.²⁶⁸

The 2006 Refugee Act and 2010 Kenyan Constitution

Despite this profound change in refugee response, state legislation and policy frameworks remained severely lacking.²⁶⁹ It was only with the adoption of the 2006 Refugee Act (following ten years of drafting and extensive advocacy by the UNHCR and other humanitarian groups), that the formal realisation of any coherent state refugee policy occurred. The Act formally implemented the three founding instruments of the African refugee regime, namely the 1951 Refugee Convention and 1967 Protocol, and the 1969 OAU Convention. The Act also established a Department for Refugee Affairs (DRA) within the Ministry of State for Immigration and Registration of Persons (MIRP) under the guidance of a Commissioner for Refugee Affairs, which is responsible “for all administrative matters concerning refugees in Kenya, and shall, in that capacity, co-ordinate activities and programmes relating to refugees.”²⁷⁰

Kenya and an Ambiguous Refugee Status

The Refugee Act therefore provides a sound basis for state refugee process, and despite some lack of legal clarity, formally entrenches the UNHCR ‘encampment policy’. According to the Act, refugees will be moved to designated ‘transit centres’ or camps where (notwithstanding certain exceptions) they are expected to remain until either repatriation or resettlement in a third country – in order to “facilitate their protection and assistance needs and to safeguard national security”.²⁷¹

²⁶⁸ (Crisp, 1999b), p. 18. See also (Pavanello et al., 2010), p. 13.; and Kakuma News Reflector – A Refugee Free Press, “Who believes in the rights of immigrants?” (February 2009), available at <http://kanere.org/2009/02/28/who-believes-in-the-rights-of-immigrants-do-refugees-in-kenya-have-the-right-to-a-free-press/> (accessed 6 January 2013).

²⁶⁹ See (Konzolo, 2010), p. 2.; and (“The Laws of Kenya: Chapter 172 - The Immigration Act,” Rev. 2009), *Schedule Class M*. Notably, Kenya was until August 2010 governed by its founding 1963 Constitution which, drawing heavily upon English common law, made no reference to refugees. The 2010 Constitution, while still not directly addressing refugees does however *allude* to their strengthened status within the general provisions regarding citizenship, and within the ‘The Bill of Rights’. See (“The Constitution of Kenya: 2010,”), Chapter 3 & 4.; and (Konzolo, 2010), pp. 15-16.

²⁷⁰ (“The Kenya Refugee Act 2006,” 2006), Article 6: 2. See also (Pavanello et al., 2010), p. 15.

²⁷¹ (Pavanello et al., 2010), p. 15. According to the 2006 Refugee Act, the Minister may designate areas of Kenya to be “(a) transit centres for the purposes of temporarily accommodating persons who have applied for recognition as refugees or members of the refugee’s family while their applications for refugee status are being processed; or (b) refugee camps.” (“The Kenya Refugee Act 2006,” 2006), Article 16: 2. See also (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 73. For an excellent overview of the specific legalities that underpin RSD in Kenya, see (Konzolo, 2010).

However, despite the nascent promise of these foundations, “many of the institutions and procedures contemplated by the new Act are yet to be established”.²⁷² Indeed, while the DRA has since 2006 adopted a greater role in refugee processing, it remains severely limited in capacity.²⁷³

This lack of institutional capability and cohesion has led to a ‘confusion’ over UNHCR and DRA responsibilities, which has undermined refugee rights and legal status. For example, in addition to the ‘Asylum Seeker Certificate’ and ‘Refugee Identification Pass’ issued by the DRA, a refugee may be provided one of a number of additional documents that blurs refugee status, including ‘Alien Cards’ (issued by the MIRP), ‘UNHCR Mandate Refugee Certificates’ and RSD ‘Appointment Letters’ (issued by the UNHCR), ‘Convention Travel Documents’ (issued by both the DRA and UNHCR) and ‘Class M Work Permits’ (issued by the Immigration Department).²⁷⁴ Moreover, the sheer volume of asylum applications has placed immense strain on refugee registration and RSD, leading to significant delays of between 6 and 24 months – during which time refugees are officially in the country ‘illegally’ and are therefore offered no (or very little) formal protection.²⁷⁵

Kenyan Refugee Camps – *Quis custodiet ipsos custodies*²⁷⁶

While RSD remains the responsibility of the UNHCR and DRA, a plethora of agencies are contracted as implementing partners to deliver grassroots services and support within the camps (including food and water, sanitation, healthcare, and education), administered by the UNHCR through a number of regional sub-offices. The Lutheran World Federation (LWF) for example was placed in charge of establishing Kakuma camp, while Care International has served as the principal provider of

²⁷² (“Refugee Status Determination and Rights in Southern and East Africa: international workshop report,” 16–17 November 2010), p. 3.

²⁷³ (Pavanello et al., 2010), pp. 15-16. See also (Konzolo, 2010), pp. 8-9. Programmes by the Danish International Development Agency (DANIDA), and under the auspices of the UN ‘Development Assistance Framework for 2009-2013’ are however, slowly strengthening state capacity. See (“UN Development Assistance Framework for 2009-2013,”), pp. 2 & 12.; and “Denmark in Kenya: Ministry of Foreign Affairs of Denmark”, available at <http://kenya.um.dk/en/danida-en/> (accessed 6 January 2013).

²⁷⁴ (Pavanello et al., 2010), p. 17. See also (“The Kenya Refugee Act 2006,” 2006), Articles 7 (j) & 17.

²⁷⁵ Criticism has not only been directed at Kenyan refugee agencies. Over 60 countries have handed RSD over to the UNHCR, despite repeated failure to meet its own guidelines and minimum standards. See Barbara Harrell-Bond and Mike Kagan, *The Road Home for Africa’s Refugees, Protecting the Rights of Refugees in Africa: Beginning with the UN Gatekeeper*, Pambazuka News 182, 11 November 2004., cited in (Konzolo, 2010), p. 10. See also (Verdirame, 1999), p. 10.

²⁷⁶ *Quis custodiet ipsos custodies* can be translated as “who guards the guards?”, and is attributed to Juvenal – *Satires* (Satire VI, lines 347–8).

services in Dadaab since 1992.²⁷⁷ In addition, the Kenya Government is mandated with ensuring refugee protection, through local authorities, police and security staff contracted to patrol the camp and local communities.²⁷⁸

As has been revealed in this brief overview, the refugee regime in Kenya encapsulates a primary administrative body of the UNHCR, DRA and other state authorities, and an array of ‘well-endowed’ implementation partners, which work together in “coordinating, monitoring and providing protection and assistance to refugees.”²⁷⁹ This extremely powerful ‘Leviathan’ has transformed the country from a generous host state with “few formal obstacles to local integration and to the enjoyment of such basic rights as the right to work, to education, and to freedom of movement”, to a ‘transit country’ in which refugees are permitted to remain only if they are located within the ‘bounded space’ and rubric of the refugee camp.²⁸⁰

Moreover, it is abundantly clear this migration regime is highly dysfunctional, and lacks the coherent response framework necessary to adequately respond to the demands of over half a million refugees. As a consequence, both refugees and authorities are forced to navigate what are highly ambiguous ‘spaces’ bound by uncertain state legislation, policies and procedures. Let us now examine how this has impacted upon the activities and evolution of the refugee community.

²⁷⁷ See (Verdirame, 1999), p. 40.; and (Hyndman, 1997), p. 19. Other key NGOs and humanitarian agencies working in the camps include the International Rescue Committee (IRC), the Jesuit Refugee Service, African Development Emergency Organization, the Danish Refugee Council, Handicap International, Kenya Red Cross Society, Oxfam and Save the Children. For a full list of implementation partners, see the UNHCR “2013 UNHCR country operations profile – Kenya”, available at <http://www.unhcr.org/pages/49e483a16.html> (accessed 20 January 2013). A number of NGOs also provide advocacy, legal assistance and rights protection for refugees in the country, including the Refugee Consortium of Kenya (RCK), Heshima Kenya, RefugePoint and the Jesuit Refugee Service. (Konzolo, 2010), p. 9.

²⁷⁸ (Verdirame, 1999), p. 41. See also the Commonwealth Legal Information Institute - Constitution of Kenya Review Commission, available at <http://www.commonlii.org/ke/other/KECKRC/2002/12.html> (accessed 6 January 2013). The Refugee Act assigns responsibility to the Commissioner of Refugee Affairs to “initiate, in collaboration with the development partners, projects that promotes peaceful and harmonious co-existence between the host communities and refugees”. (“The Kenya Refugee Act 2006,” 2006), Article 7: 2 (m). For a good overview of community integration and settlement concepts see (Crisp, 2004).

²⁷⁹ (Hyndman, 1997), p. 16. See also (Hobbes, 1651).

²⁸⁰ (Verdirame, 1999), p. 6. See also (Lindley, 2007). As Verdirame notes, “[d]eaf to the perceptions of refugees and to the overwhelming evidence against camps”, the actions of the international refugee regime and the “soft laws of codes of conduct, of regulation and control, of measurement and discipline” reflect the tendency to “reduce human rights to statistical figures, measurable – and thus controllable – entities.” (Verdirame, 2011), p. 280.

Political Engagement, Activism and Mobilisation

Within the bounded space of the Kenyan refugee camp, “any reformulation of power and status is relational”, involving the refugee community and the migration regime defined above – i.e. the state and ‘humanitarian international’.²⁸¹ Yet despite a lack of ‘express authority’ this humanitarian international (and specifically the UNHCR) exercises “wide-ranging administrative and at times even judicial powers on a *de facto* basis in refugee camps”.²⁸² While in and of itself not a concern, as highlighted above any disproportionate allocation of authority can seriously undermine the legal and socio-political foundations of the other actors within the triptych – in particular the refugee community.

Refugee Registration and Status

Registration provides the critical foundation upon which refugee communities are built – embodied within both the 1951 Refugee Convention and the 2006 Refugee Act, and integral to formal refugee recognition, protection and support.²⁸³ According to the UNHCR, it is not “a one-off exercise. Individual and continuous registration is the UNHCR standard for registration.”²⁸⁴

However, refugee registration in the country has almost completely collapsed. The UNHCR and DRA operating in Nairobi and within the camps are capable of registering only a fraction of those refugees that enter the country each year.²⁸⁵ According to UNHCR figures as of September 2010, of the 288,348 refugees in Dadaab, only 44,321 (or just over 15%) had been formally registered.

²⁸¹ (Hyndman, 1997), p. 16.

²⁸² (Verdirame, 2011), p. 271. While Memorandums of Understanding and other bi-lateral agreements between states and the UNHCR do exist, they are vague at best, outlining joint standards and institutionalised guidelines, primarily for implementation partners. See for example the UNHCR ExComm “Memoranda of Understanding EC/47/SC/CRP.51” (15 August 1997), available at <http://www.unhcr.org/3ae68d068.html> (accessed 2 February 2013).

²⁸³ The 2006 Refugee Act states that a person seeking asylum in Kenya must within 30 days (or before the expiration of legal stay) “present himself before an appointed officer and apply for recognition as a refugee in accordance with the provisions of this Act.” (“The Kenya Refugee Act 2006,” 2006)., Article 11: 2. See also (“Convention and Protocol Relating to the Status of Refugees,” 2010), Articles 25, 27 & 31.; and (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), pp. 49-51.

²⁸⁴ (“Handbook for Emergencies - 3rd Edition,” 2007), p. 162. See also (Verdirame, 2011), p. 276.

²⁸⁵ See also (““Welcome to Kenya”: Police Abuse of Somali Refugees,” 2010), p. 4. Of note, in March 2011 the DRA assumed full responsibility for refugee registration, yet it appears to have made little positive impact on refugee processing. See (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 49.

Similarly, of the 77,358 refugees in Kakuma only 8,499 (or 8.5%) had been registered, and only 6,585 had begun the RSD process.²⁸⁶ Indeed, the process of counting and registering refugees in Dadaab has been described as “fraught with tension and violence which often results in serious violations of refugee rights.”²⁸⁷

Furthermore, state concerns regarding security in and around the camps have significantly undermined refugee registration. In October 2011, escalating hostilities on both sides of the border (fuelled in part by the Kenyan Defence Force pursuit of al-Shabaab militants into Somalia), resulted in the cessation of all ‘non-lifesaving activities’ – including refugee processing – in Dadaab. More recently, the Kenyan Government has announced plans to cease all urban registrations due to security fears in Nairobi, particularly in the Somali-dominated area of Eastleigh.²⁸⁸

As a consequence of the inherent lack of institutional capacity, and the fluctuating transnational socio-political agendas embodied within the refugee regime, the large majority of refugees in the camps have no formally-recognised legal status and therefore occupy a highly tenuous position in the country – exposing the refugee community to socio-political manipulation and abuse from both within and outside the state.²⁸⁹

Refugee Self-Governance and Customary ‘Bench Courts’

Such abuse is evident in the ‘perversion’ of camp governance structures. While the UNHCR “is both mandated and tasked with a responsibility to protect, regardless of the changing environment and evolving complexities”, as noted above the disproportionate allocation of authority leaves the refugee community prone to ongoing protection violations.²⁹⁰ For example, following widespread refugee unrest in Kakuma in 1994, all food distribution was halted for 21 days in an egregious

²⁸⁶ While these figures are somewhat dated, they are indicative of the condition of refugee registration and the dire legal status of refugees in the camps. (Konzolo, 2010), p. 4.

²⁸⁷ (Verdirame, 1999), p. 5.

²⁸⁸ In December 2012 the Kenyan government declared that all registration in urban areas was to be stopped effective immediately, with all refugee processing to be undertaken in Dadaab and Kakuma. This will pose a serious threat to already faltering registration and RSD processes, and refugee protection. See Coastweek “Kenya halts registration of Somalia refugees in urban centres” (14-20 December 2012), available at <http://www.coastweek.com/3550-news-kenya-halts-refugee-registration.htm> ; and BBC “Kenya's Somali refugee plan unlawful, says Amnesty” (21 December 2012), available at <http://www.bbc.co.uk/news/world-africa-20819462> (accessed 23 January 2013).

²⁸⁹ (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 51.

²⁹⁰ (*Operational Protection in Camps and Settlements*, 2006), p. 7.

exercise of what is termed ‘collective punishment’. This was repeated two years later, with food distribution halted for 14 days and the cessation of all paid incentives to refugee staff.²⁹¹

This alarming attrition of governance structures is also evident in the refugee community – as a transnational-mutation (or ‘transmutation’) of traditional hierarchies and authority. In an attempt to bolster camp governance, a strategic priority for camp administrators has been ‘community self-management’, perceived as a means to “empower the refugees and to boost their involvement in camp life”.²⁹² Refugee customary ‘courts’ have therefore been established in both Dadaab and Kakuma, founded upon “traditional courts and conflict-resolution mechanisms” and with powers of arrest, trial and punishment widely assumed by community leaders.²⁹³ However, these ‘bench courts’ wield “immense (and sometimes arbitrary) power”, and echoing their more institutionalised counterparts, are highly susceptible to transmutation and abuse.²⁹⁴ As a number of senior camp staff have argued, refugee self-management is a precarious means of securing camp stability “because it poses the possibility of reviving traditional power among refugees and reinscribing elders’ enclaves of autocratic authority.”²⁹⁵

Such apprehension is founded – in addition to arbitrary and draconian punishments and “discrimination against the most vulnerable”, the bench courts in Kakuma have in the past been heavily influenced by the Sudan People’s Liberation Army (SPLA).²⁹⁶ Particularly in the late 1990s and early 2000s, SPLA commanders regularly visited the camps, and played a significant role in the actions of community leaders and the activities of the refugee community.²⁹⁷ Moreover, these

²⁹¹ Article 33 of the 1949 Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War states that “collective penalties and likewise all measures of intimidation or of terrorism are prohibited”. See the ICRC: International Humanitarian Law - Treaties & Documents, available at <http://www.icrc.org/ihl.nsf/full/380> (accessed 8 January 2012). Indeed, collective punishment “is considered so abhorrent under international law that it is prohibited even to an occupying power in time of war”. (Verdirame, 1999), p. 42

²⁹² (Crisp, 1999b), p. 15.

²⁹³ (Schmidt, 2003), p. 11.

²⁹⁴ (Crisp, 1999b), p. 5.

²⁹⁵ (Hyndman, 1997), p. 19. See also (Verdirame, 2011), p. 274.

²⁹⁶ (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 89. In one reported incident, three minors and a mentally ill woman were found incarcerated in Kakuma in March 1996, guarded only by a young man armed with a whip. See (Verdirame, 1999), p. 45.

²⁹⁷ See (Crisp, 1999b), p. 23. While the ‘gentlemen’s agreement’ with the SPLA did facilitate the administration of the camp, it also gave rise to widespread abuses – including the diversion of food aid, forced recruitment, and the politicisation of the customary courts system. It is also believed that the SPLA at times imposed a tax upon the Sudanese refugee

transnational seats of power were not only permitted *de facto* jurisdiction over criminal matters by the local authorities, but “actively encouraged and funded” by the UNHCR.²⁹⁸ The camp therefore became a powerful tool for transnational refugee politicisation – with the SPLA “effectively in charge of the Dinka sector of the camp.”²⁹⁹

It is clear from this analysis that due to the inherently discordant refugee regime, and the excluded nature of the refugee camp, a fertile ‘parallel’ political space is created in which the arbitrary legitimisation and transmutation of state, ‘humanitarian international’ or refugee governance structures risks fomenting the socio-political agendas of each party. Indeed, the structures created often operate “in dramatic conflict with both national and international norms”, and can severely undermine refugee community stability and security.³⁰⁰

Physical Movement

Perhaps one of the most egregious examples of the refugee regime directly impacting upon the activities of the refugee community however, are the restrictions imposed on movement. Indeed, it is widely acknowledged that the more movement is restricted, “the more the refugee settlement is generally seen to take on the character of the camp”.³⁰¹ In stark contrast to the provisions of the 1951 Refugee Convention, the 2006 Refugee Act permits the Minister to designate areas as ‘transit centres’ and ‘refugee camps.’³⁰² Any refugees, including children and infants, found outside these areas without authorisation face (officially) arrest, fines and imprisonment, and are (unofficially) prone to physical abuse and extortion at the hands of local authorities.³⁰³ It must be noted however

community in the camps. See (Crisp, 1999b), p. 5.; and (Verdirame, 1999), p. 9. For a similar perspective on the politicisation of the Somali refugee community in Dadaab, see (Horst, 2002), p. 5.

²⁹⁸ (Verdirame, 2011), p. 273.

²⁹⁹ (Verdirame, 2011), p. 273.

³⁰⁰ (Verdirame, 1999), p. 10.

³⁰¹ (Schmidt, 2003), p. 4. See also (Konzolo, 2010), p. 14.

³⁰² See (“The Kenya Refugee Act 2006,” 2006), Articles 16:2 and 25: f. The 1951 Refugee Convention asserts that each state “shall accord to refugees lawfully in its territory the right to choose their place of residence to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.” (“Convention and Protocol Relating to the Status of Refugees,” 2010), Article 26.

³⁰³ The Refugee Act states that anyone found residing outside a designated area without correct authorisation is liable to a fine “not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.” See (“The Kenya Refugee Act 2006,” 2006), Article 25.

that, in a further twist of Kenyan refugee policy, a refugee registered in Nairobi is permitted to settle in the capital, and to a certain degree, travel ‘freely’.³⁰⁴

A ‘Movement Pass’ may be allocated to those refugees seeking to travel outside the camps for reasons of health, education, resettlement processing in Nairobi, and general ‘humanitarian requests’ including family illness and funerals. However, in practice very few passes are issued, as the process hinges on the arbitrary decisions of local authorities operating under vague criteria.³⁰⁵ Indeed, the DRA issued a total of 6,286 movement passes in 2009, less than 3% of the total refugee population of Dadaab (at the time).³⁰⁶ In October 2009, Kenya set in place a further hurdle to refugee mobility, establishing a ‘security vetting committee’ to carry out additional screening of all movement applications, under the guise of national security.³⁰⁷ During the first six months of operation, approval rates almost halved (from a monthly average of 524 to 284), including a profound drop in medical passes, from an average of 164 down to 35. Moreover, the heightened securitisation of refugee mobility has engendered increased discrimination and abuse by local authorities, with police arresting and turning back even those refugees travelling with *valid* movement passes.³⁰⁸

Despite these restrictions, the refugee community has succeeded in achieving a considerable degree of mobility. A study of Dadaab residents in 2012 revealed that 39% of long-term residents had left the camp at least once, and it was widely acknowledged that counter to official reports, a movement

³⁰⁴ Tens of thousands of asylum seekers therefore journey to Nairobi – “braving and paying their way through dozens of police check points to get there”. This exemption has however, been substantially altered with the December 2012 shift in urban registration noted above. Refugees are also allowed to travel between the multiple camps that make up the refugee complexes, utilising minibuses or *matatu* that ply the main routes. However, once outside camp boundaries refugees are subject to harassment and extortion by local authorities. See (“Welcome to Kenya”: Police Abuse of Somali Refugees,” 2010), p. 72.; and (de Montclos & Kagwanja, 2000), p. 212.

³⁰⁵ The DRA has created an *ad hoc* list of criteria under which Movement Passes will be assigned, however this list remains undisclosed. As the UNHCR concluded, “[i]t’s an open list because there is no list”. (“Welcome to Kenya”: Police Abuse of Somali Refugees,” 2010), p. 73.

³⁰⁶ (“Welcome to Kenya”: Police Abuse of Somali Refugees,” 2010), p. 73. Reports from 2008 indicate that processing took upwards of two weeks, authorities often ignored applications, and in many cases “passes expired before they reached the refugees”. See (“World Refugee Survey 2008 - Kenya,” 2008), available at <http://www.unhcr.org/refworld/country,,USCRI,,ERI,,485f50ddc,0.html> (accessed 6 January 2013).

³⁰⁷ (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 74.

³⁰⁸ (“Welcome to Kenya”: Police Abuse of Somali Refugees,” 2010), pp. 74-75.

pass “was easy to get, if you were willing to pay for it.”³⁰⁹ It is clear therefore that, assisted by local officials, a steady stream of refugees continues to cross the boundaries of the ‘designated’ areas and head for destinations across Kenya as well as further afield. Refugees often use underground routes that are built upon both historic and emerging transnational networks, including increasingly institutionalised smugglers who traverse the main migration routes and have established elaborate systems of bribes to circumvent formal checkpoint procedures.³¹⁰ This growth in illicit refugee movement has however, had the associated and unwanted consequence of increasing the harassment of refugees undertaking *legitimate* movement, greatly aggravated by the inherent ambiguity in refugee policy and documentation noted above.³¹¹

Employment and Business Activities

Refugees’ right to work is also guaranteed by numerous international instruments, including the 1951 Refugee Convention, the 1986 African Charter on Human and Peoples’ Rights (ACHPR), and the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR).³¹² Yet despite these provisions, limited income-generating activities are officially permitted within the camps.³¹³

According to the 2006 Refugee Act, “every refugee and member of his family in Kenya shall, in respect of wage-earning employment, be subject to the same restrictions as are imposed on persons

³⁰⁹ (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), pp.73- 74. Studies reveal that authorities across the region are highly complicit in the illegal movement and activities of refugees and undocumented migrants. See (“In Pursuit of the Southern Dream: Victims of Necessity,” 2009), Chpt. 9: ‘Alliances: Collusion, complicity and human rights violations’.

³¹⁰ Such is the extent of this illicit movement that, according to anecdotal evidence, police refer to refugees as ‘*mbuzi*’ meaning ‘goat meat’ – referring to the fact that bribes are so common that they are used to pay for police lunches. (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 74.

³¹¹ (Pavanello et al., 2010), p. 17.

³¹² See (“Convention and Protocol Relating to the Status of Refugees,” 2010)., Articles 17, 18 & 19. See also Article 15 of the ACHPR, available at <http://www.achpr.org/instruments/achpr/#a15> ; and Article 6 of the ICESCR, available at http://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&lang=en&mtmsg_no=IV-3&src=TREATY (accessed 20 January 2013).

³¹³ (Schmidt, 2003), p. 5.

who are not citizens of Kenya.”³¹⁴ Refugees are therefore required to obtain ‘Class M Work Permits’, which according to the Immigration Department are issued *gratis* to those with recognition letters from the UNCHR and DRA.³¹⁵ As such, it is the Immigration Act that prescribes the right to work, with the allocation of permits reliant upon the discretion of an immigration officer. Reports differ as to the ease with which refugees can avail themselves of these permits, however in general they are highly restricted and have been issued in only a few rare instances.³¹⁶ Kenya also does not permit refugees to acquire land, bank accounts, vehicles and other material assets, nor (as noted above) does it readily permit movement outside of the camps in order to conduct business activities.³¹⁷ As such, any economic activity is heavily constrained and undertaken “with limited protection or legal rights”.³¹⁸

Yet despite these restrictions, a surprising range of economic opportunities are available to refugees in the camps. Employment with implementation agencies is possible, however refugee workers are not permitted to earn salaries, and are instead provided with ‘incentives’ which are generally much

³¹⁴ ("The Kenya Refugee Act 2006," 2006), Article 16: 4. See also (Konzolo, 2010), p. 12. The 1973 Aliens Act defines an ‘alien’ as “any person who is not a citizen of Kenya”. See the Kenyan Aliens Restrictions Act, Cap 173., available at <http://www.unhcr.org/refworld/docid/3ae6b4e438.html> (accessed 22 January 2013).

³¹⁵ (Konzolo, 2010), p. 2. See also the Republic of Kenya – Immigration Department, available at http://www.immigration.go.ke/index.php?option=com_content&view=article&id=89&Itemid=127 (accessed 6 January 2013).

³¹⁶ Some reports assert that refugees must pay a ‘prohibitively’ expensive fee of KES50,000 for the two-year renewable work permit, while others describe this fee as ‘discretionary’. In addition, as was noted earlier an incoherent and ineffective registration process results in a dearth of formal refugee documentation, which further thwarts applications for permits. See ("World Refugee Survey 2008 - Kenya," 2008); (Pavanello et al., 2010), p. 21.; (Konzolo, 2010), p. 14.; and ("Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor," June 2012), p. 81.

³¹⁷ ("World Refugee Survey 2009 - Kenya," 2009), available at <http://www.unhcr.org/refworld/country,,USCRI,,BDI,,4a40d2aa76,0.html> (accessed 6 January 2013).

³¹⁸ ("Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor," June 2012), p. 72.

lower than the incomes provided other staff.³¹⁹ Moreover, camp employers are often perceived as discriminating against local communities, and “intense competition for jobs, contracts and access to the various resources of the refugee assistance programme” leads to widespread inter- and intra-communal conflict.³²⁰

An alternative strategy comes in the form of small business activities within the camps and local markets.³²¹ These market activities include the informal exchange and sale of small goods and foodstuffs in order to procure items that are lacking in the camps – such as shoes, clothes, meat, milk, kerosene and matches.³²² More formal activities are also prevalent, with large markets operating within both Dadaab and Kakuma that serve the needs of refugees and local communities alike. Notably, due to the restrictions noted above the extent of these market activities clearly reflect the significance of refugee transnational networks.³²³

As noted previously the Sudanese in Kakuma do not have access to robust transnational networks. The Sudanese market therefore remains small, encapsulating only a handful of ‘businessmen’ selling dried fish, tobacco, vegetables and a few ‘basic goods’. By way of contrast, the transnationally-empowered Ethiopian market has been described as ‘dynamic’ – including “more than 120 stalls, with video clubs, hardware stores, a post office which relays Kenyan mail, and so-called ‘hotels’ which are coffee shops where locally brewed *tej* beer is served.”³²⁴ Within Dadaab, a solid foundation of Somali transnational networks and local affiliations has seen a bustling market economy develop, with around 5,000 businesses drawing on trade links with Somalia (particularly

³¹⁹ Humanitarian agencies provide more than 2,000 jobs in Dadaab – the majority targeted towards the refugee community. CARE alone employs over 1,000 refugees and injects approximately half a million dollars into the community per year as a result. Yet as of 2009, refugees in Kakuma ‘earned’ between KES1,800 and 5,500 per month, compared to KES35,000 to 120,000 for Kenyan nationals. See (de Montclos & Kagwanja, 2000), p. 218.; and (“World Refugee Survey 2009 - Kenya,” 2009), available at <http://www.unhcr.org/refworld/country,,USCRI,,BDI,,4a40d2aa76,0.html> (accessed 6 January 2013).

³²⁰ While camp policy stipulates that 85% of jobs in Kakuma are reserved for the local population, few have the skills and qualifications ‘required’ by implementation agencies. Furthermore, those who do “tend to be highly politicized”, giving rise to an environment where “discontented individuals and groups of people have an interest in fomenting unrest.” (Crisp, 1999b), p. 20.

³²¹ See (de Montclos & Kagwanja, 2000), p. 208.

³²² (de Montclos & Kagwanja, 2000), p. 212.

³²³ The allocation of small loans (mostly to refugee women) by NGOs including CARE has also allowed an increase and diversification in community income-generating activities. See (de Montclos & Kagwanja, 2000), p. 217.

³²⁴ (de Montclos & Kagwanja, 2000), p. 213.

for *khat* – a mildly psychoactive leaf that is chewed by many in the region – and high value goods such as sugar, powdered milk, fruit drinks and more upmarket consumer goods), as well as links with local Kenyan wholesalers.³²⁵

In addition to network access, market activities are heavily shaped by the broader characteristics of the host community. As was noted above, both Kakuma and Dadaab are located in highly marginalised and sparsely populated areas, that are largely excluded from state infrastructure.³²⁶ While this means that the local economy is intrinsically not well suited to refugee self-sufficiency or integration, the camps have served as a locus for economic growth and expansion.³²⁷ Indeed, the Dadaab complex has become “very much a feature of the North Eastern Province” and represents its most ‘significant city’.³²⁸ With the annual turnover of camp businesses estimated at more than KES2 billion (US\$25 million), economic engagement and integration has benefitted immensely refugee and local communities alike. The annual income garnered from livestock and milk sales to the camp is alone estimated at KES218 million, while more than 500 jobs have been created as a direct result of camp economic activities, and wages for unskilled labour are between 50-75% higher than in other comparable areas of the country.³²⁹

Yet such striking economic activity has also given rise to inter-communal tensions. Goods sold in the camps are often very cheap in comparison to local prices, and Kenyan traders find it difficult to compete with their refugee competitors. The price of essential commodities including maize, rice, wheat, sugar and cooking oil for example are at least 20% lower in the camps than in similar rural

³²⁵ (de Montclos & Kagwanja, 2000), p. 213. See also (“In search of Protection and Livelihoods: Socio-economic and Environmental Impacts of Dadaab Refugee Camps on Host Communities,” 2010), p. 9.

³²⁶ The Turkana for example participate “only marginally in the market economy.” (de Montclos & Kagwanja, 2000), p. 213.

³²⁷ (Schmidt, 2003), p. 22. See also (“World Refugee Survey 2009 - Kenya,” 2009), available at <http://www.unhcr.org/refworld/country,,USCRI,,BDI,,4a40d2aa76,0.html> (accessed 6 January 2013). For an interesting glimpse of local-refugee community economic interaction in Nairobi, see the BBC News “‘Little Mogadishu’: Paradise for shoppers or pirates? (10 December 2012), available at <http://www.bbc.co.uk/news/world-africa-11962254> (accessed 11 January 2013).

³²⁸ (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 82.

³²⁹ (“In search of Protection and Livelihoods: Socio-economic and Environmental Impacts of Dadaab Refugee Camps on Host Communities,” 2010), p. 9. See also The Guardian “Kenya can turn the Dadaab refugee camps into an asset” (18 April 2012), available at <http://www.guardian.co.uk/global-development/poverty-matters/2012/apr/18/kenya-turn-dadaab-into-asset> (accessed 11 January 2013).

areas of the country.³³⁰ Refugee traders are also not subject to taxation, have access to cheap (and illegal) imports from neighbouring countries, and do not pay for rent or other ‘overheads’.³³¹

The Refugee Migration Regime – Unravelling ‘Bounded’ Space

As has been revealed in this section, the Migration Regime presents a number of complex difficulties for the refugee community. At its most basic, the Kenyan refugee camp differs from other local and migrant communities in its mode of governance.³³² Overwhelming pressure from refugee displacement and the overarching primacy of the ‘international refugee regime’ saw the subjugation of state authority, and the creation of a ‘parallel’ refugee space that is both located within, and yet excluded from the nation-state. Indeed, bound by the refugee regime’s prevailing ‘containment and relief’ model, “the lack of integration of refugees in the host country is not merely a consequence of their encampment, but the very essence and purpose of camps.”³³³

This exclusion has permitted the regime’s abject failure to legally recognise refugees within the state, and perpetuated illegitimate camp governance structures that have greatly derailed socio-political mobility, and the cohesion of the refugee community itself. Moreover, restrictions on refugee movement and economic activities have further isolated the refugee ‘space’ from the state – leaving the refugee community in a highly tenuous and ‘bounded’ position within the country.

Yet it is also evident that the refugee community has not remained a passive agent within this state-regime-refugee triptych. Drawing upon substantial transnational networks, refugees are highly empowered actors in Kenya, and enjoy a remarkable degree of movement, and an array of economic and business activities (particularly in Dadaab). What is more, these activities do not only benefit the refugee community itself, but have a profound impact upon local communities. As such, far from the

³³⁰ See (“In search of Protection and Livelihoods: Socio-economic and Environmental Impacts of Dadaab Refugee Camps on Host Communities,” 2010), p. 9.

³³¹ Local communities have on numerous occasions demanded the taxation of the refugee community. Authorities estimate taxes in Dadaab could raise as much as KES8 million, and Kakuma around KES2million. Refugees however, argue that the payment of bribes to local authorities are a suitable substitution for any tax. See (de Montclos & Kagwanja, 2000), p. 215.; and (Crisp, 1999b), p. 19

³³² Refugee camp ‘modes of governance’ can be defined as “the mechanisms of decision-making within or over the refugee community.” (Schmidt, 2003), p. 5.

³³³ (Verdirame, 2011), p. 270. As Edwards notes, “as non-citizens who are on the perimeters of the citizen-state protection system, refugees have been reliant largely on specific legal regimes, supported by humanitarian goodwill, for their protection.” (Edwards, 2009), p. 765.

symptomatic ‘exclusion’ that in many ways underpins our understanding of the refugee camp, the state exhibits a high degree of permeability, as refugees draw upon those transnational strategies that are available to perforate the restrictions inherent within the refugee regime’s bounded space model.

FACTOR 3: Politics of the Diaspora

As was highlighted in the previous section, while guaranteeing the basic survival and protection of refugees is a primary function of the refugee regime, with agencies operating under a UNHCR implementation model according to certain ‘minimum standards’, the camp falls desperately short of realising the wider notion of community security that was embodied within the 1951 Refugee Convention.³³⁴ It is widely acknowledged that long-term residence within camps leads to ‘dependency syndrome’, with refugee communities characterised by “a sense of despair and low self-worth” and becoming “permanent cases for international welfare”.³³⁵

In response, those bound by the camp space undertake both negative and positive coping mechanisms, drawing heavily upon the transnational assets and networks that are available in an effort to counter the restrictions of containment.³³⁶ Let us now examine in-depth how the dynamics of those refugee communities dispersed across the diaspora themselves shape and transform these strategies, and the ‘bounded’ space of the Kenyan refugee camp.

The Refugee Community: A ‘Common’ Identity

As Horst notes in her exploration of refugee communities in Dadaab, while it is incorrect to assume a homogeneity or single refugee ‘identity’ (i.e. a unified refugee community with shared traits, experiences and characteristics), it is also not useful to describe the “very personal and unique

³³⁴ See (Jamal, 2003), p. 5., (“Minimum standards and essential needs in a protracted refugee situation: A review of the UNHCR programme in Kakuma, Kenya,”); and (“Convention and Protocol Relating to the Status of Refugees,” 2010), p. 3.

³³⁵ (Harrell-Bond, 1995), p. 8.; and (Crisp, 2002), p. 13. See also (Bakewell, 2003); and (Kelley, 2007). For an excellent analysis of ‘self-sufficient’ refugee camps in Africa during the 1980s, see (“Older Refugee Settlements in Africa: Final Report,” 1985).

³³⁶ Negative and positive coping mechanisms refer to the multitude of strategies refugees employ in order to realise basic needs, sustain livelihoods and establish (or reaffirm) social support structures as a result of refugee camp restrictions and the erosion of traditional support mechanisms. See (Schmidt, 2003), p. 17.

characteristics” of individual refugees, for whom any comparison or conclusion would be impossible.³³⁷ However, the Somali refugee community (which is by far the largest in Kenya, constituting approximately 82% of all refugees including those in urban areas), are commonly represented as ‘one people’ – with a single language (*af-soomali*), one traditional livelihood (nomadic pastoralism) and one religion (Islam).³³⁸ Moreover, the traditional Somali *tol* or ‘clan’ structure has a profound influence on society, acting as both a powerful binding mechanism and a divisive force in the community.³³⁹ Indeed, Horst notes that “[a]s the foundation of social cooperation, kinship is a feature of all transactions between and amongst individuals.”³⁴⁰ While there are principally six clan ‘families’ – the Darod, Dir, Isaaq, Hawiye, Digil and Rahanweyn – within the camps around 80% of refugees belong to the Darod clan.³⁴¹ This means that despite the possibility for dissention, there is in fact a very strong sense of unity and cohesion within the Somali refugee community in the camps.

As such, while reference will be made to ‘individual motivations’ and ‘household strategies’ (as outlined by the refugee middle space model), as well as other refugee communities, this section will focus primarily upon the ‘unified’ Somali refugee community as the principal endogenous unit of analysis. Indeed, as Zetter notes, “Somali displacement is, in some respects, an archetype of protracted displacement”.³⁴²

³³⁷ (Horst, 2006b), p. 45.

³³⁸ (Horst, 2006b), p. 45. As of the end of 2012, there were more than 630,000 refugees in Kenya. The Somali refugee population stands at around 515,500 – constituting 96% of refugees in Dadaab and more than 50% in Kakuma. See the UNHCR Information Sharing Portal, available at <http://data.unhcr.org/horn-of-africa/country.php?id=110> ; the 2013 UNHCR Country Operations Profile – Kenya available at <http://www.unhcr.org/pages/49e483a16.html> (accessed 23 January 2013).; and ("Camp Population Statistics by Country of Origin, Sex and Age Group," 25 November 2012).

³³⁹ Horst describes the ‘evocative’ power of kinship as the “axiomatic ‘natural’ basis for all forms of social cooperation and as the ultimate guarantee of personal and collective security”. Such is the extent of this ‘socio-cultural obligation’ that clan affiliations form the basis for potent transnational networks within the Somali diaspora. (Horst, 2006b), p. 63.

³⁴⁰ (Horst, 2006b), p. 63.

³⁴¹ The reason for this is two-fold. Firstly, during civil war the significance of clan affiliations grows in importance as a mechanism for social cohesion and support (and division). And secondly, as noted previously displacement largely follows pre-existing patterns of transnational networks, and the Darod (and Ogaden sub-clans) have a particularly well-established and prolific web of networks across the region. See (Horst, 2006b), pp 46-47.

³⁴² (Zetter, 2011), p. 6.

Social Cohesion and Community Security

In what Vortovec describes as ‘diaspora as consciousness’, those dispersed across the diaspora foster a sense of collective identity and belonging by “selectively preserving and recovering traditions so that they create or maintain identification within far reaching historic, cultural and political processes”.³⁴³ This *created* identity or ‘collective consciousness’ is vital to community cohesion and its effective functioning during displacement – in simple terms making “the best of a bad situation”.³⁴⁴

Community Education

Education is paramount to building collective consciousness, as a mechanism for providing young persons with not only basic knowledge and skills, but also for perpetuating shared values and norms, and fostering the mental, physical and psycho-social tools necessary for coping with the trauma of displacement.³⁴⁵

Following the establishment of Dadaab in 1991, the Somali refugee population played an active role in education – with services provided according to a Somali curriculum and prevailing community ideology. However, formal community engagement ended in 1994 when the UNHCR took over responsibility for education within the camps.³⁴⁶ Moreover, education was not perceived as a ‘humanitarian priority’, and despite recent moves towards community capacity-building, services remain dramatically inadequate. Camp statistics reveal 40% (or almost 182,000) of Dadaab’s residents are between 5 and 17 years old, yet there are only 24 primary and 6 secondary schools

³⁴³ (Shuval, 2000) See (Vertovec, 1997). Malkki describes identity as “always mobile and processual, partly self-construction, partly categorization by others, partly a condition, a status, a label, a weapon, a shield, a fund of memories [...] It is a creolized aggregate composed through bricolage.” (Malkki, 1992), p. 37.

³⁴⁴ Clifford, J. (1994) ‘Diasporas’, *Cultural Anthropology*, 9(3): 302-338., p. 312., cited in (Wahlbeck, 2002), p. 234.

³⁴⁵ The importance of refugee education cannot be understated. Children constitute approximately 44% of the global population of refugees and those in ‘refugee-like situations’. (“UNHCR Statistical Yearbook 2010: Trends in Displacement, Protection and Solutions,” 2011), p. 9.

³⁴⁶ This shift, it was argued, sought to ensure that refugees achieve a ‘minimum standard’ of education, with refugee children permitted to sit the Kenya Certificate of Primary Education (KCPE) and the Kenya Certificate of Secondary Education (KCSE) examinations since 1998. Yet certificates from refugee schools are generally not recognised by the Kenyan Ministry of Education. See (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 68.; and (Pavanello et al., 2010), p. 25.

funded through the UNHCR (and 11 primary and 3 secondary schools funded privately), as well as a handful of vocational training programmes.³⁴⁷

Enrolment rates also remain alarmingly low – according to 2011 data, enrolment in pre-primary education was at 19.8%, primary enrolment 34.4%, while secondary education enrolment was a striking 7.4%. Only 1% of those aged between 15-24 were enrolled in an alternative education programme. Girls in particular are significantly under-represented in the education system – reflecting the influence of cultural traditions which stress the importance of (early) marriage, family and household duties for girls.³⁴⁸

Moreover, for those young persons who do acquire some level of education, as noted above there are limited livelihood opportunities, and loss of agency heightens the appeal of crime as a negative coping mechanism.³⁴⁹ Indeed, there pervades a sense of ‘intense frustration’ amongst refugee youth, who in general see themselves as “not being heard or involved in decision-making in the camps”.³⁵⁰ As a consequence, a large proportion of youth “remain idle and become prone to antisocial behaviour, including substance abuse” which, combined with a lack of leadership amongst community elders undermines the traditional social hierarchies, structures and activities that underpin refugee communities.³⁵¹

³⁴⁷ ("Camp Population Statistics by Country of Origin, Sex and Age Group," 25 November 2012). Reports show that schools are vastly overcrowded and under-resourced, with upwards of 100 students per classroom and only 20% of teachers having any formal training. Schools are also generally located on the camp periphery, exposing children to heightened risk of abuse and exploitation. See ("The Human Costs of the Funding Shortfalls for the Dadaab Refugee Camps," July 2012), p. 2.; and ("Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor," June 2012), p. 69.

³⁴⁸ See ("Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor," June 2012), p. 68.; and Borderless Higher Education for Refugees (BHER), available at <http://crs.yorku.ca/bher-dadaab-about> (accessed 22 January 2013).

³⁴⁹ (Crisp, 1999b), p. 28. Of those employed, 86% earn less than KES5,000 per month – often below Kenya’s minimum wage. See UNHCR. (2011). *Youth Survey of 2011. Dadaab.*, cited in ("Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor," June 2012), p. 71.

³⁵⁰ ("Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor," June 2012), p. 71.

³⁵¹ ("Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor," June 2012), p. 71. See also (Crisp, 1999b), p. 26.; (Milner & Loescher, 2011); and (Pavanello et al., 2010), p. 14. For an excellent analysis of the transmutation of Hutu and Tutsi refugee communities in refugee camps in Western Tanzania, see (Malkki, 1995).

In an attempt to counter this generational socio-cultural decline, the Somali community has made it clear that the “inclusion of Somali language, religious education, and cultural studies” in camp education services “are of vital concern.”³⁵² In addition, for those households who are able to access education services outside the camps, there is a preference for *madrassa* schools (which teach an Islamic-based curriculum).³⁵³ However, while such culturally-affirming education practices ensures younger generations remain embedded within (and supported by) the transnational collective consciousness, it also means that sections of the refugee community are actively isolated from the mainstream camp and Kenyan education systems. This aggravated social exclusion plays “an enormously important role in determining the extent to which integration into local society takes place.”³⁵⁴

Personal Security

Closely associated with this socio-cultural devolution, is the intrinsic insecurity of the bounded space. While it is difficult to accurately gauge the level of insecurity within Kenya’s camps, refugee communities (particularly in Dadaab) face ‘acute protection challenges’, with violence, shooting, rapes, murders, as well as physical and mental abuse, theft and crime “a feature of everyday life”.³⁵⁵ However, as evident in the degradation of social cohesion revealed above, insecurity must be understood as a synthesis of both *structural* and *social* factors – including not only the intensive ‘warehousing’ of heterogeneous communities and failing camp services discussed in the preceding section, but also the transmutation of traditional community structures and socio-cultural systems across the diaspora space.³⁵⁶

³⁵² (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 70. While arguing that it is not ‘feasible’ to incorporate specific cultural elements within the general education programmes in the camps, the UNHCR is supportive of community education services conducted outside of school hours.

³⁵³ These alternatives are however, very costly. A public secondary school in Nairobi can cost upwards of KES3,000 per month, and private schools seven times this amount. See (Pavanello et al., 2010), p. 25.

³⁵⁴ (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 81.

³⁵⁵ (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 40. See also (Crisp, 1999b), pp. 3-4.; (“The Human Costs of the Funding Shortfalls for the Dadaab Refugee Camps,” July 2012); and (“Welcome to Kenya”: Police Abuse of Somali Refugees,” 2010).

³⁵⁶ (*Operational Protection in Camps and Settlements*, 2006), p. 27.

Indeed, notwithstanding substantial inter-communal conflict, insecurity within the camps is largely the result of *intra*-communal tensions.³⁵⁷ Violence is highly reflective of homeland clan affiliations and tensions that underpin the transnational foundations of the diaspora – heightened by displacement and the pressured conditions of the camp. This is evident in Kakuma in the late 1990s – when violence between the Sudanese Dinka and Nuer clans, and between the Dinka Barhal Gazal and the Dinka Bor was widespread.³⁵⁸ Intra-communal violence can also occur along ethnic divisions, as exemplified by the violence that erupted between the majority Somali and the minority Somali Bantu (who have historically been regarded as ‘subservient’) in Dadaab in the late 1990s.³⁵⁹

Violence is however, not only limited to the camps. The surrounding district provides an enticing location for roving ‘bandits’ who engage in rampant theft, violence and extortion – drawn by the concentrated population and activities of refugees, local communities and implementing agencies.³⁶⁰ Reports indicate that bandits operating around Dadaab comprise a mix of local Kenyans, Somali refugees and to a lesser extent Somali militia engaged in cross-border raids.³⁶¹ Yet unlike violence within the camps, socio-cultural and ethnic affiliations play only a minor role in shaping their criminal activities. The extreme and non-specific nature of violence suggests that bandits prefer simply to maintain a sense of insecurity amongst the local and refugee communities, and thereby create a level of impunity and control.³⁶²

³⁵⁷ In Kakuma for example, refugees from over ten different countries occupy an overcrowded and hostile space, and violence between Sudanese, Ethiopian and Somali communities has been commonplace since its creation in the 1990s. See (Aukot, 2003), p. 76.; and (Crisp, 1999b), p. 30.

³⁵⁸ Similar clan tensions are evident in Dadaab within the Somali community. However, as noted earlier the disproportionate prevalence of the Darod clan negates to some degree intra-communal hostility – which is instead primarily the consequence of transnational political affiliations. See (Crisp, 1999b), pp. 9-10.

³⁵⁹ (Crisp, 1999b), pp. 9-10. A history of violence and suspicion between the Hutu and Tsutsi, and the Oromo and Ethiopians are further examples of the ethnic tension inherent within refugee communities in the camps. See (Aukot, 2003), p. 76.

³⁶⁰ A ‘bandit’ has been defined as “a conveniently generic term that is used to describe roving groups of men who are also responsible for theft, cattle rustling and other criminal activities.” (Crisp, 1999b), p. 7. Interestingly, the Somali word for ‘bandit’ – *shifto* – is historically associated with a Robin Hood-like figure who resisted colonial authority, and garnered ‘prestige and plunder’ for the people. See (Ringquist, 2011), p. 100.

³⁶¹ Bandits are also heavily involved in criminal activity on the transport routes around the camp – their increasing audacity evident in the recent kidnapping of four international workers from the Norwegian Refugee Council. See (Crisp, 1999b); and al Jazeera “Aid workers abducted at Kenya’s Dadaab camp” (29 June 2012), available at <http://www.aljazeera.com/news/africa/2012/06/2012629112537457510.html> (accessed 22 January 2013).

³⁶² (Crisp, 1999b), pp. 8-9.

Attempts to bolster the formal security presence has been shown to have little impact, hampered in part by a failure to address the inherent socio-cultural nature of insecurity, and a lack of engagement by the international refugee regime itself.³⁶³ Indeed, the activities of local authorities to ‘keep the peace’ are most often *ad hoc* ‘settlements’ that seek to extort money from refugees, and muddy the already murky waters surrounding refugee security. This is particularly relevant for new arrivals – who are unfamiliar with the local socio-political landscape, and are in general “disorientated by their recent displacement experience.”³⁶⁴

Moreover, refugees are often unwilling to prosecute criminal elements, due to prevailing clan affiliations and the customary practices of the community. The concept of *mashalah* or ‘blood money’ for example, is “a central feature of Somali culture, allowing individuals to buy exemption from criminal acts.”³⁶⁵ Retribution and intimidation against community members or clan groups who do seek prosecution is also commonplace.³⁶⁶ The refugee community has been somewhat active in addressing security concerns, for example establishing ‘Community Peace and Safety Teams’ (CBSTs) in Dadaab in order to tackle escalating border insecurity. However, mirroring the inherent ambiguity and transmutation of transnational affiliations, those community leaders perceived as ‘assisting’ CBSTs have been threatened and in some cases killed by al-Shabaab sympathizers.³⁶⁷

Gender-based Violence (GBV)

Against this backdrop of intra-communal conflict and socio-cultural decay, women and children

³⁶³ Indeed, the main UNHCR office in Nairobi was staffed by only one International Protection Officer (IPO) until February 1998. See (Crisp, 1999b), p. 13.; and UNHCR “UNHCR strengthens its presence in Dadaab refugee complex” (25 May 2012), available at <http://www.unhcr.org/4fbf62689.html> (accessed 10 January 2013).

³⁶⁴ (Pavanello et al., 2010), p. 17. Indeed, such is the practice of refugee abuse and extortion that patterns of arrests can be seen – with men mostly targeted during the day and women at night when higher amounts can be gathered due to fears of sexual abuse.

³⁶⁵ (Crisp, 1999b), p. 21. Such is the degree of impunity in and around these liminal spaces that the UNHCR has recommended “a high degree of accountability on the part of the elders and the perpetrators” be introduced. (Crisp, 1999b), p. 20.

³⁶⁶ In addition, some reports suggest that those refugees who are jailed often “learn more criminality in prison” – sometimes forming criminal gangs or joining local bandits upon release and thereby increasing insecurity in the camps. (Crisp, 1999b), p. 21.

³⁶⁷ Center for strategic & International Studies “The Dadaab Refugee Complex: A Powder Keg and It’s Giving Off Sparks” (1 March 2012), available at <http://csis.org/publication/dadaab-refugee-complex-powder-keg-and-its-giving-sparks> (accessed 24 January 2013).

“have particular and pronounced protection needs in the camps”, with sexual abuse and gender-based violence (GBV) “a daily reality for refugees”.³⁶⁸ Although a number of *ad hoc* projects have sought to address this gendered- insecurity, camp services remain largely inadequate and ineffective.³⁶⁹ Indeed, while reports of sexual violence increased 36% between February and May 2012, funding for GBV programmes *decreased* by 50% over the same period.³⁷⁰

Many instances of GBV are a result of traditional practices, for example female genital mutilation is widely practiced amongst the Somali refugee community, and Sudanese girls have been abducted from Kakuma for forced marriage in the homeland.³⁷¹ However, one of the most widely reported instances of GBV within the camps is rape.³⁷² While some reports suggest that the rape is a ‘weapon of warfare’ used in traditional hostilities between rival clans, others suggest that it occurs irrespective of clan affiliation or ethnicity, and is more the result of the insecurity inherent within and around the camp complex.³⁷³ Reports also indicate that contrary to traditional norms, domestic violence is prevalent in the camps – to the extent that it has become accepted as ‘normal’ by the

³⁶⁸ (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 88.; and (Crisp, 1999b), p. 6

³⁶⁹ For example, in mid-1997 the Dadaab Firewood Project was implemented to address the incidence of rape as women and girls collect firewood in the surrounding area. With a 45% decrease, the project was regarded as ‘highly successful’. However, the politicisation of firewood collection and distribution, and the costly nature of the exercise (only 11% of household firewood needs were met, and an increase in rape of between 78-113% in other areas and contexts was reported), meant that the project was halted. See (“Evaluation of the Dadaab firewood project, Kenya,” 2001).

³⁷⁰ (“The Human Costs of the Funding Shortfalls for the Dadaab Refugee Camps,” July 2012), p. 3. This runs contrary to the 2006 Refugee Act, which states that “the Commissioner shall ensure that specific measures are taken to ensure the safety of refugee women and children in designated areas.” (“The Kenya Refugee Act 2006,” 2006), Article 23.

³⁷¹ (Crisp, 1999b), p. 6

³⁷² Moreover, sexual violence is not restricted to the female population – reports suggest that rape of Sudanese boys and young men may be prevalent, particularly as a large proportion of these refugees arrived as unaccompanied minors in the early years of Kakuma. (Crisp, 1999b), p. 6.

³⁷³ See (Fitzgerald, 1998). Reports indicate that attacks are most likely to occur at night, in conjunction with the activities of bandits within the camp grounds. In response, in the late 1990s the UNHCR and German humanitarian agency GTZ assisted in the planting of more than 150km of thorn-bushes along the periphery of the Dadaab complex. However, increasing camp security has simply shifted the issue, with the vast majority of rape now occurring during daylight hours in the bush surrounding the camps, when women and girls are collecting firewood and building materials, or when walking to and from school. See (Crisp, 1999b), pp. 15 & 31.

majority of Somali refugees.³⁷⁴ Interviews by the International Rescue Committee in Dadaab support these findings, finding ‘intimate partner violence’ (IPV) to be “the most common form of GBV” occurring in the camp.³⁷⁵

The prevalence of IPV and GBV can therefore be largely attributed to the breakdown of social structures and cohesion within the camps. Indeed, one of the principle transformations in refugee communities concerns the role of women. As discussed earlier, the refugee camp erodes traditional leadership mechanisms – in which men play a central role. Women on the other-hand, not only retain many of their traditional social functions, but are increasingly empowered and integrated within camp governance and decision-making processes by the UNHCR and other (western) humanitarian agencies.³⁷⁶ As a consequence, “traditional authority structures are less reliable, and new power-relations are created and sustained”.³⁷⁷

The transmutation of socio-cultural relationships within the camp space is also the result of the actions of refugee households themselves. Caregivers often profit from financial payments for young brides, or enforce marriage in order to secure a form of ‘security’ for their daughters and to mitigate the risk of pregnancies ‘out of wedlock’ (a euphemism for pregnancy due to rape).³⁷⁸

While this research supports what is increasingly being acknowledged by refugee theorists – that the camp creates a space conducive to the ‘perversion’ of refugee community structure and cohesion, and ultimately erodes refugee safety – solutions remain mired in outmoded ontologies and

³⁷⁴ See (Crisp, 1999b), p. 5. Notwithstanding heightened GBV due to civil war, and traditional practices including female genital mutilation, Somali culture places heavy emphasis on the protection of women and ‘the vulnerable’. See (Konzolo, 2010), p. 3.; and (“Gender-Based Violence Rapid Assessment Dadaab, Kenya,” July 2011), p. 2.; and United Nations Office for the Coordination of Humanitarian Affairs Somalia “Gender Based Working Group”, available at <http://www.unocha.org/somalia/coordination/clusters/protection/gbv-working-group> (accessed 22 February 2013).

³⁷⁵ (“Gender-Based Violence Rapid Assessment Dadaab, Kenya,” July 2011), p. 5. UNHCR figures reveal that the incidence of GBV in Dadaab are increasing, from 103 report cases in 2007, to 219 in 2008 including 79 cases of rape. See (Pavanello et al., 2010), p. 14.; and IRIN “Kenya: Camp resources stretched by influx of Somali refugees” (6 February 2009), available at <http://www.irinnews.org/Report/82792/KENYA-Camp-resources-stretched-by-influx-of-Somali-refugees> (accessed 2 January 2013).

³⁷⁶ (Crisp, 1999b), p. 26.

³⁷⁷ (Schmidt, 2003), p. 18.

³⁷⁸ ‘Survival sex’ is also a feature of camps, as a readily available negative coping mechanism for young women seeking to secure some form of protection in the absence of alternative strategies. See (“Gender-Based Violence Rapid Assessment Dadaab, Kenya,” July 2011), pp. 5-6.

practices.³⁷⁹ In response, refugee women are establishing their own community groups, including security committees, and GBV advocacy and support groups, that exist outside of the dominant socio-cultural structures and power dynamics of the camp space, and draw upon their own set of gendered relationships and resources, embodying a novel evolution of community structure and gendered socio-cultural dynamics.³⁸⁰

Information Dissemination

The exchange of information is a hugely powerful mechanism for community strength and advocacy, and can transform migration and migrant communities, including those living within Dadaab and Kakuma.³⁸¹ As noted earlier, the explosion in global communications technology that has occurred in the last century has dramatically reduced the 'distance' between transnational refugee communities within the diaspora. Of note, an informal network of two-way radio sets, referred to as the *taar*, allows cheap and relatively easy communication between Somali communities dispersed across the region.³⁸² For these hyper-connected communities, readily accessible images of other communities, and specifically those in the global 'North', create a vision of the refugee diaspora that is part reality – part fiction.

³⁷⁹ Notably, in 1986 the International NGO Working Group on Refugee Women and their report "Working with Refugee Women: A Practical Guide" provided an important building block in the formation of UNHCR guidelines that address the protection needs of refugee women. However, research has revealed that despite the implementation of more participatory security and governance methods, women continue to be largely excluded and persecuted. See (Bakewell, 2003).; (Hyndman, 1997); (Schmidt, 2003), p. 19.; Tröcaire "Refugee Women - A Kenya Case Study" (1999), available at <http://www.trocaire.org/resources/tdr-article/refugee-women-kenya-case-study> (accessed 23 January 2013).; and ("Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees," 2002).

³⁸⁰ (Hyndman, 1997) These groups are often assisted by humanitarian groups working within the camps. See for example LWF "A Life Free from Violence: The safe Haven in Dadaab" (30 August 2011), available at <http://www.lutheranworld.org/lwf/index.php/dadaab-safe-haven.html> (accessed 24 January 2013).

³⁸¹ Eluding to the preceding discussion on gendered relations, radio is a particularly potent form of information dissemination and community engagement within the camps. See Lifeline Energy "A lifeline to women – Kenya", available at http://lifelineenergy.org/news_index_A_Lifeline_to_women.html (accessed 23 January 2013)

³⁸² (Van Hear, 2006), p. 11. In addition to information exchange, the *taar* actively strengthens the transnational links that underpin the refugee diaspora, with much of the operator's time spent in *baafin* or 'tracing' individuals amongst camps and communities. See (Horst, 2006b), pp. 130-133.

As Appadurai notes:

“[t]he lines between the realistic and the fictional landscapes they see are blurred, so that the farther away these audiences are from the direct experiences of metropolitan life, the more likely they are to construct imagined worlds that are chimerical, aesthetic, even fantastic objects”.³⁸³

The stories of refugees who have ‘successfully’ resettled in other parts of the diaspora in particular, have a huge influence upon bounded refugee communities.³⁸⁴ Moreover, these stories are highly susceptible to embellishment, and are therefore a potent catalyst in the transmutation of the ‘reality’ of containment – as refugees come to view their lives “through the prisms of the lives of others.”³⁸⁵

The dissemination of information can therefore strengthen the refugee community, as those dispersed across the diaspora cultivate powerful forms of transnational ideology, association and activity. Equally it can undermine social cohesion, as disparities (real and imagined) generate tensions within the refugee community and across the wider diaspora. As Horst notes, while “collective imagination provides hope in quite a hopeless situation”, it will inevitably lead to “all manner of frustrations if dreams cannot be realized or their accomplishment does not bring the solution hoped for”.³⁸⁶

The Problem of the *Buufis*

The inherent duality of transnational information exchange is exemplified by the notion of *buufis*. Common amongst the Somali refugee community in Dadaab, the term literally means to ‘blow into or inflate’, and is used to describe a longing for resettlement.³⁸⁷ Moreover, it can be used to refer to

³⁸³ (Appadurai, 1996), p. 35.

³⁸⁴ Indeed, imagination is a ‘social practice’, and is “central to all forms of agency”. (Appadurai, 1996), p. 31.

³⁸⁵ (Horst, 2006a), p. 152. As Horst notes, if one assumes that refugees have a certain degree of agency in determining their lives, “this surely also includes the power and choice to create knowledge about and give meaning to their own situation (Horst, 2006a), p. 144.

³⁸⁶ (Horst, 2006a), p. 152.

³⁸⁷ The extent of the *buufis* ‘phenomenon’ must be understood in the historical context – as noted above Somali communities are built upon strong traditions of mobility. Indeed, older Somali believe that those in the grip of *buufis* are possessed by the *saar* or ‘spirit’ of travel. In order to heal someone, the community must help the individual realise their dreams of migration. See (Horst, 2006a), pp. 143-144.

the ‘madness’ that can occur when this dream is not realised.³⁸⁸ The prevalence of *buufis* is, Horst asserts, the direct result of the transnational flow of information – which allows refugees within the camp to contrast their own lives with those living in other (more desirable) locations across the wider diaspora.

A number of conclusions regarding the refugee community can be garnered from the *buufis* phenomenon. Firstly, the notion of collective ‘consciousness’ – in this case the vision of resettlement – is a synthesis of information dissemination and the bounded nature of refugee containment. In the words of a young Somali in Dadaab, *buufis* “is a disease that attacks people who are mentally in America and physically in Ifo.”³⁸⁹ Secondly, the outcome of this confluence is ambiguous – characterised by both risk and potential. For example, while there has been a resurgence of nationalistic sentiment among younger refugees, this consciousness can fuel tension as evident in the politicised conflict spanning the Somali-Kenyan border (and encapsulating Dadaab) noted earlier.³⁹⁰ And thirdly, refugee reliance on, and the transmutation of information exchange and collective consciousness is cyclical and self-perpetuating, and positively correlated with insecurity in the camps.³⁹¹

³⁸⁸ (Horst, 2006a), p. 144. As noted earlier, with severely limited opportunities available, competition for resettlement ‘is intense’. The unrealised resettlement dreams of reaching ‘desirable’ countries such as the US, Canada, Australia and New Zealand therefore serves as a significant catalyst in community discord and conflict. See (Crisp, 1999b), p. 27. Interestingly, the term *buufis* is used to refer to general mental health problems by the Somali community in Minneapolis. (Horst, 2006a), p. 155.

³⁸⁹ (Horst, 2006a), pp. 146-147.

³⁹⁰ The information-containment nexus is also evident in the clashes that occurred within the Sudanese community in Kakuma which followed the rift between the SPLA’s John Garang and Riak Macher. See (Crisp, 1999b), pp. 23-24.; and (Aukot, 2003), p. 76.

³⁹¹ Faced with widespread insecurity, the role of transnational networks and the flow of information increases in significance. However, this fuels the construction of alternative ‘realities’ and an idealised collective consciousness, which emphasises the perceived disparities between communities within the diaspora, and the salience of community insecurity. This phenomenon is not restricted to Kenya. Malkki has found that refugees confined to camps in Tanzania “created an imaginary and idealized image of the ‘Hutu Nation’”, which not only preserved a cohesive refugee identity, but also justified and reproduced tensions. See (Schmidt, 2003), p. 18.; (Malkki, 1995); (Horst, 2006a), p. 146.; and IRIN “I never regret being in Dadaab” (23 March 2012), available at <http://www.irinnews.org/Report/95142/KENYA-SOMALIA-I-never-regret-being-in-Dadaab> (accessed 11 January 2013).

Physical Movement

As was highlighted in our opening examination of migration in the region, mobility is not only socio-politically or economically, but also culturally embedded within the Somali refugee community – both in terms of physical movement as well as a vibrant linguistic tradition.³⁹² For refugees in Dadaab and Kakuma, movement is therefore not merely a mechanism for survival, but a significant, culturally-embedded phenomenon. Such transnational empowerment has a Janus-like role to play in the refugee community – not only intensifying the negative impacts of bounded containment (including the erosion of traditional socio-cultural structures and support systems), but also providing a robust foundation for transnational solutions.³⁹³ Indeed, for refugees such as the Somali who have access to the “means or the connections to survive independently”, life outside of the camps “is likely to be preferable” – and possible.³⁹⁴

Three main patterns of movement can be identified for communities in the camps, dependent upon the transmutations of transnational networks across the diaspora space. Firstly, repatriation is an option for some refugees, although in the current Macro-Political climate the sustainability of any such option is uncertain.³⁹⁵ Secondly and more likely, movement can occur between communities within Kenya itself. Reports indicate that some Dadaab refugees have relocated to Kakuma, while increasing numbers of newly-arrived refugees are choosing to make the significantly more difficult journey across the country to reach Kakuma, rather than entering the more insecure Dadaab complex. Indeed, of the 8,000 new registrations in Kakuma in late 2011 and early 2012, over 5,000 were from Somalia.³⁹⁶

³⁹² Movement across borders has for hundreds of years “played a vital role in Somali lives and livelihoods” – the consequence of nomadic pastoralism, Islam (and an emphasis on the pilgrimage or *hajj* to Mecca, and the search for knowledge or *rihla*), and extensive and long-standing regional trade and labour patterns. (Horst, 2006a), p. 153.

³⁹³ Dadaab, with a population of almost 500,000 housed within an area 50km² for over twenty years is in many ways the antithesis of a ‘functioning community’. See (Schmidt, 2003), p. 17.; (Crisp, 1999b), p. 25 & 30.; and (“Handbook for Emergencies - 3rd Edition,” 2007), p. 211.

³⁹⁴ (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 78. See also (Lindley, 2007), p. 10.; and (Crisp, 1999b), pp. 27-28.

³⁹⁵ A 2012 survey of Dadaab revealed that only 14% of respondents would consider returning to Somalia at that time. (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 86.

³⁹⁶ (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 76. See also *Medecins sans Frontieres* “Dadaab refugee camps: Back to square one” (16 February

Another alternative is to move from the camps to urban communities.³⁹⁷ However, this urbanisation is not uniform, but reflective of the inherent transnational-empowerment of the refugees themselves. “Almost without exception”, urban refugees will have access to a greater array of transnational assets, and will therefore settle in urban areas where they are able to access a diverse range of livelihood strategies, while the refugee camps have long been considered “the destination for those with no other resources”.³⁹⁸ A substantial amount of movement also flows from urban areas to the camps, as households diversify their transnational portfolios between multiple locations, and exchange information and pursue business and administrative activities (including card re-validation and resettlement opportunities).³⁹⁹

Finally, movement can occur between the camps and the wider diaspora, particularly in Europe and North America.⁴⁰⁰ There are two methods of reaching the wider diaspora. Firstly, one can join the official ‘resettlement’ queue, however these opportunities are profoundly limited. According to UNHCR figures, of the 412,193 refugees residing in the country in September 2010, only 1,841 (or a staggering 0.4%) were resettled.⁴⁰¹ Alternatively, a far greater number of refugees choose to undertake ‘irregular migration’ and utilise increasingly institutionalised illicit migratory routes.

2012), available at <http://somalia.msf.org/2012/02/dadaab-refugee-camps-back-to-square-one/> (accessed 11 January 2013).

³⁹⁷ Indeed, according to 2009 UNHCR figures, only a third of the world’s 10.5 million refugees were living in camps. This has prompted the UNHCR to adopt a new ‘Policy on Refugee Protection and Solutions in Urban Areas’, which advocates for the expansion of ‘protection spaces’ within cities. The movement of refugees into urban refugee communities must however, be understood in the wider context of urbanisation. Despite being the least urbanised region in the world, over 50% of the sub-Saharan population will become urbanised in the next two decades. See the UNHCR “Trying to Get By in the City”, available at <http://www.unhcr.org/pages/4b0e4cba6.html>; the UNHCR “State of the World’s Refugees 2012: In search of solidarity”- Chpt. 6: Displacement and Urbanization., available at <http://www.unhcr.org/publications/22-chapter-6-displacement-and-urbanization.html#more-22> (accessed 11 January 2013).; and (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 76.

³⁹⁸ (Banki, 2004), p. 16.

³⁹⁹ ‘Circular movement’ between urban areas and the camps is risky however, and without a valid Movement Pass, refugees are hugely reliant on illicit national and transnational migratory routes, often paying significant bribes for the privilege – ranging from KES200 to 1,000 per person per roadblock. See (Pavanello et al., 2010), p. 23.

⁴⁰⁰ (Horst, 2002), p. 2. London hosts one of the largest Somali populations outside of Africa. Prior to the outbreak of civil war, there existed only a small community of ex-Merchant Navy seamen and their families –there are now more than 60,000 Somalis in the UK, not including those not recognised in state statistics. See (Lindley, 2009), p. 1318.

⁴⁰¹ (Konzolo, 2010), p. 4.

Indeed, such is the extent of this onward movement that it has “a rather everyday quality” for refugee communities in Kenya.⁴⁰²

These patterns of movement within the diaspora highlights the *agency* of refugee communities, and the informed *choices* that are possible based on a ‘portfolio’ of alternatives and strategies, in order to maximise livelihood opportunities and reduce risk. Moreover, the proactive manipulation of movement strategies clearly reveals the ongoing fluidity and evolution of the diaspora space. In many cases, refugees exist within multiple locations, linked and supported by a complex array of transnational networks that shift across time and space according to need and circumstance.⁴⁰³ Accordingly, the refugee diaspora extends above and beyond static communities and camps – to encompass a highly ‘fluid’ space that in many cases exists completely outside of the ‘official’ refugee field.

Remittance Exchange

In addition to the transmutation of socio-cultural relationships and physical movement across the diaspora space noted thus far, refugee communities are embedded within complex and highly significant exchanges of financial assistance – or remittances.⁴⁰⁴ Indeed, the ‘new development mantra’ of Devesh Kapur, and the considerable attention in recent years from both scholars and policy-makers alike can attest to the importance of financial support networks to those communities dispersed across the diaspora – particularly within the homeland.⁴⁰⁵ However, relatively little is

⁴⁰² Originally used to refer only to unlawful methods of entry into a country, ‘irregular migration’ is now a pejorative term used to describe any refugee that exits a state of first asylum seeking alternative living conditions. (Lindley, 2007), pp. 11-12. For an in-depth analysis of the irregular movement of individuals from the Horn of Africa, see (“In Pursuit of the Southern Dream: Victims of Necessity,” 2009).

⁴⁰³ (Schmidt, 2003), p. 6.

⁴⁰⁴ As Sahlins notes, “if friends make gifts, gifts make friends . . . the material flow underwrites social relations.” Sahlins, M. (2004) *Stone Age Economics*. London: Routledge., pp. 186-187., cited in (Lindley, 2009), p. 1316. See also (Pavanello et al., 2010), p. 23.

⁴⁰⁵ According to the World Bank, global remittances sent to developing countries exceeded \$406 billion in 2012, with approximately \$31 billion reaching Sub-Saharan Africa. See The World Bank News Release (20 November 2012), available at <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1288990760745/MigrationDevelopmentBrief19.pdf> (accessed 25 January 2013). For an excellent overview of the current debates surrounding remittances, see (Kapur, 2004); (Haas, 2005); and (Plasterer, 2011).

known about the role remittances play in the refugee diaspora, and for those communities within camps.⁴⁰⁶

Somali Remittances and the *Xawilaad*

During the 1970s and 1980s the main source of remittances (between 60-75%) within the Somali diaspora was from migrant workers in the Gulf States, in a '*franco valuta*' system that provided a basis for both regional trade and remittance exchange. However, following the outbreak of civil war, refugees transformed the Somali diaspora, and the extant patterns of remittance exchange.⁴⁰⁷

Crucial in supporting the flow of remittances across the shifting diaspora space, a semi-formal transnational money-transfer system known as the *xawilaad* has been established.⁴⁰⁸ In addition to providing a ready mechanism for financial exchange between communities, the *xawilaad* relies heavily on effective communication networks, and as a consequence agents have invested heavily in telephones, the *taar* system and computer technology – significantly bolstering the web of transnational information networks and transnational consciousness that binds the diaspora space.⁴⁰⁹

While remittances are often a factor in the motivations of migrants communities, for the refugee diaspora remittances are primarily an *ad hoc* support strategy that is realised post-displacement. Yet despite their 'unforeseen' nature, the exchange of funds within the refugee diaspora are "astonishingly large and frequent".⁴¹⁰ Due to their informal and illicit nature, exact figures for remittances directed to communities in Dadaab and Kakuma are difficult to establish.⁴¹¹ However,

⁴⁰⁶ (Lindley, 2009), p. 1316.

⁴⁰⁷ While previously two-thirds of remittances were used for trade and the remainder to support families, these proportions have now been inverted. (Horst, 2002), pp. 9-10. See also (de Montclos & Kagwanja, 2000).

⁴⁰⁸ *Xawil* is a Somali word meaning 'transfer' – of money or responsibility. The *xawilaad* system incorporates three official organisations (Al Barakat, Dahabshil and Amal), as well as a plethora of smaller agencies and operators, many of whom operate illegally. See (Horst, 2002), p. 7.; (Lindley, 2007), p. 14.; and (Pavanello et al., 2010), p. 22.

⁴⁰⁹ See All Africa "UN Refugee Agency Launches Inaugural Somali Community Event in Kenya" (19 April 2011), available at <http://allafrica.com/stories/201104190914.html> (accessed 12 January 2013).

⁴¹⁰ (Horst, 2002), p. 8.

⁴¹¹ Most *xawilaad* agents are reluctant to release figures for fear of jeopardising their unofficial activities. Furthermore, refugees are hesitant to provide information regarding the extent of remittances in the camps – fearing that it may lead to cuts in food and aid provision, or invoke increased bandit attacks and robbery. See (Horst, 2002), pp. 8-10.

as an indication the annual flow of remittances from the Somali diaspora to the Horn of Africa was estimated at \$130 million in 2000.⁴¹²

While figures may be uncertain, the potential of remittances to “partially or fully release refugees from the aid relationship” is however, clear.⁴¹³ Horst estimates that between 10-15% of the refugee community in Dadaab receive remittances via the *xawilaad*.⁴¹⁴ In addition to supporting the immediate survival needs of families and communities – including buying food and basic items, accessing healthcare services, and building shelter – remittances underpin myriad positive coping mechanisms and strategies that reduce refugee dependency and bolster self-sufficiency. This includes funding trade and economic activities within the camps and surrounding markets, and facilitating mobility which has been shown to provide a crucial foundation to the diaspora space.⁴¹⁵

As such, “just as migrants are not ‘just labour’, remittances are not ‘just money’”.⁴¹⁶ Indeed, remittances are a source of “familial and cultural reaffirmation”, acting as a vital catalyst in the creation and maintenance of resilient social networks, and a sense of collective identity and cohesion within the bounded communities of the refugee diaspora.⁴¹⁷

Remittance Transnational ‘Relationships’

The deeply-embedded socio-cultural and ethnic affiliations noted earlier explain the strong emphasis on remittance sending within the Somali diaspora.⁴¹⁸ As such, while remittances flow primarily from more prosperous domains in Europe and North America, Australia and the Middle East, a small

⁴¹² (Horst, 2006b), p. 35. Other estimates place the figure between US\$140 million and \$800 million per annum. See (Horst, 2002), p. 9.

⁴¹³ (Lindley, 2007), p. 15. A survey conducted amongst the Somali community in London between 2004 and 2005, revealed on average 61% of individuals sent remittances to family in Somalia at least once a month. See and (Lindley, 2009), p. 1319.

⁴¹⁴ (Horst, 2002), p. 13.

⁴¹⁵ See (Lindley, 2007), p. 10.; (Verdirame, 1999), p. 43.; and (Pavanello et al., 2010), p. 25.

⁴¹⁶ (Lindley, 2009), p. 1315

⁴¹⁷ (Lindley, 2009), p. 1327. Refugee households receiving remittances are “less likely to fragment”, and in the uncertain and insecure setting of the refugee diaspora, “such solidarity is an important cultural and economic asset.” (Lindley, 2007), p. 11.

⁴¹⁸ The practice of remittance sending, often to numerous recipients and equating to considerable amounts of money has been described as a form of ‘generalised reciprocity’. As a Somali in London noted, “You eat with your brother when he has money”. (Lindley, 2009), p. 1324.

proportion of those in urban communities within the near diaspora (including Eastleigh) send remittances to refugees in the camps, and also to those remaining in the homeland.⁴¹⁹

However, the strong social obligation to send remittances can give rise to a ‘pressured transnationalism’ – indeed, failing to send remittances to those in Kenya and the homeland is regarded as ‘unacceptable behaviour’.⁴²⁰ Disparities (real and perceived) between sender and recipient communities can also heighten these transnational tensions. It is widely accepted amongst refugees in the camps that those living *dibadaha* or ‘outside’ in the West are prosperous, to which the ambiguous influence of information dissemination and the prevalence of *buufis* noted above can attest.⁴²¹ Remitters can therefore feel exploited, while the ready availability of funds can foster a localised ‘dependency’ for recipients, much like the ‘dependency syndrome’ that has been associated with humanitarian aid. Indeed, while remittances can support refugee communities through the shock of displacement and more acute crises, they do not necessarily foster more sustainable livelihoods, or contingency strategies against future events.⁴²²

This transmutation of remittance networks can therefore seriously undermine community cohesion and the ‘unity’ of the refugee diaspora. Perhaps most notably, male-dominated migrant niches are increasingly being replaced by women who are forced into vital economic activities to meet the transnational needs and resources of refugee communities. Anecdotal reports also suggest a greater willingness amongst women to send remittances than men, and to manage finances when received.⁴²³ This has led to a profound diversification and ‘feminisation’ of economic participation within the refugee diaspora, and further transformed (or ‘eroded’ – for want of a better term) the

⁴¹⁹ See (Lindley, 2007), p. 15.

⁴²⁰ (Lindley, 2007), p. 12.

⁴²¹ See (Horst, 2002), p. 5.

⁴²² As the UK’s Department for International Development asserts, a livelihood is sustainable “when it can cope with and recover from stresses and shocks and maintain or enhance its capabilities and assets both now and in the future”. See the DFID “Sustainable Livelihoods Guidance Sheets” Overview 1.1., available at <http://www.enonline.net/resources/667> (accessed 11 January 2013).

⁴²³ Some scholars argue that this is due to a relative, rather than absolute change, as women become increasingly more visible in transnational networks over time. Others suggest that because women are in a generally ‘weaker’ position in refugee and migrant communities, they rely more heavily on, and are more actively engaged with transnational networks than males. Studies of Somali communities in London have however, revealed that males remain the primary remittance senders (60%) and also send larger amounts (on average £3,645 compared with £2,340). See (Lindley, 2009), pp. 1322-1323.; and (Horst, 2002), p. 15.

traditional social structures of refugee communities both in the camps and dispersed across the diaspora.⁴²⁴

Communities within the diaspora can therefore be seen to readily engage with complex remittance networks, that evolve over time across the diaspora space. Yet as with many of the activities of the refugee community discussed in this section, as a consequence of the ‘bounded’ nature of the camp, remittance outcomes are inherently ambiguous. While a vital activity underpinning basic survival and the wider activities of those displaced, remittances can fracture communities and heighten insecurity – not only in the camps but also within the homeland and wider diaspora. Indeed, being ‘locked into’ pervasive remittance networks means that many communities across the diaspora are simply unable to shape their own lives and livelihoods – bound within the rubric of the transnational ‘middle space’.⁴²⁵

The ‘Bounded’ Reality of the Refugee Camp

It is at the community level that refugee theory becomes a ‘lived’ reality. Yet according to the prevailing refugee regime ontology, “a refugee camp is not a community, nor is it treated as one by humanitarian agencies”.⁴²⁶ Refugee camps have therefore long been envisioned as ‘states of exclusion’, with refugees languishing in a liminal space devoid of local and transnational support, integration and agency.⁴²⁷ This is evident in Dadaab and Kakuma, where geographical isolation, and dislocated administration and governance structures create a parallel and ‘bounded’ space that largely operates independently of the state system.

However, as has been revealed in this case study, the refugee community is extremely active in circumventing (or ‘permeating’) the boundaries imposed upon it by the exogenous environment, and remains very much engaged with the multiple communities that populate the wider diaspora. Contrary to prevailing thought, refugees are not “victims of persecution and recipients of aid, but

⁴²⁴ (Lindley, 2009), pp. 1321-1322. See also (Horst, 2002), p. 14.

⁴²⁵ (Lindley, 2009), p. 1328. For example, migrant communities in the ‘West’ are often employed in low-income jobs, and the toll of remittances can restrict alternative livelihood strategies and heighten household and community poverty. Indeed, according to the 2001 Census, only 7% of Somali families in the UK live in a home they had bought, and only 1% were self-employed. See (Lindley, 2009), p. 1326-1327.

⁴²⁶ (Hyndman, 1997), p. 21.

⁴²⁷ See for example (Agamben, 1995).

thinking individuals with survival strategies and coping abilities".⁴²⁸ The transnational networks that underpin the refugee diaspora provide a particularly resilient portfolio of survival strategies – vital in sustaining the refugee community activities during displacement.

Yet there remains an inherent ambiguity in this dualism – as the synergy of both containment within the bounded space, and enduring embeddedness within the wider diaspora gives rise to a perversion or ‘transmutation’ of the refugee community. This not only abrogates (to a degree) the restrictions inherent within the camp model, but also creates a novel refugee ‘middle space’ which increasingly deviates from the collective socio-cultural, political and economic potentiality of the diaspora – fuelling insecurity and instability. As such, and reflecting the duality inherent within Giddens’ Structuration Theory, “refugee camps produce refugee behaviours”.⁴²⁹

⁴²⁸ (Banki, 2004), p. 16.

⁴²⁹ (Hyndman, 1997), p. 19.

section three:

– the refugee community and ‘moebius’ space –

ECOWAS as Moebius Space

Having examined the refugee community as it exists within the ‘bounded’ space of the refugee camp, let us now turn to an alternative – what I have termed ‘moebius space’. The Economic Community of West African States or ECOWAS is one of the myriad regional bodies emerging not only in Africa (others include East African Community (EAC) and the Southern African Development Community or SADC), but also across the globe, as governments become increasingly inter-connected and create new socio-political and economic entities that transcend prevailing notions of international borders, statehood and sovereignty.

This ‘transnationalism from above’ complements that arising from ‘below’, in a synergy that echoes the duality that is central not only to theoretical constructs of Giddens’ Structuration, and the endogenous and exogenous foundations of the refugee middle space model, but also the *lived reality* of the refugee community revealed in our preceding case study. Indeed, what this next section reveals is that ECOWAS member states and the refugee regime itself have come to embrace the transnational character of not only regional migrants, but also refugee communities.

FACTOR 1: Macro-Political Economy

West Africa – a History of Regional Fluidity

West Africa, like the Great Lakes and Horn of Africa described above, is characterised by a strong history of migration and the ‘mixing of populations’.⁴³⁰ The seasonal, cyclical migration of nomadic-pastoralists (including the Fulani) across the Sahel, and the extensive trade and religious networks that span the Sahara engendered widespread movement, integration and socio-cultural, ethnic, economic and political fluidity across West and North Africa – see Figure Five below.⁴³¹

Figure Five: ECOWAS Ethno-linguistic Groups⁴³²

⁴³⁰ ("Protecting Refugees and Other Persons on the Move in the ECOWAS Space," 2011), p. 14. See also (*Memorandum on the Equality of treatment for refugees with other citizens of Member States of ECOWAS in the exercise of Free Movement, Right of Residence and Establishment*, 25-27 July 2007), p. 2.

⁴³¹ (Bakewell & de Haas, 2007), p. 10.

⁴³² Detail of 'Africa Ethnolinguistic Groups' map, Central Intelligence Agency, Washington, D.C. (1996), available at Library of Congress Geography and Map Division http://memory.loc.gov/cgi-bin/query/D?gmd:2:/temp/~ammem_JfOn:: (accessed 10 February 2013).

The arrival of Europeans in the 15th century and the advent of colonialism had a significant impact upon these historic transnational networks. The introduction of colonial taxes and modes of government, 'organised labour recruitment', and the expropriation of traditional land and resources severely undermined migration and trade networks, and the socio-cultural and ethnic affiliations across the region.⁴³³ Moreover, by the 19th century the development of large-scale cocoa, coffee and peanut plantations, proliferation of infrastructure including road and rail, and the establishment of large cities including Accra, Lagos, Abidjan and Dakar instigated a dramatic rural-urban shift and an increase in sedentary lifestyles.⁴³⁴

More recently, following waves of decolonisation in the 1950s and 1960s the comparative prosperity of regional hubs such as Ghana and Cote d'Ivoire attracted a steady stream of migrants from regional neighbours including Nigeria, Togo, Burkina Faso and Guinea. And reflecting the strong sense of unity and anti-colonial spirit (referred to as 'pan-Africanism') that was spreading across the continent, governments were largely welcoming of these regional migrants – allowing them to settle, integrate and gain employment *en masse*.⁴³⁵

As we enter the 21st century, patterns of migration remain highly malleable and volatile, "rooted in socioeconomic, political and historical-cultural factors."⁴³⁶ West Africa has been described as the 'most mobile' region of contemporary Africa, with most countries functioning intermittently as states of origin, transit and destination.⁴³⁷ Intra-regional migration accounts for some 90% of all movement in West Africa (equating to approximately 7.5 million migrants in 2006), principally flowing from north to south, and from inland to coastal areas – as migrants leave the Sahel (Mali, Burkina Faso, Niger and Chad) seeking out the economic opportunities presented by the agriculture, mines and cities of the coast (including Senegal, Sierra Leone, Cote d'Ivoire, Ghana and Nigeria).

⁴³³ The slave trade would see approximately 12 million West Africans transported across the Atlantic to the Americas in a 'black diaspora'. As Rodney notes, the slave trade was in no way a form of 'trade' – it was made possible through "warfare, trickery, banditry and kidnapping", and when acknowledging its affects on the continent, "it is essential to realize that one is measuring the effect of social violence". See (Rodney, 1981), p. 95.; and Pan-African News Wire (13 March 2007) "The Effects of the Atlantic Slave Trade on West African Societies", available at <http://panafricannews.blogspot.com.au/2007/03/effects-of-atlantic-slave-trade-on-west.html> (accessed 27 January 2013).

⁴³⁴ (Bakewell & de Haas, 2007), p. 10.

⁴³⁵ (Bakewell & de Haas, 2007), p. 10. For a good overview of the growth of pan-Africanism including the birth of the Organisation for African Unity, see (Duffield, 1984).

⁴³⁶ (Adepoju, 2005a) See also (Ba & Ndione, 2006).

⁴³⁷ (Bakewell & de Haas, 2007), p. 9.

Most of this migration “is seasonal or circular, reflecting pre-colonial patterns”, however many have settled permanently and established sizeable migrants communities that have further entrenched these historic transnational networks.⁴³⁸

Protracted Conflict and Displacement

West Africa has, like its eastern counterpart, for many years suffered intense and pervasive instability, and migration has served as an indispensable strategy “for diversifying risks in highly uncertain economic and political contexts.”⁴³⁹ In what has been described as a ‘merry-go-round of violence’, civil conflict in *inter alia* Sierra Leone, Liberia, Guinea and Côte d’Ivoire over the past three decades saw upwards of 250,000 killed and 1.5 million people forcibly displaced.⁴⁴⁰ The robust transnational networks noted above have proved vital in shaping and supporting displacement, however confronted with an ever-decreasing portfolio of strategies as conflict spilled over from state to state, many refugees have forged new networks further afield in search of alternative destinations and opportunities, spanning Southern Africa (South Africa and Botswana), the Maghreb (including Libya), and the EU.⁴⁴¹

Moreover, despite ‘robust economic growth’ and a general state of calm since 2004, West Africa remains plagued by high unemployment, widespread poverty and sporadic outbreaks of violence, which continues to fuel mixed-migration across the region.⁴⁴² In Cote d’Ivoire for example, anti-government militias continue to target not only the military but also civilians and displaced

⁴³⁸ (Bakewell & de Haas, 2007), p. 10.; and (“Protecting Refugees and Other Persons on the Move in the ECOWAS Space,” 2011), p. 14.

⁴³⁹ (“Protecting Refugees and Other Persons on the Move in the ECOWAS Space,” 2011), p. 15.

⁴⁴⁰ Migration Information Source “West Africa’s Refugee Crisis Spills Across Many Borders” (August 2003), available at <http://www.migrationinformation.org/feature/display.cfm?ID=148> (accessed 27 January 2013).

⁴⁴¹ Indeed, West Africa pre-1980 saw very limited migration to the industrialised global ‘north’. However, following the escalation of regional instability, there occurred a significant increase and diversification in migration towards Europe and North America (primarily the US), including both regular and irregular movement. See (Bakewell & de Haas, 2007), p. 12.

⁴⁴² UNHCR “2013 UNHCR regional operations profile - West Africa”, available at <http://www.unhcr.org/pages/49e45a9c6.html> (accessed 28 January 2013). Indicative of this regional growth, according to the UN-HABITAT and UNEP, five of the fastest growing cities in Africa between 2005 and 2010 were located in West Africa – namely Lagos, Abuja, Ouagadougou, Abidjan and Dakar. See (“Protecting Refugees and Other Persons on the Move in the ECOWAS Space,” 2011), p. 16.

communities in border regions.⁴⁴³ Tuareg uprisings in Mali (exacerbated by an enduring drought and food crisis), has also seen more than 200,000 displaced across the Sahel (in particular to Niger and Burkina Faso).⁴⁴⁴ As of January 2012, UNHCR statistics reveal that some 280,540 refugees are displaced across the West African region, mainly from Ghana, Cote d'Ivoire, Liberia, Mauritania and Senegal.⁴⁴⁵

Guinea – Regional 'Safe Haven'

Let us now examine in detail an example of refugee displacement in the region – to garner a comparative perspective to our previous case study. Like Kenya, Guinea has long been a “primary asylum country for West Africa's refugees”.⁴⁴⁶ Indeed, despite being one of the poorest countries in the world (with an average life-expectancy of only 46 years), during the 1990s it became host to the greatest refugee population on the continent, housing approximately 800,000 refugees in “one of the largest humanitarian responses in the world”.⁴⁴⁷ Today, following a relaxation of regional conflict and large-scale repatriation efforts, some 16,609 refugees remain in the country, the vast majority from Liberia (almost 10,000) and Cote d'Ivoire (over 6,000).⁴⁴⁸

⁴⁴³ Despite the promise of the 2007 Ouagadougou Political Agreement and the planned return of refugees to Cote d'Ivoire, civil conflict following the 2010 presidential elections severely impeded repatriation and gave rise to further waves of newly-displaced groups. See ("Protecting Refugees and Other Persons on the Move in the ECOWAS Space," 2011), p. 35.

⁴⁴⁴ Instability in Mali has been heightened in recent months by the activities of Tuareg separatists and Islamist militants, and the intervention of French troops in what has been termed Operation Serval. See BBC "Can France achieve its goals in Mali?" (17 January 2013), available at <http://www.bbc.co.uk/news/world-europe-21058512> (accessed 28 January 2013).

⁴⁴⁵ UNHCR "2013 UNHCR regional operations profile - West Africa", available at <http://www.unhcr.org/pages/49e45a9c6.html> (accessed 28 January 2013).

⁴⁴⁶ Migration Information Source "West Africa's Refugee Crisis Spills Across Many Borders" (August 2003), available at <http://www.migrationinformation.org/feature/display.cfm?ID=148> (accessed 27 January 2013).

⁴⁴⁷ International Rescue Committee "The IRC in Guinea" (1 April 2009), available at <http://www.rescue.org/where/guinea> (accessed 28 January 2013). See also (Andrews, 2003), p. 2.

⁴⁴⁸ See UNHCR "2013 UNHCR regional operations profile - West Africa", available at <http://www.unhcr.org/pages/49e45a9c6.html>; UNHCR Statistical Online Database available at www.unhcr.org/statistics/populationdatabase (accessed 28 January 2013).; and ("World Refugee Survey 2008 - Guinea," 2008). Approximately 70% of refugees are registered in 'Lainé', 'Kouankan', 'Kouankan I', and 'Kouankan II' refugee camps situated along the south-eastern border, while the remainder are located in urban areas including the capital Conakry. The UNHCR "Guinea: Refugee operations continue – just" (20 February 2007), available at <http://www.unhcr.org/45dad8fd2.html> (accessed 28 January 2013).

Liberia and Sierra Leone – Shifting Transnationalism and Refugee Displacement

Refugees in sub-Saharan Africa, as the world over, are often perceived as “homogeneous flows of exhausted and destitute victims of manmade disasters, settling in camps, and dependent on outside emergency assistance”.⁴⁴⁹ However, as was revealed in our previous case study, refugee communities exhibit complex migration histories and significant transnational-empowerment, which has a profound influence on settlement patterns, activities and integration. The 500,000 refugees that fled civil war in Liberia and Sierra Leone and settled in Guinea between 1990 and 1995 provide a vivid accompaniment to support these findings – and reiterate the critical influence the Macro-Political Economy has upon the refugee community.

During the early 1990s, two refugee ‘waves’ can be identified – each embodying a different set of transnational characteristics. Initially, some 350,000 refugees entered the country between January 1990 and April 1991, following an attack by the National Patriotic Front of Liberia (NPFL) led by Charles Taylor, and retaliation by the Liberian Armed Forces. Many settled in villages just across the border in south-eastern Guinea, in a remote, mountainous region referred to as *Guinée forestière* (the ‘Forest Region’). These ‘early arrivals’ had strong socio-cultural and ethnic ties with the region, and were therefore readily absorbed by local communities, or prescribed land for the creation of new ‘paired’ villages and settlements. While these two groups often remained discrete (each with its own chief and identity), local reception was harmonious and no outside agencies (either state or humanitarian) were included in the process.⁴⁵⁰

As violence intensified, a widening segment of the Liberian population was displaced across the border – drawing upon what transnational assets they had available. The Mandingo (Guinean migrants who had settled in the country during the 1960s and 1970s) for example, followed resilient trade and migration routes back to towns including Macenta and Beyla.

Diminishing Transnationalism and a Misdirected Refugee Approach

Despite efforts by a Nigerian-led multinational peace-keeping force (ECOMOG) and the creation of an interim government, the NPFL soon controlled over 95% of Liberia, and refugees continued to move *en masse* into the Forest Region. Furthermore, in 1991 the Liberian conflict spilled over into Sierra Leone, with the entire border region soon engulfed in fighting between the United Liberation

⁴⁴⁹ (Damme, 1999), pp. 36-37.

⁴⁵⁰ (Damme, 1999), pp. 37-38.

Movement (ULIMO), the NPFL-affiliated Revolutionary United Front (RUF), the NPLF and the Sierra Leonean army, forcing further waves of refugees across the border.⁴⁵¹

Unlike earlier, transnationally-empowered refugee communities, these later arrivals were of heterogeneous ethnicity and not closely affiliated with Guinea, and having experienced years of civil conflict “were exhausted on arrival and had little energy left to develop creative coping mechanisms.”⁴⁵² As occurred in Kenya, the pressure upon the state from these burgeoning refugee communities precipitated an increase in international humanitarian response in the country. Considering more urbanised communities (such as the Mandingo noted above) not as refugees but ‘returnees’ and therefore not requiring of assistance, the UNHCR restricted its support services to the Forest Region, where refugees would be formally ‘registered and assisted’.⁴⁵³ Refugee communities were coerced into formally designated camps such as in Kouloumba – in a process described as ‘guided self-settlement’.⁴⁵⁴ By the end of 1995 an estimated 603, 750 refugees were registered in Guinea, 96% of whom were in the Forest Region (or one in every three inhabitants).⁴⁵⁵

However, despite having minimal transnational affiliations and assets, few of these ‘later arrivals’ availed themselves of formal camp support – preferring instead to seek out alternative strategies in the surrounding communities. As a consequence of this pro-active transnationalism, and a fairly relaxed approach to encampment by authorities, it is estimated that less than 20% of refugees in the Forest Region resided in camps, with approximately 25% living in ‘paired villages’ and the remainder integrated within rural and urban communities. In Gueckedou prefecture for example (with the

⁴⁵¹ In addition to intense conflict, the widespread use of ‘scorched earth’ strategies severely undermined community security. See (Sengupta, 5 June 2000).

⁴⁵² (Damme, 1999), p. 44. When asked, these later arrivals often noted that “that they had never been to and did not know anybody in Guinea”, and therefore lacked information about where to go in the country. See also (Kunz, 1973). As was noted by one observer, “[t]he ‘old refugees’ who fled several years ago are easy to spot. They have had time to build solid mud houses. Further down the highway new, white tents house more recent arrivals.” (Jacobsen, 2001), p. 8.

⁴⁵³ A ‘returnee’ “implies common ties of language, ethnicity, and kinship as well as familiarity with the region.” (Andrews, 2003), p. 4. This view was criticised by the Guinean government, who saw any distinction between urban and rural refugees as ethnic discrimination. Moreover, on 5 January 1990 on the verge of civil war, Liberian President Samuel Doe had declared that “all those Mandingo residing in Liberia would be considered to be Liberian citizens” in an attempt to bolster his support base. (Damme, 1999), p. 39.

⁴⁵⁴ See (Damme, 1999), p. 41-42.

⁴⁵⁵ (Damme, 1999), p. 47.

highest number of both refugees and camps in the country – 45), as of the end of 1995 only a third (90,790) of the total 273,388 registered refugees lived in the camps.⁴⁵⁶

Employment and Labour Activities

As noted above, the vast majority of rural refugees in Guinea were well-received and integrated within local communities.⁴⁵⁷ Many were farmers, and gained employment as agricultural labourers, or in some instances were provided access to local fallow land which could be used on a temporary basis. As such, refugees “shared the lives of the Guineans, worked on their farms and participated fully in the rural subsistence economy”, and over time developed “a high degree of economic self-sufficiency”.⁴⁵⁸

A number of those living in the camps also had access to communal land, negotiated with local communities by the UNHCR. Moreover, a large majority chose to leave these ‘ghost camps’ in search of alternative livelihood opportunities, only returning for food distribution and when other services were required.⁴⁵⁹ Many, like their rural counterparts were able to secure some level of self-sufficiency as agricultural labourers – especially during the rainy season. Indeed, despite some local hostilities and accusations of deforestation, the refugees in the Forest Region “contributed to local agricultural activity”.⁴⁶⁰

However, within urban areas local-refugee relations were more ambiguous, with strong transnational affiliations (fostered through regional trade as well as ethnicity) undermined by pervasive hostility as rising refugee numbers placed increased pressure upon unstable local economies, and fuelled inherent poverty, banditry and pre-existing socio-cultural and ethnic

⁴⁵⁶ (Damme, 1999), p. 50. These figures correspond with Kenyan and global refugee settlement patterns. As noted earlier, according to the UNHCR almost 50% of the world’s refugees reside in urban areas, with only a third housed in formal camps. See (Pavanello et al., 2010)

⁴⁵⁷ Those refugees with the greatest degree of affiliation settled within local communities (‘spatial integration’), while others lived in ‘paired villages’ or new villages (‘spatial separation’), that while distinct from the local community, enjoyed strong economic and social relationships. See (Damme, 1999), p. 50.

⁴⁵⁸ (Damme, 1999), p. 52.

⁴⁵⁹ (Damme, 1999), p. 45. See also (Schmidt, 2003), p. 20.

⁴⁶⁰ (de Montclos & Kagwanja, 2000), p. 206.

tensions. Insecurity was also fuelled by the transnational flow of guns and militia across the border as regional instability continued to shake the socio-political foundations of local communities.⁴⁶¹

Community Engagement and Advocacy

In September 2000 this transmutation of socio-political affiliations came to a head. Following heightened cross-border attacks by rebel groups and insurgents from Sierra Leone and Liberia, President Lasana Conte made a highly-inflammatory speech fuelling community fears of a ‘rebel infiltration’ among the refugee population.⁴⁶² In response, both authorities and civil groups turned on refugee communities, displacing tens of thousands from the camps and urban areas in widespread violence and abuse.⁴⁶³ In response, the UNHCR and Guinean Government relocated approximately 44,000 refugees from settlements in the volatile border area (referred to as “Parrots Beak”) to four newly-created camps – Sembakounya, Kountaya, Telikoro, and Boreah.⁴⁶⁴

Yet rather than establishing secure ‘spaces’ for asylum, as occurred in Dadaab and Kakuma the arbitrary and heterogeneous aggregation of refugee groups served as a ‘melting pot’ for refugee-host engagement. Sembakounya for example, is located in an isolated area some 30km away from the nearest town Dabola, and despite a ‘sensibilization’ campaign by the UNHCR, presented a test of the “historic commonalties of language and ethnicity”.⁴⁶⁵ Those refugees who had pre-existing ties to the area (primarily from Sierra Leone) were generally well-integrated, however those from Liberia

⁴⁶¹ See (“West Africa: Guinea and Sierra Leone: No place of refuge,” 2001); and IRIN News “Guinea’s Forest Region – Living on the edge” (10 January 2010), available at <http://www.irinnews.org/In-depth/62546/17/Guinea-Living-on-the-edge> (accessed 22 January 2013).

⁴⁶² In the speech, President Conte rallied Guineans to ‘be vigilant’ and ‘round up’ refugees, arguing “there are rebels among them. They keep their ears to the ground and go back home frequently to tell what they have found out [...] Some of the refugees have guns, I’m telling you! but look, listen . . . if they have guns, these refugees are nowhere other than in your homes — you Guinean! So, round them up! Those who have guns, tie them up and bring them to the authorities! DO NOT SPARE ANYONE!” See (Gale, 2008), pp. 539-540.

⁴⁶³ Almost all of the 90 refugee settlements in the Languette region were destroyed and tens of thousands displaced, while the head of the UNHCR in Macenta was killed and the UNHCR regional office in Gueckedou ransacked – leading to the withdrawal of all but Guinean staff and the suspension of all activities except in Conakry. (Gale, 2008), p. 540.

⁴⁶⁴ (Andrews, 2003), p. 3. See also Relief Web “Threat of Widening War in West Africa; 400,000 Refugees in Guinea Are Vulnerable” (19 October 2000), available at <http://reliefweb.int/report/guinea/threat-widening-war-west-africa-400000-refugees-guinea-are-vulnerable>; and the UNHCR “Guinea: Massakoundou camp closed” (18 May 2001), available at <http://www.unhcr.org/3b052dd20.html> (accessed 28 January 2013).

⁴⁶⁵ (Andrews, 2003), p. 5.

engaged less with the local community and were unable to benefit from the transnational affiliations that had ‘served them well’ in other self-settled areas of the Forest region.

This localised distillation of transnationalism explains why according to some locals, the refugee community was responsible for “sickness, banditry, alcohol abuse, and rape of the local women.”⁴⁶⁶ Others however, regarded the presence of refugee as beneficial to community development, providing cheap labour on farms, promoting trade and the development of vibrant local markets, and strengthening local infrastructure.

The Inherent Duality of the Macro-Political Economy

It is clear therefore that refugee displacement in West Africa is heavily shaped by the dynamics of the Macro-Political Economy – as rampant regional insecurity and the prevalence of historic transnational networks converge and fluctuate over time and space. Moreover, facing significant flows of refugees with increasing protection needs and escalating regional security concerns, Guinea like Kenya shifted from a generous and *laissez-faire* stance, to a ‘new relief approach’ – whereby the provision of targeted support services was made contingent upon registration and containment in designated areas (the Forest Region), and camps such as Sembakounya.

Whereas previously refugees were able to ‘self-settle’, and therefore make an informed and active *choice* predicated on the transnational characteristics of the region, this formalised approach remained detached from the realities on the ground (to borrow from the Turkana, operating ‘in the air’), and greatly exacerbated the salience and transmutation of these extant transnational networks – both supporting local integration and fuelling discord. However, in stark contrast to Kenya this ‘spatial segregation’ has been adhered to in a much less vigorous fashion, with camp boundaries extremely porous and the majority of inhabitants preferring (and able) to engage with communities outside of camp borders.⁴⁶⁷

⁴⁶⁶ (Andrews, 2003), p. 8.

⁴⁶⁷ (Gale, 2006), p. 72. It is important to highlight the wide array of refugee ‘camps’ that were created in Guinea, ranging from formal and segregated ‘camps’ to informal ‘supported’ settlements. Moreover, while some camps housed a registered population of 100, others stretched to include thousands. See (Damme, 1999), pp. 47-48.

FACTOR 2: The Migration Regime

As discussed previously, the African Refugee Regime is founded upon a tripartite structure, encapsulating the 1951 Refugee Convention and 1967 Protocol, and bolstered by the OAU Convention.⁴⁶⁸ However, West African states are bound by an additional regional institution that has immense import for refugee policy in the region. On 28 May 1975 sixteen countries formally established the Economic Community of West African States (ECOWAS).⁴⁶⁹ ECOWAS aims to:

“promote co-operation and integration, leading to the establishment of an economic union in West Africa in order to raise the living standards of its peoples, and to maintain and enhance economic stability, foster relations among Member States and contribute to the progress and development of the African Continent.”⁴⁷⁰

ECOWAS and the Free Movement Protocols

Central to the creation of ECOWAS is “the total elimination of all obstacles to the free movement of people, goods, capital and services”.⁴⁷¹ Subsequently, on 29 May 1979 the ‘Protocol Relating to Free Movement of Persons, Residence and Establishment’ was adopted, which states that “Community citizens have the right to enter, reside and establish in the territory of Member States.”⁴⁷² The 1979 Free Movement Protocol was augmented by four Supplementary Protocols which together

⁴⁶⁸ All ECOWAS Member States have acceded to the 1951 Refugee Convention and its Protocol, and the OAU Convention. See the UN Treaty Collection “Convention Relating to the Status of Refugees”, available at http://treaties.un.org/Pages/ViewDetailsII.aspx?&src=UNTSOnline&mtdsg_no=V~2&chapter=5&Temp=mtdsg2&lang=en#Participants (accessed 30 January 2013). Moreover, all but Cote d’Ivoire and Cape Verde have national refugee laws, while only the latter fails to have in place formal RSD mechanisms. See (“Protecting Refugees and Other Persons on the Move in the ECOWAS Space,” 2011), pp. 35 & 43.

⁴⁶⁹ The founding members of ECOWAS were Benin, Burkina Faso, Cape Verde, Côte d’Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania Niger, Nigeria, Senegal, Sierra Leone, and Togo. However in 2002 Mauritania withdrew its membership – leaving ECOWAS with 15 member states. See (Adepoju, Boulton, & Levin, 2007), p. 1.

⁴⁷⁰ The founding Treaty of ECOWAS was revised on 24 July 1993. See the Revised Treaty of ECOWAS (1993), Article 3, available at <http://www.comm.ecowas.int/sec/index.php?id=treaty&lang=en> (accessed 28 January 2013).

⁴⁷¹ See the Revised Treaty of ECOWAS (1993), Article 55.

⁴⁷² Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment (Article 2: 1) available at <http://www.comm.ecowas.int/sec/index.php?id=ap010579&lang=en> (accessed 28 January 2013).

established the collective rights of citizens of the ECOWAS 'Community' – including freedom of movement, residence, access to employment, and the establishment of business and economic activities.⁴⁷³

The Implementation of the ECOWAS Free Movement Protocols

Free movement within the Community was envisaged as being implemented in three 'phases', each lasting five years – first establishing the 'Right of Entry and Abolition of Visa', followed by the 'Right of Residency' and finally the 'Right of Establishment'.⁴⁷⁴

Phase One has been completed, with all Member States allowing citizens the right of entry without a visa for 90 days.⁴⁷⁵ However, entry is only permitted for those migrants that possess "a valid travel document and an international health certificate", and despite the adoption of an 'ECOWAS Travel Certificate' in a number of states, for many in the region such documentation is simply not available.⁴⁷⁶ Moreover, restrictions continue to be placed on the right of entry through the application of Article 4 of the 1979 Protocol, which allows Member States to refuse "any Community citizen who comes within the category of inadmissible immigrant under its laws."⁴⁷⁷ Indeed, by

⁴⁷³ The Supplementary Protocols are the '1985 Supplementary Protocol A/SP.1/7/85 on the Code of Conduct for the implementation of the Protocol on Free Movement of Persons, the Right of Residence and Establishment'; the '1986 Supplementary Protocol A/SP.1/7/86 on the Second Phase (Right of Residence)'; the '1989 Supplementary Protocol A/SP.1/6/89 amending and complementing the provisions of Article 7 of the Protocol on Free Movement, Right of Residence and Establishment'; and the '1990 Supplementary Protocol A/SP.2/5/90 on the Implementation of the Third Phase (Right to Establishment)'. See the ECOWAS Supplementary Protocols, available at <http://www.comm.ecowas.int/sec/index.php?id=protocole&lang=en> (accessed 30 January 2013). These five instruments together form what are hereafter referred to as the 'ECOWAS Free Movement Protocols'.

⁴⁷⁴ Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment (Article 2: 3).

⁴⁷⁵ If a citizen wished to remain longer in the host state, he or she may apply for an extension from the 'appropriate authority'. See Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment (Article 3: 2).

⁴⁷⁶ Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment (Article 3: 1). The Protocol defines a 'valid travel document' as "a passport or any other valid travel document establishing the identity of the holder with his photograph, issued by or on behalf of the Member State of which he is a citizen and on which endorsement by immigration and emigration authorities may be made." (Adepoju, 2005a), p. 19.

⁴⁷⁷ Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment (Article 4). See also (Adepoju et al., 2007); and ("Regional Integration for Growth and Poverty Reduction in West Africa: Strategies and Plan of Action," 2006), p. 24. In Liberia for example, those deemed 'inadmissible' include "aliens who are feeble-minded, insane, mentally defective or epileptic, drug or alcohol addicts; those suffering from tuberculosis or leprosy; paupers, criminals, or prostitutes". See The Alien and Nationality Law of the Republic of Liberia, (Amended 9 May 1974) Article 5: 1., cited in (Adepoju et al., 2007), p. 10.

affirming the primacy of state sovereignty over regional movement, ECOWAS undermines the “regional social cohesion and promotion and protection of human and peoples’ rights objectives at the heart of the ECOWAS initiative”.⁴⁷⁸

Phase Two will provide equal residency and employment rights to Community citizens, as well as ensure access to training, education and socio-cultural participation, through ECOWAS Residence Cards or Permits.⁴⁷⁹ Phase Three will facilitate business activity across the Community, and allow ECOWAS citizens to establish economic ventures in other member states. However, both Phase Two and Three have not been fully realised, due in part to regional economic decline during the 1980s, and the instability of the 1990s and early 2000s noted above.⁴⁸⁰ Moreover, and echoing our findings regarding Kenyan state capacity, national and regional institutions remain under-resourced and under-developed, with inadequate access to information regarding complex regional migration patterns, and insufficient domestic or regional legislation and policy development.⁴⁸¹

As a result, there remain serious obstacles to regional movement, and the fragmented realisation of rights and responsibilities means that migrants face exploitation, physical abuse (including GBV) and detention when crossing intra-regional borders. Yet despite these failings, ECOWAS allows the greatest degree of regional free movement in Africa.⁴⁸²

⁴⁷⁸ (Adepoju et al., 2007), p. 8. See also The Revised Treaty of ECOWAS (1993), Article 4.

⁴⁷⁹ Article 23 of the 1986 Supplementary Protocol A/SP.1/7/86 states that “No matter the conditions of their authorisation of residence, migrant workers who comply with rules and regulations governing residence, shall enjoy equal treatment with nationals of the host Member State”, including access to employment, health, training and education facilities, and “participation in social and cultural activities”.

⁴⁸⁰ (Adepoju et al., 2007), pp. 3-4.

⁴⁸¹ (Ba & Ndione, 2006), p. vii. For example, while the ECOWAS Treaty obliges states to establish national bodies to monitor the implementation of ECOWAS Protocols, only Benin, Burkina Faso, Mali, Niger, Nigeria, Senegal and Togo have done so. See (Adepoju et al., 2007), p. 4.; and (Bakewell & de Haas, 2007), p. 11.

⁴⁸² Many migrants still choose to travel between Member States irregularly, relying on human trafficking and illicit migratory routes. See (Adepoju et al., 2007), pp.3-4.; (“Protecting Refugees and Other Persons on the Move in the ECOWAS Space,” 2011), pp. 16 & 26-27.; and (Boulton, 2009), p. 33. Moreover, while individual and *en masse* expulsion of migrant communities is explicitly proscribed by the Free Movement Protocols, it has not prevented the expulsion of large migrant and ‘alien’ communities. In late 1982 for example, Sierra Leone forcibly expelled members of the Foulah community (mostly from Guinea). A few months later the Nigerian Minister for Internal Affairs followed suit, forcing an estimated 1.5 million ‘illegal’ migrants to leave the country. See the 1986 Supplementary Protocol A/SP.1/7/86 on the Second Phase (Right of Residence), Articles 13 & 14.; (Bakewell & de Haas, 2007); and (Okolo, 1984).

ECOWAS and Refugee Protection – *in theory*

While fundamentally, the ECOWAS Treaty and its Free Movement Protocols are not refugee instruments, it is clear they go further than establishing merely an integrated economic community, seeking amongst other things, the “maintenance of regional peace, stability and security through the promotion and strengthening of good neighbourliness”.⁴⁸³ Moreover, notwithstanding the rights and responsibilities embodied within the 1951 Refugee Convention and the 1969 OAU Refugee Convention, the majority of refugees found within the ECOWAS Community are from Member States – predominantly Cote d’Ivoire, Liberia and Ghana.⁴⁸⁴ An increasing number of regional and international commentators therefore argue that refugees (as with all regional migrants) should be included within the Free Movement Protocols.⁴⁸⁵

However, exactly where the line between the application of the 1951 Refugee Convention (and the role of the UNHCR and international refugee regime) and the Free Movement Protocols of the ECOWAS Community lies is uncertain. Neither the ECOWAS Treaty nor the Protocols limit the application of other international instruments – economic or otherwise.⁴⁸⁶ Moreover, the 1951 Convention itself also asserts that “Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.”⁴⁸⁷ Yet little has

⁴⁸³ The Revised Treaty of ECOWAS (1993) Article 4 (e).

⁴⁸⁴ See (“Convention and Protocol Relating to the Status of Refugees,” 2010), Articles 26, 31, 32 & 33.; (“Persons covered by the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and by the Cartagena Declaration on Refugees (Submitted by the African Group and the Latin American Group),” 1992), I. C: 10 & I. C: 15.; and UNHCR “2013 UNHCR regional operations profile - West Africa”, available at <http://www.unhcr.org/pages/49e45a9c6.html> (accessed 28 January 2013).

⁴⁸⁵ See (Adepoju et al., 2007); and (“Protecting Refugees and Other Persons on the Move in the ECOWAS Space,” 2011).

⁴⁸⁶ According to the ECOWAS Treaty, “Member States may conclude agreements among themselves and with non-Member States, regional organisations or any other international organisation, provided that economic agreements are not incompatible with the provisions of this Treaty [...] In the event that agreements concluded before the entry into force of this Treaty between Member States or between Member States and non-Member States, regional organisations or any other international organisations are incompatible with the provisions of this Treaty, the Member State or Member States concerned shall take appropriate measures to eliminate such incompatibility. Member States shall, where necessary, assist each other to this end and adopt a common position. “ See The Revised Treaty of ECOWAS (1993) Article 84. See also Article 24 of the 1986 Supplementary Protocol A/SP.1/7/86 on the Second Phase (Right of Residence).

⁴⁸⁷ (“Convention and Protocol Relating to the Status of Refugees,” 2010), Article 5.

been formally resolved regarding the critical, yet blurred legal space where these two instruments overlap, and refugee rights in the Community therefore continue to be incoherently realised.⁴⁸⁸

Strengthening Refugee Protection under the Free Movement Protocols

Both the UNHCR and Member States have asserted that the ECOWAS free movement, settlement and establishment provisions are applicable to refugees. As the ECOWAS Committee on Trade, Customs and Immigration noted in July 2007, the regional body was created as “a unified space for citizens of all member states to move about, reside and establish themselves in, without discrimination”, and as such members “recognise the imperative need to ensure that refugees benefit from the protocols on free movement.”⁴⁸⁹ The ‘Meeting of Ministers on ECOWAS Common approach on Migration’ in Abuja 2007, also argued for the harmonisation of national migration management policies for both migrants and refugees – recognising “the difficulty in managing them and regularising their status after conflict”.⁴⁹⁰

More recently, in a meeting in August 2012 with the UN Regional Humanitarian Coordinator for Sahel, the President of the ECOWAS Commission noted that “[w]e have a responsibility to protect citizens of the region who find themselves as refugees, internally displaced or disadvantaged”. Describing the regional organisation as “a mechanism for holistically addressing the humanitarian challenges in the region”, he reaffirmed the value of continued close cooperation between ECOWAS and UN humanitarian agencies.⁴⁹¹

Accordingly, ECOWAS Members have continued to work with the international refugee regime to build regional capacity and ensure the inclusion of forced displacement in the Free Movement

⁴⁸⁸ See (Gale, 2008), pp. 538-539.

⁴⁸⁹ The Committee also explicitly acknowledged the ‘Convention Travel Document’ (issued according to Article 28 of the 1951 Refugee Convention), as a valid travel document for cross border movement and Residence Permit application. See (*Memorandum on the Equality of treatment for refugees with other citizens of Member States of ECOWAS in the exercise of Free Movement, Right of Residence and Establishment*, 25-27 July 2007), pp. 3-4. Moreover, the 1986 Supplementary Protocol provides guidelines on the treatment and facilitation of ‘illegal immigrants’ (defined as “any immigrant citizen of the Community who does not fulfill the conditions stipulated in the different Protocols”) – including assisting in the “acquiring of correct documents, if desired and possible”. See the 1985 Supplementary Protocol A/SP.1/7/85 on the Code of Conduct for the implementation of the Protocol on Free Movement of Persons, the Right of Residence and Establishment Article 5.

⁴⁹⁰ (“Meeting of Ministers on ECOWAS Common Approach on Migration - Abuja,” June 2007), p. 6.

⁴⁹¹ “ECOWAS, UN to deepen cooperation in addressing humanitarian challenges” - <http://news.ecowas.int/presseshow.php?nb=225&lang=en&annee=2012> (accessed 20 August 2012).

Protocols.⁴⁹² Of note, in 2006 the UNHCR launched its '10-Point Plan of Action on Refugee Protection and Mixed Migration'.⁴⁹³ Under the auspices of the Plan, the 'Regional Conference on Refugee Protection and International Migration in West Africa' convened in Dakar in November 2008 sought to promote the development of a 'protection-sensitive' regional migration strategy.⁴⁹⁴ The Conference merged three core migration strategies, namely the ECOWAS Free Movement Protocols, the UNHCR's 10-point Plan, and the IOM-backed Migration Dialogue for West Africa (MIDWA), with the aim of ensuring the comprehensive implementation of the Free Movement protocols, enhancing government capacity, and tackling regional human trafficking.⁴⁹⁵

Further acknowledging regional 'mixed' migration and its relevance to a comprehensive interpretation of the Free Movement Protocols, in January 2008 the ECOWAS Common Approach on Migration was adopted as a robust framework upon which to build enhanced regional capacity and the protection of the rights of migrants, asylum seekers and refugees.⁴⁹⁶

Political Engagement, Mobilisation and Activism

Having examined the unique characteristics of the ECOWAS Migration Regime, and the applicability of the Free Movement Protocols, let us now explore how this has impacted upon refugee communities 'on the ground'. The implementation of this reinvigorated interpretation is promising, and the Free Movement Protocols have now been used on a number of occasions "to provide

⁴⁹² Additional projects include the €10 million ECOWAS – Spain Fund for Migration and Development. See ECOWAS – Spain Fund Partnerships available at http://ecowasmigrationproject.com/?page_id=8 and the Global Forum on Migration and Development available at <http://www.gfmd.org/en/pfp/practices/item/187-spain-ecowas-fund-on-migration-and-development> (accessed 30 January 2013).

⁴⁹³ ("Protecting Refugees and Other Persons on the Move in the ECOWAS Space," 2011), pp. 39-40. The 'comprehensive and cooperative approach' embodied by the 10-Point Plan urges the international community to "establish entry systems that are able to identify new arrivals with international protection needs and which provide appropriate and differentiated solutions for them, side by side with such other solutions as need to be pursued for other groups involved in mixed movements." ("Refugee Protection and Mixed Migration: A 10-Point Plan of Action," 2007), p. 2.

⁴⁹⁴ The Conference brought together the UNHCR, IOM, the Office of the High Commissioner for Human Rights, the European Union, African Union, and the East African Union, along with more than 200 representatives of ECOWAS Member States and an array of international and local NGOs and humanitarian agencies. See ("Protecting Refugees and Other Persons on the Move in the ECOWAS Space," 2011), p. 41.

⁴⁹⁵ ("Protecting Refugees and Other Persons on the Move in the ECOWAS Space," 2011), pp. 41-42.

⁴⁹⁶ ("Protecting Refugees and Other Persons on the Move in the ECOWAS Space," 2011), p. 21. See also ("Regional Integration for Growth and Poverty Reduction in West Africa: Strategies and Plan of Action," 2006), p. 2.

residual refugee populations from ECOWAS states with both greater socioeconomic mobility and increased political security.”⁴⁹⁷ One clear example can be drawn from Nigeria.

Following the restoration of stability, in 2007 the governments of Sierra Leone and Liberia, along with Nigeria, ECOWAS and the UNHCR signed a multi-lateral agreement acknowledging the Free Movement Protocols, and allowing for the ‘local integration’ of Sierra Leonean and Liberian refugees remaining in Nigeria.⁴⁹⁸ Approximately 500 passports and two-year ECOWAS Residence Permits were issued by the states of origin and Nigerian authorities respectively, securing the legal settlement of those refugee communities who had chosen not to repatriate.⁴⁹⁹ To date, Sierra Leone has issued more than 5,500 passports to former refugees in Côte d'Ivoire, the Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, and Senegal, and these states have in turn enacted the rights of movement and settlement embodied within the ECOWAS Free Movement Protocols.⁵⁰⁰

Bolstered by these successes, the UNCHR is currently seeking solutions for the 168,000 refugees from Ghana, Cote d'Ivoire, Liberia, and Senegal who remain displaced within the region.⁵⁰¹ By mobilising the widespread regional support for the ECOWAS body, highlighting the reciprocal nature of the Protocols, and supporting both refugee and host communities, ECOWAS and the UNHCR,

⁴⁹⁷ (Katy Long & Crisp, 2010), p. 57.

⁴⁹⁸ The agreement both recognises local integration as a durable solution under the 1951 Refugee Convention and the OAU Convention, and seeks to facilitate “local integration for Liberian and Sierra Leonean refugees residing in Nigeria on the basis of Article 2 of the 29 May 1979 ECOWAS *Protocol Relating to the Free Movement of Persons, Residence and Establishment* (the Protocol, A/P.1/5/79)) and supplementary protocols”. However, by availing themselves of the protection of their states of origin (through the provision of passports) and the ECOWAS Free Movement Protocols, those covered in the agreement would surrender their formal recognition as refugees. See (“Multipartite Agreement for the Local Integration of Liberian and Sierra Leonean Refugees in Nigeria,” June 2007), pp. 2 & 4.

⁴⁹⁹ In many ways, this solution was a ‘logical conclusion’ to the crisis in the region – the UNHCR durable solutions mandate (repatriation and resettlement) had largely ‘run its course’, and the imminent ‘cessation of refugee status’ for those remaining in host countries threatened the end of refugee support and protection. See (Adepoju et al., 2007), p. 19.; (Boulton, 2009), p. 33.; and (“Protecting Refugees and Other Persons on the Move in the ECOWAS Space,” 2011), p. 31.

⁵⁰⁰ See (“Protecting Refugees and Other Persons on the Move in the ECOWAS Space,” 2011), p. 43. See also (K Long, 2011), pp. 22-23.

⁵⁰¹ See the UNHCR “2013 UNHCR regional operations profile - West Africa”, available at <http://www.unhcr.org/pages/49e45a9c6.html> (accessed 30 January 2013).; and (“Protecting Refugees and Other Persons on the Move in the ECOWAS Space,” 2011), p. 35.

along with other regional humanitarian agencies are therefore continuing to make significant progress towards realising the comprehensive application of the Free Movement Protocols.⁵⁰²

The ECOWAS-UNHCR Nexus

Despite its nascent promise, a number of states remain hesitant to accede to a broader interpretation of the protocols. For many, providing many thousands of refugees with formal ECOWAS citizenship is viewed as a threat to state and regional security, and will precipitate the *ipso facto* withdrawal of international humanitarian support for ‘costly’ displaced communities.⁵⁰³

While instability is a legitimate concern across the region, the relative peace of recent years belies such fears.⁵⁰⁴ Moreover, as revealed in the Kenyan study, while socio-political affiliations do blur the line between victim and perpetrator, it is often the encampment model and strategies of the refugee regime itself that engenders a fertile breeding-ground for localised insecurity. Indeed, as reflected in President Conte’s xenophobic diatribe, Guinea’s largest refugee camp, Kouankan became ‘partially militarized’ in the early 2000s, with Liberian rebels ‘openly circulating’ in the settlement.⁵⁰⁵ Furthermore, a fear of losing international humanitarian support for refugee communities presupposes that states will have to fill the ‘shortfall’. As shown above, a large proportion of refugees in Guinea were either readily absorbed by local communities, or actively sought out alternative livelihood strategies outside of formalised UNHCR support (provided in the aptly named ‘ghost’ camps).

Notwithstanding the potential of the Free Movement Protocols, they remain therefore an *ad hoc* bi- or multi-lateral response to specific refugee crises in the region, with few formally entrenched and harmonised regional policies – creating a liminal and highly insecure refugee protection space. This is evident in Boreah camp which, along with Sembakounya was constructed following border insecurity in 2000-2001. As security returned to the region, both Boreah and the Kissidougou UNHCR

⁵⁰² (Boulton, 2009), p. 33.

⁵⁰³ (Adepoju et al., 2007), p. 16.

⁵⁰⁴ Indeed, considering the strong transnational affiliations shared by refugee and host communities in the region, such fears regarding ‘outsiders’ are largely misguided. Moreover, the Protocols include exceptions for the exclusion of those individuals considered a ‘risk’ to “national security, public order or morality”. See the 1986 Supplementary Protocol A/SP.1/7/86 on the Second Phase (Right of Residence), Article 14: 1.

⁵⁰⁵ Migration Information Source “West Africa’s Refugee Crisis Spills Across Many Borders” (August 2003), available at <http://www.migrationinformation.org/feature/display.cfm?ID=148> (accessed 27 January 2013). See also the UN “Report of the Office of Internal Oversight Services on the investigation into sexual exploitation of refugees by aid workers in West Africa” A/57/465, available at http://www.un.org/Depts/oios/reports/a57_465.htm (accessed 13 January 2013).

regional office were formally closed in September 2006, however almost 1,800 refugees remained within the 'defunct' camp. With limited access to either transnational networks or local support services, the community embodies the axiomatic 'vulnerable' refugee the UNHCR is mandated to protect, yet due to the blurred legal space created by the UNCHR-ECOWAS nexus, the community remains excluded from *both* the refugee and regional space.⁵⁰⁶

A primary hurdle for the comprehensive realisation of the ECOWAS 'moebius' space is therefore the remnants of the Refugee Regime and its institutionalised 'care and maintenance' model of refugee protection. What is vital is the clear demarcation of UNHCR-ECOWAS responsibilities *vis-à-vis* refugee protection in the region, alongside the homogenisation of migration legislation and policies, and increased institutional capacity. As the convergence of the two regime's agendas continue to engender novel strategies that recognise and facilitate the transnational foundations of *all* migrant communities, such a comprehensive interpretation of the Free Movement Protocols may well establish the foundations of a 'moebius' space and allow refugees the apparently incongruous yet vital ability to "achieve 'local integration' through greater regional mobility".⁵⁰⁷

FACTOR 3: Politics of the Diaspora

Sierra Leonean Refugees: a Transnational Community

Like the Somali refugee community discussed in the preceding case study, the experiences of the Sierra Leonean 'Fulani' reveals the extent to which the characteristics of the transnational (or 'translocal' due to the proximity of the homeland) community itself shapes the diaspora during

⁵⁰⁶ (Gale, 2008), p. 538. The BNCR was replaced by the Commission Nationale pour l'Integration et le Suivi des Refugies (CNISR) in August 2007. See (Gale, 2008), p. 539.

⁵⁰⁷ ("Protecting Refugees and Other Persons on the Move in the ECOWAS Space," 2011), pp. 25-26. See also Jacobsen, Karen (October 2003). "Local Integration: The Forgotten Solution" available at <http://www.migrationinformation.org/feature/display.cfm?ID=166> (accessed 2 February 2013).

This recognition is evident in the UNHCR's 2009 'Policy on Refugee Protection and Solutions in Urban Areas', which seeks to maximise the 'protection space' – a term used to denote "the extent to which a conducive environment exists for the internationally recognized rights of refugees to be respected and their needs to be met." ("Policy on Refugee Protection and Solutions in Urban Areas," 2009), p. 4.

displacement – in this case within the emerging ‘moebius’ space of ECOWAS (see Figure Five on page 103).

Reflective of the highly mobile, transnational communities living in the region, the Fulani do not see displacement as “clearly bounded in space and time”.⁵⁰⁸ Indeed, the Fulani “have been ‘between’ states all their lives” – forged by a tradition of mobility, robust socio-cultural and ethnic affiliations, and ongoing persecution at the hands of both states and civil groups, “the protection of a state is less important in daily life than local connections and livelihood opportunities”.⁵⁰⁹

During forced displacement, the Fulani refugee community therefore embrace an extensive portfolio of transnational strategies. Women and children are commonly sent to live with relatives in more stable regions, while men remain behind to secure land and property including cattle. Other families cross the border and settle in, or adjacent to camps so as to have ready access to humanitarian services if needed – often strategically splitting the family between residence in the camps and local communities. Many also settle in urban areas, drawing upon prior socio-cultural and economic contacts. Within the ‘highly-pressurised’ refugee situation, relationships can therefore be regarded as “strategies writ large: not just for food or money, but for cultural survival and the continuation of a family group”.⁵¹⁰

Community Engagement and Advocacy

Such transnational-empowerment means that a large number of Fulani view nationality as ‘situation dependent’, drawing upon a diverse portfolio of strategies and affiliations in multiple locations as required.⁵¹¹ While a powerful transnational asset, this fluid identity can however also engender ambiguous and even hostile responses from local communities.

⁵⁰⁸ Embodying the epitome of a complex migration biography, “conflict and migration have become durable aspects of the social landscape.” (Gale, 2006), p. 71.

⁵⁰⁹ (Gale, 2008), p. 544. For centuries the Fulani have moved along extensive regional migratory routes as cattle herders, traders and Islamic teachers, compounded more recently by continued regional instability, for example during the repressive Sekou Touré regime which saw approximately 2 million (mostly Fulani) displaced from Guinea. See (Gale, 2006), p. 71.

⁵¹⁰ (Gale, 2006), p. 75.

⁵¹¹ Indeed, many Fulani have multiple identity cards which facilitates regional movement. See (Adepoju et al., 2007), p. 19.; and (Gale, 2006), p. 72.

For example, during the refugee crisis noted earlier, the boundaries that existed between Fulani ‘refugee’ and local communities across the Forest Region of Guinea were highly porous and ‘fluid’ (or as noted in Dadaab – ‘fuzzy’). And as was revealed in Dadaab, this permeability flowed both ways. Yet despite pervasive intermingling, some community members continued to view the Fulani as unwelcome ‘outsiders’, disputing their ethnic affiliations and arguing that “if they were truly Fula they would not be refugees in the first place”.⁵¹²

This transmutation of socio-cultural distinctions is not however, as some in the local and international community would define it, the result of duplicitous and cunning ‘crooks’.⁵¹³ While it must be acknowledged that the ‘care and maintenance model’ is prone to abuse, refugee communities are utilising what strategies are made available to them – both transnational and localised – to diversify opportunities and reduce risk. While the camp does provide a vital lifeline for those refugees with access to few transnational assets and specific protection needs, others view the camp as just one (readily available) option in an portfolio of possibilities.⁵¹⁴ Indeed, as noted earlier, for the majority of these transnationally-empowered refugees, the preference is to seek out alternatives rather than remain within the ‘bounded’ camp space.

Social Cohesion and Community Security

Another key finding regarding refugee communities in Guinea is that while traditional transnational relations are highly significant, ‘created’ kin are also important. Indeed, during displacement the transnational dynamics of the diaspora evolves in response to the constraints and opportunities experienced, shaping the refugee ‘social security system’ *in situ* – strengthening old affiliations and supporting new ‘advantageous’ economic and socio-cultural activities. Yet as noted throughout this paper – such transmutation can also be ‘detrimental’.⁵¹⁵

Mirroring refugee communities in Kenya, one of the greatest transformations is in gendered relations. While male hierarchies are perpetuated through notions of ‘success’ in the refugee and

⁵¹² (Gale, 2006), p. 72.

⁵¹³ See (Horst, 2006b), pp. 12-13.; and (Harrell-Bond, 1995). See also IRIN News “GUINEA: Refugees criss-cross a fluid and volatile border” (22 July 2004), available at <http://www.irinnews.org/Report/50796/GUINEA-Refugees-criss-cross-a-fluid-and-volatile-border> (accessed 20 January 2013).

⁵¹⁴ Indeed, refugee settlement “is seldom fixed; it should rather be seen as a fluid process [...] In some cases, refugees use the camps as part of a broader household strategy of survival. “ (Jacobsen, 2001), p. 8.

⁵¹⁵ Terms such as ‘big brother’, ‘uncle’ and ‘family’ are used widely amongst these extended kin groups, blurring the distinction between refugee and locals, and ‘old’ and ‘new’ connections. See (Gale, 2006), p. 76.

local community (through business and community ‘standing’), women struggle with prevailing community and UNHCR perceptions. Mobility is traditionally the domain of men, while Fulani women are largely sedentary and responsible for maintaining the household. Moreover, within the camps women are often framed as ‘vulnerable’ and ‘war widows’, and forced into an ontology of dependence and need. However, displaced women are often the sole head of the family, and are active in manipulating a portfolio of opportunities that are both limited by and transcend the boundaries of the camp.⁵¹⁶ In Sembakounya, women for example often enter into ‘partnerships’ with men in ‘bulgur marriages’, allowing for the mutually-beneficial sharing of the bulgur wheat distributed by the WFP.⁵¹⁷ Such livelihood strategies risk community criticism and ‘erode’ traditional social structures, yet significantly bolster the support available to women and families, acting alongside other social and financial remittances flowing from local communities and other family members dispersed further afield in the diaspora.

Another notable transmutation of camp communities is the absence of children. The ‘fostering’ of children by the extended diaspora has long served as both a cause and consequence of transnationalism, particularly during displacement. Yet rather than a safe space of asylum, approximately 40% of children registered in the camp in 2006 were absent, sent to live with grandparents of extended family members in surrounding communities and elsewhere in the region. And again reiterating the ‘fuzzy’ divide between ‘refugee’ and ‘local’, a large number of children living in the camps were from surrounding communities – seeking access to education and health services.⁵¹⁸

Economic Activities and Physical Movement

In the case of Sembakounya, the ‘permeable boundaries’ of the camps meant that those with transnational affiliations “were most readily able to establish business relationships and start-up local and long-distance trade”.⁵¹⁹ The local Fulani community often provided collective remittances to assist a refugee family in establishing a small business or to settle in an urban area, while it was also not uncommon for the wider diaspora to provide remittances, and those in the camps “would

⁵¹⁶ The vulnerability of women and girls is not here disputed – as revealed earlier GBV is a very real feature of displacement and refugee communities. Rather, refugee women are not merely victims but also active, empowered agents in the community and diaspora. See (Hyndman, 1997).

⁵¹⁷ See (Gale, 2006), p. 76.

⁵¹⁸ See (Gale, 2006), p. 77.

⁵¹⁹ (Gale, 2006), p. 73.

disappear for weeks at a time to travel to Freetown or Conakry to wait for money to be wired from a relative overseas.”⁵²⁰ However, these remittances do not appear to be as vital to Fulani community survival as within the bounded Somali community. Rather, other livelihood strategies including the ability to gain agricultural employment, to engage with local market activities (including selling camp foodstuffs to local communities), and notably to receive small loans from the local business community underpinned the establishment of highly-integrated and prosperous transnational economies.

In addition, while cyclical movement is a common feature of the Fulani refugee community, the UNHCR has unwittingly facilitated regional mobility – bolstering transnational networks and the breakdown of the (albeit loosely) ‘bounded’ camp space. Prior to the closure of Sembakounya and relocation of refugees in 2003, the UNHCR conducted numerous repatriation drives to Sierra Leone. Rather than permanent return, many in the refugee community used these efforts as ‘go and see’ opportunities, as they provided a safe mode of travel and circumvented local authorities and border controls. Refugees purchased counterfeit refugee identity cards on the local black-market (so as not to jeopardise their legitimate papers), and travelled on UNHCR convoys back to the homeland. Here they were also provided a ‘repatriation package’ by the UN World Food Program (consisting of food rations, mats, tarpaulins, lanterns, pots and blankets), which could be resold for substantial profit. These visits therefore provided an excellent opportunity to re-engage with transnational networks and communities back home, and greatly facilitated business and social remittance exchange.⁵²¹

The Moebius Space – a Theoretical Reality

Refugee communities in Guinea can therefore be seen to be active transnational agents, ‘creatively’ manipulating what strategies are available to overcome risks and maximise gains – fostering

⁵²⁰ (Gale, 2006), p. 73. Remittances play a vital role across the ECOWAS region. Indeed, as a percentage of GDP, top remittance receivers in 2011 were Tajikistan (47%), Liberia (31%), Kyrgyz Republic (29%), Lesotho (27%), Moldova (23%), Nepal (22%), and Samoa (21%). “See the World Bank “Remittance Flows in 2012 – an update” (20 November 2012), available at <http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPECTS/0,,contentMDK:21121930~menuPK:3145470~pagePK:64165401~piPK:64165026~theSitePK:476883,00.html> (accessed 2 January 2013).

⁵²¹ (Gale, 2006), p. 74.

traditional notions of kinship and transnational affiliation, conforming to prevailing notions of refugee vulnerability and dependency, and seeking out new opportunities at the local and regional level in order to overcome the risks and obstacles inherent in displacement. As in Kenya, rather than remaining restricted by the bounded camp, the socio-cultural, economic and political boundaries that are created are fluid and transcend the official 'refugee space' – reflecting the activities of a refugee community embedded and active within what is a hugely powerful and malleable refugee diaspora.⁵²²

However, two notable differences exist between the case studies. Refugees within Dadaab and Kakuma are bound by a highly restrictive localised context – with the Refugee Regime striving *against* the inherent transnational empowerment of refugees to ensure the containment and marginalisation of refugee communities in a space excluded from the state and refugee diaspora. Yet refugee communities in Guinea benefit from a highly porous and fluid refugee space, the consequence of a *laissez-faire* approach to settlement by local communities, the state and the refugee regime. Moreover, and most notably this refugee space is being enveloped within the nascent Free Movement Protocols of the ECOWAS Community. This institutionalised regional framework both *recognises and facilitates* transnationalism through the fundamental principles of free movement, economic activity and settlement for both migrants and refugees alike – and thereby creates the fertile exogenous environment in which the 'moebius space' can emerge.

⁵²² As Zetter notes, displacement “stimulates new patterns and processes of mobility which are motivated by a variety of livelihood, security and social needs and may be supported by social and family networks.” (Zetter, 2011)

conclusion:

– transcending boundaries in the 21st century –

The Evolution of the Refugee Diaspora as a ‘Middle Space’

This paper set out to do three things. Firstly, it sought to disentangle contemporary transnational refugee theory, and reveal how it provides a conceptual reinvigoration of what is increasingly being acknowledged as a failing and outmoded global refugee paradigm.⁵²³ Having explored the *temporal* development of transnational networks and communities, and the self-perpetuation of what are ‘hybrid’ refugee or mixed-migration flows, this paper then broadened its theoretical perspective to encapsulate the *spatial* dynamic of the refugee diaspora. The schema of the tripartite refugee diaspora ‘space’ was then defined as encompassing three core domains – the homeland, near and wider diaspora. Recognising that rather than a ‘state of being’, “transnationalism is itself a dynamic process”, the evolution of this social space was revealed as a duality between refugee agency and the structural environment in which evolves, in what Giddens referred to as structuration.⁵²⁴ This paper then built upon this theoretical foundation, by proposing the refugee diaspora as a fluid ‘middle space’ – created, shaped and ultimately ‘bound’ by a confluence of endogenous and exogenous factors.

Secondly, in order to elucidate this dynamic interplay, a robust analytical tool was proposed which identified the core activities, and the primary set of factors that together shape the boundaries of the refugee community *in situ*. This ‘refugee middle space model’ allows an empirical analysis of specific communities within the refugee diaspora – and the identification of those environmental

⁵²³ The global incidence of PRS theorists argue, exposes the extent to which the UNHCR “is failing to respond adequately to the significant unmet protection needs of refugees and other displaced persons caught in chronic exile”. (Milner & Loescher, 2011), p. 1. See also (Zetter, 2011).

⁵²⁴ (Al-Ali et al., 2001), p. 633.

characteristics that both facilitate and hinder the effective functioning of communities during displacement.⁵²⁵

Thirdly, utilising the middle space model this paper sought to undertake an in-depth investigation of refugee communities located within the African near diaspora, in order to determine how they are influenced by the 'bounded' space of the international refugee regime's prevailing 'containment model'. An alternative, more fluid or 'moebius' space was then examined, to explore whether it offered a more supportive environment for the realisation of a fully-functioning refugee community – as a transnationally-empowered actor embedded within the broader refugee diaspora.

The Refugee Middle Space – key findings

A Historic State of Exclusion

Refugees have long been considered “an aberration in a modern world which is neatly partitioned into nation states”.⁵²⁶ As a consequence, the international community has come to embrace the camp as a conspicuous mechanism for refugee 'care and maintenance' on the pathway to a 'durable solution'.

It can be argued that camps “strengthen asylum by encouraging hosts to accept the presence of refugees”, by providing a concrete form of international burden sharing as 'traditional African hospitality' gives way to host fatigue.⁵²⁷ However, post-structuralists such as Hyndman argue that refugee camps “remove evidence of human displacement from view and contain 'the problem' without resolution, as noncommunities of the excluded”.⁵²⁸

⁵²⁵ For, as Kunz asserted almost forty years ago, “[b]etween the bird's-eye-view of the general theoreticians and the theories based on specific refugee groups there is a need for a comprehensive approach to refugee movements. Such an approach, while restricting itself to refugee movements, should be able to embrace the various subtypes as they are manifested by both past and present refugee phenomena.” (Kunz, 1973), p. 126.

⁵²⁶ (Gale, 2006), p. 69.

⁵²⁷ (Jamal, 2003), p. 4. See also ("Persons covered by the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and by the Cartagena Declaration on Refugees (Submitted by the African Group and the Latin American Group)," 1992), I. C: 14.

⁵²⁸ Hyndman, J. (2000). *Managing displacement: refugees and the politics of humanitarianism*. Minneapolis: University of Minneapolis Press., p. 190., cited in (Van Hear, 2003), p. 3.

Indeed, echoing the conclusions drawn earlier regarding the ‘parallel’ refugee space, Agamben argues that the camp is not created out of ‘ordinary law’, but “out of a state of exception”.⁵²⁹ Comparing naked or ‘bare life’ (*zoe*), with ‘qualified’ or political life (*bios*) which is conditional on state recognition, within this ‘state of exception’ “the so-called sacred and inalienable rights of man prove to be completely unprotected at the very moment it is no longer possible to characterize them as rights of the citizens of a state”.⁵³⁰ Yet paradoxically, while the refugee no longer has any recourse to the state, (s)he remains paradoxically and resolutely bound by it – “included through its own exclusion”.⁵³¹

Permeating the State

However, through the lens of the middle space model this paper has clearly revealed that rather than excluded, refugee communities within the near diaspora remain strikingly engaged with both the state and wider diaspora. Indeed, these transnationally-empowered communities wield highly-complex migration histories (reflecting both real and ‘mythical’ mobility) that provide a resilient foundation during displacement.⁵³² Yet these networks are highly volatile, with transnational fluidity engendering both socio-cultural and political cohesion as well as discord, that transcends the arbitrary demarcations of both refugee camps and nation-states. Indeed, for the refugee community, “their homeland and their country of exile, as well as the time before and the time after migration, constitute a continuous and coherent lived experience.”⁵³³

The displaced refugee community in Kenya and Guinea were therefore shown to be not an aggregate of passively displaced victims, but rather strategic transnational actors that go to great lengths to permeate the boundaries of the camp and foster a vital ‘portfolio’ of networks spanning

⁵²⁹ (Agamben, 1998), pp. 166-167.

⁵³⁰ The fact that there remains no ‘autonomous’ space within the international political system for “the pure man in himself” Agamben continues, is evident in the fact that “the status of the refugee is always considered a temporary condition that should lead either to naturalization or to repatriation. A permanent status of man in himself is inconceivable for the law of the nation-state.” (Agamben, 2008), p. 92.

⁵³¹ (Agamben, 1998), p. 170. Interestingly, in contrast to Arendt’s refugee who is coerced into *inclusion* within the host state and thereby acquires a new political identity or *bios*, we have here (d)evolved to the ultimate *exclusion* of the refugee, separated and isolated within the camp and creating a modern-day equivalent of the *homo sacer*.

⁵³² Indeed, while conflict and widespread displacement has fractured entire communities, the refugee diasporas that have been created “are in the process of transforming societies worldwide” – with the potential for “either the perpetuation of conflict or its resolution and the recovery of shattered societies.” (Van Hear, 2009), p. 180.

⁵³³ (Wahlbeck, 2002). pp. 234-235.

both the state and diaspora space.⁵³⁴ However, it is also evident that the ‘transmutation’ of the refugee diaspora – as communities struggle to circumvent the restrictions inherent within the ‘bounded’ rubric of the refugee camp – heightens the salience of transnational affiliation and dissonance, and severely undermines the UNHCR mandate of refugee protection and support.⁵³⁵

In stark contrast, the ECOWAS Free Movement Protocols are establishing a fluid ‘moebius’ space that *transcends the boundaries* of both the camp and the state – to embrace and foster the transnational character of all communities in the region, whether ‘forcibly displaced’ or otherwise. However, while engendering a dramatic transformation of refugee protection in the region, it was also revealed that the nascent UNHCR-ECOWAS nexus remains mired in the prevailing mixed-migration debate, and an incoherent demarcation of regional responsibilities and process. As a consequence, there prevails a perverted liminal space into which many refugees are now falling, as the outmoded UNHCR ‘bounded’ ontology crumbles and the burgeoning moebius space expands to incorporate all transnational refugee communities in the region.

Embracing the Moebius space

ECOWAS, and the conception of a moebius space which it embodies allows a more reflexive regional approach to refugee protection, by acknowledging and facilitating the crucial transnational foundations of the near diaspora – as both a ‘bottom-up’ and ‘top-down’ dynamic process.

Rather than the imposition of an arbitrarily-defined refugee space through the solitary actions of the structural environment (i.e. state and refuge regime), the moebius space emphasises the duality that is inherent within the diaspora and embraces both the endogenous motivations and strategies of the refugee community itself as well as the exogenous structural demands of the international community. The moebius space is therefore a synthesis of the *agency* of refugee communities and the *choices* that are made possible by a portfolio of transnational strategies, as well as the institutionalised rights embodied within the ECOWAS Free Movement Protocols that are the

⁵³⁴ Indeed, transnational communities have been described as “thrusting, energetic entrepreneurs or cultural innovators, breathing life into the societies that accommodate them.” (Van Hear, 1998), p. 253.

⁵³⁵ It must be acknowledged that despite intense pressure from regional displacement, the Migration Regime within Guinea continues to extend a *laissez faire* approach to refugee settlement, and has allowed a semi-permeable refugee space in which refugee camps are sites of self-selective refugee protection. However, as in Kenya the encampment approach has fuelled the transmutation of transnationalism in the camps, and heightened intra- and inter-communal affiliations and tensions.

structural backbone of the burgeoning regionalism in West Africa.⁵³⁶ Indeed, ‘regionalism’ has been described as “the expression of a common sense of identity and destiny combined with the creation of institutions that express that identity and shape collective action.”⁵³⁷

As a consequence, while as Appadurai acknowledged “animated by a sense of the end of the era of the nation-state”, this paper clearly reveals how the moebius middle space both transcends static notions of camp and state borders, yet remains topologically located within the demarcations of the regional body.⁵³⁸

Moebius Replication across the Continent

An acknowledgement of the transnationalism underpinning all contemporary societies, and the regionalism that emerges from such an understanding is not limited to ECOWAS. An array of regional bodies are following in its footsteps, giving rise to a ‘field’ of moebius social spaces across the continent.

Notably, after tumultuous beginnings the East African Community (EAC) – which comprises Kenya, as well as Burundi, Rwanda, Tanzania and Uganda – is making progress towards realising free movement, and the rights of establishment and residence for Community citizens.⁵³⁹ However, while mirroring the latent promise of the ECOWAS Community, how effectively these provisions are implemented, in particular as they pertain to refugees in the region remain to be seen.

⁵³⁶ As Giddens notes, structuration embodies the “conditions governing the continuity or transmutation of structures, and therefore the reproduction of social systems”. (Giddens, 1984), p. 25.

⁵³⁷ (Evans, 2005), p. 196.

⁵³⁸ (Appadurai, 1996), p. 18. This paper has concentrated on the near diaspora in Africa – and as such has only included the ‘homeland’ and ‘near diaspora’ domains of the tripartite space within its conception of a moebius space. There do exist strong extra-regional networks that extend to the wider diaspora, however extending the moebius space to incorporate these domains is beyond the remit (and capacity) of this paper. Moreover, as noted earlier these inter-national networks constitute primarily ‘virtual’ social fields made possible by globalisation and ‘time-space compression’ (as evidenced by the *xawilaad* system). Therefore while vitally important, they are not physically located within the moebius space and have limited impact upon its spatial foundations – which while ‘transcending borders’ remains in this instance embedded within the structural institutions of the ECOWAS regional body.

⁵³⁹ According to Article 104: 1 of the founding Treaty for the Establishment of the East African Community, “Partner States agree to adopt measures to achieve the free movement of persons, labour and services and to ensure the enjoyment of the right of establishment and residence of their citizens within the Community.” See (“Treaty for the Establishment of the East African Community,” as amended on 14 December 2006 and 20 August 2007), Articles 104 & 7: 1 (c). See also the EAC ‘Annex on the Free Movement of Persons’ (November 2009), available at http://www.eac.int/index.php?option=com_docman&task=cat_view&gid=68&Itemid=163 (accessed 22 February 2013).

Similarly, in 1992 the expansive Southern African Development Community (SADC) was established, encapsulating Angola, Botswana, the DRC, Lesotho, Malawi, Mauritius, Mozambique, Namibia, the Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. Pursuant to Article 5 of the SADC Treaty, in 2005 the 'Protocol on Facilitation of the Movement of Persons' was created which, in addition to establishing the rights of free movement, establishment and residence, directly addresses refugee and asylum seeker protection in the Community.⁵⁴⁰

This increasing erosion (or 'permeation') of state borders – while founded primarily upon economic motivations – heralds a significant shift in refugee response frameworks on the continent. However, both these regional free movement protocols remain in the embryonic stages, and like ECOWAS, face considerable hurdles in terms of regional capacity and policy deficiencies.⁵⁴¹ As was noted above, the fragile UNHCR-ECOWAS nexus has created a blurred 'protection space' – whereby *ad hoc* bi- or multi-lateral agreements remain incapable of ensuring adequate support for all refugee communities dispersed in multiple locations across the regional body.⁵⁴² As such, a prerequisite for a effective and fully-functioning moebius space is the clear demarcation of roles and responsibilities between Member States and regional institutions, and the activities of the prevailing refugee regime.⁵⁴³

The clarification and augmentation of these (exogenous) structural elements that are crucial in shaping the diaspora middle space will support the refugee community in two key ways. Firstly, it

⁵⁴⁰ The SADC Treaty asserts the need for the development of "policies aimed at the progressive elimination of obstacles to the movement of capital and labour, goods and services, and the peoples of the Region generally, among Member States". See ("Treaty of the Southern African Development Community," August 1992), Article 5: 2(d). Notably, the SADC Movement Protocol reaffirms Member States' commitment to the UNHCR, IOM and their obligations under the international refugee instruments, and asserts that "[t]he management of refugees in the Region shall be regulated by a specific Memorandum of Understanding (MOU) between State Parties". See ("Protocol on the Facilitation of Movement of Persons," August 2005), Article 28: 2. See also SADC 'Refugees', available at <http://www.sadc.int/themes/politics-defence-security/public-security/refugees/> (accessed 22 February 2013).

⁵⁴¹ See ("Refugee Status Determination and Rights in Southern and East Africa: international workshop report," 16–17 November 2010), p. 7.; and (K Long, 2011), p. 15.

⁵⁴² This incoherence mirrors the dysfunctional Kenyan DRA-UNHCR Migration Regime that that undermines refugee protection in the country – highlighted earlier in the 'bounded' space case study.

⁵⁴³ This reflects the sentiments of the 2009 ExCom Conclusion on PRS, which urges states, the UNHCR and humanitarian partners to "pursue active and effective partnerships and coordination in implementation of durable solutions, and to develop new opportunities for partnership" – including through regional bodies. See the UNHCR 'Conclusion on Protracted Refugee Situations No. 109 (LXI) – 2009', available at <http://www.unhcr.org/4b332bca9.html> (accessed 23 February 2013).

will enhance the regional implementation of the free movement protocols, benefiting both migrant and refugee communities alike. Secondly, a strengthened and fully-integrated regional approach will allow for UNHCR protection and support mechanisms that target specific refugee needs as required – rather than the more generalised, costly and ineffective ‘care and maintenance’ model of humanitarian aid programmes “which only enable refugees to survive at the level of basic subsistence.”⁵⁴⁴

Furthermore, such a targeted refugee response may profit from a regression in the prevailing African (and global) refugee paradigm and RSD. In particular, rather than the broad *prima facie* recognition of refugee groups displaced in the region *en masse* – as embodied within the 1969 OAU Convention – it may be useful to return to the more restrictive, yet accurate and evidence-based refugee ontology embodied within earlier instruments such as the 1933 Refugee Convention. Herein, certain nationalities (including Russians, Armenians, Assyrians, and Turks) were identified as requiring protection, and states of asylum charged with providing assistance accordingly.⁵⁴⁵

While it may not be useful (or appropriate) to delineate nationalities *a priori*, strengthened joint UNHCR-ECOWAS border screenings may allow the identification of those transnationally-empowered groups (such as displaced Somali in Kenya, or Fulani ‘refugees’ in Guinea) who are in a stronger position to self-settle or draw upon extant support structures and strategies, and therefore require minimal (if any) UNHCR assistance. On the other hand, those recognised as having specific protection needs – including women, children and those with limited socio-cultural or ethnic affiliation (such as those refugees marginalised by the removal of humanitarian assistance in Boreah) – can be supported in ‘guided’ refugee settlements and through bolstered refugee-host community

⁵⁴⁴ (Crisp, 2002), p. 22. Indeed, the budget spend in Dadaab for 2011 was \$101,000,000. Moreover, reflective of an international community that is becoming increasingly disenchanted with costly and ineffective refugee response programmes, the projected budget for 2012 was less than half this amount – only \$49,000,000 – despite a 53% increase in refugee population on the previous year. See (“Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor,” June 2012), p. 40. See also (“The Human Costs of the Funding Shortfalls for the Dadaab Refugee Camps,” July 2012), p. 1.; and *Médecins Sans Frontières* “Dadaab: leaders must not fail refugees in the world’s largest camp” (1 October 2012), available at <http://www.msf-me.org/en/news/news-media/news-press-releases/dadaab-leaders-must-not-fail-refugees-in-the-worlds-largest-camp-mdecins-sans-frontieres-calls-for-im.html> (accessed 22 January 2013).

⁵⁴⁵ The 1933 Convention also reflected the understanding that displaced communities were best served by strengthening agency, economic integration and freedom of movement, facilitated in part by the widely recognised ‘Nansen Passport’ – sentiments which are echoed within the precepts of the ECOWAS Community and the Free Movement Protocols. See (Harrell-Bond, 1995), pp 3-4.

assistance programmes that operate alongside the free movement protocols.⁵⁴⁶ Such strategies are reflected in the UNHCR '10-Point Plan of Action on Refugee Protection and Mixed Migration' noted earlier. Indeed, the UNHCR noted almost twenty years ago, "[r]efugee problems are by definition transnational problems, which cannot be resolved by means of uncoordinated activities in separate countries".⁵⁴⁷

Such an integrated 'moebius' approach provides a truly durable 'solution', as it encapsulates and empowers all three actors identified in the Migration Regime's triptych outlined earlier – i.e. the refugee community, state(s) and the UNHCR. Notably, the creation of a fully-functioning and effective middle space will facilitate the functions and activities of those refugee communities dispersed across the diaspora – enabling the transnational support and protection that is so vital during displacement. Moreover, re-integrating the 'excluded' refugee community within the moebius space greatly benefits the myriad other 'local' and 'migrant' communities that inhabit this comprehensive middle space. For it is this holistic and dynamic fusion that ultimately shapes the burgeoning unity and vibrant reality of the 'moebius space'.

– Ends –

⁵⁴⁶ As Van Hear posits, we must "reconcile the quest for durable solutions associated with particular sites with recognition that transnational connections and practices provide important means for sustaining people caught up in conflict, displacement, and its aftermath". (Van Hear, 2006), p. 14.

⁵⁴⁷ (UNHCR, 1995), Chpt. 1: 'Changing Approaches to the Refugee Problem', p. 18., available at <http://www.unhcr.org/4a4c70859.html> (accessed 12 February 2013). See also *supra* note 493.

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