

The American Refugee Camp: Detention Centers in the Current Refugee Regime

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Abstract

U.S. detention of Central American asylum-seekers draws national and international criticism for effectively imprisoning traumatized women and children. Building upon this criticism, this paper reframes the conversation, analyzing family residential centers not only as prisons, but as refugee camps in their own right. By comparing the Dadaab Refugee camp in Kenya to U.S. detention centers, this paper disrupts the assumption that refugee camps are limited to the Global South, compelling American refugee activists to examine their country's own practices. Furthermore, it argues that human rights abuses are inherent in the current international refugee regime, thus demonstrating that efforts to reform structures are misguided. Instead, activists concerned with violence and abuse in both camps and centers should turn their attention towards

renegotiating the international political structure that distances and ignores refugees.

Introduction

Dadaab is a city; Dilley is a prison. In an effort to rationalize often unimaginable refugee experiences, scholars and activists alike reimagine geographies. Academics imagine Somali refugees living in Kenya's Dadaab refugee compound as members of the "beginnings of urban life," part of a social space that produces trade, community, and cultural exchange (Agier, 2011, p. 144). Even if it is a "city of thorns," it is still a city (Rawlence, 2016). Central American asylum-seekers – who only differ from refugees in applying for protection in their host country rather than their home country or a refugee camp – reside in a different geography. In the South Texas Family Residential Center, "Dilley," and other U.S. detention centers, they are not city-dwellers; they are prisoners. Anti-detention activists and journalists denounce these places as de facto prisons, jailing not criminals, but people fleeing violence and persecution. They cite barbed wire fences, 24-hour security, and routine bed checks – plus a contract with the country's largest private prison corporation – as indications of prison life.

Reconceptualizations of refugee space affect rhetoric and policy. Conceiving Dadaab as a city illuminates refugee autonomy in an autocratic space; recognizing Dilley as a prison emphasizes its inhumanity. Yet, these associations also limit understanding of space and experience. I argue this is particularly true for detained Central American asylum-seekers. By conceptualizing family residential centers as prisons, activists convince the public that detention is inhumane and traumatizing. However, this rhetoric fails to characterize Central American asylum-seekers as requiring protection from the U.S. government. What if we reconceptualize the detention center again?

This paper seeks to do just that. I begin with the basic function of both refugee camps and detention centers: to hold people fleeing violence while they await resettlement. Then, I utilize theories of international refugee cooperation to show how two physically disparate structures function to uphold one regime. Next, I parallel the lived experiences and abuses refugees face both in detention centers and refugee camps, using the Dadaab refugee camps in Kenya as a case study to which I compare the three United States detention centers: Dilley, Karnes County Residential Center, and Berks Family Detention Center. This comparison has two important implications. First, it challenges Western assumptions that refugee crises – and the accompanying failure to protect refugees – only occur in the Global South, forcing American citizens to understand their own government's role in neglecting refugees' needs. Second, it identifies structural violence towards refugees not just as a function of the spaces refugees inhabit, but of the system that governs them.

The Geopolitical Structures that Keep Refugees Out

Understanding similarities between detention centers and refugee camps first requires understanding the crisis underpinning the current refugee regime. Violence, war, and persecution have forced over 65 million people – more than ever in recorded history – out of their homes (“Figures at a Glance”). Civil wars in Syria and Somalia as well as violence and unrest in other formerly colonized nations drive masses of people across borders. The violence in Central America’s Northern Triangle (Honduras, El Salvador and Guatemala) is just one outbreak of this global epidemic where widespread gang violence has threatened citizens for over a decade. El Salvador currently has the most homicides per capita of any country in the world, “experiencing a level of deadly violence unparalleled outside war zones” (Martínez et al., 2016). Honduras and Guatemala experience similar levels of violence (Garrellek, 2016). The region’s governments prove either ineffective or unwilling to stop the gangs from gaining ever more power, even colluding with the gangs in certain areas (Ávalos, 2015). As a result, this problem is not going away; gang violence has only increased over the past three years (Martínez et al., 2016).

As homicide rates rise, so do the number of people fleeing the region. In the summer of 2014, Central American asylum-seekers made headlines when more than 66,000 unaccompanied minors crossed the U.S./Mexico border seeking protection (Chishti & Hipsman, 2014). While attention slowly faded away, the crisis did not. Since 2014, International Customs Enforcement (ICE) has apprehended more than 300,000 Central Americans at the border (Nakamura, 2016). ICE apprehended more Central Americans in 2016 than they did in 2014, the year that awakened the American public to the ongoing crisis (Nakamura, 2016). Similarly, the Nicaraguan, Costa Rican, and Mexican governments have reported an increase of people from the Northern Triangle crossing their borders and applying for asylum (Semple, 2016).

Where did these 300,000 refugees go? How could the American public remain ignorant of 300,000 new people within its borders? According to *Human Rights First* (2016), “Rather than adopting a refugee protection approach at the southern U.S. border... the Obama Administration launched an ‘aggressive deterrence strategy’ aimed at stopping or decreasing future migration” (9). The hallmark of this strategy is detention centers, which the Obama Administration reopened following the influx of minors at the border in 2014. The United States has used detention centers before, most notably during the Haitian refugee crisis in the 1980s (Orchard, 2014, p. 220). In 2009, President Barack Obama effectively ended this practice when he shut down the T. Don Hutto Residential Center, the largest family detention center in the country, leaving just the empty Berks Family Residential Center to be used in cases of emergency (Hylton, 2015). To manage the 2014 influx, the Administration resumed family detention, opening centers in New Mexico and Texas and once again filling the center in Berks (Hylton, 2015).

The practice continues today, despite legal challenges from activists and court-ordered suspensions of licenses (Robbins, 2016). In these centers, asylum-seekers await decisions, sometimes detained for a year or longer (Robbins, 2016). From there, some are granted asylum; many more are deported.

To understand the U.S. government's response to asylum-seekers, I look to theories on international cooperation in the refugee regime. These theories provide a framework for understanding not only *what* states' responsibilities are, but *how* states interpret their responsibility.

I utilize Phil Orchard's framework in *A Right to Flee: Refugees, States, and the Construction of International Cooperation* as the basis of my analysis. Orchard argues that, since the 1600s, six distinct refugee regimes have shaped international refugee protection standards. This delineation of refugee regimes represents a departure from the literature. Most scholars, when referring to "the refugee regime," refer to the one codified by the 1951 Refugee Convention and regulated by the United Nations High Commissioner for Refugees (UNHCR). In contrast, Orchard argues that regimes can also be informal and unregulated. For Orchard (2014),

Regimes provide a mechanism through which the appropriate standards of behavior suggested by the individual norms are linked together to create a response within the complexity of the issue area. In so doing, the regime brings increased regularity to state practices than would otherwise be the case (p. 6).

Essentially, regimes act as normalizing institutions that meld the practices of various actors into one cohesive set of standards, sometimes legally codified. Using Orchard's framework allows us to understand that refugee protection practices are not fixed; rather, they are a collection of often-changing norms. This is useful because it does not fixate on any one actor as the nexus of power; it highlights how power shifts throughout regimes.

The Emergence of the Non-Entrée Regime

Though Orchard outlines six regimes, for the purposes of this paper it is only important to understand two: the *postwar regime* and the *non-entrée regime*. Since the late 1980s and early 1990s, Orchard argues states have interacted under the non-entrée regime, a regime defined by state restrictionism and border security. However, this non-entrée regime is intrinsically tied to the post-war regime that preceded it.

The Post-War Regime: Historical and Conceptual Underpinnings

Following World War II, the Allied powers convened to address the massive number of displaced people driven across borders. From this arose the United Nations' 1951 Refugee Convention, representing the first legally codified

refugee regime. The Refugee Convention defines a refugee as a person who:

Owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such a fear, is unwilling to avail himself of the protection of that country (Convention art 1A).

States party to the Convention must provide protection for people who meet this standard. The Convention also compels states to provide refugees certain rights, including non-discrimination, equal treatment to other foreign nationals, and non-refoulement (Goodwin-Gill, 1983, p. 151). The principle of non-refoulement is arguably the most well-known and important right created by the Refugee Convention. It guarantees refugees the right to not be returned to a place where they will face persecution, meaning states cannot deport or forcibly repatriate them.

Over the course of the four-decade-long post-war regime, the UNHCR succeeded in establishing and expanding upon both the principle of non-refoulement and cultural conceptions of who qualifies as a refugee. The regime's 1951 definition has an "essentially individualistic" nature that requires case-by-case "examination[s] of subjective and objective elements" (Goodwin-Gill, 1983, p. 6). Under this definition, receiving state protection requires proving a fear of persecution. Oxford law professor Andrew Shacknove (1985) criticizes the Convention for its implication that persecution is "what is essential about refugeehood" (277). Furthermore, persecution is inherently individual under this definition. Those seeking protection must prove they will face targeted violence or intimidation should they return to their host country (McFayden 2012, p. 14). The definition "does not cover a... group suffering from some type of incessant prejudice" and therefore does not compel states to provide protection for *prima facie* refugees or refugees who enter a country *en masse* and may not meet the Convention definition (McFayden, 2012 p. 14).

Feeling compelled and empowered to address displaced peoples falling outside the "Convention refugee" category, the UNHCR expanded its protection mechanisms. Just two years after the Refugee Convention, the UNHCR began implementing its "good offices" approach to assist refugees that fell outside the Convention's purview (Loescher, 2001, p. 93). This allowed the UNHCR to grant *prima facie* refugee status, group refugee status, to displaced people who do not meet the Convention standard. The UNHCR defines *prima facie* status in its handbook, saying:

While refugee status must normally be determined on an individual basis, situations have also arisen in which entire groups have been under circumstances indicating that members of the group could be considered individually as refugees. In such situations, the need to provide assistance is extremely urgent and it may not be possible for

purely practical reasons to carry out an individual determination of refugee status for each member of the group. Recourse has therefore been had to the so-called ‘group determination’ of refugee status, whereby each member of the group is regarded *prima facie* (i.e., in the absence of evidence to the contrary) as a refugee (UNHCR, 2011, p. 12).

The UNHCR’s willingness to provide assistance for refugees on a group rather than on an individual basis, as stated by the Convention, represents a fundamental shift in the way that the UNHCR defines its own role within the refugee regime. By giving assistance to refugees fleeing situations not defined by state persecution and by giving assistance *en masse* as opposed to screening all refugees before they are given protection, the UNHCR fundamentally challenged and changed the norm of the refugee definition, expanding standards of protection to far more displaced people. However, international law does not reflect this definitional expansion. The limited 1951 Convention definition remains the only binding definition states must adhere to, a disconnect that underlies current tensions between UNHCR guidance and state practice. Through continued practice and the willingness of the UNHCR to treat those who do not meet the 1951 standard as refugees, the Convention definition lost its cultural resonance in determining who qualifies as a refugee.

However, in expanding the number of people the UNHCR helped, the organization also expanded its power over these people. In becoming the organization for “all the world’s refugees,” the UNHCR, in effect, became the only governance of all the world’s refugees. This political expansion begot bureaucratic expansion. The organization is the primary source of “day-to-day governing, as they decide the physical layout of the camp, the size and composition of food rations, the food distribution system, the kind of pit latrines to be built, and procedures for defining and helping so-called vulnerable groups” (Turner, 2006, p. 760). What results, according to Turner, is a structure wherein public authority, though often unstable, “seems to lie comfortably in the hands of the UNHCR” (Turner, 2006, p. 760). While residents maintain their own authority, their freedom and livelihoods are often articulated and filtered through the structure created and controlled by the UNHCR.

Furthermore, throughout this period, states’ willingness to accept refugees was largely in line with the UNHCR’s requests, meaning they were often unwilling to challenge the UNHCR’s governance. While tensions still existed between how many refugees would be resettled to third world countries and how refugee camps would be financed, wealthy donor nations were relatively willing to provide the UNHCR with the funds it needed to provide assistance to refugees and accept refugees (Loescher, 2001, p. 181). These donations were not a form of state altruism. Rather, it was often in these states’ best interest to support the UNHCR and accept refugees. For example, during the 1950s and 1960s, the Western world experienced rapid economic expansion; its need for

labor coincided with the hundreds of thousands of people seeking asylum after leaving formerly colonized territories (Loescher, 2001, p. 180). Western states also had a political interest in accepting refugees, many of whom fled Eastern Europe during the Cold War (Loescher, 2001, p. 180). By accepting refugees fleeing socialist countries and providing protection to other refugees through funding the UNHCR, the United States and other Western countries asserted their moral superiority. Accepting refugees from other nations served two purposes: it painted the West as welcoming and altruistic while highlighting the communist Soviet Union as repressive and violent.

Scapegoating and Security: State Restrictionism in Practice

Whereas state participation and an expanding refugee definition largely defined the post-war regime, state restrictionism defines the non-entrée regime. Orchard is not alone in recognizing a shift towards state restrictionism. Many scholars identify this trend (Betts, Hathaway, Loescher); Orchard simply classifies this as part of the greater regime. During the late 1980s and 1990s, the United States and countries in Western Europe saw a spike in the number of people seeking asylum in their countries (Loescher, 2001, p. 315). As a result, says Gil Loescher (2001), “huge backlogs of asylum cases and rising costs exceeding \$7-8 billion per year put heavy strains on the asylum systems in industrialized states” (316). Western citizens pushed against accepting more refugees, compelling states to implement restrictionist policies.

In the United States, President Reagan argued that the country needed “adequate legal authority to establish control over immigration: to enable [the U.S.], when sudden influxes of foreigners occur, to decide to whom we grant the status of refugee or asylee” (Orchard, 2014, p. 216). Furthermore, states created false alarm that many of the people seeking refuge in their countries were not refugees at all (Orchard, 2014, p. 215). Especially in the United States, there was an increased perception that many asylum-seekers were giving fraudulent asylum claims in hopes of staying in the United States legally when they otherwise would be deported (Orchard, 2014, p. 217). The Immigration Reform and Immigrant Responsibility Act (IIRIRA) represented the U.S. push towards state restrictionism. It “imposed ‘mandatory detention’ on certain immigrants, including ‘arriving’ asylum seekers. This led to the automatic initial detention of many asylum seekers as well as a significant expansion of U.S. detention capacity” (Human Rights First, 2016, p. 9). Additionally, it created “expedited removal,” allowing immigration services to “automatically detain and place into a fast-track deportation process any persons arriving in the US without documentation or with false identification” (Loescher, 2001, p. 320).

Other Northern states prevented refugees from entering their borders by “imposing visa requirements on the nationals of refugee-producing states, fining airlines for bringing refugees into their countries, and forcibly interdicting refugees at frontiers and in international waters... to reduce both the numbers

and the costs of asylum applications” (Loescher, 2001, p. 316). These policies succeeded. Following the implementation of restrictionist policies, there was a significant decrease in the number of asylum applications in the United States and Western Europe. According to Loescher (2001), it is not clear if these measures were in fact a deterrent for so-called “fraudulent asylum-seekers.” Rather, he says, “It was questionable whether these actions simply deterred bona fide asylum-seekers, merely shifted refugee flows to other countries, or resulted in an expansion of migrant trafficking, illegal immigration, and organized crime in the industrialized states” (Loescher, 2001, p. 321). Instead of deterring immigration, these policies simply redirected the flow.

The denial of legal immigration expanded the pathways of illegal immigration, migrant trafficking, and organized crime, further reinforcing xenophobic rhetoric insisting refugees are criminals. Says Loescher (2001), “It further expand[ed] the marginalized, excluded, and criminalized underclass in Western societies” (p. 321). Denial of refugee pathways was not the sole cause of this expansion, but a major factor. Instead of undermining the xenophobic rhetoric categorizing people from the Global South as deviant and inferior, illegal migration patterns bolstered it. The crime that accompanied this shift gave politicians ammunition to confirm society’s fears of immigrants – that they brought violence, terror, and crime to the West (Orchard, 2014, p. 217). Therefore, keeping refugees and asylum-seekers out became a matter of national security; securing borders became a form of securing Western civil society.

Reifying Power Dichotomies: The Effects of the North-South Impasse

Keeping refugees out of the Global North means they stay in the Global South. Alexander Betts (2009) characterizes this dichotomy as the “North-South impasse” wherein “southern states have had a de facto responsibility for refugee protection, but Northern states have had little obligation or incentive to share this responsibility” (13). This North-South divide means that Northern states can opt in to funding and care for refugees, but Southern states cannot opt out of this same responsibility. According to Betts (2009), this is because states in the Global North have the political and economic power, as well as the geographic distance, to avoid taking responsibility for refugee protection (p. 15). Legal scholar James Hathaway (2005) argues that Northern states’ position as UNHCR donor countries essentially buys them exemption from having to abide by the UNHCR’s protection principles (p. 996). Structural ties to Western money forces the international refugee regime to act first and foremost in accordance with what the richest states want; refugees’ interests come second (Hathaway, 2005, p. 996). States in the Global South, on the other hand, do not have this exemption. Their “relatively porous borders, limited capacity to deport, and... clearly defined legal obligation not to forcibly return refugees to their countries of origin if they face persecution” means they “have had little choice other than to host refugees” (Betts, 2009, p. 13). As a result, international refugee crises are regionalized and

donor countries control where funding goes by earmarking donations.

As refugees no longer cross the North/South divide, they no longer appear to be an issue of international importance, as they were characterized under the post-war regime. Rather, the issue is regionalized; refugees are a "Third World problem," not a failure of the international system. When Northern states fail to take responsibility for the protection of refugees, they also fail to take responsibility for the creation of refugee crises. Therefore, they can now frame refugees as a problem unique to the Global South. This only deepens the impasse Betts warns about and justifies restrictionist state practices. In the North, refugees carry a connotation of poverty, war, and incivility. They are objects of pity, perhaps, but only after being objects of fear. The regionalization of a problem creates a cultural logic that aims to keep refugees out. States do not *need* to fix a problem they, in theory, had no hand in creating. This ignores systematic failures that cause refugee migration and allows the Global North to continue upholding this system that maintains their hegemony.

Second, this North-South impasse means financial contributions from states in the north are always voluntary. During the 1990s, in addition to pushing restrictive policies, Western states also felt donor fatigue (Loescher, 2001, p. 322). States became increasingly unwilling to donate to the UNHCR, especially if it could not be guaranteed that they would politically benefit from such a donation (Loescher, 2001, p. 322). To ensure this, donor countries earmark donations for certain programs, leaving others critically underfunded, particularly programs for African refugees who are not political priorities for Western states (Loescher, 2001, p. 322). Donor countries do not donate based on altruism or concerns for refugee protection, but when "refugee protection is related to their wider interests in other issue areas, notably immigration, security and trade" (Betts, 2009 p. 3-4).

To capitalize on this and appeal to Northern states' wider interests, Southern states and the UNHCR now utilize what Betts (2009) calls "cross-issue persuasion" to convince states to contribute to refugee crises. Betts argues that states cross-issue persuasion provides the UNHCR and Southern states the greatest chance of success to cross the North-South impasse (p. 20). This persuasion requires they appeal to Northern states' fears of security and border control, not to a sense of duty or humanitarianism. The UNHCR emphasizes that funding refugee protection prevents statelessness and, in consequence, terrorism and leftist guerrilla groups. Furthermore, it prevents refugees from leaving the Global South to seek protection in the North (Betts, 2009, p. 20-1). However, this emphasis on security and refugees as potential security threats to the Western world order is an integral part of the non-entrée regime. By playing into these fears to gain funding, states and the UNHCR only further re-entrench those fears. Thus, Southern states are in a bind. To fight against the non-entrée regime and secure funding, they must further re-entrench the very fears that uphold the regime.

Refugee Camps in the Non-Entrée Regime

Betts identifies the increasing reliance on refugee camps as one of the major effects of the North-South impasse and also, I claim, the non-entrée regime. Under current standards of refugee protection, there are three accepted durable solutions for refugee protection: integration into a host country, resettlement in a third country, or voluntary repatriation to refugees' home country (Moehler, Backer, 2012, p. 2). Because the non-entrée regime is defined by state policies aimed at keeping refugees out, the UNHCR now views resettlement and integration as unrealistic solutions (Loescher, 2001, p. 283). When Northern states keep refugees out, it puts an undue strain on states in the Global South "rarely willing or able" to protect these refugees beyond allowing UNHCR-run camps within their borders (Betts, 2009, p. 14). In consequence, the UNHCR shifted its focus to repatriation as a viable solution, the problem being that modern-day conflicts often have no immediate end. Decades often pass before repatriation occurs.

As a result, the vast majority of refugees do not have access to an acceptable permanent solution. In response, states and the UNHCR have resorted to hosting refugees in confined refugee camps (Betts, 2009, p. 14). They linger here for decades. A study done by the UN Refugee Agency (UNHCR) in 2004 found that the average refugee in protracted refugee situations — situations where the root cause of the crisis remains unsolved, and instability continues for years — lives in a camp for 18 years ("Protracted Refugee Situations"). Confining refugees to camps in the Global South directly serves Northern states' goal of isolating the refugee crisis. Says Agier (2011), "The present return of the 'camp solution'... extends an old strategy of the distancing of undesirables, and prefigures the possible future uses of the camp form" (p. 183). While these camps in theory provide temporary safety, they also "institutionalize long-term exclusion, marginalization, and waste of both human and financial resources" (Hyndman, 2000, p. 178). Utilizing camps as a *de facto* solution both stems from and upholds the non-entrée regime's focus on state restrictionism and security.

Detention Centers in the Non-Entrée Regime

While Alexander Betts and Phil Orchard provide a detailed understanding of how the refugee regime impacts people in the Global South, their analysis does not address refugees who flee to the Global North. What happens when a country in the Global North is the first country of asylum? I argue that the U.S.'s use of detention centers in the Central American Refugee Crisis provides insight into how the non-entrée regime affects refugees in the Global North.

Under a non-entrée regime, states use border security rhetoric to deny refugees protection. In the case of Central American refugees, this fear is created and sustained by subsuming these asylum-seekers under a larger fear of illegal immigration. The current political context is so vitriolic towards undocumented

immigrants that president-elect Donald Trump won following a campaign that demonized Mexican immigrants as rapists and criminals while emphasizing the need to build a wall along the U.S./Mexico border to protect the United States (Schwartz). In its press releases, the Department of Homeland Security (DHS) has repeatedly characterized these refugees as part of this larger fear, denying these asylum-seekers the “refugee” title and, instead, emphasizing their position as undocumented migrants. In its “Dangers Awareness” campaign, DHS addressed Central American parents, telling them:

To the parents of these children I have one simple message: Sending your child to travel illegally into the United States is not the solution... anyone who is apprehended crossing our border illegally is a priority for deportation, regardless of age (Department of Homeland Security, Press Office, 2014).

While the DHS recognizes that some of these people have legitimate asylum claims, they are posited as the exception, not the rule (The White House, Office of the Press Secretary, 2014). Thus, Central American refugees carry an indelible mark of crime, violence, and poverty regardless of their unique position as asylum-seekers.

Given this characterization of asylum-seekers as national security concerns, the three durable solutions have just as little applicability for refugees in the Global North as they do for refugees in the Global South. Integration and resettlement prove unlikely, as they would require either the United States or one of its Western allies to take responsibility for and protect these refugees. The final option, voluntary repatriation, is similarly unlikely. The endemic gang violence that caused hundreds of thousands of people to leave their homes does not show any signs of ending in the near future. In fact, rates of violence have only increased over the past decade, as have the number of refugees seeking protection in other countries (Nakamura, 2016).

Although refugees in the Global South may be held in refugee camps during the long interim between displacement and voluntary repatriation, the United States chose a different solution. The government uses detention centers to confine and process asylum-seekers. When these detention centers were first built following a spike in refugee flows in 2014, they opened in secret (Manning, 2015). At first, all the asylum-seekers in the centers were slated for “expedited removal,” meaning that in less than 20 days they would be deported unless they could prove their asylum claim (Manning, 2015). Because immigrants, asylum-seekers, and refugees have no Fifth Amendment right to a court-appointed attorney, the secrecy and the fast pace of the process essentially created “black holes of deportation” (Manning, 2015). These asylum-seekers were left to navigate a bureaucratic asylum process in a country and law system with which they are unfamiliar, making it nearly impossible for them to gain protected status in the United States.

Over time, legal non-profits became aware of these centers and their function. *Pro bono* attorneys now provide representation to the women and

children detained in these centers. However, such representation remains piecemeal. Attorneys have limited resources and cannot provide representation to everyone that filters through these centers. Only about one in three unaccompanied minors receive legal representation (Rosenblum, 2015, p. 7). Even with this representation, about one in five of these minors is still deported (Rosenblum, 2015, p. 7). Regardless, the effect of representation is significant. According to the Migration Policy Institute, of the cases for unaccompanied minors processed in 2014, over 90 percent of children without representation were ordered deported (Rosenblum, 2015, p. 8). The disparity between deportation rates for those with and without representation shows how the system is stacked against asylum-seekers who often do not have the resources to navigate bureaucracy.

The United States can legally deport so many asylum-seekers because it only needs to protect asylum-seekers that meet the 1951 Convention refugee definition. The UNHCR's expansion of refugee protection and cultural conceptions of who qualifies as a refugee do not hold legal weight. Therefore, Central American refugees need to prove individualized persecution based on their race, religion, political opinion, or membership in a social group, as well as an inability on behalf of their government to protect them from this persecution. Generalized violence or persecution does not qualify. This legal standard means, despite the fact that many people fear for their lives, the United States need not protect them. This standard is especially complicated in a legal system constructed to deter asylum-seekers. However, it is difficult to estimate just how many refugees have been deported. ICE often underreports or fails to report deportation statistics, typically failing to break down deportation of asylum-seekers (Human Rights First, 2016, p. 11).

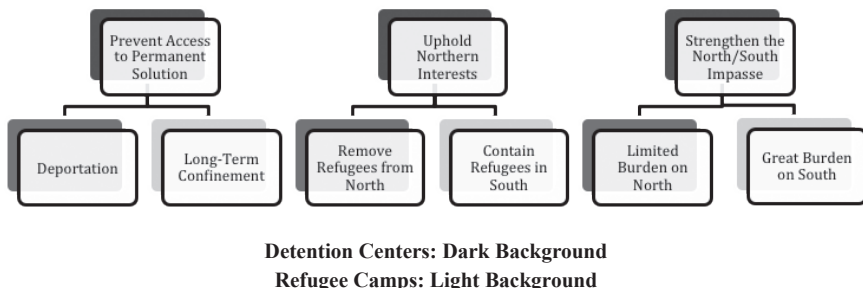
By deporting these people, the United States neglects its moral responsibility to protect people from returning to a place where they fear for their lives. Rather than confining people to refugee camps, the United States seeks to expedite a process of forcible repatriation legitimized by a bureaucratic legal system that is seemingly fair and just, but actually serves the power and will of the United States and the non-entrée regime rather than give refugees a fair chance to seek protection.

Effects of the Non-entrée Regime

Both detention centers and refugee camps function to uphold the non-entrée regime and, thus, Western interests. Under the non-entrée regime, the Global North seeks to avoid responsibility and prevent refugees from entering its borders. Figure 1 demonstrates how both structures make it possible for the Global North to do so.

Both detention centers and refugee camps keep refugees confined to the Global South, either through containment in the South or deportation out of the North. This distancing of refugees reinforces the idea that such crises are regional issues, not an international responsibility which ultimately reinforces and re-trenches the divisive regime.

Figure 1: Detention Centers and Refugee Camps under the Non-entrée Regime (Detention centers: Dark background, bottom row. Refugee camps: Light background, bottom row)



The Lived Effects of the Non-Entrée Regime

The closest most Westerners come to refugee camps is through Christian Children’s Fund commercials. To the West, camps seem distant, foreign, and stereotypical: they conjure images of thatched huts, overcrowding, and malnutrition; they evoke fears of violence, rape, and insecurity. The West simultaneously pities and fears refugee camps and, by extension, the residents within them who invoke both sympathy and revulsion. The refugee is the other – confined to a world, a camp, far away. The West can safely denounce camp conditions without ever interacting with a refugee. By comparing U.S. detention centers to Dadaab, a Kenyan refugee camp that exemplifies the sprawling, untenable refugee space, I localize the distanced abject and emphasize the need to grant protection to Central American asylum-seekers.

Refugee Camps as Spaces of Exception

Attempts to characterize the “average” refugee experience will always erase particularities. In a structure like Dadaab that holds over 400,000 people, diversity colors camp life (Kamau and Fox, 2013, p. 3). According to anthropologist Michel Agier (2011), “Refugee camps are always hybrid organisms, not reproducing any socio-spatial form that already exists; they are new experiences for the locality in which they are established” (p. 56). Therefore, it is impossible to say that life in Dadaab *is* anything; it “embod[ies] a tension between discourses of universality and particularity” (Hyndman, 2000, p. 88). However, through compiling work done by various ethnographers, academics, and journalists, we can understand how spaces oppress their residents. Building from the work done by political geographers, I argue that, despite varying structural

and political differences, both detention centers and refugee camps act as spaces of exception, causing effectual statelessness for their residents.

Derived from Italian philosopher Giorgio Agamben's "state of exception" (2005), the space of exception suspends the rule of law, making the camp a "zone of indistinction" between fact and law, norm and exception, integral to the constitution of the political order of modernity" (Ramadan, 2013, p. 67). For many scholars, Agamben's "state of exception" occupies the theoretical center of the refugee camp, wherein people are "excluded from the rights and protections of the law, stripped of their political existence, and reduced to 'bare life'" (Ramadan, p. 68). While this theoretical concept proves useful, it is important to understand the limitations of its application. To assume camps reduce all people to "bare life" strips refugees of their agency. It is more useful to understand this as the *intent* of the camp; complexity persists despite this.

Michel Agier's (2011) focus on structural impacts provides a more useful understanding of the "space of exception." He explains the term as defining "the new routine of their existence," highlighting refugees' newfound lack of mobility to move freely or work in their host countries (p. 81). What results, he says, is a de facto lack of citizenship – they are no longer true citizens of their home country, nor citizens of their host country (p. 81). This effective statelessness deprives refugees in two ways: first, it facilitates a loss in belonging to anywhere but the camp; second, it necessitates a loss in state-sponsored rights. As stateless people, refugees rely on international law to dictate their rights (Agier, 2011, p. 81). This means the UNHCR and various NGOs govern refugees' daily lives and wellbeing. Because often there are not controls over these agencies' power, their dominance is never threatened, giving select agencies control over their livelihoods (Agier, 2011, p. 84). This unchecked power creates conditions where "violations of human rights... can be perpetrated with full impunity" (Verdirame and Harrell-Bond, 2005, p. 333).

On the surface, UNHCR control over camps may seem positive; residents appear to receive a stable influx of food, water, shelter, and medical care (Agier, 2011, p. 81). Yet, this control also robs many refugees of their basic liberties wherein organizations and individuals "decree other rules that are specific to these locations, and thus exert exceptional domination," creating a culture of internal violence (Agier, 2011, p. 81). Assaults on international human rights – civil, political, economic, social, and cultural – "are an everyday occurrence," carried out by both organizations and the residents themselves (Agier, 2013, p. 83). Reports of rape and abuse by humanitarian workers as well as fighting and sexual violence among the residents create an environment in which safety and mental health are continually threatened. Maldistribution of food, restricted mobility, and denial of employment similarly impact refugees' livelihoods, making them dependent upon the camp. Verdirame and Harrell-Bond (2005) argue the camp "constitutes a unique setting for the arbitrary exercise of power" (p. 332). This power comes at the expense of refugees' rights.

I argue that, like refugee camps, United States detention centers

exemplify this space of exception. To make this case, I use two case studies. First, I look at the Dadaab refugee camps in Kenya to show what a space of exception looks like in practice. Then, I focus on the U.S. detention centers more generally, outlining the rules and violence that influence asylum-seekers' lives within the space. In doing so, I draw parallels between the governance of both. Although the UNHCR manages the Dadaab camps while the U.S. government exercises complete control over detention centers, both have similarly devastating effects on the people they govern.

Life in Dadaab, Kenya

Governance & Violations of Human Rights

The Dadaab refugee camps house more refugees than any other compound in the world, holding more than 400,000 people in its five camps (Kamau and Fox, 2013, p. 3). The compound was built in 1992 after the eruption of the Somali Civil War and subsequent displacement of hundreds of thousands of Somali people. This displacement followed a long and politically fraught relationship between the two formerly colonized nations. Colonial borders separated the Somali people and caused ethnic tensions both between the states and within Kenya, where Somalis faced decades of institutionalized oppression (Hyndman, 2000, p. 47). So, when refugees began pouring over the Kenyan border in early 1992, the government did not welcome them (Hyndman, 2000, p. 47). Regardless, it was "obliged to tolerate them, partly because of its commitment in international law to the UN Convention and Protocol Relating to the Status of Refugees and to the OAU Convention, and partly because it continued to need the foreign aid of donor countries" (Hyndman, 2000, p. 51). Their involvement remains minimal; Kenya refuses to grant Convention refugee status to the Somali people, despite the fact that the United States, Canada, and the United Kingdom have done so. Furthermore, it distances itself from camp operations (Hyndman, 2000, p. 53). This has two major effects on the refugee population. First, Somali refugees receive UNHCR prima facie refugee protection rather than Convention status. Second, the UNHCR and various NGOs have unchecked power over the governance of the camp. These two effects are intertwined, making refugees wholly dependent upon humanitarian assistance.

Prima facie refugees do not enjoy the same rights as Convention refugees. They are, as Jennifer Hyndman (2000) describes them, second-class refugees (p. 176). This status means Somali people are confined to the camp; their lives stretch only so far as the barbed wire fences surrounding them. Unable to return to their home country and denied the right to become citizens in Kenya, these refugees become trapped in the de facto lack of citizenship of which Agier warns. As stateless people, they are at the mercy of the humanitarian regime for their most basic needs, which often cannot be met.

This statelessness is rarely temporary. The wait in Dadaab can prove

excruciating. Some residents stay in Dadaab for 25 years (Kamau and Fox, 2013, p. 3). According to Agier (2011), “the management of spaces under the regime of humanitarian government makes these camps a space of pure waiting, devoid of subjects” (p. 145). This long wait permanently alters the structure of the camp in both positive and negative ways. Over time, “the camps gradually transform themselves. From spaces of transit and waiting, some of them organize themselves into ‘towns’ despite not being endowed with an urban project inasmuch as everything is designed not to last” (Agier, 2011 p. 186). Indeed, Dadaab refugees do assert their own autonomy within the refugee camp. In building a market economy in which refugees trade and barter leftover food rations and materials, they assert autonomy over their own space and livelihoods. However, the refugee economies in Dadaab are a by-product of the space, not its intention. Says Hyndman (2000), “Very little social and economic infrastructure is developed in the camp context to enhance the lives of people living there... and build potentially autonomous organizations or institutions in the host country” (p. 177). Therefore, the structure does not facilitate this economy; it merely tolerates it.

Dadaab functions to provide refugees with basic necessities and to contain them to one geographic location, overseen exclusively by the UNHCR and humanitarian NGOs with the brunt of this responsibility falling on the UNHCR (Hyndman, 2000, p. 122). While the UNHCR and other global NGOs provide refugees with food twice a month, basic medical services, basic housing materials, and primary schools, refugees receive little more in Dadaab (Hyndman, 2000, p. 108). The structure of the camp functions only to maintain “bare life.” However, even these are not guarantees. Over the course of Dadaab’s 25 years, various NGOs and even the UNHCR have withdrawn humanitarian aid. The UNHCR temporarily withdrew support in 2011 following the kidnapping of aid workers; in 2015, Médecins Sans Frontières (MSF) suspended services in two of its four medical posts following violence and escalating insecurity; since the end of 2013, the World Food Programme temporarily cut rations three times, sometimes by up to half, to conserve dwindling resources (IRIN News, 2015, Médecins Sans Frontières, 2015, Gladstone, 2015).

To maintain funding and plan accordingly, the UNHCR must find ways to “order disorder,” often done through headcounts and situation reports, as well as the continual collection of “biodata,” personal information pertaining to refugees’ asylum claims (Hyndman, 2000, p. 122). These headcounts serve a census function, but utilize Kenyan police and army personnel who awaken refugees and force them into fenced lots to be counted and marked (Hyndman, 2000, p. 126-7). Hyndman argues, “Headcounts are a coercive exercise conducted by humanitarian staff on the bodies of refugees. The ‘us’/‘them’ distinction is clearly drawn” (p. 131). This reinforces refugee status as inferior and subject to complete control, a mentality that has a serious impact on their well-being.

Impact on Mental Health

Disregard for refugee autonomy and a focus on meeting only basic needs seriously damages refugees' mental well-being. Because residents do not have access to employment or mobility, the camp is their only source of community and interaction. This often leads "to inactivity, apathy, and dependence on humanitarian care and assistance or alternatively towards local networks of work and commerce, informal and inevitably 'illegal'" (Agier, 2011, p.55). For refugees, this results in depression and feelings of imprisonment as they reside in the geographical and political outskirts (Hyndman, 2000, p. 177). Says Agier (2011), "it is true that the camps of today are generally not prisons, but they are often experienced as such, even when life within them is not strictly carceral" which he calls a form of "imprisonment outside" (p. 182). By containing individuals for extended, unknown periods of time, Dadaab acts as effectual prison state wherein refugees are distanced, ignored, and contained.

This "imprisonment outside" exacerbates emotional and psychological trauma and reproduces violence (Agier, 2011, p. 182). These Somali refugees fled to escape war trauma, violence, and persecution, but once arriving at Dadaab, they do not find solace; they find more stress. The structure of the camp, as well as the long periods of uncertainty and waiting, is an inherently stressful environment. Organizations lack capacity to assess how many Dadaab residents suffer from mental health issues, but studies show that refugees resettled in Western countries are ten times more likely to suffer from post-traumatic stress disorder (PTSD) than the average civilian (Fazel et al., 2005). One in three refugees suffers from depression, compared to one in fourteen Americans (Steel et al., 2009). Médecins Sans Frontières psychologists working in Dadaab report treating PTSD with alarming frequency, citing persecution, torture, and war in their home country as root causes (Onyiego, 2011). The camp itself often exacerbates PTSD or depression symptoms, as trauma often follows them untreated for years, if not decades (Onyiego, 2011). While the UNHCR and other NGOs have services to address refugees' mental health, these resources are lacking. Very few Dadaab refugees receive the breadth of services they need to work through their trauma, if they receive services at all (Chen, 2016). As such, these illnesses fester and compound, leading many refugees to develop unhealthy coping mechanisms such as remaining anti-social, chewing khat (a leaf with stimulant properties), or resorting to violence (Chen, 2016).

Structural Violence Enacting Interpersonal Violence

While violence has many origins, I argue that structurally enforced idleness, combined with trauma and long-term containment, creates a violent environment. Women and children, Dadaab's most disempowered residents, are particularly vulnerable within the camp. Reports of assault, harassment, and rape

are common (Kamau and Fox, 2013, p. 12). Understanding high rates of sexual violence requires understanding structural factors beyond patriarchal dominance. Utilizing theories outlined by feminists Kimberlé Crenshaw and Gloria Anzaldúa, I argue that this sexual violence is an effect of the space itself. Both Crenshaw and Anzaldúa understand intimate partner and family violence as an effort by oppressed people to reassert their own power (Anzaldúa, 1987, p. 373, Crenshaw, 1991, p. 392). However, this violent reassertion further oppresses the most disempowered (Anzaldúa, p. 373). It is clear that men in Dadaab are oppressed; like all residents, they are denied access to employment, are confined for decades, and cope with traumatic pasts. Frustration and subsequent violence is a natural yet devastating result.

This violence only perpetuates and increases the mental sufferings of people within the space. Insecurity breeds stress, anxiety, and depression, especially for women and children who are often stigmatized and shamed if sexually assaulted. This violence is structural; this depression and anxiety is structural. According to Michael Kamau, a therapist who works with refugees in Dadaab through the Center for Victims of Torture, refugees have nowhere to place their energies, something that even the best mental health care cannot remedy (Chen, 2016). If violence and associated mental health problems are structural, their solution must be as well. Reforming the camp itself can only do so much – radical improvement of refugee life will require fundamental changes to the political context governing refugee camps.

Life in Detention

Governance & Human Rights Abuses

Comparisons between life in U.S. family residential centers and prisons do not appear out of nowhere. The United States routinely detains immigrants crossing the U.S./Mexico border or found to have overstayed their visas (“Expedited Removal and Family Detention: Denying Due Process”). Across the nation, immigrant detention centers, often converted prisons run by for-profit prison corporations, house immigrants awaiting deportation hearings (Vera Institute of Justice, 2015, p. 4). The Department of Homeland Security also houses immigrants in operating state prisons and county jails, who receive federal money for detaining those slated for deportation (Vera Institute of Justice, 2015, p. 4).

In 2014, when a record number of children and families from Central America crossed the border seeking protection in the United States, they fell into this system. As part of its aggressive deterrence strategy, the Department of Homeland Security detains and effectively jails asylum-seekers (Human Rights First, 2016, p. 9). On June 20, 2014, ironically World Refugee Day, the Department of Homeland Security announced its plan to expand detention and build new facilities to process these Central American families (Human Rights First, 2016, p. 13). The goal was to send a message to other Central American

asylum-seekers and migrants that they would not be welcome in the United States (Department of Homeland Security, Press Office, 2014).

When ICE agents pick up Central American refugees at the border, asylum-seekers must convince these agents they will be hurt or killed should they return to their home country to avoid deportation. Often enough, ICE agents do not believe these fears or refugees do not make their fears explicit, and refugee interaction with the bureaucratic asylum system ends there (“Women on the Run” 45). They will be deported. Those who convince ICE agents of their fear are brought first to freezing jail cells known as *hieleras* [ice boxes] and then to detention facilities where they are held indefinitely while they await their proceedings (Juri-Martínez, 2015).

Despite the fact that it is legal under international law for asylum-seekers to enter a country without documentation, these refugees are treated like criminals (Manning, 2015). Once in these centers, refugees stay there until their cases are decided. Though many are granted bond, these bonds range between \$1,500 and \$100,000 which most cannot pay (Human Rights First, 2016, 27). These people are left with no choice but to wait in detention while their claims are processed, and they await either asylum status or deportation.

The South Texas Family Residential Center is surrounded by barbed wire. It is completely enclosed; refugees are meant to be kept in, and civilians are meant to stay out (Takei, 2015). These facilities are highly secure – guards watch the refugees 24/7, and their movement and actions are routinely monitored (Takei, 2015). Guards wake up children and families every morning at 5:30 a.m. with shouting and lights; security cameras encircle the camp; families are counted three times a day; guards institute frequent bed checks; families live in barracks-like structures; privacy does not exist (Takei, 2015). Like in Dadaab, this constant monitoring and head-counting engrains the separation between guard and resident, cementing an “us”/“them” dichotomy that devalues and others refugees.

Complaints of inadequate health care, inadequate education, and limited access to legal assistance mar the centers (Hylton, 2015). The lack of basic health care is critical. Central American refugees make a dangerous and long journey through Mexico, facing high rates of violence, kidnapping, and rape en route to the border. They are then put into the *hieleras* where women and children often catch colds and even pneumonia (Juri-Martínez, 2015). Residents, particularly children, also fall victim to fevers, vomiting, scabies, and lice (Hylton, 2015). When they arrive at the centers, they often do not receive adequate treatments for their illnesses. Rather, residents routinely wait hours to be seen only to be misdiagnosed or told they are merely experiencing symptoms of stress (Hylton, 2015). Similarly, the structure facilitates denial of due process, often obstructing refugee access to legal counsel and thus impacting their chance of receiving asylum (Hylton, 2015). Residents also report that the elementary schools for children, required as a right under the International Rights of the Child, are never reliably open, often closed with no warning and no given reason (Hylton, 2015). International human rights law declares health care, education, and due process to

be inalienable human rights. By failing to provide these rights, detention centers prove themselves to be a space of exception, wherein rights are suspended.

These detention centers do not exist for the comfort of asylum-seekers. They exist to deter, contain, and even profit. At 2,400 beds, Dilley is the largest family residential center in the country (Hylton, 2015). It is run through a contract between ICE and the largest private prison corporation in the United States, the Corrections Corporation of America (CCA) (Harlan, 2016). In Dilley's first year, CCA made 14 percent of its profit from it which is just one of its 74 facilities (Harlan: 2016). Centers like Dilley do not exist to provide safety, security, and wellbeing for these asylum-seekers. They exist to maintain the bare life and to profit from it when possible. This failure to address the complexities of refugee life traumatizes its residents.

Impact on Mental Health & Interpersonal Violence

Refugees living in family detention centers in the United States cope with serious mental illness. Given the prison-like structure of these centers as well as the uncertainty of waiting and citizenship, women often internalize the trauma of being an indefinite prisoner (Neale 2014, p. 9). A joint complaint filed by three immigrants' rights organizations highlighted the effect detention has on families, claiming it "either creates or exacerbates trauma in the women and children detained there" (Lucas et al., 2015). A 2003 study of the detention of asylum-seekers found that 77 percent had "clinically significant symptoms of anxiety," 86 percent exhibited symptoms of depression, and 50 percent of post-traumatic stress disorder (Keller et al., 2003, p. 1721). These numbers are significant. According to the National Institute on Mental Health, about 18 percent of the U.S. adult population suffers from anxiety of any kind, 6.7 percent suffer from depression, and 3.5 percent suffer from post-traumatic stress ("Prevalence"). The study also found that the "detention of asylum seekers exacerbates psychological symptoms" (Keller et al., 2003, p. 1721).

Little research has been done indicating the effects of untreated mental illness in family detention. However, the ACLU reported that in U.S. immigrant detention centers – similar structures that house undocumented migrants, not asylum-seekers – vulnerable populations, particularly LGBT-identified people, face higher levels of harassment and abuse from other detainees ("In Their Own Words," 2011, p. 23). Children in family residential centers are similarly vulnerable members of their population, and a few have reported sexual assault by female detainees (Planas, 2016). Power dynamics position children as even more disempowered than the adult women, a hierarchy that could result in further abuse.

Effects of Abusive Spaces

As spaces of exception, both refugee camps and detention centers have devastating effects on their residents. Figure 2 demonstrates how limited oversight

of both spaces, as well as a continued unwillingness by donor countries to care for refugees, facilitates a slew of human rights abuses that often endanger their access to even necessities of “bare life.”

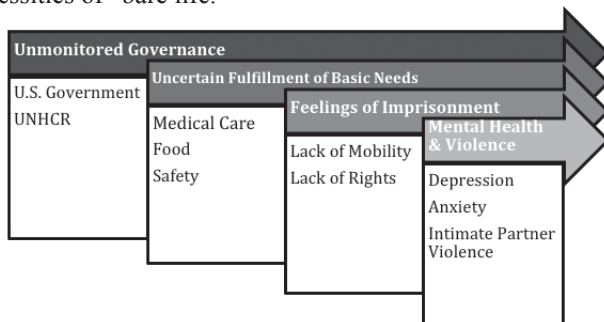


Figure 2: Refugee Camps and Detention Centers as Spaces of Exception

This is not to say refugees lack all rights in either space. According to Agier (2011), “The refugee camps are not zones of ‘non-right,’ but rather zones of exceptional rights and power, where everything seems possible for those in control” (p. 82). Exceptional rights and power have exceptional effects, ultimately denying refugees in camps and centers safety, security, and mental well-being.

Conclusion

Dadaab may be a city, and Dilley may be a prison, but both serve the same function: they uphold the current refugee regime and confine refugees to the Global South. Scholars and activists document the effects of this and detail the human rights abuses inherent in both spaces. Similarly, they recognize that both camps and centers allow the Global North to avoid protecting refugees. However, their analyses often fail to understand both centers and camps in connection to one another. I argue that putting these two structures in direct comparison contextualizes the human rights abuses in both spaces and illuminates the full effects of the non-entrée regime, which Orchard argues exists to prevent refugees from ever reaching the Global North. My analysis builds upon this, demonstrating that Northern states not only seek to prevent refugees from entering their borders, but also deport refugees should they reach the North.

This comparison also ruptures Western conceptions of the refugee camp, which are stereotyped by assumptions of Third World poverty and poor governance. Should we understand detention centers as refugee camps in their own right, we must understand that Western governments enact similar violences on refugees seeking protection. Both states in the Global North and South deny refugees adequate medical attention, comfortable living conditions, and physical and mental security; both fail to meaningfully protect those displaced by violence, persecution, and war. By reframing detention centers as refugee camps, American

citizens may be able to better understand xenophobic rhetoric against Latino immigrants as part of a larger and more complex political situation. Adding this larger context, in turn, may give citizens the necessary tools to resist this language and its accompanying policies.

Finally, this comparison illuminates that it is not only the spaces themselves, but the refugee regime that is abusive. Because both spaces have similar effects on their residents and function as part of the same regime, it becomes clear that it is not the spaces, but the regime that institutionalizes oppression. Therefore, efforts to reform both detention centers and refugee camps are Band-Aids to a systemic problem. Building refugee economies or improving facility conditions, while important for many refugees' day-to-day lives, alone will not alleviate all effects of confinement nor prevent violence. I argue concrete improvements to refugees' livelihoods can be made more effectively at the international political level, perhaps through renegotiating states' responsibilities as outlined by the 1951 Refugee Convention to further clarify the role countries without camps must play during refugee crises. Refugee law should not be used as an ambiguous way for states to opt in and out of responsibility, but as a way to create a covenant between nations about how to best care for those in crisis. Reforming the refugee experience requires reforming the political system that underpins it, seeing asylum-seekers not as pitiable yet feared others, but as people entitled to complex and free lives.

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