

BORDERS, MIGRATION, AGENCY

BORDERS, MIGRATION, AGENCY:
RE-IMAGINING GLOBAL NON-CITIZENSHIP IN IRREGULARITY

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Abstract

This dissertation investigates how the politics of asylum are implicated in our understandings of political agency for non-citizens. Using qualitative methods of interviews and participant observation, I centre migrant narratives in my analysis and begin from the migrant experience to investigate the development and practices of a global regime of management and control over migration, asking how migrants both participate in and challenge the shaping of this regime.

The sites examined are refugee camps in Western Tanzania, the border zone between Spain and Morocco, and the detention regime of Australia. In each case a border space is created where the sovereign politics of migration operate to control migrants, and to manage their capacity for political agency and mobility through discourses and practices of exclusion. In each case, the regime is situated within a global system of securitized migration oriented explicitly against irregular migration. In each case the migrant narratives from within the border space reflect active participation in shaping the border politics in direct challenge to dominant narratives of control.

I argue that the dichotomy of voluntary/forced migration that has characterized the refugee and migration regime since 1945 is being replaced by a more rigid dichotomy of regular/irregular migration. The implications of this shift are found in more advanced and securitized border regimes and practices.

My conclusions directly challenge the characterization of the border space as a space that is not only exceptional, but exclusionary, abject and without the possibility for politics. Rather, I argue that an understanding of politics as momentary and everyday, and of politics as contestation reveals a radical political agency that re-imagines the global non-citizen as a transgressive and powerful figure. Further, I argue that this re-imagining of global non-citizens reveals possibilities for a politics that dramatically changes contemporary state-centred understandings of border regimes.

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INTRODUCTION

Situating Migrant Narratives in Irregularity

This study begins from a focus on the individuals engaged in international migration. I examine the politics of non-citizenship, and ask how the agency of non-citizens is controlled through border practices and the spaces of exception that exist at global borders. I also ask how we can differently understand the politics of migration and asylum if we do not start from a place where citizenship is the “normal” against which everything must be compared. Rather, I begin from a place where the non-citizen is central as a transgressive and disruptive figure in world politics who challenges the ways in which we understand political subjectivity.

I began my field research in Tanzania, Spain, Morocco and Australia with the intention of focusing on refugees and asylum seekers, so often put forward as the archetypes of the imagination of the non-citizen (see Arendt 1951; Brettell and Hollifield 2008; Chimni 1998; Dillon 1999; McNevin 2006; Nyers 2006, 2009a; Rygiel 2010; Soguk 1999; Squire 2009). Several moments of encounter that occurred during my field work, however, gave me pause. In Tanzania, I met a young man who was refusing to participate in the repatriation program back to Burundi, choosing instead to live outside of the camp – effectively making himself “illegal” - and to work at local farms. In Spain, I met a group of children who had chosen to migrate across the border of Melilla from Morocco, smuggling themselves beneath trucks and buses or swimming around the fence. They could not properly be called asylum seekers, but they were living in a space of exceptionality in the government centre for unaccompanied minors. They were challenging this space by demanding that local authorities take account of their complaints about living conditions, chanting: we have rights!

(¡Tenemos derechas!) In Australia, I met a detainee who had overstayed his visa and then claimed asylum “too late” (after forty-five days from arrival) and so had been put in detention. He was on hunger strike in support of his final appeal against his deportation.

Not all of these individuals were refugees; not all of them were even asylum seekers, and those who had claimed asylum were having the legitimacy of that claim and that identity challenged by the state. They were all, however, irregular migrants, made irregular by their own migration choices and engaged in a politics of irregularity that I believe has more to tell us about contemporary border and migration politics than could a more classic focus on refugees. My focus shifted.

The objectives of this study are three-fold. The first is to situate migrant narrative and voice within a broader study of global politics in a way that reconfigures our understanding of irregularity. In doing so, I aim to address a gap that I see in much of the International Relations literature that engages with migration. Broadly comparative work as well as studies that engage with the international and the global can be very institutional in analysis, focusing on policies and processes and the state and non-state actors who carry them out. This, I believe, is largely because such a viewpoint enables a more stable basis for comparison across time and space; the activities of institutions are more durable. In this view, the migrants themselves can appear transitory and impermanent. Indeed, the very nature of irregularity brings a sense of the temporary to the everyday experience of the migrant; the experience of irregularity in the temporal dimension lacks a firm orientation to the future. It is with an implicit assumption of the future that we traditionally engage in social study, particularly study that has a policy or problem-solving orientation, and so this

temporariness only reinforces the invisibility and silence of the migrant. Migrants appear as shadows on the otherwise sharply drawn framework of migration regulation. The exclusion of migrant voice, however, obfuscates the lived consequences of these policies. It is towards highlighting these consequences so we can better understand them that this study is oriented. By accounting for migrant narrative and voice we can assert the irregular migrant as a powerful actor engaged in shaping the politics of migration, rather than as a passive, non-present object upon whom regulation is enacted.

The second objective is to assess the presence of a global regime for international migration as it is perceptible from the perspective of the local. Despite the lack of a global regulatory regime of formal governance (see Betts 2008, 2011; Castles 2007; Crisp and Desesalegne 2002; Ghosh 2007; Gibney 2004, 2007; Loescher 2003; Noll 2003; Spencer 2003), I argue that a global regime for asylum and migration exists. This regime operates through shared norms and expectations embedded within the distinction between irregular and regular migration and also in the lived, everyday experience of the individuals moving through the spaces and across the borders that are created and shaped by this regime. In working towards this goal, I assess the development of a global regime that is shaped in practice not through a forced/voluntary migration paradigm, but through an irregular/regular migration paradigm.

The third objective emerges directly from the first two. By prioritizing migrant narrative in the study of non-citizenship and the global politics of migration, and by understanding irregular migrants as actors in the practices and structures of global migration, an engagement with the daily lives and politics of irregularity emerges. This allows us to also

interpret a political agency for the irregular migrant that is potentially powerful and transformative at the level of the everyday and the momentary. Such an understanding reconfigures our conceptualization of irregularity as active and transformative rather than as abject and excluded. It also pushes us to rethink the political agency of the non-citizen, and to ask how a focus on the everyday of irregularity, and on the moments that reveal its politics, allows us to rethink how politics takes place in relationships of solidarity across the citizen and non-citizen divide.

Irregularity: a working definition

Irregularity, to be “irregular,” in migration is to experience mobility in ways that are outside of the strict policies and procedures of management and control that govern border regimes. To become irregular, one crosses a border without permission or in a way that is outside of the frameworks provided for, bypassing all check-points and without valid papers. To move in any way outside of the state frameworks and structures is to move “irregularly.” While this most often denotes what is commonly called “illegal migration”, I argue that it also encompasses those who do not bend to the categorizations and understandings – and subsequent movements and identities – that are shaped by the state. The category of “illegal” migration (or even, in some policy circles, the gentler “unauthorized” migration) is in many ways a category created by the state to cordon off groups and individuals, marked by their migration strategy as “outside” (of the law, particularly). This enables the continued exclusion of a criminalized element, justifies restrictive and punitive state policy, and enables a reinscription of state management and control. My conceptualization of “irregularity”

enables a recognition of these dynamics, but pushes beyond such closure into a political negotiation and re-negotiation of status, power, agency, and resistance. Irregularity is thus an experiential concept as much as it is a status or a kind of mobility. As an experience it is as much about the unauthorized crossing of borders (a demand for mobility) as it is about a lapse of legal status and a refusal to cross borders again (a demand for residence). A refugee who refuses to participate in a repatriation program becomes irregular, as does a migrant who chooses to stay beyond the legal terms of a visa, in defiance of state law and expectation.

An understanding of irregularity emphasizes the political nature of the border spaces – such as detention centres, refugee camps and the border itself – that the state creates to manage and control migration. Irregularity directly challenges the sovereign power both to define the territorial nation-state as the only political space and place in the international order, and also to assert citizenship as the only status embodied with political agency. Irregularity represents a rupture and an interruption in these dominant global discourses as migrants assert their presence and reshape political space.

Within this conceptualization, “regular” migration is revealed as regulated migration. It is mobility that takes place through the processes orchestrated by the state as ordered gateways within the architectures of border control that are erected in the name of security. This regulation takes place through the marking of certain individuals as acceptable, appropriate and allowed, a marking that is communicated by who they are, overlaid with discourses of race, class and gender, but more importantly by how they move. Others are thus unacceptable, inappropriate and disallowed – these, again, are officially marked by how

they move, while the marks of identity work to constrain and shape the experience of irregularity. Border politics, particularly in the global North, is obsessive over this distinction, managing regular migration into well understood and ordered processes and fiercely controlling, repelling and, when at all possible, preventing irregular migration, portraying it as dangerous, threatening, and criminal.

The shrinking space for asylum and refugee migration is perhaps the most important indicator of this changing international migration regime. As “regular” migration is usually limited to immigration that follows the appropriate channels, makes the proper applications, pays the correct fees and waits for the official permissions, I argue that refugee migration can be understood as “regular.” “Refugee” is a status that has a clear definition in both international and domestic law. The recognitions and rights afforded to status refugees under the 1951 Convention enable refugees to access a political status within the state that, while not equivalent to citizenship, mirrors many of its entitlements. To become a refugee (although not necessarily to be an asylum seeker), an individual must also go through a particular process, make certain applications, and receive specific permissions. Such individuals are seemingly easily categorized within the state, and have ascribed rights, duties and behaviours that enable the state to regulate their mobility in defined ways. Within these entitlements, the refugee is permitted access to the political space of the citizen. While they do not have full membership, certainly, their presence and participation in the life of society is legitimated by the state.

The impetus of most refugee migration, however, remains with the individual. Rather than waiting for permission from the state to move, a refugee often waits instead for

permission to reside. As such, the act of crossing the border still represents a rupture, and regularization occurs after the fact. Refugee migration is thus at the limit of regular migration. As a result, measures that constrain and manage mobility are first and most obviously seen (and experienced) within the category of asylum. This is evident across multiple contexts and spaces, as is the immanent irregularity experienced by asylum seekers waiting to achieve the “regularized” status of the “refugee.” In the North, this status is difficult to achieve, and so irregularity becomes the defining experience of the asylum seeker.

Nevzat Soguk (2007: 289) writes:

Nowadays, “becoming” a refugee or an asylum seeker through legal openings is almost an impossibility, while illegal immigration translates into experiences of overwhelming estrangement from basic rights.

Asylum seekers are pushed into the realm of irregularity, marked by how the border was crossed. While most commentators see the refugee as an “ideal figure” that marks non-citizenship, I argue that once refugee status is achieved the protections of status soften this exclusion and allow individuals to access the space of the citizen. Refugees become “regular”; it is irregularity that, in today’s migration regime, is the most critical identifier of non-citizenship. It is for this reason that asylum seekers – those formally recognized by the state and especially those denied this recognition but who continue to self-identify as such – are the group who most clearly reveal the politics of migration and asylum as determined by irregularity. It is this group who are at the centre of this study, and this group who straddles the already tenuous divide between forced and voluntary, irregular and regular, and who contest and resist this divide.

Irregularity and control

Irregularity in the sense described above is an experiential condition, with both spatial and temporal dimensions. It is also, however, fundamentally shaped by dynamics of control and resistance. As I elaborate in Chapter 3, the shifts that are perceptible in the international regime are towards policies of prevention and containment, towards greater state control of irregularity. There is not a global Convention for migration broadly speaking, and the provisions for asylum governed by the United Nations Convention Relating to the Status of Refugees (hereafter the UN Convention or the 1951 Convention) are being eroded by mixed migration flows and the securitization of borders, accompanied by the emphasis on prevention and containment. An international regime, however, does not require an associated regulatory regime. It can be understood as a pattern of norms that shape expectations and behaviour that is driven by a central governing principle (see Hasenclever, Mayer and Rittberger 1997; Finnemore and Sikkink 1998). For international migration, this central principle is state control. In many ways, this principle is what prevents global regulation, and is what is eroding asylum provisions. This challenge to asylum is driven by the shift to a focus on irregularity. It is operationalized by the state capacity to decide both who crosses a border and how it is crossed. The irregular migrant is in many ways the central object of the regime as irregularity is the defining problem. However, irregularity is also an experience from which challenge and resistance to this control arise. It is not simply a problem, representative of disorder, marginalization and powerlessness. It is also contestation, profoundly political and powerful.

These dynamics play out across both temporal and spatial dimensions. Temporally, there are several aspects to irregularity. From the state perspective, particularly in the orientation towards prevention, irregularity is expressed in terms of the future. Policy is oriented towards preventing future migration, towards stopping irregular migration before it happens.

From the migrant perspective, the temporal dimension is actually characterized by an absence of this future-orientation. It is characterized by seeming “stuck”, “captured” and unable to move forward; it exists as a sense of permanent temporariness. In this sense, control is exercised and expressed not only through controlling mobility, but also through an inhibition and control of political agency. This connection between mobility and agency underscores the discourse that demands a regulation of irregularity, a return of the irregular to the normal order – to regularity. I argue that, to the degree that the traditional study of migration and asylum is both policy and problem-solving oriented, it is also future-oriented, and incapable of effectively encompassing the “permanently temporary.” As a result, the experience of temporariness inhibits our effective engagement with the irregular migrant.

However, as much as the experience of irregularity is seemingly oriented in a way that inhibits the irregular migrant’s participation in the politics of migration, I argue that by readjusting the temporal orientation of how we ourselves encounter the politics of migration, irregularity, and our study of each, we can overcome this barrier. By recognizing the dynamics and the power of the everyday, by accounting for “moments” rather than for permanence, we can engage with the potentially powerful politics of irregularity and the migrants who shape it.

There is a similar dynamic of capture and freedom, control and resistance, within the spatial dimension of irregularity. The borders as well as the detention centres, camps and border zones that characterize the spatial encounters in irregularity can function to capture and prevent the political engagement of irregular migrants. Largely because of the direct connection between irregularity and mobility, many of the studies of asylum and irregular migration focus on these spatial dynamics. Building particularly on Giorgio Agamben's notion of the Camp, these studies often concretize the borders and boundaries of these spaces into firm, often impassable, barriers not only to mobility, but to political agency and subjecthood.

These spatial encounters, much like the temporariness of the temporal dimension, have real and important impacts. Much as beginning from the migrant perspective reshapes our understanding of the temporal by drawing renewed attention to moments and the everyday, beginning from the migrant perspective also directs us to new understandings of the spatial. Rather than concretizing the physical borders and fences that are (or are not) crossed, this perspective reveals how space is shaped by migrants as much in their mobility as in their immobility; the "space" of irregularity is as much the places on the other side of the fence as those contained by the fence in structures used by the state in attempts to control and manage irregularity.

I argue that there is today an international migration regime. It operates at state borders globally, taking different specific forms but always maintaining a "regular" migration that is state-condoned and an "irregularity" that exists outside of these processes, statuses and regulations. In this paradigm, refugee migration to the global North through

resettlement programs is in many ways “regular.” Movement takes place through processes of permissions and selections made in distant refugee camps, and when individuals arrive at the border their status is already determined and approved by the state, their papers already in order, and their migration managed from beginning to end. Irregular migration, by contrast, evades this control and crosses geographic borders by ways and means not controlled or condoned by the state. Mass border crossings, such as those attempted at the Spanish enclaves of Ceuta and Melilla in 2005, which were understood as “attacks” on the border, are glaring examples of such attempts. There are quieter ways. Boat crossings, stowaways on trucks and ferries, and the use of smuggling networks are all characteristic of irregular migration at the border. Asylum seekers, in as much as they access mobility as individuals and without the express permission or sanction of the state, are too often captured in the net of border control – and are prevented and deterred as much as those moving for other reasons. It is irregular migration that is the object of border control, and increasingly restrictive regimes are designed to both prevent and deter such movements in the name of border security. The consequences of such status have similarity across global contexts and spaces, and an understanding of this is needed if we are to apprehend the implications of the exclusions that the irregular/regular, non-citizen/citizen divide imposes. To achieve this I have incorporated migrant narratives into the framing of categories, precisely to destabilize these categories and to open up space for a potential politics. In rupturing the border and resisting its fixity, I argue that such narratives can tell us more about the politics of migration and asylum that occur at the borders we patrol than anything else.

Outline of the Study

This study examines the dynamics of irregularity in the international migration regime, and the powerful role migrants themselves have in shaping the politics of asylum and migration. Throughout, I investigate how rethinking irregularity in this way also reframes our understanding of political agency, with implications not only for irregular migrants, but also for non-citizens more generally.

Chapter 2: *Narratives, Methods and Moments* provides an overview of the methodological framework for this study. I describe my overall theoretical framework, assessing how analysis rooted in a postcolonial approach can contribute to an engagement with irregularity that begins from the migrant perspective. I detail the sites of intervention – the refugee camps of Tanzania, the border zone between Spain and Morocco, and the detention centres of Australia – and outline how this method differs from a traditional case study approach. With these differences in mind, I present a discussion of narrative and moments that is rooted in the concrete methods I used in the field. Finally, I present a consideration of the ethical implications of work that is embedded in the field and that works with vulnerable and marginalized populations, detailing some of my own struggles and challenges, and also how I believe a consideration of ethics can contribute to our understanding of migrant agency.

Chapter 3: *From Forced and Voluntary to Irregular and Regular* and Chapter 4: *Framing the Migration Regime in Border Control* develop the global and local policy contexts for irregular migration. Chapter 3 assesses the shape and practices of the international migration regime, tracing its historical development and its impact on irregularity. I argue that the development

of the regime has been characterized by a shift from a forced/voluntary migration paradigm to one of irregular/regular migration. Moreover, this shift has driven/been driven by a securitization of the regime, and a shift towards an emphasis on policies of prevention and containment and on state control and the state's capacity to decide. Chapter 4 localizes the impact of this paradigm shift on the specific contexts of Australia, Spain and Morocco, and Tanzania. To enable an effective examination of the dynamics of irregularity the local policy regimes provide crucial context and background against which to assess the power relations and experiences of irregular migration.

Chapter 5: *Reframing Irregularity* assesses the experience of irregularity across all three sites of intervention from the perspective of the migrant. In this, I account for the temporal dimension of irregularity as a sense of permanent temporariness and capture and ask how it intersects with and is shaped by the spatial constructions of the border. Based upon migrant narratives, I trace the commonalities of migrant experience across the diverse contexts of my sites and argue that, although the specifics of policies and actual experiences differ, the consequences of irregularity form a pattern that can be traced globally.

Chapter 6: *Camps and Detention Centres: Spaces Containing Irregularity* and Chapter 7: *The Other Side of the Fence* move to a more direct examination of the spatial dimension of irregularity. Chapter 6 assesses the structure and institution of the "Camp," describing Agamben's theory and the related impacts of such a space on political agency. I argue that the Camp space, in its multiple forms, enforces the temporariness of irregularity and so works to locate irregular migrants outside of politics, attempting to control their subjectivity and exclude them from effective participation both in society at large and also in the

particular dynamics that shape their lives. Chapter 7 revisits our understanding of space and place, and challenges the sense of closure that the Camp analysis produces. In drawing attention to the “other side of the fence” (literally and figuratively), I develop an argument that asserts the power of the irregular migrant to shape the spatial dimensions of their experience across and through borders and boundaries, challenging the concretization of borders and the capacity of the state to decide.

Chapter 8: *Irregularizing Agency* returns to a temporal dimension of irregularity, pursuing an investigation of the agency of non-citizens and irregular migrants at the level of the everyday and the momentary. I argue that if we shift our attention to localized expressions of both action and voice from a position of irregularity, we can not only develop new understandings of the political agency of non-citizens, but also reshape the possibilities for solidarity across the non-citizen/citizen divide.

Chapter 9: *Conclusion* summarizes the key arguments of the study, assessing their implications and the questions and challenges they raise. I also revisit each site of intervention, and briefly update the local policy contexts. I trace the key changes that have occurred since the end of my field research, and assess whether the dynamics of irregularity as described in this study continue. I conclude by outlining future research, sketching out what implications the understanding of irregularity as a site of potential power and resistance may hold for the study of migration and asylum and what questions arise from this understanding.

CHAPTER 2

Narratives, Methods and Moments

At the end of a long day, my first day, in Nduta refugee camp in Tanzania I sat on a stool in front of the food distribution area, next to the information resource centre. I had spent the day in individual and group interviews, many of which were “spontaneous” in that just as I finished speaking with someone who I had arranged to meet, another person who happened to be passing by would stop to talk. In the end, I had stayed in one place (on my stool) for more than three hours talking to large and small groups, some individuals, sometimes with the aid of translator, sometimes in English, occasionally in simple French. I had chosen to stay in the open as it made me very accessible to the refugees, and no one seemed to mind whether they were in a “confidential” environment where others could hear their responses. There were no camp administrators or NGO staff around, only other refugees, and I wondered if that was the difference. In fact, they looked at me strangely when I mentioned confidentiality. Nevertheless, I was careful to clearly explain what I was doing at the camp, and what their participation meant. I explained that I would be using either false names or no names at all, that my notes were mine alone, and that they could choose not to answer any question I asked. I offered to move inside to a more private room (an offer never accepted). The letters of introduction and explanation carefully prepared during my pre-trip ethics review were provided (and their content explained aloud), but most did not look at them – even if they were able to read, which many were not. I relied, therefore, on verbal communication - a process that also proved useful in breaking the ice. Throughout, I had to be very clear that I was not working for the camp administration, or the government, but was

there as an independent researcher. This was less because I wanted to ease concerns that I was a representative of the authorities than to try to emphasize that I could not meet many of the requests they put to me. I could not adjust the food rations, order more housing supplies, end the repatriation program or arrange for resettlement. I could only pass along the information, if that was what they wished. It had been not only my first day in Nduta, but my first day actually speaking with migrants and I was emotionally drained. For most of the afternoon, a young man of about eighteen had been hovering within earshot of myself and those who stopped to talk to me. My last participant had just walked away, and I was preparing to leave for the day when he finally approached me, asking me if I was there to hear people's stories. He quizzed me for a minute or two about who I was and why I was there, and then asked if he could tell me about his life.

His parents had come from Burundi in 1972 and had lived in one of the "old caseload" settlements in Kibondo, where they were married. In 1984 they tried to return to Burundi, only to find that their property had been taken and their lives remained in danger and so they fled, again, to Tanzania, where they self-settled in a local community. In 1986, he was born as the first of seven children. In 1993, during the major influxes of refugees from Burundi and Rwanda, his family was caught up during an inspection and sent to Kanembwa refugee camp. Problems began then, he said. His father was jailed for thirty years on a charge of rape, and his mother died shortly afterwards "of witchcraft." (Witchcraft, I was told later, is frequently used to describe a death from AIDS ["Nam" (false name), interview December 2007].) He left school after year six to care for his brothers and sisters. In 2005, he married a woman who already had a child. Since then, they have had

two more children together. In all, there were eleven people in his family – and he was responsible for all of them. “It is very hard,” he said. “Very dangerous. I am failing to care for all of them.” The family had been moved from Kanembwa to Nduta when Kanembwa closed, and the children were struggling with the change, and particularly with the change of schools. “I don’t like being dependent,” he declared. He wanted a good life in his environment, but he could not decide where to go. He could not go to Burundi, he was sure. He felt that he had no control over his life, and that he was not a part of the camp life in Nduta. He felt that the international organizations needed to step in, to come and to listen to the people, and stop the camp transfers and the repatriation (“Gordon” (false name), interview December 2007).

“All I want you to do is tell my story,” he told me as we parted. I ended my day more aware of my relative position of power and privilege than I had ever been, a position marked not only by my status as researcher/graduate student/visitor/Western, but also by the colour of my skin, my class status and, in many ways, my gender. I was more aware of the power relations implicated within my study. It is this awareness, nascent in my project design and more deeply meaningful as time went on and these dynamics became more apparent, that profoundly shaped my methodological approach to my research. This approach began with a conscious privileging of narrative, and was pursued with a continued awareness of voice and of silence, understanding narratives not as “authentic statements” of the “way things are” but as subjectivities within an ongoing dialogue of meaning making and knowledge creation in the global migration and asylum regime.

Jennifer Hyndman (2000, 29) writes: “theorizing mobility begins with people’s stories and histories of migration.” It is towards this goal that this project is designed. By privileging migrant narrative and focusing on particular sites of intervention rather than on more traditional case studies, I work to engage with the interstices that exist between the global politics of border control and the global politics of migration and asylum, using the politics of irregularity as a lens through which to render these dynamics intelligible. With a central focus on the non-citizen, I ask questions about participation, agency and power. I look to the migrant experience to inform my understandings of the impact that policies and practices of management and control over migration have on the lived lives of those who cross international borders. I began the project intending to study refugee and asylum migration; I finished it with a deeper understanding of the ways in which the forced/voluntary migration paradigm around which contemporary understandings of migration are framed are failing to capture discourses and regimes that operate with a focus on the regularity and irregularity of migration – on the authorization or un-authorization of border crossings. Irregularity has emerged as the central concept in this study, not simply as a status but as a way of being, of living through transversal border spaces that capture and attempt to regulate mobility.

This chapter will describe the methodological approach I use in this study, engaging with not only its potentials but also with its challenges. I begin by describing what I call “sites of intervention” as an adaptation of the traditional case study model, and introduce each of my specific research sites: the refugee camps in Tanzania; the border zone between Spain and Morocco; and the detention centres and regime of Australia. I then present the

technical details of how I conducted my research in the field. Using this account as a foundation, I assess some of the methodological debates in both International Relations and migration studies and indicate how these debates and my own methods can contribute to our understandings of a politics of voice and agency. Finally, I present a discussion of some of the ethical challenges and questions I faced in the field, how I dealt with them (and why), and whether or not our understandings and approaches in ethics are sufficient to address such challenges.

Sites of Intervention: Detention Centres, Border Zones, Refugee Camps

In my field research I visited three “sites of intervention”: the Nduta refugee camp in Tanzania; the border zone between Spain and Morocco at the enclave of Melilla and the area that surrounds it; and the detention regime of Australia (particularly Villawood Detention Centre in Sydney). My field research took place from November 2007 to September 2008, beginning in Tanzania, moving to the border between Spain and Morocco, and ending in Australia. During this time I spoke with a total of 143 people in both individual and group interviews, all open-ended, and engaged in participant observation at each site. I interviewed asylum seekers and unauthorized migrants, refugees and detainees, policy makers, practitioners, advocates and support workers.¹

There is no search for a grand narrative within this study. Nor is it comparative in the strictly traditional sense. This project is not designed to systematically compare the model of the refugee camp with the model of the detention centre, although such a

¹ For a complete list of all the interviews cited in this study, fully categorized, see the Appendix.

comparison may well be valuable. Rather, I am seeking patterns of similarity and difference across seemingly disparate contexts within the global migration regime. I ask whether there are common narratives and experiences at global borders, both for those who are crossing them and for those caught within them. As such, a traditional comparative case study approach was not appropriate. Instead, I have pursued a study based upon what I call “sites of intervention.”

“Sites of intervention” are sites where the specificities of a place, with particular structures and configurations of policies and practices, encounter the space of the global migration regime. They are spaces within which global discourses of border protection and humanitarianism collide with specific mobilities and the technologies that govern them. Within these sites, therefore, the dynamics of global power relations, expectations and understandings embedded within global discourses of migration control, and the common consequences of lived experiences of migrants become visible. Sites of intervention thus allow an examination of how individuals interact with and shape the institutional processes and power relationships that shape their everyday lives; they enable a mixing of approaches informed by both sides of the structure and agency debate, describing both institutional impacts but also the ways agents shape and interact with these structures. They draw upon institutional approaches by incorporating an awareness of the levels of institutions (local, national, global), their interactions across space and scale, and the way they change over time. However, they differ from an institutional approach by placing the individual at the centre of analysis and beginning from power relations and interactions rather than from formal structures. They draw upon agent-centred approaches with an awareness of the impact of

individuals on structures, and on the possibility of change and choice that arises from a robust theorization of agency. They differ from these approaches, however, in that while traditional approaches are conventionally informed by a focus on elites, sites of intervention allow us to start from the grassroots level and look up. This approach does not attempt to locate “leaders” or “representatives” for the greater population, or to achieve an “authentic voice.” Rather, individual narratives are valued at the level of the everyday, and are seen as revealing individual experiences that are interconnected and interacting; no single story is seen to be the “authentic” and thus ultimately revelatory experience. Finally, sites of intervention differ from traditional case studies in an attention to a more momentary politics that is simultaneously more localized while also more aware of the interconnectedness of local sites at the global level. While national contexts are relevant for each site, this approach enables a study of practices at border spaces that are exemplars in what we can consider to be a global system of control and resistance. Although I do not consider my work to be fully ethnographic in nature, I build upon an approach suggested by George Marcus (1995) in his work on multi-sited ethnographies; I follow connections, relationships and experiences across multiple spaces to access the configurations of global regimes. The “case” is not the object of the study in a way that introduces a fixity and immobility to the actors involved; rather, it is the mobility, relationships and changing position of the individuals who move through space that form the centre of the study. My use of the term “sites of intervention” is my attempt to capture this difference.

Sites of intervention are useful as they allow us to perceive the interaction between the structures and practices of power and those excluded from the development of these

practices, the subaltern and marginalized. They are characteristic of spaces of exception, estrangement and marginality. As such, they resemble what Richard Ashley and R.B.J. Walker (1990) refer to as “marginal spaces.” In this sense, “marginal” does not only designate territorial sites that exist geopolitically. Instead, marginal spaces are

detransformed sites where people confront and must know how to resist a diversity of representational practices that would transverse them, claim their time, control their space and their bodies, impose limitations on what can be said and done, and decide their being. (Ashley and Walker 1990, 261)

These sites exist beyond the simple determinants of geography. They are transversal spaces that exist both across and beyond borders, and in the interstices that the structures and practices that regulate global borders create. They exist simultaneously at the global level, and at the everyday. For David Campbell, the everyday is not a “synonym for the local level, for in it global interconnections, local resistances, transterritorial flows, state policies, regional dilemmas, identity formations, and so on are always already present” (Campbell 1996). The site of intervention allows a sustained engagement with this “everyday” politics as both immanent and already present, both determinative and resistant. While they cannot provide a holistic and complete account, sites of intervention do allow us to engage with the politics of the other and subaltern in snapshots and moments that can reveal the existence of a global system.

In this study, my sites of intervention are the refugee camp, the border zone, and the detention centre. Each site was chosen as an exemplar of a different dimension of the overarching system of migration control. Refugee camps allow an engagement with the policies and practices of internment and exclusion that are enacted upon non-citizens at a

more massive and urgent scale than in other locales. They also present the most common strategy for managing unauthorized migration in the global South, and represent (as discussed in Chapter 3) a temporary, emergency solution that has become a permanent feature of the asylum landscape. Meanwhile, the examination of detention centers allows a similar examination in the context of the global North, as well as providing insights into practices of deterrence, exclusion and removal. The study of a border zone, meanwhile, enables an interrogation of how the border between global North and global South is treated geographically, and managed and controlled via various security policies and practices. In focusing on security policies and practices, I am consciously excluding those that address labour market controls, as well as policies of “regular” migration. This is a difficult categorization, and is not always possible as such policies are fundamentally intertwined with those that address both security and asylum. To the extent that it is possible, however, I intend to make such an exclusion as a way to control the breadth of this project. These three sites are categorized geographically – they have been consciously selected as examples of strategies of control from the global South, the global North, and where the two collide. They are also reflections of one another in the similarity of practices and discourses that emerge in both their justifications and also their consequences, a phenomenon explored in Chapter 4. For our present purposes, a brief rationale for each specific choice is described below, in chronological order according to when I visited each in the field.

The refugee camp I examine is Nduta refugee camp in Tanzania. I visited Nduta, which was in Western Tanzania close to the border of Burundi, as part of my longer stay in Tanzania and was there in December of 2007. (The remainder of my time in Tanzania was

in Dar es Salaam, where I interviewed policy and advocacy communities. My time in the camp was limited by permissions and access, as well as by available funds.) Nduta was chosen for a number of reasons. First, Tanzania, with land borders with eight other countries, is historically the top refugee-hosting state in Africa. Tanzanian refugee camps tend to be long-term camps which, although they continue to be presented in policy as temporary, have taken on a permanent and multi-generational character (see Malkki 1995). As such, they are important examples of asylum policies and practices that have become entrenched as a model. Although the 1998 Refugee Control Act dramatically shifted Tanzanian legislation, I show in Chapter 4 that this shift both reflected long standing concerns over control and also engaged with a model (the camp) that had been in place in Africa as a solution since the 1980s. In this, I argue that the camp is more firmly established in policy than it is experimental, as we see in policies that are emerging in Spain and Australia.

Second, the Tanzanian state discourse has recently undergone an important shift that brings it closely in line with the overarching and securitized global politics of migration. From 1966 to 1998, state policy was characterized as an “open door” policy, which facilitated high levels of refugee migration. The 1998 Act, however, broke from this policy with an agenda closely related to changing notions of both humanitarianism and security. Further, this legislation emphasizes not local integration or naturalization, as previously provided for, but voluntary repatriation and “Safe Zones” (see Chaulia 2003; Kamanga 2005). Refugee camps thus become an important exclusionary mechanism. The Tanzanian case highlights

important shifts in the international refugee regime, particularly in understanding refugee camps as border spaces rather than as parts of sovereign territory.

The second site I selected is the “border zone” between Spain and Morocco. This border is an important physical example of the border between the global North and global South. In my examination of this site from February to May of 2008, I spent time on both sides of the border in mainland Spain and in Morocco, and visited the capital cities of each country (Madrid and Rabat). I also spent time in the border zone, visiting the south of Spain (particularly Almería) and both Oujda and Nador in Morocco. Finally, I spent time in the enclave of Melilla itself. The Spanish/Moroccan border is fundamentally polysemic in character, serving as a state border, a regional border (for the European Union), and a global border (between North and South) (see Balibar 2002). This border is a site of frequent irregular migration, to which there are important transnational dimensions as a significant proportion of migrants crossing the Spanish border are not from Morocco, but from sub-Saharan Africa. The Spain/Moroccan border is increasingly regulated under the influence of the European policy framework, and is a key site where the mechanisms of control being developed in Europe, including readmission agreements and prevention policies, are translated into practice (see Geddes 2003, 2005; Baldwin-Edwards 2006). The border is also a site, particularly in recent years, of state violence against migrants, including armed force, arrest, detention, and forced removal (see Geddes 2005). In counterpoint, the Spain/Morocco border is important as a site of resistance and agency on the part of refugees seeking to cross the border, as is evident in unofficial “camps” that have grown along the border. These self-organized spaces form an interesting and important contrast to the camps

I study in Tanzania. Changing practices of migrant categorization, particularly for asylum seekers, “irregular migrants”, and migrant labour, are important in this context, and reflect changing understandings of the deterritorialized border and the importance of status and definition in the politics of migration and asylum (see Geddes 2003).

The final “site of intervention” is an exploration of detention centers as situated in Australia. I conducted my research here from June to September of 2008. I was unable to visit Christmas Island, the site of the most recent detention centre, due to its remote location and the high cost of travel. As a result, I focused on Melbourne and Sydney as the centres of policy making and political engagement in migration politics. I also visited the capital, Canberra, to interview both policy makers and individuals in the head offices of the international organizations. The detention centre I was able to gain access to was Villawood Centre, just outside of Sydney. There were several reasons for choosing Australia. Australia is the only “developed” state to have a policy of mandatory detention for all “unauthorized” migrants, and it is increasingly being turned to as a model for other states, including the states of the EU and Canada (see Johnson 2010). Its border protection regime is justified through the discourses of the Australian state and its capacity to decide migration and to govern mobility, and so is directly informed by discourses of both sovereignty and control (see Kneebone 2003, Mares 2002). The legislation introduced since 2001 is revelatory of the dynamics of transversal borders, and the policies of deterrence and interdiction are similarly revealing of the relationship between irregular migration and asylum migration. In addition, there have been frequent and interesting manifestations of resistance and protest to

Australia's detention policies by both the detainees and by Australian citizens, which are important in an analysis of non-citizen agency (Mares 2002; Moran 2005).

Accessing Narrative: the Interview Process

Methodologically, I worked to capture the continuity between sites by maintaining a consistent approach to how I engaged with my participants in each site. I juxtapose the dominant citizen narrative and discourse with the migrant, non-citizen narrative. I situate these within the context of actual places and events. To access these narratives and contexts, my primary methods are open-ended, semi-structured interviews and participant observation at the sites of intervention. Building upon Joel Aberbach and Bert Rockman (2002), I designed a program of interviews that were open-ended to increase the flexibility of my interaction with my participants. This model allowed participants to more freely interpret my questions, and to guide the interview in directions that they felt were relevant. Such an approach is far better suited to accessing subjugated knowledges and the voices of the subaltern. In allowing for flexibility in questioning, and in giving over at least partial control of the direction of the interview to the participant, a semi-structured, open interview enabled my participants to contextualize and represent her- or himself as much as possible. Subsequent stages of interpretation and choosing what to include in the articulation of the study inevitably mean that my own perspective is overlaid and imposed upon these narratives; however, it is only in this kind of approach that grants such a degree of control to participants that the voices of the marginalized can begin to be listened to.

I approached each “category” of participant – policy makers, advocates and support workers, and migrants – with slightly different questions guided by a common framework. To each group, I posed questions about participation, decision making and influence. I also asked every participant to explain their own context (what they “did”), and to identify what issues, challenges and events they felt were the most important to understanding migration and border politics. Across the groups, the questions varied in their detail and specificity as appropriate; the questions I asked the migrants were more open-ended, for example, while those put to policy makers were more technical in their language and content. The question frameworks were consistent across all three sites. In each site I also attempted, with a fair degree of success, to access the same groups and organizations including government officials, citizen groups, the United Nations High Commissioner for Refugees (UNHCR), and the International Organization for Migration (IOM). During my analysis, these points of commonality enabled me to trace patterns of similarity and difference across each site, and to identify themes and common narratives.

Within the migrant group, I interviewed individuals who self-identified as asylum seekers and as refugees, which included those officially understood as “unauthorized migrants.” I also interviewed both individuals who were living within the camp space/detention centre and those living outside of such spaces at each site. The self-identification of status was crucially important in the study as I wish to privilege the migrant narrative. As such, it would be contradictory to this goal to question or impose a different categorization upon the migrant. Although I conducted both individual and group interviews within this category, this was the only group with whom I conducted group

interviews. This was largely because of the context in which I was doing research, and my access to the migrant communities. It was also directly related to how comfortable many migrants – particularly those in illegal settlements – were with speaking to me. Many were far more comfortable talking with me in groups rather than alone. I also had some concerns for myself as I was unaccompanied in most places. In Oujda particularly there were safety concerns that informed my decision to remain in public spaces with groups, rather than in private locations with one or two individuals.

In the policy maker group, I interviewed both government officials and those I identified as particularly influential in the policy making process. This group included civil servants and elected officials at both the federal and the local levels of government, as well as members of international organizations that had a governance role. Specifically, in all three sites I interviewed representatives from the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM). The differences in who I interviewed between sites reflects the differences in context; in Tanzania, I interviewed more members of international organizations and the donor community, as these groups have a greater role in policy formation and implementation than in the other two sites. These included representatives from development agencies, including the United Nations Development Program, the International Rescue Committee and the EU. In Spain, I included interviews with individuals working at the European level as well as in the Spanish government.

In the NGO and advocates group, there were again both similarities and differences across sites. To maintain consistency, I worked to ensure that I interviewed both citizen

coalitions and (where possible) migrant groups, as well as organizations that attempted to bring the two groups together. This was far more successful in Australia, largely because of the greater degree of involvement of Australian civil society in migration politics than in the other sites. These groups were less present as informal networks in Tanzania, due to a general weakness of civil society and an absence of citizen coalitions. More formal groups, including legal clinics and actual service providers in the camp corrected this imbalance to some degree.

I did not electronically record my interviews, relying instead upon very extensive hand written notes. Within many approaches, this decision could mean a loss of verifiability as the accurate recall of what was said becomes less reliable. It was, however, a conscious decision on my part made specifically in response to the privileging of the subaltern narrative. The migrant populations with whom I was working, particularly at the Spanish border, were highly vulnerable. In Oujda, for example, every migrant I spoke to was in Morocco illegally, and was subject to deportation if caught by the authorities. I was not comfortable, therefore, in recording our conversations at risk of increasing this vulnerability, particularly as we were speaking directly about their strategies and plans for further attempts to “illegally” cross borders. Similarly, I did not ask their names or write them down if they gave them, and only requested their country of origin. In addition to my concerns about vulnerability, there is a significant barrier of trust when interacting with these populations. A recording device would have negatively impacted an already cautious and fragile relationship, which is of greater concern to me than perfect recall.

These concerns did not apply to the other groups of participants I spoke with. However, I felt that as I had not recorded migrant interviews, I could not record other interviews. This was not out of a sense of “fairness” to the policy makers and practitioners, but instead arose from an awareness of already present power relations. I felt that in a study that purports to privilege the migrant narrative, having perfect recall of the already dominant voices of the policy makers and practitioners and only imperfect recall of migrant voices recreated a disparity in authority of voice and authenticity that undermined the intentions of my project. This concern was only exacerbated by the necessity for translators for only the migrant group of participants, as all of the other groups were fluent in either English or French.

The consequences of this decision for my project are that there are few direct quotes. That which is indicated as a direct quote is so, but much of my account of interviews and narratives is summary from my interview notes and post-interview observational notes.

Conducting elite interviews highlighted some of the ways that my position as a young female researcher impacts my research. The “elites” in my study are both policy makers and implementers. The majority of these individuals are men and have worked in their positions for a minimum of two years. This establishes a certain power dynamic with me. My relative youth and inexperience in the field in addition to my gender meant that in conducting interviews I was faced with the opinion that I do not know what I am doing, and that it is my participant's role to instruct me. This affected my collection of data. Some of the questions I asked were ignored, and I was told that I am not asking the right questions. (While I am certainly willing to acknowledge this possibility, and to learn through the research process, it

was never a suggestion made by any of the advocates, activists or migrants I spoke to.) More frequently, my elite participants gave me “advice” about how to engage with the marginalized populations. I was told what issues to focus on based on what is “really important”, what questions to ask, and was warned that “those people” (the migrants, and occasionally other, “more biased” elites such a prominent advocates) will lie to me to their own strategic advantage. I was also instructed in how to understand and interpret data.

In many ways, this advice is important to my observation of power relations in the politics of migration. It asserts in important ways how migrants are understood (as unreliable, as lying), and reinforces the silencing of their voices. In another sense, however, these perceptions also underscore that migrants are profoundly political. The implication that they can strategically assess a situation and choose what to say to achieve a desired outcome can only be interpreted as evidence of agency; the question becomes whether this agency is validated as legitimate.

I found that striking a balance between healthy skepticism and taking people at their word was difficult. It was difficult, also, to effectively challenge contradictory information without violating the confidentiality of other participants. Flexibility is an important part of being in the field, and this extends to being willing to adjust questions and approaches. To what extent, though, is it appropriate to adjust the questions I had intended to ask on the advice of my “expert” participants, when my focus is the narratives of the marginalized?

There is no clear solution to this challenge. Rather, it required a constant assessment and reassessment. I remained focused on my initial plan. In interview design, I was flexible in approach. However, when adjusting questions I did not delete or remove questions, but

only added them as needed. This maintains a baseline of consistency across interviews, while also enabling a learning process. Also, as a large part of what I am studying is the attitudes and ideas of actors, the advice I received, and the attitudes it reveals, has become a valuable part of my research.

(Un)Disciplined Methodologies: Framing my Approach to Narrative

I designed my methodological approach to this study as a conscious effort to privilege the migrant narrative, and to situate migrants – particularly irregular migrants – as central and powerful actors within the politics of migration. This approach, therefore, understands narrative in two ways that are mutually constitutive while remaining distinct. The first understanding of narrative is in the meta sense; I understand the global politics of migration and asylum shaped and determined by the politics of irregularity as being representative of an overarching narrative about the nature and practice of migration and border security. This project is an attempt to disturb this dominant understanding, but in this is a narrative itself; it attempts to both describe my own journey as a researcher, and also to reveal an alternative story about how to engage with the politics of migration and asylum and about how to “do” international relations. It is to this sense of narrative as a dominant framework that I turn first in the discussion below.

The second understanding of narrative is at the level of the local, the individual and, profoundly, the everyday. This sense is more obviously about the politics of voice, of who speaks and also of who is heard. As I have stated, it is towards privileging this sense of

narrative that this project is oriented, in a way that centres not the voice of the citizen (so typically privileged), but the voices of the migrants and particularly the irregular migrants who are mobile within the global politics of migration. I focus on the localized and unique stories and accounts shared by my participants and rather than seeking an overarching and coherent narrative, I attempt to trace a multiplicity of voices and experiences, paying attention to their interconnections and conversations. In this way, my project works within a methodology that is guided by dialogue.

As individualized as this sense of narrative is, however, it is constitutive of the meta-narrative. The dominant story told in international relations is one that is directly informed by the accepted narratives of authorized voices; it is, therefore, shaped by the individual level. However, which voices are authorized, and which are accepted as valid contributions is reflective of global power structures and relations. Where there are voices heard, there are also voices silenced and too often those silenced are those of the marginalized and subaltern. I attempt to address these silences that exist for irregular migrants, valuing them not as marginalized, temporary and therefore permanently excluded, but as vocal and powerful actors that shape and interact with the policies and practices that shape their lives.

In the following, I trace each sense of narrative, and the role they play in informing methodology. I begin with a focus on the role of narrative in International Relations at a meta level, assessing what methodological assumptions and prescriptions are introduced within mainstream approaches to the discipline and the ways that a shift in focus to the more localized sense of narrative and the politics of voice, as indicated by insights from post-colonial theory, can disturb the silences it imposes. I then turn to a discussion of voice and

agency in narrative, examining the politics of representation and the role of the researcher and delineating not only the possibilities embodied by my approach, but the challenges that this approach raises.

Narrative and Power in International Relations

As discussed in the Introduction, International Relations as a discipline attempts to create a coherent narrative for understanding and representing global politics. IR is a set of discursive practices that aims to produce knowledge and corresponding expectations about the social world. As they are premised on causal patterns, expectations permit an understanding that gives order to international politics in such a way that relations become intelligible and accessible. It is this accessibility that must be seen as a central goal of the mainstream approach to IR. IR emerged as a problem-solving discipline, geared towards generating policy-relevant advice that would help to order and regulate the international sphere. In achieving this, both the discipline and the policy it informs construct an overarching narrative that aims to be coherent and parsimonious. Such an approach, however, engages with the temporary and transitory only with difficulty. It is towards engaging with and recognizing this gap that this project is intended. My methodology in this regard has been shaped by the insights and challenges of postcolonialism and the ways in which a postcolonial approach disrupts the disciplinarity – and disciplining – of International Relations.

Roland Bleiker writes that Realism, as a school of thought that has shaped the discipline of International Relations, “has made ‘the real’ into an object of desire” (2001,

511). As an attempt to understand the processes of world politics, mainstream IR has an overarching concern with international security and the problems of war and peace that seeks “to represent politics as realistically and authentically as possible, aiming to capture world politics as-it-really-is” (Bleiker 2001, 510). Mimetic forms of representation have been dominant, aspiring to a perfect resemblance between the signifier (accounts and analysis of world politics) and the signified (actual events and processes) (Bleiker 2001, 510, 512). While the goal of this approach, to gain a measure of control over the future by understanding past events, is laudable, its result has been to render “reality” as fixed and immutable in its reproduction of dominant understandings of social and political worlds. In defining which “objects” of study are relevant and legitimate, the discipline also defines not only what the study of International Relations is about, but what constitutes world politics itself; it defines what counts as political, and who can be political, who has voice and who can speak. It is through this process that IR embeds a series of assumptions and ontological claims about the nature of the social and political world; it is through this process that the discipline enacts both exclusions and silences. As Bleiker (2001, 524) writes, “[w]hile providing meaning, coherence and stability, these rules also delineate the limits of what can be thought, talked, and written of in a normal way.” This reinforces the exclusions and silences of mainstream International Relations, reinscribing global power relations. Marginalized populations, particularly those from the global South, find it difficult to engage and be heard within these structures as they are not explicitly included as relevant or powerful voices; change that includes voices that have been left out and alternative ways of understandings the world that are unrecognized is difficult in a discipline that is so fixed.

These silences are reinforced by the research methods that are chosen within IR. For International Relations, and Political Science more broadly, the social scientific fundamentals of objectivity, rationality, verifiability, and rigour have been established as basic to notions of method; they frame the set of disciplinary rules that are to be followed. King, Keohane and Verba (1994, 7-9), in their text on research design, assert that research has the goal of inference based on empirical information, uses explicit and codified methods of gathering and analysing data whose reliability can be assessed, and leads to uncertain conclusions which can be estimated and so accounted for. However, the question remains as to what counts as “empirical” information and, perhaps most importantly, how “reliability” is defined and measured. The tendency has been to limit the interventions of social scientific inquiry into the political to that which can be documented, recorded and publicly analysed. That is, that which is studied must be accessible generally and verifiable as “real;” it must be communicable by rational and coherent means. For IR, this has largely meant that the sites of inquiry are written down as the proceedings of meetings and fora, policy documents and reports, state and international laws, treaties, international agreements and documented (or documentable) events. This attention to what is recorded, recordable (or worth being recorded) systematically excludes individuals on the margins not only because their voices are absent in the first instance, but because accepted research methods do not easily engage with silence, dismissing it as unverifiable, and therefore unreliable.

The disciplinary rules of method work to determine the epistemology of the discipline and thus to define the objects of inquiry that can produce legitimate knowledge. Boundaries have been established within the discipline, demarcating which actors, processes

and structures are relevant for the achievement of knowledge and understanding of world politics. There have been significant debates over the placement of these boundaries, and while mainstream IR has seen an opening up of consideration beyond only states (as demanded by hard line Realism) to the consideration of domestic actors that influence external state policy and “new” global actors such as transnational corporations and international organizations, the epistemology that determines how these “objects” are to be engaged remains largely intact.

In defining the methods and realms of legitimate research, the disciplinary practices of IR have inscribed a universalist discourse upon our understanding of world politics. Sandra Harding (1998, 147) argues that it has been the privileging of science that has continually justified the unique authority of the modern West in global political relations. A universal claim, particularly when made from a standpoint of “objectivity,” subjugates the particularity of the other to its own claims and assumptions (Connolly 1991, 41). International Relations, as the study (and, thus, affirmation) of the system of nation-states that emerged from modern Western experience, privileges the discourses and assumptions of Western thought, including Enlightenment rationality and secularism, over those of the “Others” – be they colonized peoples or marginalized populations within domestic societies. Ways of being, modes of thought and the nature of relations themselves are silenced and excluded because they are coded as “irrational,” “subjective,” or “disordered” in the common senses of the discipline. It is precisely this process that has rendered irregular migrants and refugees as silent within the politics of migration. In many ways, they are entirely absent as subjects in their inability to speak “coherently” (and to be heard within

research in methodologically acceptable ways) and are instead understood as objects of the regime, passive and acted upon rather than active and contributing.

In centring the migrant narrative, this project aims to disrupt this silencing and to affirm the voice of the irregular migrant and refugee as powerful in the shaping of politics, rather than as incoherent. It also aims to value the multiplicity and disruption that such voices represent, and to understand these contributions as important and necessary to the dialogue for change, rather than as problematic to stability. IR has fetishized the “real” through processes of simplification and ordering. Deleuze argues that orthodox approaches operate on the principle of recognition where the object(s) of study is believed to remain the same no matter how it is accessed, be it via rational inquiry or sensory experience (Bleiker 2001, 214). Recognition is thus conflated with understanding and knowledge and common senses are developed that accord the dominant approach the power to coordinate and synchronize understandings of what is “real” (Bleiker 2001, 214). This enables the coding of the particular in the terms of the universal, collapsing difference into ordered uniformity that limits the scope of reality and actively excludes and silences alternative voices and understandings. A focus on migrant voice disrupts this ordered uniformity.

Comparison across sites that present so differently in context, policy, and experience is a difficult proposition. When the border is the focus of the study, such comparison seems to be a futile exercise with little to add to our understanding of international migration globally. When the narratives of the migrants themselves are introduced into the study, however, striking parallels and themes emerge that are closely similar. The individual stories the migrants themselves tell are different; they follow different routes, have different motives

for migrating and have faced different policy regimes. They are heterogeneous. As I try to be aware of the postcolonial concerns of re-imposing abstract generalities that collapse difference into ahistorical representation, I do not attempt to deterritorialize the migrant narratives I encountered into a common story that is the same everywhere. Instead, I attempt to recognize themes and similarities of experience as they reflect not on the identity of migrants, but on the structures of the global migration regime. This is to say, this project does not search for an authentic migrant identity; I do not look to construct an ideal type of the non-citizen. Rather, by focusing on practices and narratives as power relations and expressions of political subjectivities and agency, I emphasize difference and change.

Representation and the Challenge of Research at the Margins

The disciplinary exclusions of International Relations result in a failure to take the notion of “relations” seriously. Relations in the social world are multiple, and are premised on shared meanings of social signifiers. Although frequently institutionalized and codified in the policies and structures of the international system, relations also occur in daily interactions (or in their suppression) between both distant and proximate groups and individuals; they occur as much in the realm of conscious action as in that of unconscious understandings and norms that shape expectations and subsequent behaviours. While relations can be cooperative and egalitarian, power is omnipresent in their constitution. Meanings are made public through representations; representation is an act of power (Bleiker 2001, 515).

More often than not, the terms in which meaning is cast are those of the dominant Western discourse. This occurs even where conscious effort is made to disrupt the

dominant narrative and to clear a space where the marginalized can speak. Albert Paolini (1999, 176) argues that the presence of representation means nothing, but that instead we must examine its usage. Clifford Geertz (1973, 9) observes that what are called “data” are really constructions of other people’s constructions of what “they and their compatriots are up to.” They are representations, dependent upon perspective and context, which must be interpreted to find meaning. Harding (1998, 146) writes that “no humans are ever able to understand fully ‘what we are doing.’” because we lack a complete understanding of the broader context of social processes in both time and space. She argues that as different groups have different ways of being, so too will they “know” different things about the natural and social worlds, and that inclusion of this variety can point the way to less partial and distorted perspectives (Harding 1998, 150, 155). An approach that relies upon finding truth dissolves particularity, inscribing one dominant representation of the world not as interpretation, but as all there is know. The approach taken in this project attempts to value particularity, and to gain understanding from multiple voices.

There is a tension in this approach. While attempting to value and affirm particularity, to highlight individual voices and stories, and to understand local narrative, I am also asserting that there is a global migration regime that is perceptible from the perspective of the migrant. I argue that in beginning from the local and every day, we are able to perceive commonalities and interconnections across the sites of intervention that embody this globality. The risk, of course, is that such an argument simply collapses the migrant experience into one, common, “authentic” migrant experience that may allow us to gain

insight into the condition of global non-citizenship and migration, but in which the individuals are again lost and rendered silent.

Phillip Darby and Albert Paolini (1994, 375, 387) argue that through an exposure of the dynamics of global power, the “native voice” is repositioned at the centre of analysis and thus empowered as relations of domination necessarily call forth resistance. Similarly, Geeta Chowdhry and Sheila Nair (2002, 26) assert that postcolonial analysis opens up the possibilities for resisting dominant discourses by framing its own counter-narratives. In each account, however, the possibility of erecting an alternative discourse that is also silencing exists. It is of this possibility that I am wary, and this that I work to avoid in a focus on multiple narratives and stories rather than one coherent account.

In an emphasis on voice and the importance of making the margin audible to the mainstream, critical approaches have the potential to enact their own silences and exclusions. Modernist discourse demands an intelligible and coherent narrative that can be spoken in a clear voice. In attempts to centre the margins, then, Ashley and Walker write that critical theorists speak in the “cool, collected, self-assured voice of an “I” or “we” that neither stumbles nor quavers with self-doubt” (quoted in Krishna 1993, 407). To be heard by the mainstream, this confidence is seen as necessary but as it simultaneously makes the margin intelligible, it also closes the politics of agency in fixing the identity of the “we” and halting the contestation and uncertainty out of which agency springs. Chandra Mohanty (1984) cites one example of this in her criticism of some Western feminist writings, arguing that authors create the figure of “Woman” as a cultural and ideological composite “Other” that renders the focus not on the specificities that marginalize a particular group of women, but instead

on a variety of marginalized cases that then demonstrate the general point that all women are marginalized. She counterposes this constructed figure to “women” as real, material subjects of collective histories about which no easy generalization can be made (Mohanty 1984, 334, 344).

In answer to her own question of whether the subaltern can speak, Gayatri Spivak (1988a, 308) states: “The subaltern cannot speak. Representation has not withered away.” Her criticism is directed particularly at the role of the intellectual in perpetuating the global hierarchies of power by reintroducing a European conception of the subject even when trying to open space for the “Other.”² She argues that as “intellectuals” engage with those who are excluded, they render themselves transparent by not acknowledging their role in the reproduction of the dominant discourse. Spivak (1988a, 272-275) argues that through the intellectual, two senses of representation – that of “speaking for” and that of re-presenting – are run together. It is the second that is obscured by rendering the intellectual transparent. Re-presentation denotes an act of interpretation. In utilizing the signs and symbols of the dominant discourse to make the subaltern intelligible to the mainstream, the subaltern figure is reinscribed in its terms. This, for Spivak, is inevitable, but it must be made obvious to lessen the “epistemic violence” that it creates (Spivak 1988a, 280).

For Spivak, then, any work that engages with the subaltern from a position of privilege necessarily involves a process of re-presentation that is ultimately silencing. While she acknowledges the importance of the work being done to alleviate marginalization, it is a process that will eventually cohere with the dominant narrative (Spivak 1988a, 295). There is

² This comes through most clearly in Spivak’s discussion of Foucault and Deleuze.

a slippage, she argues, from exposing the mechanisms by which colonialism continues to exert dominance to rendering “vocal the individual” (Spivak 1988a, 285). In this lies a fundamental tension in postcolonialism. Even work done in a postcolonial frame does not grant voice to the marginalized. While it may promote an awareness of the silences produced by IR, and even provide some alternative narratives within it, silences will continue. Any narrative, in that it inscribes what Sankaran Krishna (1993, 386) terms “a decipherable code” onto the world, obscures other ways of understanding and of speaking.

If Spivak’s assessment of the mechanisms of re-presentation is taken seriously, the only project left for postcolonial work, particularly that emanating from any Western institution, is that of exposure. Any attempt to carve out a space for alternative voices will inevitably give content to that space that is shaped by a Eurocentric, Western discourse. Any attempt to convey the stories of the “other”, any attempt to “grant” or “give” voice to the subaltern becomes what Spivak (1988a, 295) terms as “speaking for.” Even if the project begins by speaking to the subaltern, the subsequent translation into intelligibility for the mainstream is an exercise of re-presentation.

This analysis leaves open the question of what political project can remain for researchers operating in the West to challenge the dominant narratives of International Relations. Can there be any engagement with the marginalized and subaltern without a simultaneous closure of the politics of agency? The politics of representation as inevitable and violent lend themselves to a particular pessimism about the state of the discipline and the potential for change. Reasons for optimism may be found, however, within Spivak’s distinction of “speaking for”, “speaking to”, and “listening to.” Of these, it is in a practice of

listening that a project for emancipatory (as opposed to empowering) politics can be found. Notions of empowerment evoke ideas of bestowing subjectivity which, as discussed, effectively closes possibilities within the politics of agency. But while empowerment cannot occur within the politics of agency, disempowerment is similarly impossible. Within heterogeneous subjects, material realities that exist aside from the constructions of theory, agency cannot be shut down as the actual practices of individuals and communities resist stable definition. Agency, then, can only be constrained by narratives and the meanings they impose upon it. An emancipatory project, as an exposure of these constraints that enables their contestation, remains both possible and necessary. A renewed focus of method that places emphasis on dialogue and recognition can enable such a politics to occur, even within the disciplinary frameworks of IR.

Speaking

Jennifer Milliken (2001, 147) discusses the role of “authorized speakers” in defining discourses, setting terms, and framing common senses; they determine the dominant narrative and its permutations. In a study of the politics of migration, the “authorized speakers” are representatives of the sovereign power – policy makers, practitioners and authorities – but they are also citizens. In privileging the migrant narrative, therefore, I am also paying attention to “unauthorized speakers.” Bleiker (2000, 24) argues that discourses are not monolithic; they are often thin, unstable and full of cracks. The dominant narrative sets the contexts and frameworks of border politics; the migrant narrative contests, engages

with, and speaks in dissonant voice to reveal these cracks, and suggest what they may mean within migration and border regimes. Peter Nyers (2006, 124) writes that

“Giving” the refugee a voice is not just a practical problem of providing opportunities, especially when the hierarchies giver-receiver, helper-victim, listener-crier are left untouched, and it is not only a problem of rectifying unequal power relations. No, the problem of the refugee’s voice is a deeply political problem, and one that cuts to the core of who counts as an authentic political subject.

As Krishna (1993, 407) asserts, overcoming difference to enact a consistent narrative – counter or otherwise – cannot be the focus of an emancipatory political project emanating from a postcolonial analysis. Within a method of dialogue, representation of the other is reframed as a representation of the self (Spivak 1988a, 288). Rather than obscuring the operations of silencing and power, this centres them and demands that they be recognized as such within what Spivak (1988a, 293) calls a “discourse of presence.” The author becomes the visible referent and in this, the necessary subjectivity of interpretation is affirmed. Such affirmation questions the possibilities of understanding the Other, and of accessing alternative sites of knowledge production and their meanings. This questioning is not a closure of politics, however, but rather inscribes an uncertainty into International Relations that can generate the kind of contestation that permits a politics of agency to flourish.

Ashley and Walker (1990, 263) argue that ambiguity, uncertainty and a questioning of identity are the resources of exiles; they prevent the kind of totalizing narrative that has thus far characterized the mainstream. Spivak (1988b, 98-99) calls for a taking into account of how “we are ourselves caught in a time and a place... to imagine acting within such an awareness.” By thus highlighting the processes by which people are constituted, Jim George (1995, 215) argues that the possibilities for saying no, asking why, and understanding how are

opened up. Each of these occurs in the context of assertion and response, and builds upon a conversation. In this, the conversation rather than a narrative becomes the space in which the subaltern can speak. While processes of interpretation must always occur, the dialogue and material practices of the marginalized can, in conversation, be counterposed against the discursive practices of representation in ways that are meaningful and that expose the incorporations and resistances that these narratives perpetrate within a politics of agency.

I understand agency to be the capacity to decide, and to exert control over the conditions and spaces of being in which we live and through which we move. It does not, therefore, always take the form of vocal demands; it can also be quiet refusal. Agency is the capacity to be political: to contest and demand participation in the practices that shape a life, and the meaning-making discourses that shape a world. Soguk (1999, 28) develops a conception of agency as the capacity to demand and effect change in sites of governance. While the idea of a demand – spoken, or communicated simply by presence – is central to my conception of agency, we must be cautious in our understanding of the meaning of “to effect change.” If this means to accomplish a stated goal, to directly influence policy or to change the direction or foundation of a policy or practice, it is far too limited for an understanding of agency that begins from the exceptional space of the subaltern. If “to effect change”, however, means to contest the shape and meaning of the space of the border, even if this is to produce a greater degree of restriction, a firmer politics of closure, or a more steadfast refusal, the agency of the non-citizen comes into greater focus. Not all change is “positive” or achieves a desired goals; often no change save a reassertion of power results

from demands put forth from margins. But this reassertion is a movement, and a response. It is political, and it can continue to be resisted.

The politics of agency determine who and what can possess and define political subjectivity, and how actions are to be read as political. In short, they determine who is an agent, and thus who can engage and participate in politics and knowledge production. A politics of agency is a politics of the contestation of power relations and the (re)definition of meanings, knowledges and understandings of who and what can be political. It is thus a conversation of active dialogue, shaped by uncertainty and ambiguity. In asserting the importance of this conversation as a central feature of “doing” International Relations, critical theorists, and particularly postcolonial theorists, may enact an emancipatory politics with the potential to disrupt the objectifying and exclusionary narrative of the discipline’s mainstream. Such a project will not propose a renewed vision or trajectory for the future of international and global politics. What it may enable, however, is a deeper understanding of the world that respects difference and engages those who are marginalized and silenced. This may ensure that whatever shape global politics takes, it is one that is less exclusionary and more inclusive in ways that permit participation and voice and propagate a powerful politics of agency.

Representation in this sense is not the dynamic where an authorized speaker speaks for or on behalf of others, and is rendered transparent as a simple conduit of other voices and ideas as a result. Rather, the process is one of re-presentation whereby social actions and voices are necessarily recast in the terms of understanding held by the researcher such that their “original” meaning changes. Indeed, it becomes difficult to speak of an original

meaning as meaning is constituted by processes of interpretation and translation that constitute understanding. Re-presentation is fundamentally a process of dialogue. It is neither objective nor certain. It is instead laden with values and is inherently incomplete as it emanates from a perspective inexorably situated in a particular time and place.³ The meaning of that which is represented cannot be separated from the process of interpretation (Rajaram 2002, 364).

Attention to the processes of re-presentation demands deeper nuance to inclusion than that of simply acknowledging the presence of other narratives. It also asserts the incoherent and disordered nature of such variety. As Ashley and Walker (1990, 260) argue, marginal sites are intrinsically ambiguous and thus they resist knowing where to “know” is to construct a coherent representation. Inclusion of the marginal, therefore, also reconstitutes knowledge as fundamentally incomplete and, as much as it partially rests on understandings that are ambiguous, in part incommunicable as a coherent proposition that maintains a stable meaning.

In this project, I attempt to address the challenges of representation by focusing on this sense of re-presentation, and so to take an approach that begins from dialogue. I hope to render myself visible in the research, and to account for migrant voice not by reporting narratives as “authentic” but as authorized – valuing the migrant narrative as the foundational account rather than privileging the “official” account. I approach my interviews as conversations that are open-ended and incomplete, and engage in an analysis

³ Jacques Derrida argues that there are two fundamentally different approaches to political inquiry: that which seeks to discover a truth, which is most commonly associated with “scientific” approaches; and that which accepts that representing the political is interpretive by nature and so is incomplete and value-ridden (Bleiker 2001, 511).

that is an interpretation of what I heard that accepts what I was told as political and informed narratives that shape and interpret the migration and asylum regime rather than simply attest to its consequences.

Simon Critchley (1992, 7) argues that the “Said” is a statement, assertion or proposition and as such, its truth or falsity – its “reality” – can be ascertained. In this, the object of concern becomes the representation, rather than the gap between it and what is represented. This difference, however, encompasses the other possible narratives and interpretations of the political; the gap is the space of contestation that inscribes the uncertainty and contingency of the meanings accessed through representation. In Phillip Darby’s (1998, 14) terms, attention to this difference is a move from “subject” to “subjectivity” in that it is a shift from the study of fixity and verifiability to one of contingency and uncertainty, and so of change. Paolini (1999, 189-190) argues that subjectivity is constituted at both the imaginary and the social level, and that agency is exercised in the mediations of modernity between dominant narratives and marginal response.

Bleiker (2000) argues that we must take account of the awareness that the subaltern have of the powerlessness of their position, and their ability to learn from their daily material experiences. We must also be aware that they too are caught within discursive practices and an order that delineates their “reality” (Bleiker 2000, ch. 7). Here, Bleiker is highlighting that discursive practices – narratives, symbols, shared meanings and understandings – shape our world from a variety of subject positions. Most importantly this entails that the borderscapes, interstices, and overlapping structures and regimes that create migration

realities are as much shaped by the migrants that move through them as they are by policy makers and practitioners that guard the borders and regulate these mobilities. Moreover, migrants are aware of their own position within this space; they are not caught as blind, mute and passive objects, but as active, engaged and meaningful subjects. A study that does not access migrant narratives, therefore, will be absent these engagements and meanings and will, necessarily, be incomplete.

A Certain Ethics of Engagement

My research focuses on marginalized peoples. In working with refugees and irregular migrants, I encounter a highly vulnerable population. During my work, I have seriously questioned my role as a researcher and confronted ethical questions of engagement. This has a theoretical dimension as outlined above, presenting challenges as to how I should be present in my analysis of my research. It also has fundamental practical dimensions. In observation tasks, the extent to which I participated in events has been difficult to manage. Also, in my attention to the policy process that shapes migrant lives, I have encountered the powerful and the elite. Not surprisingly, the point of view of this group forms a stark contrast with that presented by the marginalized. This presents important challenges in balancing perspectives and in dealing with advice frequently offered. Finally, in my encounters with both groups, establishing a relationship of trust and fruitful communication is an ongoing challenge.

I was brought to this work through both activism and a concern for issues of global social justice. I hope that my research can begin to address some of the inequities that

operate to further exclude people and to call attention to the ways in which policies that are often written in good faith with humanitarian objectives can actually work against enabling a full quality of life for many. In achieving these goals I am not emotionally disengaged from my work, and so meeting and speaking with refugees in Tanzania who are facing repatriation to an unstable future, with irregular migrants (and particularly children) in Spain who are living in persistent uncertainty and fear, and with detainees in Australia who are awaiting deportation has been a difficult experience for me.

The difficulty lies largely in defining what my role as a researcher is. Linda Tuhiwai Smith (2006, 3) writes:

In a decolonizing framework, deconstruction is part of a much larger intent. Taking apart the story, revealing underlying texts, and giving voice to things that are often known intuitively does not help people to improve their current conditions. It provides words, perhaps, an insight that explains certain experiences – but it does not prevent someone from dying.

It is with this dose of reality that I pursued this project. It is hard to believe that my dissertation about asylum and border security is going to make any difference in the daily lives of the migrants I encountered, all of whom are now absent from the spaces in which I met them. The reality is that it will not have an impact. I am uncomfortable with the reality that the data I gather from my work with them is more beneficial to me than it is to individuals I work with. This discomfort, which includes guilt, also results from the fact that I am frequently unable to make a difference in their lives, even if I wanted to. There have been several instances where I am somewhere in the capacity as an observer but without the power to take any action. When asked for help in getting identification papers, for instance, or in getting a new door put into a house, my answer must always be that there is nothing I

can do. Again, this is a difficult thing to take home at night. It is, however, often necessary as to do otherwise could both endanger my position as a researcher (including my permission to be present), and lead to negative consequences that my thus far limited experience does not let me foresee.

I have dealt with this discomfort and guilt by maintaining what I consider to be a basic ethic of engagement. An ethical engagement includes being honest at all times about my role, and what I am able (or not) to do. I never make promises that I cannot keep; I have never promised “to do what I can” to help someone, as I recognize this as placatory. I have also tried to recognize what I can do, which is to facilitate the capacity of my participants to use their own voices and define their own narratives. My questions are open-ended, and in each interview I give participants the opportunity to take initiative and highlight not what I think the important issues are, but what they think they are. To effectively enable such a voice I must at all times resist the impulse to shape statements so that they have “more impact.” I recognize that I bring a particular perspective to my work, and that in simply choosing what statements to include and highlight I am overlaying my own voice over those of my participants. By recognizing this I hope to minimize whatever negative impact I may have and contribute to facilitating a dialogue between the marginalized and the policy community.

In affirming that my approach understands research as dialogue, I have also attempted to work in an information capacity. I have privileged access to public information in that I have the time and resources to be very well informed about the minutiae of history and policy in an area. Particularly in dealing with marginalized populations, this often means

that while I am not better informed about what life is like as a migrant, I may know more about the bureaucratic processes and documents that migrants must navigate. In response to requests for help, I have been able to give information and help people to find out what they need to do themselves – who they should talk to and what rights or obligations they have. I hope here to enable a more long-term solution for individuals.

Some ethical challenges that arose I have had little difficulty navigating, however. Particularly in my research in Spain and Morocco, I frequently encountered individuals who were officially understood as illegal, and who were actively working to break further laws in their quest for future mobility. I chose not to report them, and in some cases took active steps to protect those I met. In Morocco, for example, I chose not to officially register my research intentions with the government and instead travelled on a tourist visa. I had been warned frequently by activists and advocates in Spain that official registration could prompt the authorities to monitor my activities, which would have placed all those I spoke with in a position of increased vulnerability. In some ways, this decision made my own mobility “grey” in its permissions and legality, but I strongly believed that I ethically was unable to put my participants at such risk.

Conclusion

Halleh Ghorashi (2007, 131) argues that research based upon life stories is research designed to:

open up new spaces, to be able to move within shifting boundaries, to create room for different layers of experience and to give voice to people whose voices are often taken for granted or (un)intentionally marginalized.

It is with these goals that I embark upon this project. The literature that interrogates migration, its governance and its effects in studying border politics and their consequences frequently leaves migrants themselves as faceless and nameless – often worthy of sympathy and concern, but un-individuated nonetheless. More critical texts work to tell contextual stories of consequences, and to highlight the violences and lived consequences of such policies. Even here, however, regular migration remains normal, abstracted and general and while the “irregular” migrants are given a place in the story, the degree to which irregularity itself plays out across multiple contexts, multiple places and spaces, and multiple narratives remains obscure. There is today an international migration regime. It operates at state borders globally, taking different specific forms but always maintaining a regular migration that is state-condoned and an irregularity that exists outside of the official narratives of status, identity and mobility. The consequences of such status have similarity across context and space, and an understanding of this is needed if we are to apprehend the implications of the exclusions that the irregular/regular divide imposes. To achieve this, migrant narratives themselves must be incorporated into our framing of categories, precisely to destabilize these categories and to open up space for a potential politics.

For every action there is a reaction, for every voice there is a silence. An awareness of this is crucial, particularly in a study that centres the disruptive power of subaltern migrant narratives. It is not a limitation that must be overcome, but an inevitable byproduct of any research. Research is mutable, by time and by space and also by absences, assumptions, perspectives and subject positions. But it is for this reason that any project is part of a larger field of study, and a larger conversation and dialogue that strives to engage and understand.

One project cannot provide the complete picture, and should not attempt to do so at risk of making the silences it inevitably imposes permanent. This refrain stands behind all I have attempted to do in the following pages.

CHAPTER 3

From Forced and Voluntary to Irregular and Regular

In 1938 Dorothy Thompson wrote:

Too long the refugee problem has been largely regarded as one of international charity. It must be regarded now as a problem of international politics... The world, as it is, is a place of unrest and agitation with desperate people taking desperate measures in the attempt merely to survive. And millions of people wandering more or less aimlessly, battering at every conceivable door, being passed from frontier to frontier, will certainly do nothing to restore order. (quoted in Soguk 1999, 152)

This statement remains relevant in the present day, highlighting the consequences of understanding asylum migration as a “problem” and of locating solutions to such a problem in re-establishing “order.” Thompson is expressing concern about the tendency of states to deflect the burden and responsibility of asylum onto neighbouring countries and regions – passing migrants “from frontier to frontier” – as a practice inimical to finding an ordered solution to the refugee “problem.” Her quote is indicative of the role that border control plays in shaping the international refugee and asylum regime – a regime that is, as she argues, not premised upon charity but instead is fundamentally political. Her statement also gestures to a further element of the regime: the search for a return to order. The politics of asylum are shaped by a quest by the state for a greater capacity for management and regulation to ensure stability and order in the international system of nation-states. This is as true today as it was in 1938.

This chapter traces the shape of the present day asylum regime, and the ways in which we conceptualize and study it. I argue both that an international regime exists, oriented towards the control and management of the migration strategies and related political

agency of migrants, and also that the dominant paradigm of forced/voluntary migration through which we study this regime is insufficient to understand its changing practices. Rather, the paradigm of irregular/regular migration governs both policy making and migrant experience in global migration. This chapter begins with an account of the ongoing development of the international asylum regime, and then develops an account of North/South power relations in the politics of asylum and changing durable solutions. These politics have contributed significantly to the paradigm shift to one of irregularity/regularity, and I account for this while also documenting a broadening of the international asylum regime to a more general migration and border control regime. The chapter concludes with an assessment of the field of refugee and forced migration studies, identifying a crucial gap in our scholarly engagement with practices and processes on the ground.

The present day asylum regime is shaped by prevention and containment strategies that are designed to manage the migration of asylum seekers and refugees; in this way the politics of asylum are also a politics of control. As described in the Introduction, a focus on asylum seekers is instructive to understanding the shape of the global regime as it is on the body of the asylum seeker that the irregularity/regularity divide is simultaneously most clearly marked by state practice and also most contested by the everyday experiences of asylum seekers, both self-identified and more formally recognized. Recognizing this contestation is crucial both because it allows us a more complete understanding of the politics of asylum, mirroring Foucault's axiom that wherever there is power there is also resistance, and also because it is through a recognition of such contestation that the powerful political agency of

the irregular migrant is perceived and expressed. I trace this dynamic in Chapters 7 and 8; for the present let it be noted that the political agency of migrants caught within the nexus of asylum/control/irregularity is as crucial to shaping the regime as are state practices and expectations.

The presence of a global migration regime is revealed in an engagement with sites as disparate as those of this study: Tanzania, Spain and Morocco, and Australia. I provide a more detailed account of the policies and practices of each site in Chapter 4, but this emphasis is visible in only a cursory examination of each site: in Australia, John Howard and the Liberal Government successfully overcame poor polling results in 2001 and won an overwhelming majority in the federal election on the strength of the slogan “we will decide who comes here, and under what conditions they arrive” and of his government’s refusal to allow the “unauthorised migrants” aboard the *Tampa* to disembark onto Australian soil and claim asylum (see Mares 2002; Marr and Wilkinson 2004). Although Howard’s successor dismantled many of the more restrictive policies, including the offshore processing of the so-called Pacific Solution, the Department of Multiculturalism, Immigration and Citizenship retains firm rhetoric on border control, stating that “Australia is a sovereign country and has the right to decide who can enter and stay on its territory” (Commonwealth of Australia 2011). This concern with unauthorized entry is reflected in countless European and Spanish policies designed to deter, intercept and interdict the irregular arrival of migrants across the border between Spain and Morocco. These include increased security measures via security agencies Frontex (the European Agency for integrated border management and security) and SIVE (the Integrated External Vigilance System), “Immigration Reception Centres” that

function to capture and contain migrants before they cross the Mediterranean and until they can be deported and removed, and elaborate readmission agreements with several “sending” states that are tied to development assistance (see: Andrijasevic 2010; Broeders 2007; Calavita 1998; De Haas 2005; Geddes 2004; Haddad 2008; Koser 2007; Lavenex and Wichmann 2009; Lavenex 2006; Wolff 2008). Concern with control is also reflected in Tanzania, both in legislation explicitly designed to contain and control the refugee population and also in increased emphasis on border control. Since 1998, all refugees have been required to reside in refugee camps; residence elsewhere is punishable by fines and imprisonment. In recent years the Tanzanian government has refocused border policy towards irregular migration and security. These efforts are complemented by strengthened partnerships with the IOM and by development and migration related funding from donors based in the North, including partner states, directed towards increasing the Tanzanian capacity to effectively administer “mixed flows” of migrants and to control its borders (see Chaulia 2003; Forbes-Martin and Hiddleston 2006; IRC 2007; Landau 2003, 2006; Mgonja 2010; United Republic of Tanzania 2008b).

I argue that the traditional paradigm of forced/voluntary migration is no longer sufficient to understand these changing asylum and border practices; the paradigm has shifted. The global emphasis on state control of borders refocuses both practice and policy on the dichotomy of irregular/regular migration, and a similar shift in our analysis and understanding of migration is needed to more fully engage with the contemporary politics of asylum.

Changing Solutions: The Ongoing Development of the International Asylum Regime

The international asylum and refugee regime has two defining features that have persisted over time, each of which is closely related to the shift to the irregular/regular paradigm and has deep roots in basic assumptions about global society – what form it takes, what the crucial units of analysis are, how agents interact with its structures, and so how the international system maintains order. First, asylum (or the condition of needing and being provided asylum) is understood to be a temporary measure to address a temporary problem. This generates a need for “durable solutions,” and policy making and practice within the regime is oriented towards their development and implementation. Initially formulated under the League of Nations, the three durable solutions - local integration into the host state, resettlement in a third country, and voluntary repatriation - have endured through the different manifestations of the global refugee and asylum regime. Second, the preferred solutions to the “problem” of asylum towards which policy measures are directed are shaped by the interests, understandings and frameworks of the global North, even when manifested in the global South. What these two features “mean” to policy makers has changed over time, but at all times they have been mutually constitutive of and shaped by (perceived) changes in refugee migration patterns. As refugee migration became understood as a phenomenon of the global South, the interests of the North came to more closely identify with prevention and containment, and to be manifested in solutions emphasizing return and border control.

The temporary nature of asylum is shaped by common understandings of what “order” means within the international system of nation-states, and how that order is to be maintained. It is also this understanding of asylum as necessarily temporary that orients the regime so firmly towards a problem-solving approach – an orientation that informs both the practice and the study of asylum and refugees.

Understanding asylum migration as a global problem at best, and as a crisis at worst, subsumes the issue within a discourse of emergency. As Nyers (2006, 5) argues, emergency solutions require emergency responses that are immediate, practical and operational. This means that the solutions that are presented are found within the already established system; they are informed by dominant discourses and guided by dominant interests, and are oriented fundamentally to re-establishing order. Soguk argues that for refugees and asylum seekers the “only practically viable solution was to be reintegrated into the system on terms that the system set” (1999, 162). These terms have changed over time as the international refugee and asylum regime has taken shape and as its focus has moved from global North to global South, shifting from a common understanding of the preferred solution as local integration, and thus a reintegration of migrants into the order of national citizenship in the host country, to an emphasis on the solution of repatriation, thus returning migrants to citizenship in their country of origin. Both solutions represent a return to the systemic order shaped by the nexus of territorial nation-states and citizenship, and both offer a “durable” solution that ends the temporary condition of asylum. The shift in preference from integration to repatriation reflects the ongoing interests of Northern states, and an increased

emphasis on management and control in an attempt to order, or to regularize, asylum migration.

The international system is one ordered by nation-states. It is therefore the nation-state that provides the frame through which political agency, migration and the control and management of both is practised and understood. The nation-state inexorably attaches the institutional power structure of a state with a particular population – conceived as the people, or the nation. The sovereign state is the source of control and law, and is the only power legitimately able to exercise each. This power is premised upon the consent of the people which is granted according to a discourse of rights and participation. In turn, this discourse sets the parameters for a rule of law that maintains the legitimacy of the secular, democratic nation-state, and of the political agency of the citizen.

Through the granting of rights, the citizen and the nation-state become reliant upon one another; the citizen requires the nation-state to enact her or his agency, and the nation-state requires the citizen to legitimate its sovereign power. However, in creating this relationship we are working with ideal constructions, particularly in the case of the nation-state. As a territory that encompasses a single unified national group, the nation-state as an ideal political community has rarely existed in history. Territorial state boundaries encompass many different national groups (which in turn cross territorial borders). Even more significantly for a study focused on global migration, it is a fundamentally Western construct exported to the global South through relationships and processes of colonialism. Indeed, and as described both below and in Chapter 4, this imposition and shaping is continuing through the frameworks of expectations in the international migration regime.

Walker (1991, 446) writes: “state sovereignty expresses a specifically modern articulation of political identity both in space and in time, one that can be neither simply affirmed, nor renounced.” He argues that the principle of sovereignty has become indispensable to our understanding of what a state, a nation and a political identity can be (Walker 1991, 448). Sovereignty is a capacity; it is the ability to exercise legitimate power and control, to define and exercise (and suspend) laws, and to define the boundaries between inside and outside.⁴ It is the capacity to decide, and to exclude. This capacity for exclusion is the quintessential sovereign exercise, and in this sovereignty is a particularly modern construct.

Modernity, in many ways, embodies a quest for order and regulation that can be understood and rationalized. In achieving this quest, boundaries are important in establishing a clearly defined mode of knowledge production that can be held as universal; the construction of binaries is thus an important practice within modernist discourse. Sovereignty is the capacity through which the definition and enactment of modernist binaries of inside/outside, self/other, public/private, us/them, national/foreigner, and citizen/non-citizen are given authority (True 1996, 230). It thus adjudicates modernity within the confines of the international system. In this, it affirms the conditions in which key political questions of security, democracy and responsibility can be answered (Walker 1991, 460). Sovereignty becomes the ultimate arbiter of what is political, and thus of what counts as

⁴ There is a distinction to be made here between sovereignty and sovereign power. Sovereignty is a capacity, and as such cannot act in itself. A sovereign power, however, exercises sovereignty. The sovereign power is generally taken to be coterminous with the state. The state, however, is a structure and cannot act in itself. Sovereign power must then be defined as that enabled by sovereignty which is most frequently practiced through the institutions and structures of the state.

knowledge and action. Within the mainstream discourse of International Relations, it is definitive of who and what is powerful and can enact political agency – and who is not, and cannot. It is the citizen that has the capacity for political agency within this construct; the non-citizen, the (irregular) migrant is excluded and in this exclusion, controlled.

The fallibility of the nation-state construct in practice has meant that states are unable to rely upon classical “nationalism” as a discourse that binds and promotes the unity of a homogenous in-group to unify the citizen body and as such are faced with a further task of inclusion that can encompass difference. Citizenship has proven to be a useful alternative for creating a national unity, and for connecting the heterogeneous “nation” to the state. The mechanisms by which the citizen/state relationship is maintained are what Soguk (1999), building on Walker, refers to as “practices of statecraft.” They are the discursive and representational practices by which the state produces specific images, meanings, and exclusions and inclusions to stabilize territorialized relations, institutions and identities. They shift disruptions to the margins and affirm stable continuities that afford the state a reason for being (Soguk 1999, 49, 176, 187). These practices most fundamentally include maintaining the integrity of the territory-citizen nexus, which requires clearly defined and well-managed borders.

The discourse of maintaining the legitimacy of the territory/citizen connection requires the maintenance of the citizen as “normal.” It is thus the citizen who embodies regular politics, who expresses political agency, and who legitimately participates in the politics not only of the state, but also, by extension, of the international order. The refugee or asylum seeker – and the irregular migrant – who has given up or lost this citizenship must,

therefore, be understood as aberrant. Sadako Ogata, who served as the UN High Commissioner for Refugees from 1991 to 2000, clearly enunciated the understanding of statelessness and asylum as temporary:

[d]isplacement or uprootedness is a transitory condition: lack of national protection is an aberration of the normal in which the state accepts the responsibility for its own citizens. (quoted in Soguk 1999, 31)

Citizenship is understood to be the core status to which migrants must return for the refugee problem to be “solved”, and as such the durable solutions are oriented around a return to citizenship status – a return to ordered normality.

Hannah Arendt, herself a refugee, argues that refugees were a problem in the early years of the international regime inasmuch as they were stateless and unsettling to the relationship between the nation-state and the citizen, but that at the time they were not threatening to society itself. Their difficulty was not that they were a political threat, but rather that they were unable to *be* political; their status as non-citizens prevented participation, and this was what needed to be rectified (Arendt 1951). The solution, therefore, was always to return the migrant to the status of citizenship – to a regular status. This expectation remains today, but how it is to be achieved – and to what citizenry the individual is “returned” – has changed. In the local integration or resettlement “solutions,” it was within the host citizenry that status was restored. In repatriation, it is within the original citizenry that a solution is found. The preference for repatriation thus has further implications for our understanding of political agency. By framing a return to an original citizenship as the only viable solution, we also affirm that the only legitimate political agents are those who are “from” where they “are.” Such a rendering makes the in-group more

inflexible and overlays a politics of us and them (and so of race, foreignness, and belonging) over migration and asylum. It also renders the political agency of non-citizens, where it is recognized at all, as dangerous and threatening.

Institutionalizing the Regime

The assumption that asylum migration is a temporary, rather than permanent, part of the international system is rooted in the history of the UNHCR. The UNHCR's earliest institutional predecessor emerged with the creation of the League of Nations following the First World War, and the Eurocentric focus present at this founding has continued to shape the regime.⁵ Between the 1880s and the First World War several massive refugee migrations took place within Europe, including the migration of twenty-five million Jews from Eastern Europe and the various migrations that resulted from the disintegration of the Ottoman Empire (Sassen 1999, 77). It was these flows that were the objects of concern.

The concern about refugees, and the recognition of asylum migration as a unique issue that had to be addressed, thus arose in response to events on European territory.

Saskia Sassen (1999, 78) writes that following the First World War, the

strengthening of the interstate system in Western Europe and the centrality of sovereignty and border control it entailed, the rise of communism in Russia, and the closure of immigration in the United States, created a confluence of conditions forcing European states to address the matter of refugees coming from the East.

In 1921 Fridtjof Nansen was named the League's High Commissioner for Refugee Work.

The International Office for Refugees and the International Labour Organization (ILO)

⁵ Please note that for the purposes of tracing migration patterns, I consider Russia to be part of the European region.

worked together to facilitate refugee migration using what were dubbed “Nansen passports” to enable individuals to cross national boundaries in search of asylum (Sobel 1979, 2). The refugees of concern for Nansen were of European origin. The Nansen passport regime was designed to address those fleeing the 1917 Bolshevik Revolution, or the Armenians and Greeks entering Europe to escape Turkish atrocities. The League of Nations proved to be a failure in facilitating international cooperation, but in 1938 the flight of Jews and other persecuted groups from Hitler’s Germany, Mussolini’s Italy and Franco’s Spain motivated the creation of an international committee to address refugee movement outside of the offices of the League (Sobel 1979, 2). Here, again, the population of concern was European and was fleeing from dictatorial and oppressive regimes that were identified as hostile to Western Europe.

After World War II, the United Nations became a primary mechanism for addressing international issues. Eight million people had been displaced by the War, and the United Nations Relief and Rehabilitation Administration (UNRRA) was established to directly address their resettlement. After the UNRRA, the International Refugee Organization was created and, finally, in 1951 the United Nations High Commissioner on Refugees was established (Sobel 1979, 2-3). Similar to its institutional predecessors, and reflecting the understanding of refugees as temporary, it was created as a temporary organization and only given a mandate for three years (UNHCR 2000b, 6). Statelessness was seen as an undesirable aberration from the norm, in much the same way irregularity is, and the original definition of the refugee reflected the limited role of the UNHCR. The UN Convention Regarding the Status of Refugees defined a refugee as an individual who:

As a result of events occurring before 1 January 1951 and 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; or who, not having a nationality and being outside of the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it (United Nations 1951, 6).

The current refugee regime was thus institutionalized through the Convention and the UNHCR, and emerged at the beginning of the Cold War. It was shaped by the imperatives of ideological conflict as Western governments worked to give priority to individuals fleeing the Soviet Union. In flight from the Soviet Union to the West, the refugee was understood to be motivated by pro-Western political values (Hyndman 2000, 9). The refugee therefore had ideological value, and was seen to be “voting with his feet” by fleeing to the West. This drove a willingness in Western states to resettle asylum seekers and to integrate them into host societies. The refugee was imagined as a white, male individual who may or may not have been accompanied by his nuclear family; the refugee had a past, a story and a voice, all of which were used to validate the West in its ideological war. This ideological imperative, combined with the European focus, defined the preferred solution at the beginning of the regime: local integration in the host state, supplemented by resettlement in a third (Western) country. Displaced persons were relocated to settler societies such as New Zealand or naturalized into European communities, and were not seen as threatening, dangerous or criminal.

As the 1960s began, events in other areas of the world challenged the geographic limitations of the Convention. Decolonization began in Africa and Asia and events such as the Chinese Communist Revolution and the Algerian civil war generated major movements

of people seeking protection (Neuman 2004, 42). These migrations, combined with those spurred by conflicts in Latin America and the experience of the “boat people” of Indochina, challenged conventional thinking on refugee status (Baines 2004, 5). In 1969 the Organization of African Unity (OAU) adopted a regional Convention that expanded the UN definition of refugees to include not only those fleeing from persecution, but also those fleeing from war and communal violence (OAU 1969, 2). This marked a watershed in the construction of the refugee and asylum seeker. The popular image of the refugee was no longer only a white European individual giving voice to an affirmative and heroic political agency, but was also a displaced person from the “Third World,” poverty stricken and fleeing violence and war. This image had a profound impact on which solution is preferred and has given being “temporary” a new meaning. It is no longer simply the status of being a refugee/asylum seeker/irregular migrant that is temporary, but the individual herself.

Attention to refugees in the South was motivated and compelled not only by Cold War politics, but also by empirical realities and the emergence of serious humanitarian crises. Scott Watson (2009, 37) argues that the refugee regime constructs two kinds of states: refugee producing states that are endangering international security by creating disorder, and refugee protecting states that work to ensure international security by restoring order. The roots of this dichotomy are found in the origins of the regime (the threatening Soviet Union as refugee producing, and the ordered West as refugee protecting), but it comes into sharper distinction when the border between the two kinds of states also becomes the geographic border between global North and South.

It can be argued that the emphasis on preserving the nation-state/citizenship order of international society that underscores the persistent understanding of asylum as temporary reflects a Western bias, and thus represents “Northern” interests. Ultimately, the refugee regime was established to normalize “forced” (refugee) migration, and to create standard and predictable responses to the refugee “problem”(Watson 2009, 33). The modern understanding of the refugee is not concerned with only normalizing citizenship and the sovereign state, but also with privileging the Western liberal conceptualization of this relationship as the ideal form of political community (Watson 2009, 35). There is good scholarship that documents this, particularly located within the postcolonial community (see: Ayissi 2009; Bhandar 2004; Bigo 2001, 2007; Chimni 1998, 2009; Ellermann 2010; Gibney 2004; Hyndman 2000; McNevin 2007; Nyers 2006; Rajaram 2002b; Soguk 1999, 2007; Squire 2009; Walters 2008; Watson 2009). The dominance of Northern interests in shaping the asylum and refugee regime is made even more obvious, however, when attention is paid to the practices of policy development within the regime itself.

North/South Power in the Politics of Asylum

B.S. Chimni (1998, 351) argues that a “myth of difference” emerged when refugees from the global South captured the attention of Northern policy makers, and that both the nature and character of refugee flows from the South were represented as radically different from those that had occurred in Europe. He writes that “an image of a ‘normal’ refugee [had been] constructed – white, male, anti-communist – which clashed sharply with individuals fleeing the Third World” (Chimni 1998, 351). This “myth of difference” is clearly demarcated

within the text of the fiftieth anniversary edition of the UNHCR publication *The State of the World's Refugees* as it chronicles the emergence of the refugee from the global South:

These refugees were different in many ways from those envisaged in the 1951 UN Refugee Convention. In most cases they were people who had fled their homes not because of a fear of persecution but because of war and violence related to the process of decolonization... Most of them did not seek to integrate in the country of asylum, but wanted to repatriate when their own countries became independent or when the environment became more secure. Rather than dealing with individual refugees on a case by case basis, UNHCR now found itself dealing with mass flows of refugees. (UNHCR 2000, 6)

While Chimni argues that at the time, the “normal” refugee remained that of the original vision from the Convention, this is no longer the case. Moving forward in time from the emergence of the “Third World refugee”, refugee migration has become firmly entrenched in the global South and the popular image of the “normal” refugee is now that of a poor African woman or child (Johnson 2011).

Migrants from the South are understood in terms of mass movements, economic opportunism and threats to security, all of which generated an increasing concern in the global North for the sanctity of (Northern) borders. Refugee movements from (and in) the global South throughout the 1970s and 1980s evoked images of massive, often uncontrolled population movements. Influenced by an overarching structure of xenophobia, the causes of these displacements were understood as removed from a “developed”, Northern context and thus as producing a difference in the refugees themselves. This understanding that Southern refugees are somehow different has fundamentally impacted which durable solution is preferred. Local integration and resettlement are no longer thought to be appropriate (as is

stated in *The State of the World's Refugees*, refugees are not even supposed to desire such an outcome!) and voluntary repatriation has become the preferred solution.

The change in preferred solution is presented by the UNHCR as reflective of the desires of the refugee population itself (see also Chimni 2003). However, an examination of the changing policies of Northern states reveals a decided trend towards tighter border controls that would seem to have a more direct impact on the shape of the regime and its preferred solution. The 1980s produced a global economic crisis that provided the context for many of the policy shifts apparent within the regime. As advances in transportation and communications technologies made the West more readily accessible to those in flight, a moral panic concerning the stability of the domestic polis emerged in popular discourse and in the media. Refugee movements were seen as able to “threaten intercommunal harmony [and] undermine major societal values by altering the ethnic, cultural, religious and linguistic composition of the host populations” (Soguk 1999, 201). The refugee as “other” to the citizen became particularly forceful in this discourse, and shaped the popular notion that the West did not have the capacity to absorb the mass movements from the Third World and, regardless of statistics that demonstrated that refugees from the South overwhelmingly remain in their region of origin (see UNHCR Statistical Yearbooks for an accounting of this, for example UNHCR 2008), increasingly restrictive legislation was put into place throughout the West.

The accusation of difference for Southern refugees is not only in who refugees are, but also in their motivations for movement. “Genuine” refugees are defined as fleeing from persecution. Refugees from the global South, however, were not seen as (only) fleeing

persecution, but rather as making an informed and beneficial migration choice. A crisis of authenticity has emerged for asylum seekers as their claims are presented as spurious and inauthentic. The suspicious figure of the economic migrant has become a foil for the legitimate refugee. Teresa Hayter (2003, 8) argues that states continue to maintain that they have a tradition of welcoming “genuine refugees” even while they pursue restrictive border policies designed to deter and deflect migration. Heightened border security that controls mode of entry has been justified through delegitimizing the asylum claims of unauthorized arrivals, rendering asylum seekers as irrefutably irregular, and irregular migration as illegitimate.

A normative ideal has developed in both popular and policy imaginations of who a “genuine refugee” is, and how that person must/will behave. As Watson (2009, 41) argues,

The normative ideal for refugees is the “real” or “good” refugee that flees to the nearest state, stays in a refugee camp awaiting resettlement or repatriation, all the while fully cooperating with the local authorities in whatever decisions are made regarding their welfare. They are to be passive and speechless. The “bogus” or “bad” refugee circumvents the “queue” by traversing multiple states to make an asylum claim in a Western liberal state, is uncooperative with authorities and attempts to be an active participant in matters regarding his or her welfare... These expectations are codified in the Convention itself, referring to expectations of submissiveness to the receiving state in Article Two, and a direct journey (implying not transversing multiple states) in Article Thirty-One.

The problem is that asylum seekers “often behave more like unauthorized economic migrants” in the eyes of the state; they enter without authorization, and without identification, and often use the services of the same people smugglers (Watson 2009, 40).

Asylum seekers are irregular. By contrast, refugees that enter the country through a resettlement program are understood to be behaving in a manner consistent with state

expectations, and as outlined in the Convention (Watson 2009, 44). They are, in this sense, “regular” (see Introduction).

The closing of space for asylum applications in the North is directly connected to anxiety over irregularity and associated concerns over security (see Waever 2005; Geddes 2003, 2005; Guild 2006, 2009). Edward Newman (2003, 6) writes:

The institution of asylum is under grave threat. Many politicians governing states see refugees and asylum seekers in negative terms, as a threat to social cohesion or employment, or even as posing a threat of insurgency and terrorism.

Throughout the 1980s and 1990s the threat posed by asylum seekers was framed primarily in economic terms as burdensome on already weakened welfare states. However, during the 1990s and particularly since the terrorist attacks of September 11th, 2001 in the United States (and the subsequent attacks in Madrid in 2004 and London in 2005), the threat has also become one defined by national security. The image of the foreign Islamic terrorist has become dominant in Western/Northern public anxiety, and this figure overlaps in perceived origin and ethnicity with many Southern refugees. Border control legislation is increasingly restrictive and claims for asylum are even more closely scrutinized as refugees are suspected of both trying to improve their circumstances and of attempting to damage those of the citizens of the host state.

Catherine Dauvergne (2007, 541) argues that the link between migration and security is not new, but that 9/11 served as a “tidal wave” that cleared away political opposition to the increasingly strict provisions implemented to regulate migration in the name of national security. Migration policy has become about controlling access to sovereign territory by strictly managing all kinds of migratory flows. The restrictive turn in border control followed

a change in source countries, indicating the perceptions and fears of racial and cultural difference have played a role in securitization (Watson 2009, 5). Border control is based upon the categorization of risk (Watson 2009, 7), and asylum seekers have increasingly been classified as high risk due not only to their region/country of origin, but also to their mode of arrival and (now) suspect reasons for migrating. Security is thus becoming the new “normal” in understanding the politics of migration, including asylum migration (Bhandar 2004). Building upon theoretical analysis in the critical security studies of Barry Buzan, Ole Waever and Jaap de Wilde (1998), among others, Dauvergne (2007, 534, 542) asserts that the securitization of migration has justified exceptional measures as a matter of course, and so it is now more normal to treat migration and asylum as a policing matter rather than a question of economic distribution, social composition or humanitarianism. She writes:

In this emerging new normal of migration law, it is no longer politically possible to talk of the security of migrants, or even more importantly of asylum seekers, without also engaging the more ominous spectre of state security (Dauvergne 2007, 544).

François Crépeau and Delphine Nakache (2006, 4) argue that

[i]llegal movements of persons have come to be considered primarily as national and international security threats, alongside terrorism and drug trafficking, rather than as a last resort taken by persons who might otherwise be unable to escape hardship, hunger or persecution, or reunite with their family members.

Further, the degree of “risk” asylum seekers are seen to represent is directly tied to their mode of border crossing. Full compliance with border regimes, as exhibited by refugees brought by the state through resettlement programs, represents the least degree of risk. No compliance, as exhibited by unauthorized entrants, represents the highest (Watson 2009,

117). Regular migration is understood as the least threatening to a vulnerable society.

Irregular migration, however, is threatening enough to demand a security response.

The End of Asylum? Irregularity at the Border

The impact of Northern states' closure of asylum systems has had global ramifications in shaping the international asylum and refugee regime. First, policies of prevention and containment have further entrenched the temporary nature of asylum, deeply embedding the assumption that the only viable solution is for asylum seekers to return. These policies are manifested in spaces that are found primarily in the global South, and as such the regime operates to maintain the boundary between global North and global South through migration control. Second, the increasingly restrictive nature of border control has systematically closed down avenues for asylum seekers to access countries of the global North, with a corresponding increase in "illegal" border crossing and human smuggling as migrants seek any way to cross the border. This has generated what observers have called the "asylum-migration nexus" (see Betts 2008; Castles 2007) where the lines between asylum seekers and "economic migrants" and other forms of irregular migration are blurred as all groups make use of the same migration routes. As migration flows have become "mixed," however, states have been less willing to tolerate any unauthorized crossing of borders, regardless of reason, citing perceived abuse of asylum systems as justification for restricting all access. They maintain that asylum obligations are being met by other means, including aid support for refugee camps, and policy makers are actively seeking alternatives to spontaneous arrival for asylum seeking. This brings us to the third consequence: an

emphasis on containment, in practice containment in the global South. The possibilities that have been explored to achieve this include offshore processing centres, an emphasis on refugee camps and validation of resettlement from these spaces rather than through border crossing, and the creation of reception centres located just prior to border zones. In this, the forced/voluntary paradigm remains relevant in the application of asylum law, but not in the application and practice of border and migration control. Rather, regulating all migration, regardless of its cause, is paramount, and the irregular/regular paradigm has become dominant.

Susan Kneebone and Felicity Rawlings (2007, 3) argue that the policies of Northern states since the 1980s have been directed at containment. For Susan Zimmermann (2009, 74), “[a]sylum has come to be seen as an uncontrolled ‘back door’ route to immigration and something that can and should be contained.” From the perspective of the global North, this represents what Emma Haddad (2008, 201) characterizes as a deterritorialization of the concept of protection, whereby Northern states design policies and practices to “offer protection” close to the refugee’s home – and away from their own sovereign spaces. In this way, “protection is exported in order to maintain security inside” (Haddad 2008, 201). While it cannot be claimed that these policies are solely responsible for the development and long term maintenance of refugee camps in the global South, they have had an impact on the durability of the camp model. The 1980s saw the development of large refugee camps (many of which were to become long term camps) throughout Africa, Asia and Central America. As early as 1983, official reports such as the World Refugee Survey noted the reticence on the part of governments to open their borders to refugees, arguing that “there are today too

many asylum seekers/refugees and that international institutions and current international legal instruments were not meant to deal with such large numbers” (Jaeger 1983, 8).

As Kneebone and Rawlings (2007) observe, the bulk of today’s refugees live in protracted situations close to their country of origin. Although the global refugee population has been in decline in recent years, the total number of displaced persons from conflict, persecution and violence has increased substantially. A growing proportion remain in their own country as Internally Displaced Person (IDPs), “usually because they are unable, or in some cases unwilling, to seek asylum in another country” (Crisp 2003, 75). This has resulted in a dramatic increase in IDPs who are “contained” in their countries of origin, without crossing international borders, but are nevertheless displaced from their homes (see Abebe 2009). Hyndman (2000) characterizes this practice as “preventative protection”, a spatialized strategy of assisting displaced persons within the country at war rather than as refugees in countries nearby. This, she argues, “is less a humanitarian practice than a donor-sponsored effort to contain forced migration and to avoid international legal obligations to would-be refugees” (Hyndman 2000, 2). As discussed in Chapter 4 and 5, these expectations do spill over into refugee camps located close to the border that has been crossed; they have been located in such a way to encourage repatriation and return, rather than settlement and integration – and rather than the claiming of the rights detailed in the Convention.⁶

Hyndman (2000) argues that these situations are rendered acceptable by these discourses of “preventative protection,” safe havens and the right to remain at home. Each of these assertions represent containment strategies that serve to keep internally displaced people and

⁶ These dynamics are explored in detail in my discussion of *prima facie* refugees as the African parallel to the asylum seeker in Chapters 4, 5 and 6.

refugees “over there”, far from the borders of Western donors (Hyndman 2000, xxii, 2).

They also reaffirm the order of territorial nation-states and citizenship that underscores what is considered and accepted as normal.

In a 2000 address to the humanitarian refugee community, UN Secretary General Kofi Annan said:

Your humanitarian work is used, or rather abused, as a substitute for political action to address the root causes of mass displacement. You have become part of a “containment strategy,” by which this world’s more fortunate and powerful countries seek to keep the problems of the poorer at arm’s length. How else can one explain the disparity between the relatively generous funding for relief efforts in countries close to the frontiers of the prosperous world, and the much more parsimonious effort made for those who suffer in remoter parts of the world such as Asia and Africa? And how else can one explain the contrast between the generosity which poor countries are expected to show, when hundreds of thousands of refugees pour across their frontiers, and the precautions taken to ensure that as few asylum seekers as possible ever reach the shores of rich countries? (quoted in Newman 2003, 3)

This quote highlights the degree to which humanitarian aid is absolutely implicated in migration control strategies. The host countries of the global South do not have the resources necessary to effectively address the problem and costs of what are typically mass arrivals, and so they are reliant upon assistance from the North and from international organizations (see Roper and Barria 2010). For Hyndman, this shift in responsibility from individual states to multilateral organizations, particularly to the UNHCR, signals a change in the state-centric mapping of the global asylum and refugee regime (Hyndman 2000, xxv). This shift is itself reflective of state interests, however. Efforts directed at IDPs and refugee camps are very effective in controlling the migration possibilities of asylum seekers, and represent a deterritorialized form of border control. They reflect the perceived need to regulate mobility. It is this need that has driven efforts by the UNHCR, the European

Union, the United States Committee for Refugees, and other organizations to increase aid allocations to Southern host countries (Kneebone and Rawlings 2007, 3; Raper 2003; Roper and Barria 2010). These efforts do not generally include an increase in resettlement quotas, however, or in plans and mechanisms that would allow migrants to make their way to the global North. Rather, assistance is directed at supporting shelter and sustenance needs of refugees, and in facilitating their repatriation. William Maley (2003, 306) writes that although the UNHCR is “charged with protecting refugees, its donors more and more expect it instead to protect their borders.” Declining levels of support for sustaining refugee populations have led Southern host states to become both weary of the “burden” of refugee populations and more unwilling to host them. The consequence has been to further emphasize the prevention and containment of asylum migration within conflict regions.

It is important to recognize that these shifts in Southern host countries cannot be explained simply by pressure from Northern donors, although this is significant (see Milner 2009). The failure of burden-sharing mechanisms and of Northern states to allocate sufficient aid resources to assist states hosting large numbers has engendered state practices that are vested in prevention, containment, and migration control for internal, domestic reasons as much as due to diplomatic pressure. State interests are complex, and the tying of development funds to effective migration control only further harmonizes Southern interests with Northern concerns.

The policy consequence of the state emphasis on security and control and the crisis of authenticity for asylum seekers and refugees has been to enable and justify increasingly harsh mechanisms of border control on the part of Northern states. Jeff Crisp of the

UNHCR argues that the “primary response of governments to the asylum issue has thus been to deter or obstruct the arrival of people who intend to claim refugee status on their territory” (Crisp 2003, 84). Industrialized states claim to spend ten billion dollars each year on asylum-related activities, which is far in excess of the eight hundred million spent by the UNHCR on almost twenty million refugees (Crisp 2003, 83). While much of this funding is certainly directed to settlement and processing services, a significant portion of it is also directed to migration control efforts designed to secure borders against unauthorized migration. Crisp (2003) highlights several “alternatives” being developed that make it unnecessary for people to move from one part of the world to another for asylum. These include efforts to reduce “migration pressures” – which include development assistance targeted as migration-producing states in exchange for efforts to contain migration - as well as efforts regarding IDPs, the launching of migration information campaigns that highlight the dangers of irregular migration, and introducing humanitarian visa programmes that can only be accessed at the embassy in the country of origin (Crisp 2003, 84).

Crisp (2003) argues that opportunities for regular migration from the South to the North are seriously limited. Nominally, at least, asylum is one route that is still available because it is encoded in international law (Crisp 2003, 81). Particularly as efforts in containment and prevention have strengthened expectations that “genuine” refugees will remain in their region of origin, a popular belief has taken hold in policy and government communities that the asylum system is open to abuse. That less than one third of asylum applications to Western Europe and North America in the last twenty years have been recognized is used as evidence of this trend (Crisp 2003, 82). Restrictive policies are justified,

therefore, in terms of maintaining the integrity of the ordered asylum system against the threat of irregular migration.

Migration control policy has traditionally been based upon the possibility of separating clearly between forced and voluntary migrants, with the unauthorized crossing of borders by forced migrants tacitly accepted by states on the basis of humanitarian needs and recognition of their right to seek protection. Alluding to Chimni's (1998) myth of difference, Edward Newman (2003) is succinct in his assessment of the most significant change we have seen in the international refugee regime. He argues that qualitative changes in patterns of forced migration are questionable, but that the key change "was the move by governments towards regulating migration, in particular immigration, and towards defining those who were to be granted the special status of refugees" (Newman 2003, 3). Newman directly connects the narrowing of access to refugee status to the increased regulation of migration, underscoring the paradigm shift to that irregular/regular migration.

The issue of "false" asylum claims, which seem for many to indicate that the channels of asylum are being taken advantage of by those otherwise ineligible for regular migration, undergird this justification. In Europe, Fiona Adamson (2006) writes that false asylum seekers, combined with high levels of "illegal" migration (she cites thirty to fifty percent of all migration to the "West" as illegal) are contributing factors to a growing sense of a declining ability to exert sovereign control over borders. The solution, and thus the focus of most analysis, is in state policy. The emphasis on border control has had negative consequences for asylum itself, however. There is no way to effectively separate asylum seekers from "other migrants" at the moment of border crossing. As a result, policies

designed in response to “economic migrants” being forced illegitimately into the asylum system by a lack of legitimate migration routes have had the circular effect of also restricting asylum seekers access to border crossings, forcing them into “illegal” or “irregular” streams. The resulting migration of “mixed flows” has created what has been dubbed the “asylum-migration nexus.”

Alexander Betts (2008, 1) characterizes the asylum-migration nexus as the situation whereby refugees and other irregular migrants use the same routes, have overlapping motives for movement, and are met by undifferentiated responses from states. He argues that this nexus makes the UNHCR’s task far more complicated. However, the “nexus” has deeper implications for the global asylum and refugee regime as a whole that extend beyond the role of the UNHCR to the broad paradigm within which regime practices operate. Stephen Castles (2007) argues that the migration-asylum nexus exists at all stages of the migration chain. He writes that “[g]overnment policies on migration control are based on the principle of separating clearly between economic migrants and forced migrants,” but that it has become increasingly difficult to separate the two in practice (Castles 2007, 25-26). In Castles’ analysis we find hints at the breaking down of the forced/voluntary paradigm. He argues that the blurring of the distinction begins at the initial emigration, contending that countries with weak economies also tend to have tyrannical rulers, weak states, and high levels of violence and human rights violations (Castles 2007, 26). The consequences of this are that reasons for migration are both “economic” and “protection” oriented; the context of migration is far too complex to maintain a clear distinction between forced and voluntary migration. Moreover, migrants use the same routes and mechanisms (including smuggling)

to travel, and the same networks to facilitate integration upon arrival (Castles 2007, 26; Troeller 2003, 59).

Many commentators have made the argument that the border control practices of the states of the global North are oriented not around identifying “genuine refugees” from “economic migrants,” but around differentiating between desirable and undesirable entrants (see Bigo et al. 2008; Castles 2007; Chimni 1998; Dauvergne 2007; Geddes 2003; Gibney 2004; Guild 2006; Hyndman and Mountz 2007; Jaeger 1983; Juss 2005; Mares 2002, 2003; McNevin 2006; Squire 2009; Van Selm 2003, 2007; Watson 2009). For Gill Loescher,

[w]hat concerns policy makers more is the kind of asylum seeker who is appearing at their borders, and the fact that his arrival is totally unregulated. Many of the “new” refugees originate in the Third World, whereas in the past there were few large scale spontaneous arrivals from distant countries. (Loescher 1989)

As asserting that refugees are “undesirable” flies in the face of both humanitarian rhetoric and international protection obligations, this process of closure has been operationalized not in terms of the identity of migrants, but in terms of their mode of entry. Unauthorized entry has become the marker of the “undesirable,” as has the use of people smugglers. Yet, as Khalid Koser (2003, 182) argues, an increasing number of asylum seekers rely on smugglers, at least in part because of the restrictive asylum policies of industrialized states. In fact, this is true to such an extent that John Morrison in the UNHCR suggested that to close down smuggling networks into Western Europe would be to effectively end asylum in the region (Koser 2003, 182). The practical implication of the application of policy to deal with mixed flows is that refugees and asylum seekers are being treated as indistinguishable from other kinds of migrants as far as border crossing is concerned (Juss 2005, 762).

The IOM argues that the response to irregular migration and mixed flows must be delivered in the context of “a comprehensive approach to migration management” (IOM 2009, 1). It estimates that approximately ten to fifteen percent of total migration flows are irregular. Nevertheless, irregularity represents particular challenges. On the one hand, it impedes the rule of law and the legitimate functioning of government authority to regulate the entry and stay of non-nationals on its territory. On the other hand, irregular migrants face, to a disproportionate extent, multiple dangers, hardships and infringements of their human rights (IOM 2008, 1). The impact that border controls have on legitimate asylum seekers is also framed in terms of caution and management. The Executive Committee of the High Commissioner’s Programme (2000) argues that many of the undocumented asylum seekers are actually “irregular movers,” refugees who have “illegitimately” left one state of protection for another, more favourable or preferable state. Its report states:

The phenomenon of refugees who move in an irregular manner from countries in which they had already found protection, in order to seek asylum or resettlement elsewhere, is a growing concern. (Executive Committee of the High Commissioner's Programme 2000, 6)

The implication is that such secondary movements not only undermine the international system of protection, but also could potentially over-burden the asylum system of the final destination country, placing “serious strain” on national asylum systems and “provoke[ing] public hostility towards foreign nationals, thereby undermining effective refugee protection” (UNHCR 2000, 1). In this way, a focus of border control and irregularity is justified even in terms of the international refugee and asylum regime, albeit focused on a concern about the willingness and capacity of Northern states to host refugees.

Refugee vs Forced Migration Studies

The shift in migration policies to prevention and containment and of flows to “mixed flows” has led to a significant debate within the academic community about the relevant focus for study. Historically, the field has been characterized as “refugee studies”, but new kinds of forced migrants such as environmental refugees or those fleeing generalized violence rather than persecution *per se*, and rising numbers of internally displaced persons have led to calls for a broadening of the field to explicitly include these categories within “forced migration studies.” As useful as this debate is in addressing the changing nature of the refugee and asylum regime, it remains both fixed in (and therefore reinforcing of) the forced/voluntary migration dichotomy. As such, the debate may be outstripped by border practices that operate within the paradigm of irregular/regular migration.

UNHCR High Commissioner from 2001 until 2005, Ruud Lubbers declared:

The Convention and its Protocol give coherence to the protection system because they are clear on basic principles, focused on rights and grounded in universal values. These instruments allow us to start from a basis consensus regarding the most fundamental issues. Who is a refugee? Who does not deserve protection? And when exceptionally do a state’s security or public order interests overcome the fundamental obligation not to return a refugee danger? (quoted in Nyers 2006, 45)

It is this approach that frames the basic argument for retaining a focus on “refugee studies.”

The argument is that maintaining such a focus retains the necessary specificity of definition for who a “refugee” is under international law, and so makes the study of refugee issues effective and relevant. As Watson (2009, 33) argues, the refugee regime was established to normalize situations of forced migration, and to create standardized and predictable

responses. This is held to be not possible if the definition of the population of concern for study, and by extension for policy, becomes too broad.

James Hathaway (2007a, 2007b) is the strongest proponent of maintaining a more narrow “refugee studies.” Working from a perspective that privileges the legal elements of the international refugee and asylum regime as framed by the Convention, Hathaway (2007a, 350) argues that “refugees, with a common legal status, have a unique situation and a clearly defined category.” Grounding his analysis in a kind of policy realism – beginning from a position that ethics is not only a function of “ought to” but also of “can” (Hathaway 2007a, 353) – Hathaway argues that maintaining a legally defined population as the focus of the field not only enables a commitment to individuals, groups and their rights, but also enables the international community to guarantee a remedy (Hathaway 2007a, 354, 353). He contends that if “refugees come to be seen as no more than (forced) migrants” (Hathaway 2007a, 352) officials may fail to attend to the specificity of duties that is required. Moreover, he argues that to broaden the definition too far is to introduce such diversity that the definition is rendered meaningless (Hathaway 2007a, 350).

The opposing view is that the legal, Convention definition of a refugee no longer captures either the reality of forced migration or the on-the-ground activities of the UNHCR. Scholars such as Roberta Cohen, Susan McGrath, Josh DeWind, Howard Adelman, Loren Landau, and Oliver Bakewell contend that such an approach “hardly captures the refugee experience of today” (Cohen 2007, 370). The call for a shift to a broader “forced migration studies” responds to what is perceived as a shift in the refugee and asylum regime itself. As Hyndman (2000, xvi) argues, the refugee regime built around the Convention shows signs of

giving way to more complex humanitarian emergencies. These “new” emergencies, that reflect not only generalized violence, ethnic conflict or civil war, but also “environmental” displacement due to both disaster and broad climate changes, have created new categories of migrants. The most significant of these is Internally Displaced Persons who have not and, due largely to many of the policies and practices of the regime itself, will not cross international borders. Other categories include “humanitarian migrants” who do not strictly fulfill the definition of the Convention but for whom protection is nevertheless deemed necessary to avoid a contravention of, in Watson’s phrase, “some sense of common humanity” (Watson 2009, 3). These would also include who Betts refers to as “distress migrants” (Betts 2008). Still another category comprises environmental refugees, displaced due to natural disaster, and another “stateless” persons such as those from Palestine. Each of these categories – and this list is far from exhaustive – can be understood as a “forced migrant” even without engaging the debate of whether migrating away from desperate poverty and economic disadvantage can constitute being “forced.” Hyndman (2000, 2) writes that “[d]isplacement – as involuntary movement, cultural dislocation, social disruption, material dispossession, and political disenfranchisement – is a disparate and often desperate condition that connects the experiences of forced migrants.” What is highlighted is that there is no “one” experience of forced migration, but there is instead a varied, often complex, and difficult to define set of life circumstances and experiences that underlies a “forced” migration. Those who argue for “forced migration studies” contend that this must be captured by a broadening of the field. Adelman and McGrath (2007) argue that

Hathaway is confusing a discipline with a problem area – and that neither forced migration studies nor refugee studies is a discipline.

Forced migration and refuges are problems to be tackled from the perspective of different disciplines and failure to attend to some aspects of the problem area may arise because those aspects are not part of the concerns of the researcher (Adelman and McGrath 2007, 378).

They argue that there is no need to limit the scope of research as Hathaway seems to be advocating (Adelman and McGrath 2007, 380). Indeed, such a move could be damaging. As Landau argues, there is a dual imperative for the community of scholars concerned with these issues to both satisfy academic standards and to influence policy and practice. To accomplish this, the discussion must be broadened, not narrowed (Landau 2007, 336).

The broadening of the field to “forced migration” rather than “refugee” seems a practical and progressive response to changes in the actual experience of migrants. Such a move would allow the international community to develop the practical remedies prized by Hathaway for other groups, such as IDPs (Cohen 2007). For DeWind (2007, 381) it helps to correct the incongruity between rights and protection. He argues that migrants can lose meaningful access to protection when they choose to autonomously self-settle, for example outside of the refugee camp, and away from the group. Thinking about protection issues from the perspective of the migrant rather than from that of international law creates an opportunity to reconceive the problems and to develop alternative solutions (DeWind 2007, 382).

Despite the attempt to broaden the field to capture actual migrant experience (and thus, presumably, to ameliorate policy and practice from a migrant rather than a security perspective), however, there remains a persistent and sustained absence of systemic

engagement with irregularity. The way borders are crossed and the policies and practices that control such crossings are engaged with primarily at the level of policy effectiveness (i.e. the degree to which they impact the operation of other policies, such as asylum), but not at the level of the migrant experience. Policy successes and failures and the closures and ruptures in the border they enable or prevent are the objects (and subjects) of analysis, rather than the experiences of the migrant. In this way, migration is treated as another problem of border politics, empty of individual subjects. By maintaining the forced/voluntary dichotomy as the framework of analysis, forced migration studies embeds the assumption that “problem” unauthorized border crossings are undertaken by voluntary migrants and so should be controlled, where forced migrants are able to skirt this control by virtue of their asylum claims. In practice, therefore, “mixed flows” are relegated to the realm of migration and border politics rather than to the politics of asylum. This risks legitimizing state responses to perceived security issues in the form of rigid border controls.

The critique that proponents of forced migration studies direct to Hathaway are well placed; a retreat into a narrow, legalized understanding of refugees is highly problematic in a global regime where achievement of full Convention status is becoming rare. Hathaway’s argument that broadening the focus may actually serve to achieve state-based migration goals, however, is poignant. Hathaway (2007a, 355) argues that the goal of “officials” has been to render the refugee as much a “migrant” as possible, enabling an evasion of international protection obligations. He points to the increase in the number of IDPs as evidence of the above-mentioned policies of prevention and containment that serve Northern states’ interests rather than the protection interests of individuals. Moreover, he

argues that scholarship within a broader “forced migration studies” is less capable of being invoked to contest these “protection-reducing efforts of governments and international agencies” (Hathaway 2007a, 355). The shift to forced migration studies, he claims, has coincided with an official move to recast refugee protection as a process to be managed, or solved. This makes seeing refugees as a problem seem sound, rendering the pursuit of refugee rights within the international regime relevant only until a “durable solution” can be found (Hathaway 2007a, 363-364). Others, including Chimni (2009), Soguk (1999) and Katarzyna Grabska and Lyla Mehta (2008), have also made this argument, contending that too often forced migration studies has worked in the service of the state, rather than in the service of migrants.

The solution is not to retreat to a more rigidly defined refugee studies. Nor is it to add to the “categories” of migrants who are to be forgiven for clandestinely crossing borders – or to whom some sort of humanitarian obligation is owed. Such solutions continue to legitimize the notion that migration both can and must be ordered and regulated by the state to more efficiently manage the problem. They legitimize the irregular/regular divide as constructed in state policy. Rather, if we take seriously the spaces and practices in which migrants and states interact to construct and determine these categories in the first place, a solution may be found. Most importantly, a recognition that the crucial category in entitling a migrant to positive or supportive state attention is no longer “forced migrant” but “regular migrant” – which can include refugees, but almost never includes those who autonomously cross borders outside of the frameworks and structures provided by the state – enables a new understanding. It may be that exclusion from regularity does more to shape experiences of

mobility within the contemporary asylum regime than approaches bound within the traditional forced/voluntary paradigm.

Conclusion

The development of an international regime for migration and asylum has, at every moment, been shaped by state responses to the mobility of individuals. The regime's shifting focus and priority from a European population of concern to migration within and from the global South has been accompanied by a change in the preferred "solution" to the migration "problem" from local integration and resettlement to repatriation.

At all times, however, the regime has also been shaped by an understanding of asylum as temporary and aberrant, which must be addressed by a return to order, and to the normalcy of citizenship. This foundational understanding as the framework for state policy and practice within the regime has only become more obvious in the paradigm shift from a dichotomy of forced/voluntary migration to one of irregular/regular migration.

In this chapter I have argued that the ongoing and increasingly visible role of irregularity as the focus of concern within the migration regime is not adequately captured by current approaches to research. Irregularity is an experiential status, defined, shaped, constructed and contested by the everyday lives and actions of individuals captured within the migration and asylum regime. This enactment of political agency is revelatory of the global politics of asylum and can be accessed through research that begins with the migrant experience and looks up, and that accepts the migrant voice as both legitimate and powerful. In the following Chapters I engage with the implications of this assertion, applying it to

specific experiences and manifestations of the regime in Tanzania, Spain and Morocco, and Australia. I investigate the impacts and consequences of irregularity, but I also challenge the notion that it is a category of powerlessness and exclusion, finding potential and possibilities for a radical political agency that can change our understanding of international migration and the politics of asylum in profound and important ways.

CHAPTER 4

Framing the Migration Regime in Border Control

The politics of asylum operate at several different scales, all of which have commanded the attention of migration and refugee scholars. At the individual level, they shape the conditions in which migrants live, move and make political claims to protection and asylum. They also work to enable or constrain the different forms of agency exercised by migrants, conditioning not only what possibilities for agency exist but also how migrant actions and speech are interpreted, understood and incorporated into our understanding of the political. At the national level, the politics of asylum are implicated in the policy processes of states as they work to balance the demands of national security with international obligations of protection. Such programmes increasingly (or, arguably, consistently) prioritize security concerns over the intangibles of asylum, developing asylum and refugee policies with an emphasis on management and control rather than on enabling access to protection. This trend towards the securitization of asylum, and the interweaving of asylum policies with border security, as outlined in both the Introduction and Chapter 3, has garnered attention from scholars concerned with the increasing restrictiveness of Western asylum policy. It is, however, a trend that is also global in its breadth; the emphasis on border control and the securitization of asylum is not a phenomenon confined to the global North. These trends, repeated patterns and sustained emphasis across disparate contexts and places is representative of both the international, as bi- or multi-lateral relations of both tension and cooperation between states, and the global, as networked relations that are beyond and through the state level. While the securitization of asylum and migration has occasioned

significant comment in the case of the European Union, it also has a long history in Australia and is very much in evidence in the policy regime of Tanzania, particularly since the late 1990s.

Joanne Van Selm (2007, 80) argues that there is a difference between a refugee policy and an asylum policy; a refugee policy is comprehensive, including resettlement programs and international refugee assistance, while an asylum policy is a matter of domestic justice or home affairs. If we accept this distinction, noting that refugee policy is therefore outward-oriented while asylum policy is directed inwards, and also that refugee policy operates more clearly within a humanitarian discourse and asylum policy within a security discourse, a remarkable picture of global convergence arises. State policy making, despite differences in historical experience and present day context has been directed towards greater emphasis on refugee policy *conducted elsewhere* as a means to meet protection obligations while simultaneously increasing the restrictive nature of asylum policy – restriction that is justified by this heightened attention to refugee policy. The consequence of this approach is a focus on border control both at geographical borders and also in practices that manage migration at the region of origin. By orienting policies of control towards the asylum seeker as irregular, the legitimacy and regularity of the (Convention) refugee is preserved at the same time that achieving Convention status is made increasingly difficult. Further, the distinction between irregular migration (asylum seeking) and regular migration (status refugees), and their political importance, is underscored within the politics of asylum that frame both policy formation and implementation.

At this nexus between refugee and asylum policy an agenda of deterrence, control and prevention is perceptible, justified by a discourse that redefines humanitarian obligations of protection as carried out at the point of origin rather than after borders are crossed. Moreover, as demonstrated in Chapter 3, this agenda is global in both scale and scope. The operation of a global politics of asylum is reflected in a pattern of similarities across national policy agendas. It is also reflected in changing international relationships and, most importantly for this study, in migrant experiences.

The shifts in international relationships reflect heightened expectations of partnership and cooperation in the management of migration between states. Bilateral agreements of interception, readmission and offshore processing have been tied into development assistance. The role of the UNHCR has changed as it is expected to facilitate this cooperation – a shift most obviously seen in its increased responsibility for an engagement with the internally displaced. The operation of global power relations in these shifts and the capacity of Western/Northern states to set the agenda and condition the international policy context are also important in unpacking the shifting politics within migration regimes.

The ways in which these dynamics shape migrant experience, and particularly the experience of irregularity, is the main focus of this study. First, however, it is important to provide an assessment of the policy frameworks and resulting practices in each site. It is towards this objective that this chapter is written. This chapter delves into each site, examining the asylum, migration, and border policy regimes of each. The goal is to establish context for each site, to frame the institutionalized backgrounds and frameworks for

localized politics of asylum and irregularity. For each site I provide a historical assessment of how national policies have developed and been both shaped by and shaping of migration practices. I provide an account of the discourses of political influence that have undergirded policy change, both from the local level and from regional and international influences. In each case the perceptible trend is one towards greater restriction and closure, and towards an emphasis on controlling irregular migration. I begin with Australia as the most restrictive example of control and management in the contemporary global migration regime, and as a model for many European developments. I then provide an account of the EU and Spanish context, ending with an examination of the Tanzanian regime.

Australia: Unauthorized Migration, “Queue Jumping” and Detention

The Australian system arguably represents the most fully developed policy regime that is oriented around control. The basic premise of Australian policy and practice is that any border crossing must be carried out with state authorization and within its frameworks; any other form of migration is dealt with by approaches that are punitive and that impose restrictions on migrant rights and freedoms. These policies apply to either forced or voluntary migration. As Matthew Gibney (2004, 193) observes,

unlike European governments that pretend their preventative policies impact only upon economic migrants, Australian officials have been ready to admit that all unauthorised entrants are unwelcome, regardless of whether or not they are refugees. This is honesty, albeit at its most brutal.

While Australia has pioneered new forms of restrictive policies towards asylum seekers, however, it has continued to operate relatively inclusive resettlement schemes

(Gibney 2004, 20). To use Van Selm's terms, Australia is a leader in restrictive asylum policy that is offset by a seemingly generous refugee policy, a nexus that is taking shape across the globe. As much as the European regime can be characterized by border closure and the Tanzanian regime by encampment, the Australian regime is one of detention. It is an important case in the explicit emphasis on control that is found in the policy agenda. Deterrence and prevention of irregular migration are crucial objectives of the state, but the border policy's marriage to a resettlement program indicates that the underlying issue for the Australian state is not a distaste for refugee hosting or a dismissal of humanitarian objectives. Rather, it is a firm position that asserts the ultimate power of the state to control and manage every aspect of migrant mobility and agency. It is the decision making power of the state that is to be preserved at all costs, and not the capacity of the migrant to decide. It is irregular migration that is the object of Australian policy, and irregular migrants that are to be controlled. Refugees with clear status under the Convention, who I argue should be considered "regular" migrants (see the Introduction), are not the objects of concern. Indeed, the "regularity" of refugee migration in the Australian case is affirmed and reinforced by the resettlement program. The irregularity of asylum seekers, meanwhile, is similarly affirmed and reinforced by Australian border control, and is thus the object of this control.

These patterns are clear in Australian policy making. Operating according to parameters set out by the 1958 Migration Act, which maintains a system of visas and permissions for entry and exit, Australia is one of only twelve states that maintain a quota for accepted asylum seekers per annum (UNHCR 2009a; Crock 2003, 58). In 2010-2011, this quota was 13,750. Of these, six thousand are to be refugees referred to Australia by the

UNHCR, while the remaining seven thousand fall under the category of the Special Humanitarian Program - asylum seekers who are sponsored by an Australian citizen or organization, but also “onshore claimants.” Onshore claimants are those asylum seekers who arrive in Australia without referral, sponsorship or state permission (Commonwealth of Australia 2011). They are irregular migrants. They are often undocumented, and have been dubbed in Australian discourse as “illegal arrivals.” Generally, they are representative of the “boat people” that began arriving in the early 1970s. It is this group that is framed as the problem, and this group and their irregular migration that has been targeted by Australia’s regime.

Between 1945 and the early 1990s, Australia accepted over 500,000 refugees and other displaced persons. This number was the highest per capita of any Western country, establishing Australia’s reputation as a generous country of resettlement and as having a generous refugee policy. However, and as Gibney (2004, 166-167) observes, Australia is also known as “the most unwelcoming country towards asylum seekers in the Western world.” Refugees, who conform to regular (regulated) migration expectations, are welcomed. Asylum seekers, as irregular migrants who do not conform, are not.

This set of policies and practices has deep roots in the history of Australian migration policy which has been continually conditioned by its geographical reality. First, Australia is an island, which insulates it from overland migratory flows and facilitates strong border control possibilities. It is also, however, proximate to Asia while being twelve thousand miles from Europe. This has generated a popular and political fear of “invasion” from Asia, the prevention of which was the obsession of early policy. The 1901 Immigration

Restriction Act was the first legislative Act that directly addressed migration to Australia. It established the framework for the “White Australia” policy that remained in place until 1967. In the first part of the twentieth century, Australia was viewed as “a lonely outpost of Western civilization in a profoundly alien sea. Too far from Britain for easy succour... [and] perilously near the... storm centres of the world” (Harris 1938 quoted in Gibney 2004, 170). This sense of vulnerability has remained with Australia for the duration, and has proved to be a challenge for policy makers seeking to effectively address the needs of the labour market while limiting immigration recruitment to “desirable” populations. After the Second World War Australia actively recruited Western European migrants from among war refugees, and extended this policy to the Hungarians in 1956 and to Czech refugees in 1968 (Gibney 2004, 172). This focus is what dubbed the immigration policy as “White Australia”; the desirable population was white and European, in defiance of the geopolitical location of the country itself.

In the post-war years the vulnerability of Australia was understood in territorial terms, as huge areas of the country were either sparsely populated or entirely unpopulated by European settlers. Entire areas of the outback were, however, occupied by the Australian indigenous population. These groups were not considered to be effective in “settling” the outback, or in securing the Australian territorial claims.⁷ In this milieu, the 1958 Migration Act, which established a requirement for all foreigners to apply for visas in advance, was

⁷ While outside of the scope of this study it should be noted that discourses of racism heavily overlay this relationship in ways that mirror the experience of other global indigenous groups, such as the Inuit in Canada, in important ways. This racism, as a fear of non-white populations, also connects to that which many commentators argue have influenced Australian migration policy. (See Johnston, Vasey and Markovic 2009; Mares 2002; McNevin 2007; Neuman 2004).

created to replace the 1901 Act in order to reinforce the capacity of the state to decide and choose who was to come to Australia (Castles and Vasta 2004, 157).

As the 1970s began, labour demands generated a shift in emphasis to skilled worker migration and the immigration system underwent a profound change. A points system based upon the Canadian model was developed, and “White Australia,” which had been dismantled piece by piece over the course of a decade, was officially abandoned in 1972 (Castles and Vasta 2004, 143). Its legacies remain, however, and a deep suspicion of non-white immigrants – particularly those from Asia – is still perceptible in the public discourse surrounding migration.

These shifts in broad immigration policy had little impact on the Australian policy with regard to refugees. The emphasis remained upon resettlement from camps, with a pre-screening process. Non-European refugees, the aged and the infirm were typically excluded from entry and Australia was geographically insulated from on-shore applications (Gibney 2004, 177). The conflict in Vietnam and the withdrawal of the United States from the war, however, changed this scenario. A small boat of Vietnamese refugees, the first of its kind, arrived in 1977; by mid-1978 fifty one boats and two thousand people had arrived. In the next four years another two thousand refugees arrived (Gibney 2004, 178). The unauthorized arrival of “boat people” created what amounted to a crisis in the Australian regime, and provided the context for a policy shift that forms the foundation for Australia’s current policies. In 1975 the Fraser government entered negotiations with the UNHCR and the United States to resettle Vietnamese refugees from Thailand and Malaysia. However, this program also included a departure scheme for the Vietnamese who had already arrived

without permission. The new program attempted to establish an “official route” to Australia (and other Western countries, particularly the US), accepting refugees for resettlement in exchange for measures to prevent future boat arrivals. In recognition of Australia’s international humanitarian obligations as a signatory to the 1951 Convention, a quota system for refugee resettlement was developed. By 1981 fifty thousand refugees had been resettled in Australia, and an annual quota established (Gibney 2004, 179).

Between 1982 and 1984 only 520 onshore applications were made for asylum, and the system developed under the Fraser government therefore appeared to be effective. With the end of the Cold War and the aftermath of the Tiananmen Square massacre, however, numbers dramatically increased. Between 1989 and 1991 the number of onshore applications rose to 27,117 (Gibney 2004, 184). Not all of these applications were unauthorized arrivals, as many Chinese students at Australian universities filed claims, but it was onshore applications that became the rallying point for policy change. This population was irregular in both senses described in this study. Some individuals were irregular by virtue of their unauthorized crossing of the border, others were irregular in their evasion of state ascribed categories by making an asylum claim from a regulated (student) status.⁸

The government reduced the annual resettlement numbers and focused on developing deterrents to irregular migration. In 1991 the Labour government under Robert Hawke established a detention facility in Port Hedland, and the 1992 Migration Amendment Act introduced mandatory detention for all boat arrivals (Gibney 2004, 184-185). Australia became the only developed state to implement detention as a universal policy, which remains

⁸ I expand upon this point in Chapter 5.

in place today. Detention is required for unauthorized arrivals, from the time of their arrival to the time of either their departure (deportation) or their acquisition of an Australian visa (Brennan 2003, 86).

The 1996 election brought the Liberal party under John Howard to power. Operating in a milieu that included Pauline Hanson's One Nation party, the rhetoric of which was stridently anti-immigration and anti-multiculturalism, Howard's government introduced further restrictions on the rights of unauthorized migrants while raising the profile of migration as a security issue, elevating the Minister of Immigration and Multicultural Affairs to a cabinet rank (Castles and Vasta 2004, 155). In 1999 an amendment to the Migration Act was passed that denied even those unauthorized arrivals later determined to be Convention refugees permanent residence, granting them instead Temporary Protection Visas (TPVs) that had to be continually renewed. A Border Protection Amendment Act was also passed that allowed the state to reject asylum claims on the basis of the so-called "safe third country" rule that was in practice in the member-states of the European Union. These measures, directed entirely against unauthorized arrivals, were remarkable in their emphasis. The issue was not an irregular *presence* in Australia (in 1999 there were an estimated 53,000 visa overstayers, largely from Britain, to whom very little attention was paid [HREOC 2001]), but irregular entry. Irregular presence became an issue only when it was connected to asylum (for example, when an authorized entrant made an asylum claim) and the measures that targeted these individuals remained oriented to border crossings in that they were conceived as further deterrence measures against unauthorized asylum seekers.

Maley (2003, 314) characterizes the Australian position as “a bizarre panic” over boat arrivals. What the focus on arrivals highlights, however, is the overwhelming emphasis in the Australian case on border crossing, the consequence of which is that asylum seekers, but not refugees, are situated as the objects of concern and securitization. Also, it is important to recognize that the mandatory detention policy and its development over time has been a bipartisan policy process, with all the major political parties in support.

An emphasis on arrivals has a further implication within Australian discourse, which is expressed in the operation of the quota system. The refugee and humanitarian quota program makes no distinction between onshore applicants and those who have been resettled from their countries or regions of origin or asylum. This effectively means that for every onshore applicant who receives asylum, one fewer refugee from abroad is resettled in Australia. This trade off gives political credence to the notion of “queue jumper”⁹ – that onshore asylum seekers are somehow abusing the system and not waiting for “their turn” in the protection regime, a notion that has effectively undermined their legitimacy in the view of the Australian public (Gibney 2004, 185). Danielle Every (2008, 211) argues that this discourse has taken on the language of humanitarianism to legitimize the expulsion rather than the inclusion of asylum seekers. As the Prime Minister Howard (1996-2007) characterized it, the position of the government was that “every person who comes here illegally keeps someone else out” (quoted in Watson 2009, 107).

⁹ It must be observed that the notion of a “queue” has no place in international refugee law, which instead provides for the right of asylum seekers to claim asylum when needed. “Queue jumper” has become a rhetorical device to undermine the asylum claims of irregular migrants.

The notion of a “queue jumper” was – and continues to be – based in the idea of “genuine” refugees waiting somewhere (most often Africa) for rescue and resettlement (Gibney 2004, 185). This notion continued with the Howard government, under which the most extreme and punitive border control measures against irregular migration were put into place. “Ruddock had a lot to say about camps in Africa and the amount of time people were waiting,” recalls Anna, a refugee support worker. It appeared to the public that he had a genuine belief that they were more deserving, and that everything was being done on behalf of the poor people waiting in camps (“Anna” (false name), interview August 2008). The distinction was continued under the Rudd government when Labour came to power in 2007. Alan, a member of the Australian government, is emphatic on this point: there is a legitimate difference between genuine asylum seekers and economic migrants, and the entire Australian regime is dedicated to making this distinction. For him, it is this distinction that has enabled an “orderly” process of accepting refugees that is compassionate and humanitarian (“Alan” (false name), interview July 2008). As understood by Catherine, a psychologist who works with former immigration detainees, this difference is the driving understanding behind Australian public discourse; the idea that refugees stand in a queue is powerful. Asylum seekers are illegal with no genuine claim, because if they did have a genuine claim they would stand in the queue and wait. It is, she argues, part of a very confused process of being secure and protecting national sovereignty – which underlies everything. The notion takes an understanding of a “fair go” (deeply embedded in the Australian national psyche) and turns it around; asylum seekers are seen as cheats (“Catherine” (false name), interview August 2008). “In Australia, asylum seekers are illegal migration – we don’t have a sense of other kinds of

illegal migration,” says George, a psychologist and health worker at a refugee support centre. “British tourists are actually more likely [to overstay their visas and become illegal] but they don’t get included. For Australians, illegal migration is really only about boat arrivals” (“George” (false name), interview July 2008). But the British tourists do not apply for asylum; they do not come into contact with the system that governs irregularity as a way to control not only migration, but also status and inclusion in the community. In Australian discourse, tourists are not “unwelcome”, or understood as criminal and threatening. They form no part of the genuine refugee/unauthorized arrival distinction.

The distinction made between “genuine refugees” and “unauthorized arrivals” in the Australian policy framework is problematic on many levels – not the least of which is that its ultimate effect is to exclude onshore asylum seekers from ever accessing a regular/regulated refugee status. A focus on this distinction masks a further, more important, distinction that is being made. The question is not one of genuine or illegitimate claims to protection; it is one of permission to arrive and the regulation of mobility. “Refugees” are, in the Australian context, absolutely a form of regular migration. They are processed offshore, and selected for resettlement as part of the offshore migration program. The onshore program is characterized by the detention regime, and the two are played off of one another to maintain a system of border control designed around the regulation of irregularity.

Every (2008, 214) argues that the objective of the Migration Act of 1958 was “to regulate, in the national interest, the coming into, and presence in, Australia of non-citizens.” Migration to Australia is strictly regulated with multiple, extremely regulated and specific visa classes. Even within protection visas there are four subclasses. Of these, only one is

processed onshore; the others are provided upon recommendation from the UNHCR or via applications at the point of origin. An unlimited number of free applications can be made from offshore locations; those assessed onshore are more limited in access and assessed based on the degree of need, the extent of the applicant's connection to Australia, what other options are or were available, and the capacity of Australia to provide resettlement.

Although there are four subclasses, they all represent part of the annual quota allocated to the protection visa class ("Stephen" (false name), interview July 2008). The impact of this is that the onshore and offshore programs are literally set against one another, not only underscoring the notion of queue jumpers, but allowing the government to use the offshore program to undermine the onshore program with claims that humanitarian resettlement programs from abroad are only possible with restraint and control in the onshore program ("Alan", interview July 2008; "Shauna" (false name), interview, August 2008). The separation of programs is to recognize the volume of protection applications being filed abroad, according to Stephen, a manager involved in application processing. The onshore program, however, requires a different system and process that operates strictly according to the UNHCR Convention while also taking into account government legislation. He explains that although "about ninety-nine percent of applicants meet the definition of the refugee... because Australia has a limited number of spaces, only some [are accepted]" ("Stephen", interview, July 2008).

The final layer of policy, which is the most defining of irregularity, is the status of the different visas that are granted. Under the TPV regime, which came into place in 1999, only refugees granted status offshore (i.e. not on the Australian mainland nor on excised territory)

have permanent status. Those who enter with a visa and then apply within forty-five days are given a renewable protection visa that allows them to live in the community long term, but without full status (Christie and Sidhu 2006, 455). The rigidity of the system and emphasis (increased access, more support) on offshore applications forms the basis of the Australian system; only regulated migration is acceptable.

As stated above, the mandatory detention policy was established in 1992, before similar measures were considered elsewhere in the Western world. Indeed, at a time when borders were being redefined in the aftermath of the Cold War, Australia's focus was entirely directed at strengthening its control over its island border. The remainder of the 1990s was characterized by increasing restrictiveness.

A pattern was clearly established in the 1990s towards policies of deterrence and control; nevertheless, 2001 marked a watershed in what had hitherto been a gradual development. Ten days before the events of September 11th in the United States, Australia experienced its own crisis as the *MV Tampa*, a Norwegian freighter that had rescued 433 asylum seekers from a sinking boat, was refused entry into Australia's territorial waters. The three day standoff that followed, the forcible boarding of the *Tampa* by the Australian navy and the relocation of the asylum seekers to neighbouring states became the central issue of the federal election that September. The Liberal Government under John Howard returned to power after lagging behind in the polls on the strength of his policies of migration and border control. He ran with the election slogan: "We will decide who comes into this country and the circumstances in which they come here" (quoted in Moran 2005, 181). The first eighteen months of his second term in office marked major changes in Australian policy

that deeply entrenched the established emphasis on control and the focus on external borders and how they are crossed.

Howard's position during the *Tampa* crisis was clear in his many statements: "we simply cannot allow a situation where Australia is seen around the world as a country of easy destination" (Gibney 2004, 189). Between 1999 and 2001 a new wave of boat arrivals bearing more than ten thousand asylum seekers had created a fertile political climate in the Australian electorate for this kind of rhetoric. Policies of deterrence became policies of direct prevention through interdiction (Gibney 2004, 190). The Border Protection Act 2001 permits the removal of unauthorized arrivals from Australia's territorial waters, and the forcible return of migrants to their place of origin or to a "safe third country" where they fall under the auspices of the UNHCR (Amnesty 2005; HREOC 2002b).¹⁰

Meanwhile, in what is commonly known as the "Pacific Solution", the months following the 2001 election witnessed a series of amendments to the Migration Act that changed Australia's borders. Australia's outlying islands, such as Christmas Island, were excised from the "migration zone." This move prevented those who arrived on those territories from making an asylum claim in Australia. Instead, asylum seekers were relocated to offshore detention and processing centres in so-called "declared countries." These centres were established in Papua New Guinea (on Manus Island) and in Nauru, which

¹⁰ A "safe third country" is a country that an asylum seeker has some connection to, such as having transited through, where a claim for asylum could have safely been made. Arising out of attempts to stop what was perceived as asylum seekers seeking the most beneficial migration outcome, or "asylum shopping," and deriving from agreements such as the 1997 Dublin Convention, there has been some concern that the principle has been inappropriately applied to remove asylum seekers to territories where their safety may be in question. More recently, the "safe third country" has been enshrined in agreements between individual states as measures of border protection and control. Australia holds agreements with Papua New Guinea and Nauru; Canada has such an agreement with the United States (see Mathew 2003).

agreed to host asylum seekers and to allow Australian authorities to assess their claims there in exchange for development funding. The International Organization for Migration managed these facilities, with a stated priority of maintaining the social well-being of residents (Commonwealth of Australia 2007c). Those asylum seekers found to be refugees were subsequently resettled in Australia and in other states, including New Zealand, Sweden, Canada, Denmark, and Norway (Commonwealth of Australia 2007c). Between the introduction of the Pacific Solution in 2001 and 2007, only fifty-seven asylum seekers on two boats were able to land in an area that had not been excised (Dastyari 2007, 6). In some cases, this is because the land was retroactively excised after an arrival.

The government took a reinforced approach to mandatory detention after 2001, requiring “that all foreign nationals who [were] unlawfully in mainland Australia be detained and unless granted permission to remain in Australia... [be] removed as soon as [was] practicable” (Commonwealth of Australia 2007d). Detention was expanded beyond unauthorized arrivals to also apply to those who had overstayed their visa (although little evidence exists that any renewed effort was made to detect tourist overstayers), those who had had their visa cancelled, or foreign fishers whose enforcement visa had ceased (Commonwealth of Australia 2007d). Unauthorized asylum seekers were housed in one of the six immigration detention centres that remained in operation in 2001. DIMIA’s justification of the policy, as found in a letter to the Human Rights and Equity Opportunity Commission (HREOC) was that:

Australia’s Migration Act 1958 requires that all non-citizens who are unlawfully in mainland Australia must be detained and that, unless they are granted permission to remain in Australia, they must be removed as soon as reasonably practicable. *This reflects Australia’s sovereign right under international law*

to determine which non-citizens are admitted or permitted to remain and the conditions under which they may be removed. (HREOC 2002a, emphasis added).¹¹

In 2002 a further series of amendments to the Migration Act were passed, all directed at irregular migrants. Unauthorized migrants are now denied access to family reunion procedures. Refusal of refugee status to those who concealed their identity by destroying or losing their documents became a matter of policy, and a minimum mandatory sentence of five years for human smuggling was established (Castles and Vasta 2004, 167). Officials are able to make “negative inferences” about the identity and nationality of a claimant in the absence of proper documentation that could not be “reasonably explained” (Commonwealth of Australia 2007b). A significant proportion of unauthorized arrivals are thus “screened out” at the beginning of the process. If, during the initial interview conducted at arrival, an individual does not explicitly mention “refugee” or “asylum,” or otherwise indicate any serious fear of returning to their homeland in the judgment of immigration officials, they are excluded from the process of asylum seeking entirely and removed as soon as possible (Mares 2002, 51). This exclusion also denies them access to all processes and procedures around asylum. If an applicant is “screened out,” or their claim rejected, but they can not be returned to their country of origin due to a lack of diplomatic ties or a condition of effective statelessness (as is the case for many Palestinian refugees), the High Court of Australia confirmed that they can be held in immigration detention indefinitely, so long as the Australian state maintains the intention of deportation (Amnesty 2005).

¹¹ This report was written in response to a series of recommendations designed to improve the human rights record of detention centres.

The TPV regime, described as being “for people who have bypassed or abandoned effective protection in another country and for whom humanitarian entry to Australia is appropriate” (Commonwealth of Australia 2007a), was also reinforced. Asylum seekers found to be refugees were given three year visas that were continuously renewable upon review. Migrants in the country on these visas were excluded from full income support programs, free English language tuition, government supported university places, interpreting and settlement services, and family reunion procedures that were available to those who had received permanent protection visas, either via the resettlement program or the humanitarian program (Johnston et al. 2009, 192). Here, again, we can see the policy preference of regular (regulated) migration through government programs over autonomous irregular migration. Janet Burstall argues that these visa policies establish mode of arrival as a principle of governance for the Australian state, relegating TPV holders to “the margins of society” (quoted in Christie and Sidhu 2006, 454, 456). The objective of this policy is clearly to impose punitive restrictions determined by mode of arrival as a deterrent measure. Those who enter the country legally, but then claim asylum within forty-five days are eligible for permanent protection visas (PPVs)¹² and able to live in the community during the determination of their status (unauthorized arrivals are, of course, detained). This distinction is important, but it is similarly important to note that only those who apply for asylum offshore receive full “Convention” refugee status (Christie and Sidhu 2006, 455).

Burstall (2001, 1) argues:

¹² In August of 2003 an attempt was made to make the TPV applicable to all onshore asylum seekers, but this change was disallowed by the courts in October of 2003.

Australia's immigration policy is educational! It is designed to do the extraordinarily difficult job of teaching a lesson to 27 million people scattered around the world... The lesson is don't even think about coming to Australia if you have not first been granted one of twelve thousand refugee/humanitarian visas being issued this year.

The Australian regime has proven to be educational for other states, as well, as the global shift towards greater control and restriction proceeds. As Gibney (2004, 192) argues, the degree to which Australian policies appear to be harsher than those elsewhere, such as Europe, is only a matter of degree. The trajectory of radicalisation of policies in the face of policy measures deemed to be ineffective is the same.

The Spain/Morocco Border: Deterrence, Deflection and Externalizing Europe

The story of the development of refugee and asylum policy in Spain cannot be told without also telling the story of Europe, and the story of asylum policy in Europe is one of ever-increasing migration control and the securitization of asylum. The securitization of Europe's frontiers is rooted in the development of the European common area with the Schengen Convention, which came into force in 1995 (Geddes 2005, 794; Hatton 2005; Boswell 2003; Geddes 2003). Integrated into the larger European Union framework by the Treaty of Amsterdam in 1999, Schengen outlines the principles and conditions of freedom of movement within the EU, and establishes a common external border (Shepherd 2004, 97-98). It is this external border that has become the focus of migration control. The individual national borders of many European states have become displaced and made remote from their actual sovereign territory. Internal borders have become, in many ways,

deterritorialized; they exist between citizens and non-citizens, between participants in formal and informal labour markets, amongst and between markers of race, class and gender, and between accepted “regular” migrants and irregular migrants (see Balibar 2002; Bigo 2001). External borders, meanwhile, are those of the frontier states of the EU. These borders are fundamentally territorial, and are increasingly subject to harsh and restrictive controls. They are both state borders and regional borders, and are subject to these two overlapping policy regimes. The border between Spain and Morocco, therefore, is not simply a national border – it is also the border between the European Union and Morocco, and between the European Union and Africa.

Increasingly restrictive border control policies capture the decreasing accessibility of the European asylum system, and the development of border control policies has been concurrent with the development of this system. A connection has been drawn in policy circles between asylum seeking and irregular migration and this association is expressed through the discourse of security (Waeber 2005; Geddes 2003; Guild 2006; Adamson 2006). Suspicions that the number of “false” asylum claims is increasing support the argument that available channels of asylum are being taken advantage of by those otherwise ineligible for regular migration, an understanding that in turn justifies the closure of these channels.

Adamson (2006, 175) writes:

[L]ike other dimensions of globalization – whether financial flows or information technology or marketization processes – the intervening variable for understanding the relationship between migration and security is state policy, and much of migration policy is about designing systems that allow some categories of immigrants in, while attempting to keep other categories out – clearly a significant challenge.

Steffan Angenendt and Roderick Parkes (2009, 82) argue that it was this broader goal of restricting unwanted migration or irregular migration that has been the basic rationale for EU cooperation in asylum policy. There has been action in five categories: limiting access to EU territory; limiting access to asylum procedures; downgrading procedural safeguards; creating new (less permanent) forms of protection; and enhancing expulsion efforts. The great majority of focused talks on creating a restrictive asylum system in Europe have taken place since the late 1990s, and have been spurred on by public perceptions of increased burdens and the spectre of being “flooded” with asylum seekers. The anxiety reached such a degree that in 2002 the UNHCR felt compelled to issue a press release to remind member states that the number of asylum applications in 2001 was half of what it had been in 1992 (Guild 2006, 303). Nevertheless, negotiations continued and a restrictive European system has been devised.

Asylum first appeared on the EU agenda in the mid-1980s, but until 1990 and the signing of the Dublin Convention it was limited to informal discussions generated by increases in arrivals. 1992 marked the high point in asylum claims to European Union states, and it was in this year that formal intergovernmental cooperation with the aim of harmonization began (Van Selm 2007, 82-88; Guild 2006, 303; 2009). The key agreement was the 1992 London Resolution of Host Third Countries, which established the “safe third country rule” into European policy, directing that refugees could be sent back to safe third countries without review by the EU (Kunz and Leinonen 2007, 140).

Five building blocks have formed the basis of a common European asylum system. The first is a system of temporary protection to be used in the case of mass influx to any one

state; second, an arrangement for deciding which member state is responsible for deciding specific applications; third, an agreement on common standards for the reception of asylum seekers; fourth, an agreement on common understandings of qualifications for refugee and other protection status; and fifth, an agreement on common asylum procedures (Van Selm 2007, 90). Each of these “blocks” has been encoded in European agreements, either in Agreements such as Dublin II or in Directives, such as the Reception, Qualification and Procedures Directives. These have been agreed upon over several years through a series of talks, summits and negotiations which were put in motion by the 1997 ratification of the Dublin Convention and the 1999 Treaty of Amsterdam and are encapsulated by two five year programmes: the Tampere Programme from 1999 to 2004, and the Hague Programme from 2005 to 2010.

In 1990 the Dublin Convention was signed. Its central provision declared that an asylum claim should only be dealt with by one Member State, preferably the first entered. This was “established primarily to prevent refugees from moving about in Europe... once their case has already been dismissed in other Member States” (Kunz and Leinonen 2007, 140; Herz 2006, 227). Although the Convention was not ratified until 1997, this became common practice – particularly after Schengen came into effect.

The Treaty of Amsterdam transferred asylum, visa and immigration affairs from the third pillar to the first pillar of EU governance, effectively “communitarizing” its decision making (Herz 2006, 229; Broeders 2007, 77). This shift marked the beginning of concerted efforts to set common minimum standards in asylum policy through the Tampere

programme, and the foundations of a Common Asylum System were established by 2005 (Angenendt and Parkes 2009, 84).

The Tampere programme was centred on developing partnerships with countries of origin to prevent migration, developing a common asylum system, establishing policies of “fair treatment” for third country nationals, and more efficiently managing migration flows to prevent irregular migration (Kunz and Leinonen 2007, 141; Lewis and Naqui 2008, 108; O’Neill 2006, 336). It included summits in Laeken in 2001, Seville in 2002 and Dublin in 2003. The Visa Regulation emerged from Laeken, establishing a list of countries whose nationals require a visa to enter the EU and an associated “black list” (Guild 2006, 183). The basic “rules” for asylum were established in Dublin II (2003), while the Asylum Qualification Directive was signed in 2004. The Tampere programme also saw the development of key information databases, including the Schengen Information System (SIS), Eurodac, and the Visa Information System (VIS).

However, it was the Seville summit in particular that was tasked with addressing the root causes of illegal immigration (Haddad 2008, 192). The discussion at Seville included a proposal from Spain, with support from twelve of the fifteen members, that financial assistance to developing countries that fail to crack down on people smuggling or that refuse to accept the repatriation of their own nationals should be suspended. Opposition from Sweden, France and Luxembourg eventually defeated the proposal (Watanabe 2006, 33), but its spirit underscored the direction of policy making during the Tampere programme towards developing partnerships that made use of the power position of the EU to externalize migration control and to develop international standards where irregular migration as asylum

seeking is effectively deterred and prevented (see Haddad 2008; Lavenex and Wichmann 2009).

Such direct use of development funding as a means of migration control was eventually abandoned. However, the Tampere years did see an increase in the use of development assistance to encourage bilateral repatriation agreements and the development of a European Neighbourhood Policy. Hein De Haas (2008) argues that EU countries have tried to turn the Maghreb countries into a “buffer zone.” The readmission agreements that have been concluded with Morocco, Algeria and Libya are in exchange for development aid and financial and material support for border controls (De Haas 2008, 12). Also, assistance is provided within the discourse of “capacity building” directed by the humanitarian programs of the Netherlands, Denmark and the United Kingdom in partnership with the UNHCR. In her analysis of these developments, Liza Schuster (2005, 6) argues:

The reinforcing of capacity in the region of putting in place asylum procedures, training officials in countries of first asylum and creating resettlement programmes may be a way of assisting countries who already host comparatively large numbers of refugees, and of trying to ensure that people have access to legal and other protection, but it is hard to avoid the conclusion that these measures also serve the purposes of European Union states, who will be able legally to return people to ‘safe third countries.’

This shift in development and humanitarian practice reflects an internationally oriented refugee policy that is tied directly to asylum policy. The underlying practice is one whereby refugees are assisted where they are from, or at least before they reach European territory. This approach has strong parallels with the agreements between Australia and Papua New Guinea and Nauru (and, presently, Indonesia [see Kneebone and Pickering 2007]). They

operate in a framework within which if individuals choose to migrate, even to become asylum seekers, they also become irregular and unwelcome migrants to be controlled.

The Hague programme, which followed Tampere, gave a mandate to the European Commission to develop a common procedure for “an effective removal and repatriation policy based on common standards for persons to be returned in a humane manner and with full respect for their human rights and dignity” (Canetta 2007, 436; Acosta 2009, 23). Its achievements include the establishment of a European Return Fund (to assist states with the costs of returning migrants) and the drafting of the Return Directive, which includes a re-entry ban of five years for any person ejected from the EU (Canetta 2007, 436, 443).

In a series of proposals that directly reflect the Australian experience, there have been consistent inquiries at the European level regarding the possibility of offshore processing. In 2003 the United Kingdom proposed a system by which asylum claims would be processed outside of the EU in “warehouses” located outside of European borders at least, but ideally located in the region of origin. It also outlined how and when intervention to prevent migration could be deemed legitimate (Van Selm 2007, 94). While the UK proposal was eventually rejected, it did attract a degree of support. Germany, initially opposed to the UK plan, put forward a similar proposal for large transit centres where migrants intercepted en route to the EU would be detained and processed. Sweden, France and Spain all opposed both proposals, but since 2003 there have been “persistent rumours” of camps already being built or of negotiations with states including Tanzania, South Africa and the Ukraine for camps (Schuster 2005, 8-9). Although all variations of the proposal have been defeated, the

European Council did approve a pilot project for providing development assistance to regions of origin with the objective of preventing forced migration (Van Selm 2007, 94).

The European border regime reflects what Chimni (1998, 352) refers to as the non-entrée regime, designed to deter, intercept and interdict all migration not expressly permitted by the state. It is, therefore, a regime designed to control irregular migration. Van Selm argues that at each stage, the agreements concluded represent a search for the lowest common denominator with respect to asylum and protection provisions (Van Selm 2007, 91). They have, however, achieved a greater degree of border control and firmly established border and migration control on not only the EU agenda, but also on the agendas of individual member states. This is clearly evidenced in the Spanish regime.

Kitty Calavita (1998, 543) writes that the evolution of Spain's immigration laws has been "hand in hand" with the process of European integration. In response to pressure exerted by these states through the cooperation and policy mechanisms of the EU, Southern European countries have adapted national policies to reflect the European political agenda. Andrew Geddes (2003, 166) argues that the EU policy framework has influenced the repressive elements of Southern European policy, leading not only to an emphasis on external frontiers, but also to an increase in the capacity to control the borders and an increased willingness to expel irregular migrants. This has created marked policy shifts. Where regularization programs, particularly in Spain, were formally an important part of domestic immigration policy, legislation has recently moved in directions that both restricts the rights and privileges afforded to non-citizens, and limits, if not prevents, irregular migration (Geddes 2003, 150, 164; Alexseev 2006, 149; Juss 2005).

Spain was seen as the “soft underbelly of Europe” (see Geddes 2003), the weak point in the external border control of Europe. Changes since the early 1990s in Spanish policy are largely perceived as at the behest of the European Union (“José” (false name), interview March 2008; “Cristina” (false name), interview March 2008; “Mohammed” (false name), interview April 2008; “Antonio” (false name), interview May 2008). As European integration has developed the gap between Spanish policy and European interests has closed. According to José, a policy consultant with the Ministry of the Interior, when Spain joined the European Community there was intense pressure on the Spanish government to “step up” in its control of the border. Now, however, Spain shares an agenda with Germany, France and other Northern European member states. It is important, he argues, to have a sense of effectively dealing with migration because it gives the population a sense of control – although, he acknowledges, this may not be good for the migrants in Spain (“José” (false name), interview March 2008).

The perception in the NGO and human rights community is that influence exerted by the European Union enforces the notion that the Spanish responsibility is to “Stop! Stop! Stop!” migration at the border (“Cristina” (false name), interview March 2008). Human rights advocates assert that the government is no longer able to “do any politics” for those without documents (“Cristina” (false name), interview March 2008). Such developments have led scholars such as Schuster to assert that the most disquieting element of European practices of deportation, detention and dispersal is their normalization (Schuster 2005, 617).

Since 2004, Spain has been one of the staunchest proponents for tougher border controls, including signing several readmission agreements that allow irregular migrants to be

returned, if not to their country of origin, then to a transit country outside of Europe (Andreas, 2003, 105; Lindstrøm 2005; Geddes 2005). The readmission agreement that Spain has with Morocco enables migrants to be sent to Morocco if there is no agreement with their country of origin (Geddes 2005, 165). Cristina, a human rights advocate, argues that as with all agreements, Spain has the responsibility to “stop the door”; now, it has given that responsibility to Morocco as well (“Cristina” (false name), interview March 2008). Frontex, a coordinated policing organization that represents the European Union in its control of its external frontiers, was a Spanish initiative. A network of radar, sensors, cameras and “immigration centres” have been placed along the Southern border to interdict “illegal” migrants; the Strait of Gibraltar, for example, has become the most heavily policed Southern point in Europe (Andreas 2003, 105-106). Following conflict between migrants and border guards in 2005, the enclaves of Ceuta and Melilla have been more heavily fortified. Robert Franks, a government spokesperson in Ceuta, stated that: “Without a doubt this is the Southern frontier of the Europe of Schengen. We have a whole continent to the south of us. It is increasingly evident that this wall is necessary” (quoted in Andreas 2003, 106). In Melilla, what was at one point a low fence has become a double fence, thirty feet high and topped with barbed wire. Both Spanish and Moroccan authorities patrol it at either side, armed with rifles paid for by the European Union (“Margrit” (false name), interview April 2008).

Throughout the same period, Spain’s refugee and asylum procedures also became increasingly restrictive, and by 1993 the denial rate of applications reached ninety-six percent. By 1996 only 5,500 refugees were living in Spain (Calavita 1998, 545). In 2000, 7,926 asylum

applications were filed, but only 453 findings were favourable (Ortega 2003, 6). According to policy consultant José, all that is really happening is the control; in the increased management and control of the border, and the associated control of irregularity, we are seeing “the death of asylum” (“José” (false name), interview March 2008). Miguel, the coordinator of a Madrid migrant support and human rights organization agrees, but broadens the accusation to all of Europe. Refugee status in Europe is disappearing as a meaningful concept, he says. At the same time, however, to be a refugee is becoming the only way for many migrants from the global South to reach member countries within a regular framework (“Miguel” (false name), interview May 2008). The result is an increase in irregular migration, as migrants are afraid to make claims – either to refugee status, or to any kind of social support - concerned that their story will not be good enough and that that their deportation will be immediate (“Miguel” (false name), interview May 2008). Again, the key issue is one of proper documentation. If the border crossing itself – the exercise of mobility – has been unauthorized and thus irregular, it is very difficult to obtain legitimate or valid papers, and the migrant becomes permanently excluded from the potential of regularization through refugee law. Throughout my interviews with human rights and migrant support organizations, a suggestion was made repeatedly and often explicitly: this emphasis on papers is designed against the sub-Saharan African migrants, who have little choice but to use irregular routes and border crossings (“Cristina” (false name), interview March 2008; “Antonio” (false name), interview May 2008; “Miguel”, interview May 2008).

The transition of the Spanish system from one relatively tolerant of irregular migration or, at least, of irregularity as part of the labour market and economy, to a position

as the architect of border control technology with associated practices of deterrence, interception, interdiction and control reflects the priorities of the European agenda. Border control and migration control enacted through asylum policy is the clear objective of European efforts; the prevention of irregular migration is the goal, not the protection of refugees. Foreign policy and international relationships premised upon supporting both neighbouring states and states in the regions of origin in building their capacities to prevent migration and to provide protection at the point of origin both justifies and supports this approach. Border control in Europe is not as “simple” as in Australia. Long land borders to the east, “vulnerable” land borders to the South and relatively short distances to European territory across the sea challenge policies premised on control. This has not tempered the restrictiveness of policy, however. Europe’s border regime, embodied by Spain, is likened to that of a “fortress” and the challenges of vulnerable borders have only underscored the “need” for prevention and externalization to be on policy agendas.

Tanzania: From “Open Door” to “Voluntary Repatriation”

Tanzania is located in one of the regions of origin that is so clearly emphasized by both Australia and Europe/Spain as an appropriate focus for their respective refugee policies. It is also the preferred locale in which humanitarian protection can occur. There are, of course, important differences between the Western contexts of Australia and Spain and the “developing” context of Tanzania. Differences in the scale of migration and the capacity of the state to “bear the burden” of migrants are the most obvious. The presence and direct

influence of international humanitarian agencies and the reliance upon both their support and expertise, and also the support of Western financial aid, add dimensions to the Tanzanian regime not present in the other sites. Finally, for Tanzania to “prevent” the migration of refugees or to contain their migration it is a matter of attending to the crossing of one border from a neighbouring state, rather than several borders from a different global region. Tanzania is closer to the state of origin. However, there are remarkable similarities in policies and agendas between the three sites. An emphasis on deterrence, prevention and control of irregular migration is constant across all three. This agenda marks a significant shift for Tanzania – a shift caused by a crisis in refugee migration and in international refugee support, but also by the influence of dominant global discourses about security and the importance of border control.

The refugee experience in Africa is most frequently described in terms of massive numbers. One in fifty people in Africa have been displaced from their home at some point in their lives (Manby 2004, 1018). At the end of 2007, when I was doing my field research, UNHCR data counted 11.4 million refugees worldwide, not including asylum seekers. Twenty-two percent (approximately 2.5 million) were in Africa, of which 435,000 were in Tanzania (UNHCR 2008, 4, 25). Humanitarian imperatives, and a low capacity to effectively control borders, have meant that refugee migration is fairly easily accomplished within the region.

Tanzania has historically been the largest refugee hosting state in Africa, with land borders with eight surrounding states, most of which have undergone refugee producing conflict at one point since their respective independence struggles. The Tanganika Christian

Refugee Service (TCRS), an NGO that serves as the government's camp management partner, declares in one of its information brochures that:

Refugees have been seeking peace and security in Tanzania since the 1960s, when ethnic conflict escalated in neighbouring countries. During the 1990s, civil war and genocide erupted in neighbouring Burundi, Rwanda and the Democratic Republic of Congo, forcing hundreds of thousands of people to flee their countries and seek refuge in Tanzania. (TCRS/LWF 2005)

This history of refugee hosting and of large influxes of migrants is also largely due to a high degree of cultural affinity within the Great Lakes region, which makes migration within the region an easier prospect. These conditions have led to a near incapacity for border control in Tanzania and so describe a border regime that is characterized as being highly vulnerable to irregular migration. Since the 1990s, refugees from Rwanda, Burundi and the Democratic Republic of the Congo have been in the largest numbers. Following a repatriation program for Rwandan refugees in 1996 that is widely condemned as having been “forced” (IRC 2007), Burundian refugees are today the overwhelming majority at 336,000 (see: UNHCR 2008).

As in Europe, Tanzanian refugee policy has been shaped by regional conditions and the impact of international developments. Although the Organization for African Unity (now the African Union) does not have nearly the same degree of institutional and legal regionalization as does the European Union, certain key Conventions shape the political context of individual state policies. For refugee migration, this policy is the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. Intended to fill perceived gaps in the 1951 UN Convention, it was written in a context of increasing

independence struggles on the continent that heralded the end of formal colonialism and (not unrelated) major displacements of refugees. African refugees, as argued by Chimni (1998) and others, were regarded in policy circles as being qualitatively different from the European refugees around whom the UN Convention was designed, not only in their numbers, but also in their individual characters and reasons for fleeing across borders. Although these differences generated a moral panic in the West, and can eventually be linked to the increasing restrictiveness of Western border controls, the vast majority of African refugees remained (and continue to remain) in their regions of origin. The result was that African states developed their migration policy and practices within a context of large migrations that were not easily captured by the existing international regime, and that placed significant burdens on already struggling economies and infrastructures. This continues to characterize the policy making context for African states.

The first meeting on refugees in Africa was held in Addis Ababa in 1967. At the time, there were approximately 750,000 identified refugees and displaced people in the continent. By 1979, the number had increased to four million and it has continued to grow (Adepoju 1982, 21). The population of concern at the time was “sociologically heterogenous, and [included] political refugees, freedom fighters and a residual group with mixed characteristics: women and children fleeing from war, racial, religious and cultural conflict or persecution or those escaping from famine, drought and other forms of natural disaster” (Adepoju 1982, 23). This diversity was not captured within the UNHCR regime. To date, the 1969 OAU Convention is the only document written in the African milieu that attempts to address this difference.

The OAU Convention was written with three broad objectives: to balance Africa's "traditional hospitality and respect to strangers" with a need to ensure security and peaceful relations in the region; to complement the 1951 Convention, addressing what gaps emerged in its framework when applied to the African context; and to address the specific needs of African refugees (OAU 1969; Kneebone and Rawlings 2007, 6). The definition of refugee provided by the OAU Convention attempts to link the "official" international definition of refugee provided in the 1951 Convention with the root causes of displacement. In particular, generalized violence and war are accepted as legitimate reasons for flight, expanding the basis for an asylum claim beyond political persecution. While the 1951 Convention does not explicitly detail a "right to asylum", it is specifically mentioned in the OAU document, although qualified by the requirement of consistency with domestic regulations (OAU 1969; Kneebone and Rawlings 2007, 7).

Under the presidency of Joseph Nyerere, in power from 1965 to 1985, Tanzanian foreign policy was strongly coloured by support for African unity and independence. This outlook was reflected in Nyerere's approach to the development of the African refugee convention, made clear in his address to the OAU:

Our resources are very limited and the demands made upon us are very large. But I do not believe that dealing with the problems of 3.5 million people and giving them a chance to rebuild their dignity and their lives is an impossible task for forty-six nations and their 350 million inhabitants. (quoted in Chaulia 2003, 154).

Nyerere's regime pursued a very liberal asylum policy founded on principles of humanism, including a practical acceptance of human equality and every man's equal right to a decent life (Chaulia 2003, 154). Commonly called the "Open Door" policy, the Tanzanian

asylum policy was encoded in the Refugee (Control) Act of 1966, which was written in the same political climate as the OAU Convention. It is this policy that most scholars cite as the most important historical factor in explaining the high level of refugee migration to Tanzania, as well as its reputation as the most welcoming and popular African destination for refugees (Kamanga 2005, 102-103). The 1966 Act enabled the liberal application of group status determination, provided for generous allocations of land to refugees, and facilitated local integration with offers of citizenship through naturalization (Kamanga 2005, 103). Khoti Kamanga (2005, 103) argues that the policy was shaped by four dominant considerations: a political sympathy for and solidarity with refugees as both victims and as freedom fighters; a prevailing naivety about how long refugees would remain; a reluctance to treat foreigners as foreigners; and a belief that Tanzania had sufficient resources to share.

The application of this policy to the practice of refugee hosting created what was known as “villagization” for refugees. Refugees were seen as a source of labour for the Tanzanian state, and the displaced population was used to settle areas of Tanzania with low population density but arable land (Chaulia 2003, 157). The first major refugee influx that Tanzania experienced was the 1972 caseload of Burundian refugees fleeing genocidal violence. This group was settled in purposely built settlements in the Rukwa and Tabera regions of Western Tanzania and in villages around Kigoma town, also in the West (Daley 2007, 174). This region of the country had been emptied of Tanzanian citizens during Nyerere’s *ujamaa* project of Pioneer Settlements, which relocated entire groups of the Tanzanian citizenry to different areas of the country in an attempt not only to spur an agrarian socialist economy, but also to promote the growth of nationalism as opposed to

territorially based tribalism. The land left uncultivated by this process was distributed to refugees with as much as five to ten hectares of land per head and then organized into collective farms (Chaulia 2003, 157). Through these efforts agricultural output and production were significantly increased in the region, and the settlements were food self-sufficient within a relatively short period of time (Chaulia 2003, 157; Daley 2007 174).

The policy of villagization in Tanzania represented an approach to refugee hosting that implied the permanent settlement of displaced populations, and an attempt by the host state to reduce the dependence on international aid of both the refugee population and of its own migration management practices. The seeds of an emphasis on control were clearly present, however, and were informed directly by the international climate of the time. There were serious concerns about the impact of refugees on regional security raised by the OAU and by the Western-based NGOs operating in protection programmes. These concerns, combined with the influence of international humanitarian agencies, created an emphasis on a need to monitor and control the movement of the displaced. Patricia Daley (2007, 168) writes:

During the 1960s, while independent Tanzania was confronted for the first time with a refugee problem, various international humanitarian organizations and Western governments were also expressing their concern about the new wave of refugees on the continent. Political instability arising from the decolonization process led to fears of dissidents forming alliances with communist groups. It became necessary for this new African reality to be speedily included in the internationally recognized legal conventions in order to monitor, control and direct the movement, and so prevent such alignments.

The OAU developed several principles to address this perceived need for control, expressing them less in terms of the ideological struggle with communism than in terms of the containment of civil conflict and the prevention of interstate conflict. As expressed by Diallo Telli, the Administrative Secretary General to the 1967 Conference on the Legal, Economic and Social Aspects of the African Refugee Problems:

Refugees must in no case be allowed to attack their country of origin, either through the media of press, or radio, or by the use of arms. In the same way, the countries of origin must not consider the harbouring of refugees as an unfriendly gesture and refugees must desist from any attack on the countries of origin through the media of press or radio or by resorting to arms. (quoted in Daley 2007, 169)

In Tanzania, the 1966 Act contained several elements that also responded to these principles. The practice of locating settlements far from state borders was explicitly designed to prevent refugees from engaging in the politics of their home states, and so from damaging the relationship between Dar es Salaam and the state of origin. As a result, the settlement government commandants and “competent authorities” were given extraordinary powers to restrict refugee movements imposing what Sreeram Chaulia (2003, 159) calls an “almost military leadership structure” in the settlements that placed power in the hands of representatives of the Tanzanian state. Kamanga (2005, 103) argues that these discretionary powers created a preoccupation with control and coercion in the administration of refugees. Further, the 1966 Act was absent of a clear definition of “refugee.” This not only enabled more state discretion in the administration of asylum applications but also, for many critics, facilitated a greater degree of irregular migration under the cover of asylum seeking (Kamanga 2005, 103). This concern laid the foundation in the Tanzanian case for irregular

migration and asylum seeking to be understood as at least overlapping if not coterminous in much the same way as in Australia and Spain and Morocco.

Daley (2007) argues that the restrictive administration of the refugee settlements in Tanzania inhibited the integration of refugees with Tanzanian nationals, and conspired to keep migrants in a protracted state of asylum. This, she argues, was enabled by ongoing international aid and the practices of humanitarian agencies in the area that operated despite food self-sufficiency in the settlements (Daley 2007, 174). She argues that aid provided by Western governments and coordinated by the UNHCR became a strategy to control refugee migration in Africa at large and in Tanzania specifically. This compelled African states to rely on Western-derived solutions to the refugee problem (Daley 2007, 168-169). Overall, this reliance systematically emphasized policies and practices of containment and control over integration and rights-based approaches. Such an emphasis has represented a movement away from the spirit of the OAU Convention and the UNHCR, rather than the OAU, has taken the lead in addressing the “refugee problem” in Africa (Kneebone and Rawlings 2007, 7-8).

In the Tanzanian case it cannot be conclusively argued that Western-based international humanitarian organizations have supplanted domestic interests in setting the migration policy agenda (see Milner 2009). Landau (2002, 261) argues that despite the influence of international actors, governmental power has not been usurped as, at the very least, government policies set the context and framework for practice. He writes:

While policy formulated in Dar es Salaam has not always strictly determined administrative practice in the country’s refugee affected areas, government policies continue to be critical influences on refugee settlement patterns, the form of relief distribution, international agencies’

behaviour with Tanzania, and the sites in which they operate. (Landau 2007, 265)

However, the leadership of the UNHCR, the need for international aid and assistance, and the concentration of expertise in the professionalized international humanitarian sector has determined the range of solutions and approaches mobilized to address policy priorities. The policy emphasis on deterrence and prevention and solutions based in containment and return seen in Western discourses are similarly dominant in Tanzanian discourses. The solutions are rooted in rhetoric that tasks the humanitarian community with carrying out the policy, but the policy itself reflects the demands of national security and control over (irregular) migration. Such an emphasis was indicated in the 1966 Act, but was made fundamental in the policy developments of the 1990s and in current Tanzanian practices.

While the status of “refugee” has narrowed in scope in the European context, it remains a form of “regular” migration – rigidly controlled, clearly defined in law, and determined on an individual basis. This experience of “being a refugee” is markedly different in an African context, where refugee migration is in far larger numbers and, in many ways, less controlled. The status of *prima facie* refugee, a status granting individuals asylum protection on a temporary basis and within parameters defined by the host state, is far more common than full Convention status and is granted on a group basis. The temporariness built into *prima facie* status softens the boundaries of regularity within the refugee community and ties it more closely to irregular migration that parallels the experience of asylum seekers at the Australian and Spanish borders. While asylum seekers have become encoded as irregular migrants in the context of the international regime broadly and the local frameworks of states in the global North specifically (see Chapter 3), it is not a category

imbued with much meaning in the African context. Rather, the *prima facie* refugee, with a status determined on the basis of nationality and state of origin rather than on individual review is a parallel identity to the asylum seeker.

The 1990s ushered in a sea change in Tanzania's approach to refugee migration and began what has been called a "temporary protection" emphasis, which replaced the old focus on integration (United Republic of Tanzania 2008a). The 1990s was a period of dramatic crisis in the Great Lakes region with the Rwandan genocide and the related reinvigoration of conflict in Burundi and the Democratic Republic of Congo, all of which created massive refugee flows – particularly into Tanzania. In the seven years between 1993 and 2000 Tanzania received and hosted 1.5 million refugees, most of whom were concentrated in the West. This influx stands against the already present population of approximately 400,000 hosted in settlements since the 1970s (Landau 2007, 269). The regions of Kagera and Kigoma, in which thirty-five to forty percent of the local population live below the global poverty line, host the vast majority of the refugees. The large influx of refugees into Western Tanzania in 1993 and 1994 was met by a complete shift in refugee hosting practice. Rather than settling refugees in villages and pursuing an integrative approach, refugees were housed in camps – all of which were within forty kilometres of the border (Alix-Garcia and Saah 2009, 151).

The shift to the use of refugee camps was, in many ways, an emergency response to crisis. It led to an increased dependence on international humanitarian actors for food aid, infrastructure and supplies, and camp management, which further entrenched these organizations' role as problem solvers for the region. The camp model and the nature of the

refugee flows also exacerbated security concerns as related to refugee migrations, however. The presence of Rwandan genocidaires and members of the army in the refugee camps created a militarization of the camps along the Rwandan border that seriously undermined Tanzania's political will for refugee hosting. As Daley (2007, 174) argues,

The failure to make a distinction between refugees and combatants, even when certain camps were evidently militarized, led to greater antagonism by states and indigenous communities towards refugees and the criminalization of all, including women and children, as potential rebels.

This militarization challenged prevailing assumptions in the Tanzanian administration about asylum and security, and led to questions about identifying “genuine refugees” (Daley 2007, 174). This assessment was not only applied to the Rwandan caseload, but also the Burundian and Congolese populations entering the country. The lessons that the Tanzanian state drew from increased insecurity and instability of refugee populations and the host regions were two-fold, and resulted in the perception of an increased need for control and restriction – including a firmer categorization of migrants. The first “lesson” was that, as group determination of refugee status is often the only feasible practice, allowing refugees freedom of movement was a risky practice with a potential for security threats. Settlement and integration were understood to no longer be options, and the restriction of refugees to camps became the prevailing practice. The second lesson applied to the character of refugee flows, which were increasingly understood as “mixed” between “genuine” refugees and irregular migrants who may or may not be “criminals,” rebels or other “violent” actors and so pose a threat to the state. In the same way that asylum seekers have become the objects

of suspicion in the Western world, asylum seeking as the search for permanent protection in Tanzania became far more difficult in the 1990s.

The shifts in Tanzanian policy were encoded in legislation with the development and passing of the 1998 Refugee Act, which repeals its 1966 predecessor. Kamanga (2005, 104-105) argues that the 1998 Act signals a deterrence message and disenchantment with an international humanitarian assistance system that provides insufficient support, and is directed at reassuring the Tanzanian population by creating the legal means with which to address with the problem of migration. It is also designed to equip the relevant authorities with the legal means to deal with asylum migrations. Importantly, this has meant that under the Act settlement officers have “blanket immunity” with regard to the decisions they take. Moreover, the Act grants expansive discretionary powers to those who administer refugee camps (Kamanga 2005, 104, 107, 114). It also changes the shape of the government administration of refugee issues, assigning refugee services to the Minister of Home Affairs, who is also responsible for security. While the groundwork for participatory, democratic governance of refugee camps is described, it remains vague in language and requires the individual approval of the Minister (Kamanga 2005). The emphasis is clearly upon the more effective management and control of refugees.

The 1998 Act also clearly defines a refugee according to the legal definitions found in the UN Convention of 1951, and the OAU Convention. It adds to these definitions that a refugee might also: “Belong to a group who, by notice in the Government Gazette, has been declared to be refugees” (United Republic of Tanzania 2008). This group is the *prima facie* refugee population, such as those from Burundi and the DRC, and forms the vast majority

of those refugees hosted in Tanzania. These *prima facie* refugees exist in a context far more strictly regulated than would a “Convention” refugee. In the Tanzanian context, this regulation mirrors closely the regulation of irregular migration both in the strict control of mobility and in the association with criminality any resistance or refusal of state regulation produces.

The confinement of refugees to camps is directly linked to the control of migration. Campbell, a Ministry official, states that the limits of refugee mobility are designed to reduce the number of refugees accessing residency permits or permits for further migration. He goes on to explain that the camps are kept close to the border to facilitate repatriation (“Campbell” (false name), interview January 2008). Such limitations are also supported by both local and international non-governmental organizations. Susan, an advocate in one of the partner NGOs, states that given the experience of the refugees, and “because some of them are criminals,” the limitation of movement is seen as a necessary evil (“Susan” (false name), interview January 2008). According to Michel, a practitioner working in an international NGO’s head office, Tanzania’s policy change is “not so much about border control as it is about migration control.” The border cannot be controlled, but there is within the borders significant capacity to control migrants. Law can be enforced in the villages, even if it cannot be enforced at the border (“Michel” (false name), interview January 2008).

This degree of control over the migrant is seen as necessary because of the threat of irregularity and the general inability to effectively manage it at the border. The UNHCR is not seen as being particularly good at dealing with the blurred line between “migrant” and

“refugee” in the African context (“Mark” (false name), interview December 2007). This is conflated by a lack of capacity for the control of even regular migration or of processes of regularization. Bronwen Manby (2004, 1019) notes that dozens of African states have no effective system that enables long term residents to acquire citizenship, and that the registration of births and deaths within the country may not take place. Officials at the IOM in Dar es Salaam make note of the very limited capacity of the immigration officials to control the border of Tanzania. James, a program officer, notes that there are problems with identification documents and with registration, as a culture of identity cards does not generally exist (“James” (false name), interview January 2008). As Alfred, a legal advocate who works with migrants in Dar es Salaam explained, the concentration of refugees is justified by the link between refugees and illegal migration (“Alfred” (false name), interview January 2008).

The 1998 Act makes residence in a “Designated Area” (DA) mandatory (Kamanga 2005, 110). A DA is a refugee camp, and anyone in Tanzania claiming refugee status either by individual application or via *prima facie* status must live in a camp. In the DAs, the rights of refugees are tightly circumscribed. By policy and through the participation of the international community, education and health care (including necessary drugs) are provided. Participation in the local economy via employment, however, is forbidden and the only income refugees can earn beyond basic provisions and the food aid provided by the camp management is through “income generating programs” which include raising cattle and making handicrafts. Participation in the broader society is prohibited. Refugees cannot go more than four kilometres outside the boundaries of the camp, and must be within its

borders by five in the afternoon, by which point all non-refugees, including international staff, must have departed for the day. A strict division between the citizens and “regular” migrants, the international staff, and those at the brink of irregularity, the refugees, is maintained.

Human Rights Watch cites security concerns as the motivation behind the encampment policy. Its 1999 report on the round-up of refugees in Tanzania argues:

The blanket presumption that all refugees pose a security threat and can therefore be indiscriminately rounded up and confined in camps appears to be more a part of the pattern of deteriorating respect for refugee rights in Tanzania rather than a legitimate response to a valid security concern. (HRW 1999, 2)

The rounding up of refugees following the passing of the 1998 Act also captured many of the old caseload of Burundians, removing them from settlement to the DAs.

The Act rejects local integration as a solution, and shifts back to individual determination of full refugee status in place of group determination and en masse regularization (Kamanga 2005, 108-109). This reaffirms the possibility of a clearly defined “regular” migrant refugee, and entrenches asylum seekers and those living under group determination as irregular and in need of control. Unlike the 1966 Act, there is no explicit reference made to integration or naturalization; only repatriation and resettlement are noted as permanent solutions (Kamanga 2005, 108). In the refugee information booklet published by the Ministry of Home Affairs (n.d.), the only reference to local integration (and the acquisition of Tanzania citizenship) reads: “At the present time the fees are rather high (over Tshs 600,000).”

These shifts parallel others that are perceptible in the global regime. Deterrence is now a key part of border control in most places; it is a stated goal for both the Australian policy and for Frontex in Spain. The individual determination of refugee status is an even more important reflection of the globality of increasingly rigid regimes. It marks a moment wherein to become a refugee, to achieve full Convention status with all associated rights and freedoms including those to employment and movement, is a rare and difficult thing. As much as asylum has become difficult to access in Australia and Europe, full refugee status is becoming similarly rare in Tanzania.

The practices of the Tanzanian state reflect an unwillingness to continue refugee hosting, and all emphasis for permanent solutions has been placed on repatriation orchestrated by humanitarian organizations and with a justification of more effective humanitarian provision in the home country. (To trace this shift globally, see Chapter 3.) Chaulia (2003, 147) characterizes the change:

For more than three decades, Tanzania was regarded as a beacon of hope, a model host, by the humanitarian world and Africa. In contrast to this pedigree is the current-day lament that Tanzania has joined several others in the list of “fatigued host countries.”

This fatigue was expressed in its extreme in 1996 with regard to the Rwandan caseload. Tanzania attempted to close its borders to Rwandan refugees, and, to address the militarization of the camps, requested assistance in disarming the refugees. When neither was successful in solving perceived security challenges, the government embarked upon a forced repatriation of Rwandan refugees. Despite the provisions against such measures in

the 1951 UN Convention, in December of 1996, 500,000 refugees were repatriated in UNHCR-sponsored vehicles (Daley 2007, 177).

The extreme of forced repatriation has not been exercised against the recent Burundian or Congolese refugees. However, Tanzania has been active in promoting return for the Burundian caseload in particular, and has actively partnered with international organizations to facilitate repatriation for the entire population. In 1996 it called for the creation of safe zones within Burundi itself to “reinforce the rights of citizenship” and as a “confidence building measure” (Daley 2007, 156). The calls for protection measures to be carried out not only in the “region” of origin (as by Europe and Australia), but in the *state* of origin reinforces the global shift towards the prevention of forced irregular migration. In 2002 an official repatriation programme was launched and a clear four year program was put in place in 2004 to extend until 2007.

As repatriation has been emphasized for existing refugees in Tanzania, the government has also shifted its attention to developing stronger border control. These concerns were a source of anxiety for African states generally and for Tanzania specifically, despite a limited capacity to control cross-border migration. It is frequently argued that refugee flows are often the vehicle through which internal fighting spreads to neighbouring states (Atzili 2006/2007; Haddad 2008). This is especially true for those refugees living close to the border, prone to cross-border attacks that can lead to international war, argues Boaz Atzili (2006/2007, 152). Manby (2004, 1018) writes that “[m]any refugee camps in Africa continue to be placed dangerously close to international borders and are subject to military infiltration and recruitment of adults and children.” The control of these factors underscores

the administration of the Tanzanian refugee settlements. In 2007 the Ministry of Home Affairs launched a policy study about the problem of irregular migration and vulnerable borders. The report states that “[s]uch movements are not only dangerous to the populations concerns, they also constitute a threat to national sovereignty and state security” (United Republic of Tanzania 2008b, 2). The report details that the primary response to irregular migrants has been to round them up and then ask migrants to return voluntarily, returning them by force if necessary. It does note that this approach often captures asylum seekers who are outside of camps, and that this and the techniques of rounding up individuals have led to human rights violations, but the emphasis on the need for border management is maintained in the face of these problems (United Republic of Tanzania 2008b, 4). The report’s recommendations include information campaigns about the dangers of human smuggling, strengthening border control with international assistance in technical requirements, and the establishment of immigration processing centres (United Republic of Tanzania 2008b, 21-22). Each of these recommendations bears a striking resemblance to the changing practices and policies of Australia and the EU and Spain, further underscoring the development of a global pattern.

Conclusion

As much as the global dynamics of the migration regime can be characterized by a shift towards greater state capacity to decide who migrates and when, these global shifts are grounded in change at the local level. In each site of intervention, the emphasis in state policy has become a focus on borders and the control of irregular migration. Despite

significant differences in both geopolitical context and in the character of cross-border migration, the unacceptability of irregular migration is clear and has become a dynamic that is causing ripple effects throughout the global migration and asylum regime.

In Australia, the border regime is the most restrictive of the three with clear policy and rhetoric about regulating migration. Within this discourse, unauthorized arrivals and asylum seekers have been set against “genuine refugees” in ways that reinforce the state position on border closure. While some of the more restrictive measures put in place in 2001, such as the TPV system and the Pacific Solution, have been dismantled by the successive government, the desire for control against the irregular migrant has not abated and the policies of containment in mandatory detention remain as counterparts to Australian efforts in prevention. Similarly, the Spanish policy regime has seen a dramatic shift away from an understanding of irregular migration as part of a necessary underground economy to one of elaborate restriction and control at the border. This control relies, at least in part, on partnerships with North African states such as Morocco to not only assist in the prevention of irregular migration, but also to contain it in spaces away from the Spanish border. In contrast to the two Northern sites, Tanzania struggles with both a lower capacity for border control due to fewer resources, and also much larger migration flows, specifically in asylum migration. Despite these differences, however, Tanzania has also seen a formidable change in policy regarding asylum migration, ending an Open Door policy and emphasizing mandatory encampment to contain the refugee population and taking a temporary protection approach. With the assistance of international organizations and partners such as the IOM and the EU, policy is being developed with a specific focus on migration control, aiming to

identify and control irregular migration and so to better manage cross-border migration into Tanzania.

Prevention and containment with an emphasis on control dominate the policy regimes of all three sites. Global norms and expectations dictate this focus, and shape trends towards more restrictive border regimes. The consequences of these policies for the migrants themselves are also similar across different contexts. It is towards an understanding of irregularity as lived by the individuals who are crossing international borders that we now turn.

CHAPTER 5

Rethinking Irregularity

Siva and June are from two different countries, and arrived in Australia by two different means: Siva by air, June by boat. They both spent years in Villawood Detention Centre, just outside of Sydney, living in immigration detention. Siva overstayed his initial visa and applied for asylum outside of the allotted forty-five days; June arrived without authorization. Villawood is not one of the notorious centres of Australia's detention regime – it is not in the desert like Woomera (now closed), and not in another country entirely such as those of the Pacific Solution (now cancelled). Nevertheless, it is a highly securitized centre. For over half of the time she was living there, June was kept in solitary confinement, as were all women “for their protection.” Siva and other male detainees were successful in using Australian laws to challenge and end the practice, but the damage remains. June is expecting a baby – but she does not eat, and she barely speaks. The future of the baby is highly uncertain, as June's status remains temporary. Siva worries about her, berating her for not caring for her health. He does speak - rapidly, loudly, and often. He is certain that his computer and phone are “tapped” and “being monitored.” His apartment has also been broken into, he says. “It's the immigration. They believe I am a trouble maker.” Both have been released from detention, and in some senses have entered the bureaucratic processes of the Australian immigration system. They have both been irregular in Australia. (“We were called illegal,” Siva says. “But what threat? What crime?”) In many ways, they remain irregular. The conditions of their visas limit their inclusion and participation in the community. While Siva's “humanitarian class” visa has been approved, June is living outside

of detention on a Bridging Visa while they assess her case. She remains precarious, and has been so for the eight months since her release. “We’re not welcome.” Siva says as we ride the train back to Villawood to visit other detainees, one of whom is on a hunger strike against his own deportation. June looks out of the window (“Siva” (false name) and “June” (false name), interview August 2008).

John has lived in Morocco for three years, for the most part in an irregular migrant encampment at the Mohammed I University in Oujda, and hopes to reach Spain one day. An accounting graduate, his journey from Nigeria took eighteen months as he was forced to stop in several places to earn enough money to pay for the next “leg” of the journey along well-known and well-traveled routes. He paid for passage at each step, but adamantly denies having been “smuggled.” Instead, he paid for transportation and for bribes given to police and border officials. He was also paying for the knowledge of others who have made the journey themselves, or have seen so many others attempt it that they know all the tricks to getting across international borders, and to surviving as an unwelcome “illegal” in places and spaces made transnational by their status as transit zones. He is migrating because he is not “living comfortably” in his – or in any – country. John does not accept the “regular” definition of a refugee as one fleeing political persecution with justified fear. Rather, he argues, persecution is more spread out, and more general, and to be a refugee is to lack rights and opportunities. “In every civilized world, you should live comfortably” he says, showing me a letter from the UNHCR indicating that an application for asylum had been filed in one of the transit countries, and that temporary asylum had been granted while full status was considered. He is not going to file an application for asylum in Morocco, though – he is

waiting to reach Spain, and plans on destroying his documents when he crosses the border so that he cannot be “sent back.” For now, the UNHCR letter stays in his breast pocket. He has now been deported to the Algerian desert several times by Moroccan authorities, but he always returns to Oujda, waiting for the next chance to make the final leg of a long journey to Spain. When he succeeds, he hopes to continue his education and to find work, to marry and to have children. For now, though, he says he is “stranded” – unable to move ahead or to go back. He has no status or rights, and is frozen in a state of irregularity that makes being temporary a permanent way of being and that stops the future from happening (“John” (false name), interview April 2008).

Unlike Siva and June who each made long journeys across water, or John who has crossed several borders as he moves to a destination of his own choosing, Basil lives only miles from the border of his home country of Burundi in Nduta refugee camp in Kibondo, Tanzania. He is a *prima facie* refugee, a status that is rigidly controlled and that does not carry with it the rights and freedoms outlined in the United Nations Convention Relating to the Status of Refugees. His individual refugee status has never been determined, and his individual claim has not been processed with any rigour. Rather, he was granted status by virtue of his nationality at the decision of the Tanzanian government in the wake of a mass migration. He knows that he is a refugee, one of hundreds of thousands of Burundians who fled civil conflict during the 1990s into Tanzania; he also knows that he is being denied what rights a “refugee” is entitled to. He blames the government of Tanzania, and feels that the message being sent is that he is not welcome. Basil has lived in Tanzania for several years, but his biggest problem remains where he will be tomorrow. “A refugee is not a human

being,” he says. The constant state of temporariness stops him from investing in anything long term – including the concept of home. Rather, home is where he has slept today. It is no longer Burundi, to which he is afraid to return regardless of the fragile peace. It is not Nduta camp, nor Kibondo or Tanzania. In his crossing of the border, Basil is not irregular. Yet the Tanzanian government began a program of repatriation for the Burundian refugees in 2004. Basil is refusing to go, and in this becomes in many senses irregular (see Chapter 1 and 3). He has written several letters of appeal to the UNHCR. It is a problem for refugees to go back, he says – they do not belong anywhere. They are temporary, even in Burundi. This is a lesson he learned in the late 1990s, when he did return to Burundi from Tanzania. He was forced to flee again, and to return to the tentative status of *prima facie* refugee within a year. There is no such thing as stability in the lives of those who are being “encouraged” to repatriate, he says. There is no future (“Basil” (false name), interview December 2007).

The following will begin an examination of irregularity in the context of policy and practice, but also in the experience of migrants themselves. I continue to an assessment of the situation in my chosen sites of intervention: the border and detention regime of Australia, the border between Spain and Morocco, and the refugee camp in Tanzania. Comparison across sites that present as so different in context, policy, and experience is a difficult proposition (see Chapter 2). When the narratives of the migrants themselves are introduced into the study, however, striking parallels and themes emerge that are closely similar. The individual stories the migrants themselves tell are different; they follow different routes, have different motives for migrating and have faced different policy regimes. In each of Australia, Spain, and Tanzania, however, irregularity is criminalized and marked by a

refusal to participate in state border programmes and regimes (see Chapter 4). Each irregularity is marked by a refusal to cross borders in ways demanded and regulated by the state. The direction of crossing – a demand for entry, or a refusal to exit – is less important, as the consequence of each is to become irretrievably irregular. This irregularity has produced a temporariness felt to be permanent, and the instability and exclusion that follows from this creates a sense of being static, unable to envision a future within structures imposed by state policies of border control. As outlined in Chapter 1, irregularity is as much temporal as it is spatial. This temporariness and difficult conceptualization of the future reveals irregularity as an experience that shapes ideas and encounters in time even as they interact with the spatial constructs of borders and spaces. This chapter will begin to assess irregularity in this sense, examining the impacts on the political agency of migrants understood through this enforced temporariness and asking how the refusal to submit can represent a politics of resistance that can contribute powerfully to our understanding of international border crossings.

Irregular as Unwanted: Selection and Border Control in Australia

Entering Villawood Detention Centre outside of Sydney, I was buzzed in by a member of the private security company contracted to run the centre and handed a key to a locker where I was required to stow all of my things. “No cameras or recording equipment,” the guard told me. I entered as a friend with two ex-detainees to meet a man who had been in detention for three and a half years for overstaying his visa. To enter, I walked through a

metal detector, was subject to a search with a wand and by pat down. I signed a six page contract promising not to “incite” the detainees, both against the guards and to acts of self harm. We walked outside down a narrow corridor, through two guarded and locked doors, and into a small yard surrounded by a double, thirty foot high fence topped with razer wire and electrified. The picnic tables were bolted to the ground, and a guard stood twenty feet away, surveying our meeting with Prakesh, a detainee on hunger strike in protest of his imminent deportation; he had one final appeal, scheduled for the following day. He spoke openly of suicide, of being afraid to return home, and of his sense that the Australian government wanted him gone regardless of what humanitarian or asylum claims he had made (“Prakesh” (false name), interview August 2008).

This scene characterized the mandatory detention scheme on mainland Australia in the summer of 2008, eight months after Prime Minister Rudd and the Labour party had replaced John Howard and the Liberals in office. The Rudd government came to office with a series of promises to change the asylum and border control regime. It cancelled the Pacific Solution, and ended temporary protection visas (TPVs), although there was at the time no real sense of what will replace them. The system of mandatory detention is being maintained, but the rhetoric at least had shifted to detention as being used only for “risk-assessment” and for those who were found to be high-risk. Again, it is unclear as to what constitutes “high risk”, but the mood is hopeful that arbitrary and punitive detention is coming to an end. At the same time, however, the detention centre on Christmas Island remains open – more highly fortified and secured than any other detention centre. No plans exist to close the centre. Indeed, all indications are that it will be put to full use.

The new policy changes focus on mainland Australia, and the emphasis in policy has shifted to interception and prevention. Paige, a refugee advocate who has participated in both activism and in policy consultation, however, draws attention to who is being affected by these changes. “Look at the statistics,” she argues. “There are now only sixty people with visa applications for protection in detention... a miniscule number.” She argued that the real policy has been about preventing access to Australian territory. “If the five people in detention [who are helped] represent five thousand prevented from arriving, where is the good, the positive?” Despite the shifts in rhetoric and promises, the commitment to border control remains firmly in place and, as Paige says, “the foundations of the original policy are still there, even with a change in government” (“Paige” (false name), interview August 2008).

The Australian policy regime contains elements in common with both that of Europe/Spain and that of Tanzania. In many ways, it is the culmination of many of the policy directions the other jurisdictions are following. As described in Chapter 4, Australia’s policies related to asylum and immigration are fundamentally oriented to border control, with a high degree of emphasis on how the border is crossed and with(out) what permission and documentation. The emphasis on border crossing found in Europe exists here to an even more significant degree, with more severe consequences for those who successfully cross the border. The system of detention is similarly about control, focused on excluding non-permissible individuals from the community and, increasingly, maintaining them as far from the Australian mainland as possible until they can be returned to their place of origin. Unlike Tanzania, where camp habitation is mandatory for all refugees and asylum seekers regardless of how the border was crossed but is administered with some attention to humanitarian

demands, Australian detention resembles a prison system and is only applied to those who have become irregular – most often by crossing the border without permission, but also by refusing to leave.

From an Australian policy perspective, there is a legitimate difference between genuine asylum seekers and so-called economic migrants. Indeed, the entire regime is dedicated to making this distinction (“Alan” (false name), interview July 2008). The line is drawn along the border; within this regime a migrant’s legitimacy is determined almost entirely by how the border is crossed with irregular migration marking the illegitimate claim. As in both Spain and Tanzania, irregularity is produced by a refusal to participate in the state regulation of the border. A demand for entry (embodied by those who arrive on the coasts in rickety and leaking boats) and a refusal to exit (embodied by those who overstay their “regular” visa and claim asylum after the allotted forty-five days) are each productive of experiences of irregularity. Although in both Europe/Spain and in Tanzania, asylum seekers are at least potentially able to achieve full Convention status, thereby returning in some senses to a state of regularity, the distinction between “asylum seeker” and “refugee” remains rigid in Australia, and is fundamentally marked by irregularity. The shift from a paradigm of forced and voluntary migration to irregular and regular migration is most advanced here, as witnessed in the impact on the lived experiences of migrants.

For Pam Christie and Ravinder Sidhu (2006, 454), the first principle of Australian migration and border policy is that a visa is required for entry. The second is the mode of arrival. The object of concern, therefore, is those who have evaded regulation and arrived without permission: those who have arrived by boat. “Australians are very uncomfortable

with boat arrivals, and from the first [they] were treated as an abuse with harsh policies,” says Gareth, a researcher and advocate. That they “take advantage of our goodness” was dominant in rhetoric as the Howard government courted public support for the harsh policies of interception and detention (“Gareth” (false name), interview July 2008). “Ministers for immigration don’t like unplanned incursions onto their soil,” says Alan ([false name], interview July 2008). Repeatedly in interviews and in the literature assessing Australian policies, emphasis is been placed on the government’s desire to maintain national security and interest through mechanisms of border control (“Kathy” (false name), interview July 2008; “Gareth” (false name), interview July 2008; “Colin” (false name), interview July 2008; Gibney 2004; Dauvergne 2007). Colin, a support worker and advocate, argues that the result is understood by the advocacy community as “totally irrational” as, on the one hand, an offshore program accepts ten thousand refugees per year, but “we choke on the one to two thousand asylum seekers” and lock them up without visas or documents (“Colin” (false name), interview July 2008). What makes less sense to advocates is that those who arrive with “wrong visas” and then claim asylum – such arrivals can claim within forty-five days of entering the country – are not subject to the same punitive conditions and detention as unauthorized arrivals (“Colin” (false name), interview July 2008; “Anna” (false name), interview August 2008; “Alan” (false name), interview July 2008).

Colin outlines his explanation: “it seems to me [that we are] happy to be generous with twelve thousand – about ten percent of the total migration intake – but it’s about control. We want to do the picking and choosing, and don’t like it when the refugees themselves pick and choose” (“Colin” (false name), interview July 2008). In this, he has hit

upon the underlying theme that makes the policy entirely rational, despite all appearances: regulation and control. Those who have arrived on a visa – any visa – have had to go through some sort of selection process, at least initially, and have crossed the border in some senses regularly. This one distinction makes all the difference in the migration experience as these individuals are not “irregular” in their mode of arrival.

The experience of irregularity in Australia is marked fundamentally by detention and by interdiction. The public common sense is that all unauthorized arrivals have come via smuggling routes, and are therefore by definition illegal. The prevalence of people smuggling is borne out in actual numbers; obtaining a boat, paying for passage, and navigating the waters between Indonesia and Australia (the most common passage) is dangerous even with a guide and few attempt it without assistance (“Lee” (false name), interview August 2008). At the end of the 1990s and in the early 2000s – and at the time of 9/11 and the *Tampa* crisis – the incidence of boat arrivals increased significantly, particularly the number of boats containing children. In the public discourse, these arrivals heightened the feeling of illegality and criminality associated with asylum seekers, underscoring the appropriateness of both detention and any and all measures taken to interdict migrants. Migrants themselves felt that asylum seekers were being portrayed as immoral, unwelcome and problematic for the community as “unlawful non-citizens” (Christie and Sidhu 2006, 456) – and so needed to be excluded (“Prakesh” (false name), interview August 2008). That engaging in smuggling networks is a criminal act, however, is questioned by both advocates and the migrants themselves. Donna, an activist and service worker, argues that smuggling is the only option. She also asserts that the boats with families increased in this period not because of

heightened illegality, but because the TPV regime prevented “unauthorized arrivals” from qualifying for family reunion, and so women and children also needed to participate in the original journey (“Donna” (false name), interview July 2008).

The experience of detention in onshore centres is marked by dehumanization, extreme punitive conditions, and permanent temporariness – and reactions against them that are characteristic of both angry resistance and despairing trauma. The centres on the Australian mainland currently house primarily those who have overstayed their original visa and claimed asylum outside of the forty-five day threshold, whereupon they become ineligible for a permanent protection visa. By claiming asylum after forty-five days, these individuals fully enter a condition of irregularity. As with Basil in Tanzania, they become irregular by virtue of a refusal to exit. Those in detention because of unauthorized arrival have, as at the border of Spain, become irregular in their demand for entry. Each refusal to participate in the state regulation of the border marks a condition of irregularity, for both groups a precarious and temporary condition. Asylum seekers in detention are “transitory persons” with no status or right to legal aid or application to regularized status, says Donna ([false name], interview July 2008). Paige, describing the conditions of the now closed Woomera and Adelaide detention centres, and also those urban centres still in operation, points out that detainees are living in a non-place – in no jurisdiction. They are not “there” (“Paige” (false name), interview August 2008). Those in Villawood, like Prakesh, are not in New South Wales but are in a different policy space that both deprives the detainees of regular rights and process and also excludes them from the system.

This “relocation” is even more extreme for those detainees who are processed offshore, including those on Christmas Island. During the Howard years and the Pacific Solution, those who were interdicted and transferred to Nauru or Papua New Guinea lived in conditions that were similar if not more punitive as those onshore, with an added layer of little to no oversight by the Australian government.

The Rudd government’s cancellation of the Pacific Solution has ended this interstate distancing for those who successfully land on excised territory (those intercepted at sea are still returned to Indonesia, where they live in IOM “processing” centres). The end of the Pacific Solution did not end transfers to remote detention centres, however. Migrants are now sent to Christmas Island to a centre characterized by the IOM as more prison than processing centre and at an almost impossible distance from oversight by Australian civil society (“Lee” (false name), interview August 2008). (“How are we going to get to bloody Christmas Island to visit people?” asks Kathy, an activist, with evident frustration [“Kathy” (false name), interview July 2008].) Even announcements that the government will no longer arbitrarily detain asylum seekers, but will use detention only for those classified as “high risk” and for assessment, seem to apply only to those who reach the mainland. These are few in number as most successful landings only reach excised territory – only two boats carrying fifty-seven asylum seekers arrived between 2001 and 2007 (Dastyari 2007, 6). For those who have landed on excised territory, there is an added policy layer preventing any application to all classes of protection visa in Australia (“Paige” (false name), interview August 2008).

Access to a system and jurisdiction fully regulated by Australian law is thus made impossible – or at least extremely difficult. Christmas Island, where unauthorized arrivals are

sent, is a grey jurisdiction within the Australian federation, and is operated by a private corporation called Serco. The policies used by officers and guards are not those described in the regular Australian migration system, but are instead local, exceptional policies developed within the facility. The exclusion becomes permanent. And once an individual is in this system, it is “hard to get out” (“Colin” (false name), interview July 2008).

The exclusions of detention locate migrants in a condition of constant flux. Onshore, their status and presence is entirely dependent upon a system of application processing that moves at a speed entirely beyond their control, and often entirely independently from their own involvement. They are utterly temporary, a condition which justifies their complete removal and exclusion from the community at large. For arrivals in the excised territory, or migrants who are interdicted, this is more extreme as temporariness is coupled with an understanding that a future in Australia is next to impossible. Where they are to go, and when, and what they can do to control this movement, is largely out of their control as they live in offshore detention or in IOM centres in Indonesia. They become frozen, captured within migration control frameworks that are designed to stop them from becoming a long standing part of the community.

The mechanisms of the Australian regime are such that migrants are effectively shut away from society, their narratives and stories swallowed by distance that is both geographical and discursive. Irregularity is thus marked not only by exclusion and temporariness, but by silence. What voices are heard, those such as Prakesh who remain in detention on the mainland, plead with anger that border security should have nothing to do with asylum seekers: “they are not a threat – even the liars are not a threat!” (“Prakesh” (false

name), interview August 2008) Those who are released from detention and granted some status in Australia continue in this exclusion, struggling with little sense of a future and “cast into a zone of shame, disgrace or debasement, rendered beyond the limits of the liveable, denied the warrant of tolerability, accorded a purely negative value” (Rose quoted in Christie and Sidhu 2007, 456). They live in a space of insecurity, as does Siva, worried about constant surveillance and unsure of a precarious status. They continue in temporariness, as does June, almost silent in her fears about her own future as her case is “considered”, and about the future of her child, whose health is uncertain as June’s health declines.

Irregularizing Territory: European Boundaries in the South of Spain – and Morocco

Driving past the Spanish consulate in Casablanca it is impossible to not see the line, which is at least three people wide and very long. The taxi driver tells me that it is a line of those hoping to migrate to Spain – some to stay, some just to visit, some are from Morocco, some are just passing through. Leaving from Morocco, a visa is required. On the train from Casablanca to Rabat I sit across from a young man who tells me how his visa to Spain – which he wanted so he could see a football game – was denied without explanation, even though he has had a visa before, and currently holds one to the United States. He believes it is because he is a young student, about to graduate from University and so possibly a risk of staying in Spain long term, or travelling on to other European countries (“Rabah” (false name), interview April 2008). The line of applicants and his individual story reflect the reality of regular migration to Spain from Morocco: a rigid system of visas and permissions

designed to control future migration and presence. The importance of the border between Spain and Morocco cannot be understated; it illustrates the new form of international migration with poignant clarity. As the only land border between Africa and Europe – between “developing” and “developed” – it is crossing this border that increasingly creates irregularity, and controlling this border that focuses present-day European anxiety over irregular migration. This anxiety is marked indelibly on the bodies of trans-Saharan migrants as they try to make their way through Morocco to reach Spain, and the European Union.

Irregular migration and the “irregularity” it produces in Europe is about how an individual has crossed the border – and, almost entirely, about where they have come from. That irregularity which is the root of anxiety and fear, and which is tightly controlled, deterred and punished by a complex system of law and policing is linked fundamentally to migration from the developing world through the southern borders of Spain. It is the irregularity experienced by sub-Saharan African, Asian and North African migrants living in suspension in the enclaves of Ceuta and Melilla, waiting in spontaneous camps in Moroccan borderlands, and attempting treacherous crossings of the Mediterranean on leaky boats. Irregularity that must be controlled, that is rigidly regulated, and that is excluded from possibility of regularization – of being brought back into the fold of the state – is that of the migrant from the developing world. Although national public opinion surveys and popular perceptions hold Spain to be one of the least anti-immigrant states in Europe, with low levels of racism and xenophobia (Calavita 1998, 553; “Cristina” (false name), interview March 2008), the association between irregularity and illegality is marked on racialized, poor bodies. Calavita (1998, 560, 530) argues that the determinant of who is truly an outsider to be

restricted and controlled is the person's location in the global economy; specifically, the law is designed to marginalize and exclude migrants from the developing world. She writes that Spain's laws, "[i]nstead of controlling immigration... control the immigrant" (Calavita 1998, 560). The shift of focus to irregular migrants (rather than irregular status) is one that reflects a more generalized European anxiety. This can be tracked by tracing the development of border policy (see Chapter 4), and by the experience of the migrants at the border.

A study of border control in Spain directs attention to the border itself and the technologies of control that are built around it. It does not tell us much about the experience of irregularity, however. Irregular migrants exist in this story as the problem, the object against which the border is defended and their experiences are collapsed into processes of exclusion and deportation. What is left unsaid is how migrants become irregular, and why, and also how they negotiate and shape this process themselves. Asylum seekers become oddly invisible, despite popular rhetoric in Spain and Europe about the protection of human rights and human security. Migrant narratives of mobility reveal these subtleties and tell of the gap between narratives of humanitarian concern for human rights and protection and the actual practices of border control.

To access these narratives, I move my analysis beyond Spain to Morocco and the migration experience "just before" Spain is reached; I pay attention to the border zone between the two countries. At the Mohammed I University campus in Oujda there is an unauthorized camp with a fluctuating population of approximately two thousand irregular migrants. A quirk of Moroccan law dictates that the authorities cannot enter the campus without the express, written permission from the President of the University. Although

rarely enforced, this law does enable the camp to exist in a grey area – relatively protected from constant police interference, but not immune to occasional, often violent, raids (“Mohammed” (false name), interview April 2008). (The threat of these has meant that the bulk of the camp is in the forest behind the school rather than on the campus proper.) Amir, a student at the University, tells me that the migrants are tolerated – and sometimes supported with the provision of supplies and more solid shelter in bad weather – out of a sense of social justice and humanitarian principles (“Amir” (false name), interview April 2008). The population at Oujda is fluid as individuals leave to make an attempt to cross into Spain either through Melilla, Ceuta or the Canaries, and return if they fail in order to regroup for another attempt. Some migrants have returned from being deported; if they are deported to Algeria, they simply walk back to Oujda. Depending on where in the desert they are left, and provided that they are not injured and have enough money to bribe any guards they meet, it is only a seven hour walk (“John” (false name), interview April 2008; Cameroon migrants, group interview April 2008). Occasionally, someone makes the journey to Rabat to try and contact the UNHCR and file an asylum application. Many of the migrants in the camp already have some sort of paper from the UNHCR in other countries, either documenting an application or the granting of some sort of refugee or asylum visa or status (“John” (false name), interview April 2008; “Francis” (false name), interview April 2008; “Charles” (false name), interview April 2008); Cameroon Migrants, group interview April 2008). For many who have worked with the migrants at Oujda, the only distinction that exists now between an “irregular migrant” and a “refugee” is the possession of these papers; their experience of temporariness and exclusion remains the same (“Mohammed” (false

name), interview April 2008). This trip to Rabat is not common, though; the goal, for asylum, is Spain. Morocco, in the eyes of the migrants at Oujda, is not hospitable to asylum seekers and particularly to those from sub-Saharan Africa (“John” (false name), interview April 2008; Cameroon migrants, group interview April 2008). It is perceived as a racist community, while Spain and Europe are understood as respectful of human rights, and as able to provide protection, security and support to refugees.¹³ The public claims made by Spain to this effect are taken as evidence of such principles. Although “illegals” are the “most terrible” problem in Spain right now, Cristina, a local human rights activist and social worker claims that the situation in Morocco is worse – and “it is black people that is the problem.” The racism in Morocco is institutional. According to human rights workers who work with migrants, if the police see you in a car with a black person you can be accused of trafficking. Taxis will not carry an African person, and African men cannot sleep in a hostel (“Cristina” (false name), interview March 2008).

Paul Silverstein (2005, 27) writes that the brutality of Moroccan security forces against Sub-Saharan African migrants and the mass deportations that have resulted belie overt state attempts since 1999 to present Morocco as a modern democratic state that guarantees human rights. Migrant narratives provide an important perspective to this. Far from being ignorant to the connections between Spain and Morocco in the management of migration, and although they are not always aware of how direct such links are, it is the firm belief of those at Oujda that the Moroccan authorities are acting on Spanish request (or orders) in their attacks and deportation. They claim that it is the Moroccan police

¹³ Accusations of racism in Morocco is borne out somewhat by the national media which, in 2005, referred to Sub-Saharan migrants as “black locusts” invading Northern Morocco. (De Haas 2005, 5).

themselves who have told them of these directions (“John” (false name), interview April 2008; “Francis” (false name), interview April 2008; “Charles” (false name), interview April 2008; Cameroon migrants, group interview April 2008).¹⁴ These migrants are in constant motion, not able to remain and plan and become part of any one place. They have a destination in mind – Spain – but achieving it is difficult, and often requires multiple attempts. Until then, they are temporary, simultaneously caught within migration controls and also in motion.

The camp in Oujda began initially not only because of its proximity to the Algerian border, but also because of its proximity to Melilla. The Spanish enclaves were, until recently, the easiest “targets” for entry to Spain – and Europe – as the only land borders between the two continents. Migrants hide in vehicles driving across the border, or try to scale or swim around the fences. Ongoing emphasis on border control in Spain has steadily increased the difficulty in crossing these borders, however. 2005 marked a watershed in the border regime as a series of clashes between migrants and border guards occurred at Melilla, during which fourteen migrants were killed. Similar conflict occurred in Ceuta.

It is the racialized body of the sub-Saharan migrant that has become the locus of concern over irregular migration. After the border clashes at the enclaves, Moroccan authorities turned to nationwide arrests and raids of irregular migrants. De Haas reports that a group of fifteen hundred migrants was rounded up, deported and abandoned in the Algerian desert as a direct result of this backlash (De Haas 2005, 5). In 2004, Moroccan authorities claimed that over 26,000 migrants were intercepted in attempts to cross to Spain,

¹⁴ Indeed, one man was firm in his position that the police had been told to kill all the blacks in Northern Morocco to prevent their movement (“Francis” (false name), interview April 2008).

of whom seventeen thousand were from Sub-Saharan Africa. In the same year 15,675 boats were intercepted by Spain at sea, forty-three percent of which contained Sub-Saharan Africans (De Haas 2005, 7).

For those who do manage to make the crossing, the experience is one of exclusion and removal. Migrants rarely remain held at the Canary Islands because of concern over the impact on tourism (“Antonio” (false name), interview May 2008). Similarly, the authorities often swiftly move on black irregular migrants from Melilla (“Margrit” (false name), interview April 2008). In both cases it is not concern for the migrant, but rather for the public perception that irregular migration is being dealt with that inspires swift action. Sub-Saharan migrants have become the archetype representing the “problem” of irregular migration, and so they are removed from public view. They are not necessarily, or even usually, returned to the mainland, however. Instead, readmission agreements enable the rapid deportation of individuals out of Spain. Silverstein (2005, 32-33) writes that: “Within this ambivalent context, sub-Saharan transmigrants are socially and politically invisible, falling under the purview of neither citizen rights nor refugee protection...” He argues that migrants are in a state of permanent transit (Silverstein 2005, 33). Their irregularity is one of static temporariness, permanent exclusion, and categorization in criminality that must be controlled. What agency they do exhibit in acting to cross borders is understood as threatening and dangerous; the non-citizen is unwelcome.

Irregular Refugees: Refusing Repatriation in Tanzania

In December of 2007, the only non-essential camp service in Nduta Camp, Tanzania that remained in operation was the youth centre, which provided a place for refugees to gather for cultural activities, to play sports, and to make music. One of the music groups that had been formed brought together refugees from a variety of ethnic backgrounds, including groups that had been in conflict in the countries of origin. Adaire, a Burundian refugee, is eighteen years old and is passionate about music. He regularly flashes hip-hop gang symbols with his hands, and speaks enthusiastically about the fusions of American street rap with traditional African singing. His band plays in the local community sometimes, accompanied by his homemade guitar, and he dreams of travelling throughout Tanzania to perform. The scheduled closure of the youth centre, however, and the repatriation program it is associated with is a source of high anxiety for Adaire. “I don’t know if we will get along when we get home,” he says, speaking of his fellow band members. He worries that the community he has in the camp is too temporary to have any meaning in the “real world,” and that once he is back in Burundi his friends will become enemies. “Maybe I won’t go back,” he tells me. “It is better to be hiding here than to go to somewhere I have no future, no music.” Nevertheless, the uncertainty of a future in Tanzania weighs on his mind, and he has no concrete plans to pursue his dreams of performing – or even of leaving Nduta. “How can I make plans?” he asks (“Adaire” (false name), interview December 2007).

Irregularity in the African context has a different policy profile than in Australia or in Europe. As described in Chapter 4, it is not a commonly targeted policy concern in African

states, except in international forums where states are framed as countries of origin for irregular migration. Within this framework, the focus of concern is not, therefore, migration into a state, but out of the state as citizens emigrate to become irregular migrants in other places. In-bound migration to Tanzania that is identifiable as “irregular” is most commonly understood as asylum migration, and thus discussions of irregularity in Tanzania have become fundamentally tied to discussions about the management and control of the refugee population. Despite the differences in context, and even in defined status, the experience of irregularity revealed by migrant narratives in Australian detention, at the Spanish border, and in Tanzania remains strikingly similar. Insecurity, stagnation, exclusion and a temporariness that exists at the root of it all is what characterizes the experience of a *prima facie* refugee expected to participate in the state-regulated and state-enforced program of repatriation as much as it does the experience of an unauthorized migrant entering Australia, or a sub-Saharan unauthorized migrant moving through Morocco and attempting to cross into Spain. In all cases the marking of “irregularity” is in the consequences of a mobility that is not regulated by the state, but is instead outside of that framework and so is understood as illegal – and unwelcome. While the status of “refugee” has narrowed in scope in the Australian and European context, it remains a form of “regular” migration (see Chapter 1). In the African context, however, the necessity and norm of group determination and *prima facie* status are understood and constructed in similar ways to the asylum seeker in the global North. It is this population that becomes the object of control over irregularity as a result.

The control of irregular migration in policy frameworks in Tanzania is closely linked to a perceived need to address an incapacity to effectively control borders by focusing

instead on controlling migration (“James” (false name), interview January 2008; “Campbell” (false name), interview January 2008). These efforts include an increasing emphasis on repatriation for the refugee community. The boundary between the refugee experience and the experience of irregularity has collapsed entirely for many as they actively refuse, avoid and subvert state programmes. The confinement of refugees to camps in Tanzania is a mechanism of control in migration, as indicated in Chapter 4. It is also tied to the preferred “durable solution” of repatriation. Campbell, a Ministry official, stated that the limits on refugee mobility are designed to reduce the number of refugees accessing residency permits or permits for further migration. He went on to explain that the camps are kept close to the border to facilitate repatriation (“Campbell” (false name), interview January 2008).

The situation of migration in Tanzania is such that irregular migration is not simply a concern for those coming into, but also for those exiting from the refugee population. Becoming “irregular” is not always about entering the country— it is also about refusing to leave. This is particularly true for the Burundian refugees currently living in Tanzania. In September of 2003 the UNHCR reported that ninety-five percent of Burundi’s refugees had taken up residence in Tanzania, mostly (as required) in camps. In 1998 peace negotiations for Burundi were initiated, and the Arusha Peace and Reconciliation Agreement for Burundi was signed in 2000 (Forbes-Martin and Hiddleston 2006, 15). Although not all parties to the conflict were signatories to the agreement and no ceasefire was concluded, repatriation procedures were initiated in Tanzania. It was a limited effort, however, as an increase in violence created further refugee flows into Kigoma. In March of 2002 the government of Tanzania and the UNHCR launched an official repatriation program, signing a Tripartite

Agreement with the government of Burundi (Mcdowell and van Hear 2006, 35). In 2004 a four year plan was outlined by the UNHCR, with clear targets for repatriation until 2007 and a budget of sixty to eight-five million dollars (Daley 2007, 180). The programme included the 2006 “promoted repatriation” program of the UNHCR (IRC 2007, 2). The package provided to those returning included six months worth of food rations and fifty US dollars (“Nam” (false name), interview December 2007).

Officials involved in the process at all levels insist, publicly, that the repatriation of the Burundian refugees is voluntary. Privately, they frequently acknowledge that a degree of coercion is present. They insist, however, that this is necessary to maintain the integrity of the border and the migration system. Otherwise, a message of permissiveness to both refugee and irregular migration would be communicated (“Nam” (false name), interview December 2007; “Campbell” (false name), interview January 2008; “James” (false name), interview January 2008; “Charles” (false name), interview December 2007). (This rhetoric mirrors the justifications found in official policy circles in both Australia and Spain regarding policies of deterrence, interdiction, and detention.) Coercion is largely found in a widespread reduction of services and supports. In July of 2000 the World Food Programme cut food rations in the camps by forty percent because of a shortage in donations. The rations were eventually restored to eighty percent of the daily recommended minimum. In 2003, however, rations were cut again to fifty percent of the minimum and then were restored to only seventy-two percent (Forbes Martin 2006, 36). In December of 2007 further cuts had been made, and the rations provided were below the levels required for successful anti-retroviral treatment programmes. As a result, many refugees who were HIV-positive and

had access to ARVs free of charge – not something that would be possible upon a return to Burundi – were nevertheless unable to safely participate in treatment (“Nam” (false name), interview December 2007).

Other measures taken included further reductions in mobility rights and the consolidation of camps. In the Kigoma region, Mtendeli and Mkugiwa camps were consolidated into the already present Nduta camp, leaving only two refugee camps to provide for the entire population (IRC 2007, 1). The consolidation took place in the rainy season, a decision understood by refugees as a measure to increase their discomfort and so encourage repatriation (Burundian refugees, group interview December 2007). Secondary schooling was also cancelled in the fall of 2007, as were most income generation programs. Youth programmes were the next services slated to be shut down (“Nam” (false name), interview December 2007).

The refugee narratives in experiencing this repatriation are clear: they believe that the Tanzanian state is forcing them to return through a steady denial of services and a declining quality of life in the camps and of protection (“Basil” (false name), interview December 2007; “Amil” (false name), interview December 2007; Burundian refugees, group interview December 2007). In Kibondo, the District Commissioner ordered all adult Burundian refugees to produce letters explaining why they did not want to return, and threatened to close all the camps (USCRI 2006). Every refugee I spoke to, both individually and in groups, expressed the feeling that the repatriation program was “forced.” Whether they intended to return to Burundi or not, they felt that they would never be “part of Tanzania” despite having been resident for up to fifteen years (Burundian refugees, group interview December

2007). For many who were returning, they were moving because they saw no other option; one man said that he was taking his family back, despite fearing for the future, to remove them from harassment in Tanzania (“Amil” (false name), interview December 2007).

Those attempting to stay also expressed that they felt they had no other choice. The possibility of citizenship, or of regularization, in Tanzania was seen as limited – unless they could escape the “eyes of the government.” Several had appealed for citizenship. The government officials hearing the case summarily rejected one such appeal, made by William after ten years in Nduta camp and with evidence of legitimate fear for his safety in Burundi despite the peace. “They said ‘how dare you!’” the claimant says. “There is nowhere that I belong” (“William” (false name), interview December 2007). Between 2001 and 2005 285,000 refugees returned to Burundi. A further 150,000 to 390,000 returned in 2006 (Forbes Martin 2006, 223). In early 2006 all the refugee reception centres in North-Western Tanzania were closed (USCRI 2006). Nduta camp was closed in the summer of 2008.

Studies of refugee policy in Tanzania, particularly those that focus on camp management and the operations of domestic and international NGOs, are consistently couched in terms of “durable solutions” and a return to stability for the refugee. By addressing policy and process, however, the emphasis that is placed on repatriation as the “only durable solution” is rarely questioned. That a *prima facie* refugee could become irregular and criminalized during the process is not often sufficiently accounted for. It is only by taking narratives seriously that this comes to light. While there is some official acknowledgement by the Tanzanian state and the UNHCR that there may be a “residual caseload” of refugees who cannot return, the practice is to delegitimize these claims and

requests.¹⁵ Refugees are portrayed as “lying” and “manipulating their stories to get what they want” (“Richard” (false name), interview 2007; “Nam” (false name), interview December 2007). This is despite little clear understanding of what it is they do want. Refugees are only consulted about services in the camps, and are not seen as having the “skills necessary” to comment on policy.

With very little explanation of why local integration would be negative or dangerous, it is taken for granted that the refugees will return to their country of origin. The refugees are understood as temporary; from the refugee perspective, it has become a sense of permanent temporariness where there is nowhere they belong, and no future is possible (“Amil” (false name), interview December 2007; “William” (false name), interview December 2007). They did not ask permission before they crossed the border; they must return. This has strong parallels with the experience of border crossings in Australia and Spain, where an irregular (unauthorized) crossing can permanently exempt individuals from regularization.

Conclusions: Reframing Non-Citizenship

An official at the IOM in Tanzania argues that illegality and irregularity are actually the same thing. Irregularity, however, is broader because it is about process and procedure rather than simply about law (“James” (false name), interview January 2008). This understanding of irregular migration points to two underlying themes: first, irregularity exists within the systemic structures that shape international border regimes. There are important differences in the ways it is created and experienced, but there are also similarities that point to a

¹⁵ There are only two hundred registered “asylum seekers”, individuals with an active individual asylum application in process, from Burundi in Tanzania, as of January 2009 (UNHCR 2007).

perceivable international regime of border control. Common expectations of authorized and regulated crossing, and common anxieties over transgressions of this regulation create common consequences of exclusion and reduced opportunities for the “regular” migration of refugees. What these policies and programmes have meant is that all mobility not strictly regulated by the state, including that movement that is across borders, is understood as “irregular” and “illegal.” As with the experience of migrants at the borders of Australia and Spain, this “illegality” is produced for individuals who insert themselves outside of this framework – in Australia in filing for asylum as an overstayer or in Tanzania by refusing to move in repatriation – and they are thrust into a condition of irregularity. What marks the experience of irregularity for migrants is the perpetuation of instability, temporariness, and insecurity resulting from an exclusion that also represents immanent removal.

The second theme that emerges, however, is that as much as irregularity is determined by state structures, it is also determined by the politics that govern these structures. As such, the state is not the only producer of irregularity; decisions made by migrants themselves as they resist state structures and categories also produce irregularity. Irregularity is counterposed to the regularity of state policy, decision making, and categorization. In its instability, it reveals not abject exclusion but tenacity and determination. It reveals the exercise of political agency, of participating in the power relationships that characterize the state, and an active and empowered non-citizenship rather than one that is abject or voiceless.

CHAPTER 6

Camps and Detention Centres: Spaces Containing Irregularity

Nduta refugee camp is located in Western Tanzania, in the Kibondo district.¹⁶ On land owned by the Tanganika Christian Refugee Service (TCRS), it is a drive of about an hour from the closest village, through one check point. As we approached the gate we were, more often than not, surrounded by huge, horned African cows – raised by the refugees and remnants of an income generating project sponsored by TCRS. The camp is surrounded by a tall forest and, particularly in the December and January rainy season, everything is stained red with the clay mud of the region. Nduta is not made up of the canvas tents so popular in media images of refugee camps. As a long term camp, it is instead comprised of housing blocks with small houses made of clay bricks fashioned by the refugees themselves. The roofs are plastic sheeting provided by the UNHCR. Each family receives a plot of approximately ten metres by fifteen metres upon which to build their house – a plot smaller than those in the other camps, such as Kanembwa, that had been closed. Twenty minutes from the entrance to the camp, however, is a different picture of housing. Refugees who have been transferred during the camp consolidations live in cramped quarters, some in larger brick buildings with several other families and many in make-shift tents. They wait for the basic building supplies from the UNHCR and assignments to housing blocks; some had been waiting for over six weeks in the rain. “There was no warning that we were to move,”

¹⁶ Nduta was closed in the summer of 2008. However, for the purposes of the main body of this study and this chapter in particular, I will be using the present tense in my analysis and accounts.

Christian tells me ([false name], interview December 2007). The transition from Kanembwa, which had been closed, to Nduta had made things worse for his family, he goes on. They have waited over a month for the materials to build a new house. “They don’t listen! They just order!” He is visibly defeated, and asked if I can help at all. When I said no, that I could only pass on his request, he said: “We can make no decisions.” Christian’s sentiments, and his family’s dilemma, are echoed again and again by refugees throughout the camp. Says Matthew ([false name], interview December 2007):

If I could change, I would stop the move of the camp. Because men here have nowhere to go. We have no voice because we are the lowest. No hope in the future – the donors should assist in the future. It is very difficult for a foreigner to come here and participate, but if I could it would be good. The issue is having nowhere to go; [if I return] to Burundi I am sure that I will be tortured. If they send me, I will go.

On a different continent, within a different border regime, Villawood Detention Centre stands outside of Sydney, Australia, and is entirely different from Nduta. It is a modern facility with several buildings – the men’s quarters, the women’s quarters, the recreation centre, the food block, etc. – that is modelled upon a modern prison design. It is within walking distance of the overland public train system, down an isolated road. Like Nduta, it is quite a distance from any residential area. It is not distance that is relied upon to control the mobility of its population, but instead the elaborate fences and security. The detainees are locked in, interned until they are either released on a visa or deported. To enter Villawood we were “buzzed” through the main gate after providing the name of the detainee we were visiting, and then again into a guard building. There, we had to divest ourselves of any bags, cameras, and recording equipment. My companions were known to the guards, but I had to sign a six page document that declared, among several things, that I would not

“incite the prisoners to disobedience” or “take photographs or otherwise electronically record” my meeting inside. I was ushered through a metal detector, patted down and searched with a detection wand. We then passed through two locked doors, down a fenced passage and through a locked gate into a yard not much bigger than a typical suburban backyard. There were two picnic tables, both bolted to the ground, and a guard stood in the corner to observe the detainees and their visitors. The entire area was surrounded by a triple fence, electrified and topped with razer wire. Four detainees were in the yard, two of whom were alone, one who was meeting with a young woman over the MacDonalds she had brought with her, and Prakesh, who sat down with myself and my two companions, both former detainees, to talk for a couple of hours about his upcoming deportation and the final appeal he faced the next day.

At first glance, Nduta refugee camp and Villawood detention centre are entirely different spaces. The quality of housing is different, as is the nature and sophistication of the security regimes in place and the understandings of “who” is living within the space. The refugees, for the most part, have their own accommodation and live in something that resembles a community; the detainees live in conditions more analogous to prison. While the refugees are prohibited from travelling more than four kilometres outside of the camp, but have some freedom of movement, the detainees are not permitted any exit and are surveilled at all times. The management of the refugee camp is undertaken by international and domestic non-governmental agencies with humanitarian aims; the detention centre is managed by a private security company contracted by the government that actively denies access to the Centre to NGOs and advocacy organizations, permitting only some individuals

to enter for limited time. The refugees are considered to be and are treated as victims to be protected; the detainees are considered to be criminals, having violated the border control laws of Australia.

These differences would suggest that the two spaces, both political, are part of two distinct regimes – the refugee camp a humanitarian, protection regime, the detention centre a border control regime. When viewed from a focus on the effects they have on the political being of those that exist within each space, however, from the perspective of the migrants themselves, striking similarities emerge. In both sites, the individuals within the space are there because they resisted the state border regulation; they are irregular migrants. In both sites, the administrative structure in which migrants live is designed to clearly mark them as separate from the citizens that live outside. In both, the political agency and the possibility of agency is tightly circumscribed if not denied, and where it is recognized it is only recognized as dangerous and unwelcome. In both, those that live within the particular place also live in a space of territorial and temporal exception where their futures are held in abeyance, indeterminate and in the control of the authorities that govern the space, and not of the migrants themselves. Both Nduta and Villawood can be considered, in Giorgio Agamben's (2000, 39) terms, "Camps"¹⁷ – a "space that opens up when the state of exception starts to become the rule."

There have been several treatments of the camp space as a response to security and border control issues, and as spaces that are designed to control and deter irregular migration (see Andrijasevic 2010; Davidson 2003; Edkins and Pin Fat 2004, 2005; Gregory 2007;

¹⁷ Throughout, I will capitalize the word "Camp" when using it in the Agambian sense to distinguish the space from the actual place of the refugee camp.

Hyndman and Mountz 2007; Miggiano 2009; Perera 2002; Rygiel 2011; Sanyal 2011; Squire 2009). This analysis is undertaken almost entirely in the context of the industrialized world. However, similar concerns are beginning to drive policy agendas in the “developing” world, frequently under the leadership and/or assistance of Western-based organizations such as the International Organization for Migration (IOM), but this development remains under-theorized. And yet, one of the most complete technologies of controlling these dynamics is more often found in the Global South: the refugee camp. In many ways, the irregular spaces of the West, which include detention centres, immigrant reception centres, and “processing” centres, mirror the African refugee camp. Didier Bigo (2007, 5) notes that detention camps are often located in specific places at border zones that are somehow outside of the rigid sovereignties of a given state – they are “in-between.” As what Robert Davidson (2003, 15, 4-5) calls “non-spaces”, these camps enclose areas in which the regular law of the state is suspended. In Africa this has generally meant that the camp is governed by organizations such as the UNHCR and its partners and is considered to be fundamentally separate from the domestic community. At the borders of the Global North, they can be outside of the sovereign territory of the state itself, existing as a displacement of the border as in Australia’s Pacific Solution (see: Lindstrøm 2005, Geddes 2005), or as an exceptional space within the territory. The border becomes far more than simply a line in the sand (or sea). It is an actual place where law is suspended, rights are denied and migrants are held in a static temporariness that concretizes exclusion into a permanent state.

Nduta and Villawood, and the other Tanzanian refugee camps and Australian detention centres they illustrate, are “non-places” for migrants. Border regimes are not

marked only by lines on a map, or even by the fences, check points and gateways that physically mark the border. They are also marked by spaces within which the sovereign power of the state operates in one of its most powerful guises to intercept, interdict, deter and return “unwanted” migration. Within these irregular spaces, migrants can be contained, managed and (eventually) returned to their country of origin. The spaces are not simply territorial, but also temporal. They not only contain migrants in a non-place, but also suspend the progress of time, as discussed in Chapter 5, by working to fix them within a permanent temporariness. As argued previously, irregularity is an experiential concept. It has dimensions, therefore, that are both spatial and temporal. It is temporal in the sense that it imposes a sense of temporariness upon the individual; of being somehow “stuck” in a stasis where, even as time passes, a future does not or cannot happen. The temporal dimension is similar from the perspective of the sovereign power, operating to prevent mobility before it occurs; interdiction and deterrence are policies that are both past and future oriented. They orient to the past in their basis in prior patterns, to the future in their purpose to prevent further migrations from occurring. This sense of capture and exclusion was described in Chapter 5. This chapter, as well as Chapter 7, trace the spatial dimensions of irregularity, and its relation to the particular place of the Camp. I begin with an assessment of Agamben’s theory of exceptionality in the Camp, and then apply it to the space of the refugee camp in Tanzania and of the detention centre in Australia. I conclude with a brief assessment of the relations of power and violence in the Camp space, and their role in shaping irregularity.

Agamben's Camp

Building on the work of Sandro Mezzadra, Nicholas De Genova (2010, 39) writes that:

The sheer autonomy of migration, especially that of “unauthorized” migration, remains a permanent and incorrigible affront to state sovereignty and the power of the state to manage its social space through law and the violence of law enforcement.

It is this evasion of state control that makes irregular migration the object of the migration and border policy which has found its expression in the formation of the Camp. Dennis Broeders (2007, 73) argues that control depends upon the ability to make society “legible” so that the state can act. By consistently and persistently evading state frameworks, however, irregular migrants evade the coding systems that make them legible; they directly challenge the capacity of the state to exert control. They thus become a challenge to state security, both in contesting the inviolability of borders and in challenging the sovereign power to define, code and classify.

Soguk (1999, 187) observes that neither state sovereignty nor the sovereign state are permanent; they each require practices of statecraft to sustain not simply their presence but their normalcy within the international regime. They operate to make society legible. Importantly, it is not simply the domestic society that is ordered and made legible, but also the international. Practices of statecraft code society in binaries: insider/outsider, national/foreigner, citizen/non-citizen. Each of these classifications is determined, decided upon, by the sovereign power. Nyers (2006, xi) writes that “[s]overeignty also provides a powerful historical answer to the question of what kind of political subjectivities we possess (citizenship) and where political relations can be practiced (state).” The political subjectivities decided upon and made legible are those that are allowable, that are functional

to the stability of the sovereign order. In their disruptions, interruptions and evasions of these practices of statecraft, irregular migrants are expressing an agency and subjectivity that is disallowed, threatening and unwelcome. The state response to this disruption has been, most commonly, to label irregular migration as “illegal migration”, treating the two as synonymous in an attempt to re-code, re-classify and so re-capture irregularity within legible codes. The continuous challenge levelled at this encoding by irregular migrants themselves, however, reinforces the necessity of locating irregularity outside and prior to the space of the state. The response of the sovereign, as explained by Soguk (1999, 187), is to locate disruptions and dangers to the margins, and to impose an order within the territorial geography of the state.

The formation of a Camp space is not simply a matter of controlling errant political subjectivities. It is also a matter of security as, to use the terminology of Ole Wæver (1995) and others, border politics and migration have been securitized.

James Hollifield (2008, 191) writes:

If control of borders is the *sine qua non* of sovereignty and if states are unable to control immigration, does it not follow that the institutions of sovereignty and citizenship are threatened and that the security of the state itself is at issue.

As Bigo (2007, 91) observes, “security is not only a state affair, it is a boundary function.” He argues that internal and external security are converging as state borders move inside the state to exist socially and symbolically between populations, rendering the Other less and less acceptable. This convergence is occurring over the body of the irregular migrant; for Jennifer Hyndman and Alison Mountz (2007, 78), “migrants have come to stand in for all that threatens state security.” This is producing the broadening of immigration

policy and its connection to border control discussed in Chapters 3 and 4. The question becomes one of how to respond when deterrence and interception fail and the irregular migrant reaches the sovereign territory of the state. It is at this moment that the Camp emerges as the central technology of migration control in the contemporary politics of migration and asylum.

The Camp is the spatial expression of the politics of asylum and migration that concretize the exclusionary and exceptional powers of the sovereign that are laid bare at the border into a particular place. It is not simply a penal model, taking the form of punitive, prison-like structures where incarceration is justified in discourses of criminality (as is the case in the detention regime in Australia). It is also representative of places that operate with regimes of protection and discourses of humanitarianism (such as the refugee camp), but that are no less spaces of containment, control, and exceptionality. The Camp, therefore, is representative of the overlap between regimes of border control and of protection, testimony to the ways in which they mirror each other within the global migration regime. The model of containment that has emerged is one both of administrative detention and of protection, which in both cases is the exercise of executive rather than judicial power over space (see: Dauvergne 2007). This marks the regime of the Camp as entirely within the sovereign capacity to decide without the “normal” checks on sovereign power that exist within “normal” space. As Broeders (2007) pithily observes, the aim of the Camp is not to discipline or correct undesirable migrants, but to exclude them. De Genova writes that

The camp delivers surplus humanity into a zone of indistinction, invoking a near-permanent state of emergency to place its subjects indefinitely “on hold” at the edge of the juridical order – all so that the sovereign system of

states and its division of citizens to states can be re-established. (quoted in Walters 2010, 92)

Giorgio Agamben is an Italian political theorist who has been central to contemporary studies of migration that take a critical approach to examining the exceptionality and exclusion of the migrant, particularly by examining the relationship between the state, asylum seekers, and refugees. Drawing upon the work of Carl Schmidt, Agamben (2000) argues that sovereign power is founded upon the ability to decide upon the state of exception. He goes on to assert that the Camp is the space in which this is permanently realized. He understands “the Camp” as a spatial arrangement of the permanent state of exception that remains outside of the normal state of law. Founded not out of prison law, but of martial law (Agamben 1998, 166-167), the Camp is a space of containment that operates not only to exclude individuals from the normal juridical order of the nation-state, but also to keep them outside and to prevent any possibility of bridging this gap. Significantly, Agamben (1998, 43) cites the birth of the Camp as at the same time that new citizenship laws were being established throughout Europe, just prior to the Second World War. As states began to denationalize certain elements of their populations in an attempt to control their populations, Agamben (1998, 44) argues that the Camp became a necessary part of the order of the nation-state along with nation, state and territory. He argues: “The state of exception, which used to be essentially a temporary suspension of the order, became a new and stable spatial arrangement inhabited by that [bare] life that increasingly cannot be inscribed into the order” (Agamben 1998, 43). The Camp, then, is a site of control in which elements that are disruptive to the nation-state, such as irregular migrants, can be managed. While Agamben’s initial analysis arose in reference to the Nazi

concentration camps, he argues that the Camp is an abstracted structure that “consists of the materialization of the state of exception and the consequent creation of a space for [bare] life” (Agamben 1998, 41). It is not the crimes committed within it that define a Camp, but instead how the space functions and how it is situated within the juridical and sovereign structure of the nation-state. Further, the Camp is not defined by its capture of disruptions defined by criminal law – disruptions that break clearly defined laws are, after all, also clearly definable as criminal. The prison is sufficient to manage such disruptions. The Camp, however, contains disruptions to the larger order of the state – the foundational concepts, categories, institutions and structures that underlie both its stability and its power.

The impact of living in a Camp space is to be rendered, in Agamben’s terms, as “bare life.” Agamben (2000, 4-8) argues that state power is founded upon the ability of the state to keep bare life safe and protected to the degree that it submits itself to the sovereign’s right to decide life and death. A state of exception exists when this life is put into question, and is revoked as the foundation of political power. As such, bare life *no longer matters*; it does not justify or support power, and so is ultimately vulnerable to power. It “cannot be inscribed into the order” (Agamben 2000, 43). Agamben (2000, 42) writes that this existence means that literally anything can happen within the Camp as the exercise of sovereign power is arbitrary. The operation of sovereign power is also different within the Camp; it is not located firmly in the particularities of law or presided over by a constant, identifiable authority. Rather, Agamben (1998, 174) argues that whether or not atrocities such as those of the concentration camps are committed is not a matter of law, but a matter of the “civility and ethical sense” of the police who temporarily act as sovereign. These “petty sovereigns”

(to use Judith Butler's [2006] term) introduce an additional element of uncertainty and unpredictability into the Camp space, taking the sovereign capacity to decide to its ultimate extent. The decision made for one individual – to deport, to detain, to grant status – is or may be entirely different for the next. Every case is an exception. A sense of arbitrariness comes to characterize the life of the migrant within the Camp, emphasizing the powerlessness of the individual and their exceptionality.

The lived consequence of this state of being is that irregular migrants caught within the space of a Camp are denied the capacity for political agency, and are instead laid bare to the will of the state to not simply exclude them, but also to remove them entirely. Hyndman and Mountz (2007) are eloquent on the impact-by-design of the geography of Camps. They write:

These are spaces that are stateless by geographical design, characterized not by the absence of the state, but by the assignment of degrees of statelessness to those who occupy such spaces... Stateless spaces render people legally and literally out of place vis-a-vis these practices of exclusion. The strategic use of geography to suppress smuggling and to diminish state commitments to protection is central to each of these enforcement tactics. (Hyndman and Mountz 2007, 82-83)

Pécaud and de Guchteneire write that the Camp space originates from the sovereign right of states to control the entry and residence of non-citizens. However, they observe, they traditionally have been rare responses to exceptional circumstances such as war; “[t]oday, they are common practice” (Pécaud and de Guchteneire 2007, 3). For William Walters (2010, 75), Agamben's work gestures towards a growing disjuncture between a politics organized in terms of nation-states, and bare life; the Camp is both a symptom and a response to this condition.

The acceptability of such spaces is marked by the relative lack of objection to their creation. As Galina Cornelisse (2010, 101) observes, criticism of immigration detention centres revolves primarily around the conditions of detention rather than the actual practice. Even when these concerns are raised, however, they are too often easily dismissed with the argument that for detention to serve its deterrence function, the conditions must remain difficult (Wigley 2006, 165).

Crisp (2003, 77), a policy officer with the UNHCR, writes that

Throughout the world, developing countries routinely deprive refugees of basic rights, confining them to camps in remote border areas where they have no prospect of becoming self-reliant or integrating with the local population.

He acknowledges that the industrialized world took the lead in building policy regimes to keep asylum seekers away, rendering other regimes that systematically isolate and exclude asylum seekers and refugees acceptable if not necessary for other host states (Crisp 2003). However, what is missed in this analysis is that such violation of rights and separation from the citizen population is not simply present, but is the central feature of the Camp structure as it exists in the West in the form of detention centres, processing centres and other spaces that place migrants in exceptionality. The detention centre is not simply a mechanism of border control unconnected to the politics of asylum and protection (except through its population, which “may” include asylum seekers), but a direct reflection of the African refugee camp in a different geography and context.

In the words of Cornelisse (2010, 121), “the camp is still the only place that we have to offer those people who do not fit in our particular image of the world.” In Agamben’s analysis, these “people who do not fit” are refugees. Building upon my argument in the

Introduction that Convention refugees are “regular” migrants in the contemporary regime, however, I suggest that it is not the refugee who cannot be coded, classified or made legible, who cannot be ordered. Instead, it is the irregular migrant, including, at the limit of irregularity, the asylum seeker, or the *prima facie* refugee given group status. It is those who lack permanent status who are caught within the cracks of the modern order of nation-states, and who are increasingly confined to the Camp.

Exception in Refugee Camps

As described in Chapter 5, the refugee regime in Tanzania is characterized by large numbers of *prima facie* refugees granted group status who, by virtue of this indeterminacy and the temporary nature of their status, experience irregularity in ways strikingly similar to the irregularity of asylum seekers and migrants at the borders of Europe and Australia. As a technology of control and containment, the mandatory residence in “designated areas” of refugees in Tanzania is a classic example of the location of migrants in the state of exception. The Kibondo refugee project, initially five camps but by 2007 only two, was established by Tanganika Christian Refugee Services to provide basic survival services for over 144,000 Burundian refugees in the region. This included the provision of camp infrastructure and management, water and sanitation services, food and non-food provision distribution, shelter, and primary and secondary education (TCRS 2004). Although Burundians are the largest population in the Kibondo camps, there are also migrants from the Democratic Republic of Congo (DRC), Cameroon, and Somalia, and some scattered Rwandans and others from farther afield in Nduta camp. At the creation of the project, TCRS was

responsible for the road network that serviced the camp, and for income generating projects that included the raising of cattle, basket weaving and pottery making. In the years leading up to 2008, emphasis was placed on the peace and reconciliation programs that were designed to underscore the repatriation of refugees to Burundi. Jonas, a camp support worker involved in the repatriation efforts, explains that in support of the repatriation, and “to encourage participation,” other services were gradually cut (“Jonas” (false name), interview December 2007). The market that brought local Tanzanians to the camp closed. Secondary education was closed, and the camps consolidated, creating conditions of greater population density and, for some, poorer quality housing. Food rations were also cut; at the time of my visit in December 2007, the rations were at seventy-two percent of recommended levels. Meanwhile, “go and see, come and tell” visits were organized that sent individuals to Burundi so they could witness the conditions, and then return to share their observations with others, with the intention of encouraging people to participate in the repatriation.

Any assessment of the basic structures of Nduta and other camps in Tanzania reveals what refugee camps generally share in common: they are constructed to provide for the basic survival of the refugees, to facilitate the provision of minimum protection. They are not spaces designed to foster political agency or to integrate (or even to transition) refugees into the local population. They are holding centres. The prevailing consideration is that it is easier to deliver services if the recipients are concentrated in one location. When in camps it is easier to register refugees, to carry out any census deemed necessary and to organize for repatriation (or, rarely, resettlement) efforts. As Amanda, a member of one of the service NGOs working in the camp says, “the camps are to manage... and for control” (“Amanda”

(false name), interview January 2008). They emerged because of the large numbers of refugees arriving in the mid-1990s and, she argues, have become so established that there is now no protest over the model. Andrew, a member of the TCRS administration agrees, but expands upon this statement. The camps were for security, he says. The government accused the refugees of assisting the rebels in Burundi (“Andrew” (false name), interview December 2007). Camps prevented this support, allowing for the surveillance of activities and control over mobility. At the Ministry of Home Affairs in Dar es Salaam, the security emphasis is echoed. “It’s a security issue. Not as much as in the past, but [things are] still unstable... it’s an ongoing issue to manage” (“Craig” (false name), interview January 2008). All of this operates, therefore, to maintain a separation between the refugees and the local population and to contain the refugee “problem.” “The purpose of the camps is to control the movement of the refugees and to keep them together to assist them” (“Alex” (false name), interview January 2008).

Nduta also exists to suspend the political life of the refugee, excluding refugees from any form of participation in the politics that govern their lives. The management of political agency has impacts on multiple dimensions of life: cultural, economic and political. For example, the cultural activities in the camp are supported by the administration. Two music groups – one for children, one for adults – have formed and gave performances in town festivals. The adult group is part of the peace and reconciliation program, bringing together individuals from different ethnic groups – including Hutu and Tutsi – who have been on opposing sides of conflict. These efforts have immensely positive dimensions. They remain, however, oriented towards “home” and maintain a separation between refugee and

Tanzanian; no Tanzanian citizens participate. Access to news information is similarly focused on Burundi, and newspapers from both Burundi and from Tanzania are consistently well out of date. Economic activities are also oriented towards separation. The economic and income generating projects, including the market, are strictly regulated to conform to regulations against refugee employment and economic participation. Moreover, these are now suspended as part of the promotion of repatriation.

Agamben's observation that the management of the space of the Camp is reliant upon the civility and ethics of petty sovereigns is encoded directly into Tanzanian law. Even during the period of villagization that formed Tanzanian policy regarding the 1972 Burundian caseload, refugee areas were under the supervision and management of commandants and "competent authorities" who were given extraordinary powers to restrict refugee movements (Chaulia 2003, 159). Several NGOs responsible for provisions in the camp have "no direct contact" with the refugees themselves ("Sarah" (false name), interview January 2008). The Department of Refugee Services oversees camp governance with monthly meetings with refugee working groups and periodic visits to the camp. At the meetings concerns can be raised, about the repatriation program, gender-based violence, infrastructure, and food ("Craig" (false name), interview January 2008). The overarching structure of governance of the camp, however, does not appear to be discussed. The refugees themselves are not involved in policy ("Craig" (false name), interview January 2008). The consequence of this is that refugees have little to no impact on the daily activities of their lives, and the structures that shape them. Widespread responses to my questions about whether they are listened to, or consulted, reflect this. Generally, people feel that if they had

a problem they would go the UNHCR or TCRS, but that their concerns are often not answered. They note that whenever “the government” visits the camp, few if any refugees are spoken to and that the opportunities for feedback are superficial (Burundian refugees, group interview December 2007). This disenfranchisement goes beyond contributions to policy development; one woman has been without a door for her house and has been asking for weeks for help replacing it. It was lost, she says, in a fire when her neighbours burned her house because they did not want a neighbour who is HIV positive. She observes that the policy is that she has to be open about her status to participate in the treatment program and to be eligible for additional rations, but that the disclosure made her vulnerable (“Tasmiha” (false name), interview December 2007).

In understanding the political subjectivities of refugees in Tanzania, Liisa Malkki’s (1995) work is important. In *Purity and Exile*, she writes of the situation prior to the introduction of the new 1998 Refugee Act, but her work remains relevant in examining the impact of camp life on the political reality of refugees. She describes the conditions of the “old caseload” refugees who lived in isolated settlements, observing that they referred to the settlements as “camps” as a form of resistance to the government characterization of their settlements as villages. The isolation, supervision by government authorities, and limitations on mobility, although not as extreme as the current “designated area” regulations, rendered these settlements as spaces that resembled Agamben’s Camp. In her study of imagined identities, Malkki (1995) found that refugees in the camp-settlements had a much stronger “Burundian” identity than did “town refugees” (those who settled among the Tanzanian citizenry in already existing settlements). They located this identity as a form of

authenticity and purity in contrast to town refugees. What this indicates is how isolation in the camp rendered settlement refugees politically isolated and distinct from Tanzania and its citizenship structures. They were fundamentally excluded to the degree that they excluded themselves in their own mythologies, self-identifying as different, with far more rigid identities than those of the more integrated town refugees. In contrast, the town refugees saw the camp refugees as “not free – that they [were] prisoners since they cannot leave, go anywhere, without permission... that they are always guarded, like that” (Malkki 1995, 200-201).

This lack of freedom and exclusion is concretized in the era of “designated areas.” While in the settlements, limitations on movement could be overcome with an application for a permit, this is no longer a possibility. Refugees are limited to four kilometres beyond the boundaries of the camp. The right to freedom of movement, right to work, and right to participate afforded to refugees with full Convention status are all denied to the residents of the camp. In this, the camp becomes an exceptional space that represents a suspension of law by design of the sovereign (Tanzania) itself. As Edwin ([false name], interview December 2007), a refugee school teacher from Cameroon, eloquently states: “People are equal before the law, but here there is a special law for refugees.”

There have been efforts to establish some kind of leadership and participation within the camps. A system of block leaders and camp leaders was established that is attentive to both gender and ethnic divisions. There are also opportunities for “food leaders” who oversee the distribution of rations, and for other positions within camp services. It is this group that is consulted when changes are made in the camp, and it is to this group that other

refugees are expected to go with concerns, questions or complaints. As a form of community governance, however, the system comes up short. Hyndman (2000, 137) observes that a refugee camp is not a self-identified community. It is artificially constructed, mandated by the sovereign power of the host state to exist and managed by the UNHCR and government partners in the camp itself. Hyndman (2000, 138) argues that schemes that are designed to create or foster self-management assume that a camp can operate as a village. The lack of unity and robust civil society that these models rely upon, however, transform these programmes into mechanisms for increased exclusion and marginality for refugee populations, even within their own “spaces.” The degree to which they continue to be legally subordinate and socially segregated is exacerbated, and genuine participation is precluded (Hyndman 2000, 138). During interviews with refugee leaders this is reinforced repeatedly. Their role, it is felt, is reduced to that of information dissemination rather than genuine participation or contribution (“Basil” (false name), interview December 2007; “Christian” (false name), interview December 2007; “Edwin” (false name), interview December 2007; “Gordon” (false name), interview December 2007). The NGO workers and camp administrators put the participation gap down to a lack of skills and knowledge on the part of the refugees. After all, they point out, policies are based on international conventions and so some degree of knowledge is required to participate (“Craig” (false name), interview January 2008). Moreover, they argue that refugees from Burundi are not familiar with democracy and so “it is difficult to assess their needs”, and they are unwilling to be open to any changes made (“Jonas” (false name), interview December 2007).

It should be noted, however, that some gains have been made. Richard, an administrator in the Department of Refugee Services, explains that refugees are not directly involved. However, they are consulted with any change regarding service provision through their leaders and are responsible for information dissemination. When the block leaders raise problems to the village chairman, they can bring them to camp authorities. This has created positive change. For example, there is now improved efficiency in food provision (“Richard” (false name), interview December 2007). These changes seem to be limited to the practical questions of daily life, however, and do not go to barriers to participation and agency.

The implication of this approach to inclusion is that what participation refugees do have is limited to pragmatic concerns rather than to any policy development or governance. Meanwhile, whenever I ask whether the refugees feel that they are heard or consulted in decisions, or whether they are able to participate, the almost universal response is a smile or chuckle. Most say they would like to participate, but are unable to. Edwin (false name, interview December 2007) is eloquent on the issue:

The decisions upon, about our lives, our opinions? Man is not an animal. We demand that the government understand us as persons, right now. With no free movement, the situation is political in countries, and repatriation is not voluntary. They closed the market and the secondary schools. CNN is not here, we have no voice, no attention.

The director of one of the contributing NGOs in Dar es Salaam observes, when asked about the policy of mandatory encampment, that:

Freedom of movement would have made assistance difficult, endangered security and possibly created conflict with the host. Anyone who enters a country has to have a category; visa categories limit you. The same with refugees. (“Susan” (false name), interview December 2007)

This expectation of categorization that is linked with territorial containment expresses the dominant understanding of control of the “unknown” and irregular refugee population as normal, and necessary. The refugee camp is a space of exception within the Tanzanian state. Among the population, there is a sense of being excluded, and of being controlled. The repatriation program has only exacerbated the feeling of being unwelcome. Within the refugee camp, migrants are caught within a space of permanent temporariness and precarity, of being at the will of both the Tanzanian state and the international organizations that manage the camp.

Nduta, however, had been in place for almost fourteen years at the time of my visit. Despite their long term presence (in the technical language of the field, despite representing a “protracted situation”) refugee camps are always understood as temporary. They exist at the will of the government, and their shifting structures and conditions are similarly at the will of the sovereign. As one TCRS administrator said

We started, it was just for relief but now we are focusing on return and making it successful. We are operating on a ground that is uncertain. Government policy changes, and refugees are often not open to the change. (“Jonas” (false name), interview December 2007)

They are also not expected to be part of the change, and are contained within the space of exception of the Camp.

Detention in Australia

Hyndman and Mountz (2007, 88) argue that the state of exception that characterizes a Camp space is almost always justified by temporariness. Much like refugees themselves (see

Chapter 3), these spaces are presented as being temporary necessities to respond to crisis. While this is certainly the case in Tanzania, it is not the case in Australia. The creation of exceptional spaces in detention centres that are, in Agamben's sense, "Camps" was part of the border protection regime created during the 1990s. The existence of these spaces has since become an absolutely normal, and often understood as necessary, part of the border regime to control irregular migration. As Kathy, an asylum advocate, notes, "mandatory detention was not one of the effects of the *Tampa* crisis." It was established by the Labour government in 1992, with bi-partisan support. Governments, she argues, need to feel that they are in control of immigration and of borders, and it was felt that the arrival of unauthorized boats meant that they were not in control ("Kathy" (false name), interview July 2008).

All unauthorized asylum seekers are subject to mandatory detention. At its height, the detention regime included six immigration detention centres. The Department of Immigration and Citizenship's justification of the policy is clear on its foundation in sovereign power:

Australia's Migration Act 1958 requires that all non-citizens who are unlawfully in mainland Australia must be detained and that, unless they are granted permission to remain in Australia, they must be removed as soon as reasonably practicable. This reflects Australia's sovereign right under international law to determine which non-citizens are admitted or permitted to remain and the conditions under which they may be removed. (HREOC 2002b)

Although a time limit was originally included in the 1992 legislation that designed mandatory detention, it was removed by a second piece of legislation five months later ("Colin" (false name), interview July 2008).

An account of the more notorious onshore centres of the regime, Woomera, was given to me by Kirsten, a psychologist who worked with several detainees:

We were invited to Woomera as paralegals with some lawyers in Adelaide who were concerned about some of the families, and went in without really saying who we were. In the process of getting in we were exposed to all of the humiliations of the guards, searching our bags, our shoes, our persons. The detainees were introduced by their numbers. The toilets were covered in shit and blood. It was hot, and there was nothing for the kids to do. They were kicking stones and rocks around. Mattresses were leaning against the fence, covered in urine stains. There was depression in the parents, and disorder and despair in the kids. Even though we were told not to, M. did an interview on national radio. As professionals, we were used to writing papers and it having power; now our peers and other professionals denigrated and ignored us. The government paid another psychologist to write a paper refuting ours, that our findings were not scientific and that we were the ones to have breached the codes of ethics. (“Kirsten” (false name), interview August 2008)

The Australian detention centres are spaces of exception where the normal rule of law is suspended. There are two distinct forms they took after 2001, however: the offshore centres of the Pacific Solution, and the onshore immigration detention centres. The offshore centres had the effect of transnationalizing the Australian border, displacing it outside of sovereign territory. They nevertheless remained under the sovereign power of Australia as their existence depended entirely upon the will of the Australian state, and not of the host state. The offshore centres were exceptional in the capacity of the Australian state to decide when it would take responsibility for the conditions under which irregular migrants live. Although the centres existed at Australia’s behest, and the entry and exit of migrants from the space was entirely governed by Australia, the everyday character of the space was held at arm’s length. As Amanda Vanstone, the Immigration Minister in 2006, claimed: “We can’t make

rules in relation to facilities in other countries. We can influence them but we can't make rules... Nauru is another country" (Dastyari 2007, 7).

These conditions were extreme. Graeme, one of the political staff for an Australian senator had visited all of the detention centres activated during the Pacific Solution. His recollections were vivid. He described Manus Island (of Papua New Guinea) as being extremely isolated. The local people were happy because the centre gave them jobs, but his delegation was unable to gain access to the centre itself after "being waved off with guns." They were able to enter the centre on Nauru, ostensibly to visit the nuns working there. It was undergoing changes at the time, but the sewage system had broken down. It was, he said, "a god-forsaken hell hole" in its isolation and lack of freedom ("Graeme" (false name), interview August 2008).

These descriptions stand in contrast to the International Organization for Migration's assessment of conditions, which were in their estimation up to international standards. The IOM officer I spoke to, however, was at pains to point out that the island centres were processing centres and not detention centres, which would have been against the IOM's Charter. To drive this point home, an incident was described where the IOM management refused to allow the erection of a fence around the centre as it was not a prison; the isolation was enough to provide the population control ("Lee" (first name), interview August 2008). The UNHCR also characterized the conditions in the island centres as being "better than the onshore sites" ("Amy" (false name), interview August 2008). Despite these assessments, however, a psychologist who had visited the centre says that he had never seen such devastation. It was a timebomb, in his estimation, and anyone in one of the centres for more

than six months would begin to deteriorate (“Adam” (false name), interview August 2008). Most detainees were interned for well over two years.

Although the United Nations Human Rights Commission examined the policy of detention and concluded that the centres “do not *per se* constitute a breach of Australia’s international obligations,” (Illingworth 2003, 104) the conditions of detention have been the subject of international and domestic condemnation for breaches of internationally defined human rights. Detainees were denied dignities as simple as their names - they were called more regularly by their case number - and as translators, who were often not provided to individuals when undergoing medical examinations or procedures. Children were confined in an environment widely held to be inhospitable to their development and growth. Contact with the outside world, including the ability to contact home and confirm their arrival or to access communities of support, was limited and difficult (HREOC 2002a; Amnesty 2005; Mares 2002).

The Australia Human Rights and Equal Opportunities Commission analyzed the detention system and concluded that it was in violation of human rights. However, and as Kristy, a case worker stated clearly, “the government doesn’t have to listen to our recommendations.” The centres are outside of normal avenues of politics. A report, including several recommendations for changes, was filed at the conclusion of the study. None of the recommendations were taken up, however, and the government reply asserted its sovereign right to control its borders (“Kristy” (false name), interview August 2008).

Since 2001, changes have been made in response to public pressure that have improved the conditions at the various centres and have been applauded by the HREOC as

steps in a positive direction (HREOC 2002a; Mares 2002, 33, 87). The most recent changes were announced in June 2005 and focus on the conditions in which children are living in detention. Children in detention are now moved to supervised housing rather than an institutional centre in an effort to establish what the Department calls a more “positive” environment (Grewcock 2009; HREOC 2005). These changes came about as a result of an HREOC report and an NGO campaign, led by the group ChilOut. The decision to focus on children was strategic. Kristy ([false name], interview August 2008) elaborates:

[After the initial report] we continued to conciliate with individual complaints, but we wanted to get to how to change the system. We decided to focus on children in a large scale inquiry; there were hundreds in detention at its height. At the time, Woomera and Curtin were still open, and we included Baxter and Port Hedland. All are very remote... they have closed all the remote ones down.

The decision to focus on children was quite strategic in that they are both the most likely to generate public support and also the least threatening group to the regime; children are not usually understood as possessing political agency, and are thus excluded from politics generally. Moreover, the legal guardian of all children in detention is the Minister. As Kristy ([false name], interview August 2008) observes, “this is ridiculous, given that he’s the one detaining them.” It does mean, however, that an appeal to changes in matters regarding children is more easily incorporated into the discourse of sovereignty.

Although terrible, the conditions of the detention centres are not what fundamentally define detention as a state of exception within Australian sovereignty. Rather, it is the legal framework and structure that has been created around detention that is most effective in managing the subjectivity of unauthorized asylum seekers. Paige ([false name], interview August 2008) observes that “in most places, it could be said of the detainees that they were

not “there.”” Villawood, for example, is not “legally” in New South Wales; it is outside of its jurisdiction. For Carol, a lawyer, this means that any work done with detainees is *pro bono*. For the detainees, it means that they are outside of normal jurisprudence, and are entirely exposed to the machinations of the federal state. As a Carol observes:

Detention operates entirely outside of all mainstream judicial systems. The time limits, opportunities for external review, and conditions are all outside. There is no external review that has within it a remedy; the ombudsman has no power to release detainees. All other forms of detention (like prison) have external review, minimum conditions. Not in detention. (Carol, interview August 2008)

Upon arrival in Australia, unauthorized, irregular arrivals are assessed and interviewed but without access to legal advice. They have no right to legal advice until after they have entered the asylum process, unless they specifically request it while in detention and the advice they seek is regarding detention rather than a broader asylum issue. There is no legislative right to an oral hearing, and submissions and applications must be made in writing and in English (Crock 2003, 64-66). As unauthorized arrivals frequently do not speak English and are unfamiliar with the Australian system, these measures may present insurmountable barriers to achieving a successful asylum application.

In addition to the limitations on the legal rights of unauthorized arrivals, the Migration Act (and particularly the 2001 amendments) severely limits the power of the Courts to intervene in migration decisions (Crock 2003, 74). Appeals may be made to various tribunals, such as the Refugee Review Tribunal, but at the final instance the only figure with the power to overturn a bureaucratic decision in favour of the asylum seeker is the Minister for Immigration (Crock 2003, 60, 74). In the state of exception where the “normal” order is suspended, the sovereign power is all that is able to take decisions and

establish the border between included and excluded, and entry and forced exit. This injects significant arbitrariness into the process, exacerbating the state of exception embodied by detention. Further to this, the Department has a policy of keeping new arrivals separate from longer-term detainees to prevent what it terms “coaching.” Despite official justifications in terms of health quarantines, Peter Mares argues that the underlying motivation for this separation is to keep new arrivals from being informed of what rights they can access, or how to effectively claim asylum (Mares 2002, 45).

The ultimate result of these initial measures for a significant proportion of unauthorized arrivals is that they are “screened out” at the beginning of the process. If, during the initial interview conducted at arrival, an individual does not explicitly mention “refugee” or “asylum,” or otherwise indicate any serious fear of returning to their homeland in the judgment of immigration officials, they are excluded from the process of asylum seeking entirely and are removed “as soon as is practicable” (Mares 2002, 51). These measures are made more punitive by the introduction of legislation in 2001 that allows officials to make “negative inferences” about the identity and nationality of a claimant in the absence of proper documentation that cannot be “reasonably explained” (Commonwealth of Australia 2005a). If an applicant is “screened out,” or if their claim is rejected but they cannot be returned to their country of origin due to a lack of diplomatic ties or a condition of effective statelessness (as is the case for many Palestinian refugees), the High Court of Australia has confirmed that they can be held in immigration detention for the rest of their lives, so long as the Australian state maintains the intention of deportation (Amnesty 2005).

The indeterminate nature of detention marks it fundamentally as a space of exception; there is no maximum time limit and, for some detainees their incarceration may be indefinite. This not only keeps potentially “disruptive elements” of unauthorized asylum seekers separate from the “normal” order of the nation-state, it has a direct psychological consequences for the detainees, both in their political subjectivity and their capacity for political agency. In August 1998, the federal Minister for Health, Michael Wooldridge, launched a General Practitioners manual for refugee health. In his unveiling speech, he noted: “Creating uncertainty and insecurity... is one of the most dangerous ways to add to the harm that torturers do” (quoted in Mares 2002, 26). One year later, the TPV system was introduced, which made the only status possible for unauthorized and irregular migrants a temporary one, thus extending the uncertainty of detention to their existence after release.

The exceptional nature of the waters surrounding Australia impacts migrants as they attempt border crossings, and is itself shaped by migrant presence and action. There is another side to this fence, however, that emerges when migrants pass through detention and, for the lucky few, are granted status and leave to live in the community. The exceptionality continues for these individuals. Under the TPV regime, their residence was not permanent, but was always conditional. The limitations in place for TPV holders make them as separate and excluded from the normal operations of societal practices, including basic work rights and access to education. As observed in Chapter 5, the TPV regime was cancelled in early 2008, but it is unclear what will replace it. A granting of a more permanent status seems to be a tenuous proposition, and the continued denial of rights and access to services justified by irregular entry seems likely if not certain. The deterrence element of the policy works

well. As one Iraqi man held at the Woomera facility told the HREOC in 2001: “I cannot tolerate this camp. That is why I have asked DIMIA to send me back. I know I will be punished but I have accepted to go back” (quoted in HREOC 2002b). Helpfully, the Department will provide asylum seekers who voluntarily withdraw their claims and agree to return to the country of origin a “resettlement package” that includes money and supplies to facilitate their return (Commonwealth of Australia 2005b).

The use of detention in Australia is clearly an assertion of the sovereign power over exception. As Kathy observes, there is no concrete evidence that mandatory detention has had any impact on arrivals as it was not until much later than the number of boats declined, and by then other factors were in play (“Kathy” (false name), interview July 2008).

Nevertheless, for Paige ([false name], interview August 2008), “immigration always trumped all. It became more explicit that detention was for deterrence and this was used to justify the harm done to those in the system. I have quotes... from the Minister to this effect.” She goes on to characterize the border policy as “macho” and “hard line.” For the government, she said, the protection of national sovereignty was seen as underlying everything, and a “fair go” was turned around and “these people were seen as cheats.”

In the end, about eighty percent of the *Tampa* asylum seekers, the group of irregular migrants who triggered the 2001 amendments, were given refugee status, but not until after they had lived through the “terribly destructive” detention system (“Anne” (false name), interview July 2008). Meanwhile, even some of those who advocate for the detainees, both in the NGO sector and the government, remain committed to the notion of legitimate refugees, and the notion that if “they have access to rights and laws [in detention], it is

alright. As long as everything is in place” (“Alan” (false name), interview July 2008). “I have never known in Australia a greater sense of otherness of a group,” says Julie ([false name], interview July 2008), an activist and advocate. This otherness only underscores the exceptionality of irregular migrants in Australia, and normalizes the space of the Camp.

Relations of Power in the Camp

Soguk (1999, 9) asks of the politics of migration and discourses of asylum and borders,

How, then, is this discourse one in which the refugee figures prominently only to be subjected to a treatment, a regimentation, that deprives the refugee of a place, a voice, and an agency to effect contingent changes in his or her life?

We have to ask, he argues, what impact the Camp has in the “real.” The spatial configuration of the Camp is designed to manage and control not simply the mobility of irregular migrants, but also their capacity for political agency. In doing so they function as an attempt to re-capture the disruptive impact of irregularity, to re-inscribe it into the structures of the state. They do so by rendering irregularity exceptional. This re-inscription is reflective of the operations of power by the sovereign, and the response(s) of irregular migrants that challenge its capacity to decide.

Foucault understands power relations to constitute the omnipresence of a dialectical relationship: wherever there is power, there is resistance. For Jenny Edkins and Véronique Pin Fat (2005), the exceptionality of the Camp renders such resistance impossible. They argue that resistance requires a degree of freedom; indeed, for them, relations of power can only be exercised over free subjects, and only to the degree that they are free. Agamben’s conceptualization of bare life within the Camp, and its “nakedness” against the imposition of

sovereign power suggest that exceptionality is characterized by a lack of this freedom, and thus by the impossibility of resistance. Evidence from an analysis of the structures of the refugee camp and detention centres and their impacts on irregular migrants seem, at first glance, to support this conclusion. Migrant narratives from both spaces suggest feelings of exclusion and powerlessness that are interpreted within the Agambian framework as precisely such a condition. For Edkins and Pin Fat (2005), the works of both Foucault and Agamben are gesturing towards the conclusion that bare life is a life where power relations are, therefore, absent. Therefore, the Camp is not a space of power relations, but one of the relations of violence (Edkins and Pin Fat 2005).

This analysis renders the condition of irregularity as profoundly abject and so makes a “politics” of irregularity impossible where “politics” is contestation and struggle. It is an analysis that accounts for the spatial structure of the Camp, but that fails to account for the agency of the migrant except to render it impossible. In this analysis, the political agency of the irregular migrant is not simply controlled, but excised. Power relations are about agency. They are about the contestation of action; relations of violence act directly upon the body of the Other (Edkins and Pin Fat 2005, 3-10). To follow Edkins and Pin Fat, and in many ways Agamben, these two sets of relations are mutually exclusive. To assert that power relations are absent from the space of the Camp is to suggest that irregular migrants have not only been excluded and made exceptional, but also that they have been denied the capacity to act and to speak.

Such an understanding of exceptionality, and of irregularity, fails to begin from the position of the migrant. Relations of violence are certainly present in the Camp space; this is

clear. Moreover, irregular migrants and asylum seekers are actively denied the capacity to legitimately engage in political acts or speech, to be recognized and heard, and are as such rendered as bare life. This does not mean, however, that migrants do not act, or speak. Indeed, persistent contestations of the sovereign power and the exceptionality of the Camp are perceptible throughout their everyday strategies and activities. It is to this that the next two chapters turn, and I propose that the space of the Camp can be reconfigured if migrant action and speech is taken seriously in our analysis, and examine how an understanding of the non-citizen agency this suggests reveals a potentially powerful politics. Chapter 7 rethinks the spatial dimensions of the camp, contesting the fixed borders asserted in analysis that affirms exceptionality as a relation of violence. Chapter 8 returns us to a consideration of time not as future oriented, but in a way that considers “moments” in the everyday, asking how this kind of localized analysis can contribute to our understanding of not simply irregularity and migrant agency, but also of non-citizenship and citizenship themselves.

CHAPTER 7

The Other Side of the Fence

In April of 2008, John ([false name], interview April 2008) matter-of-factly explained to me how migration to Melilla used to work. “We used to climb the wire,” he said, “but, then, when we were trying the Moroccan police started shooting.”

He was referring to October of 2005, when he had made his first attempt to enter Melilla by crossing its border with Morocco – at the time demarcated by a three meter high barbed wire fence. The border fence at Melilla is now twice as fortified – higher, with a double barbed wire fence and patrolled on both sides by Spanish and Moroccan authorities. The change was a direct result of events in September and October of 2005 when “hundreds” (some human rights activists claim thousands) of sub-Saharan African migrants who had been living in the surrounding forests for up to two years “attacked” the border at both Melilla and Ceuta (Carling 2007, 23). Using makeshift ladders and cardboard suits to protect themselves from the barbed wire, they attempted to climb the fences of the two Spanish enclaves on the Moroccan side of the Mediterranean Sea that are the only land borders that Europe shares with Africa. On three separate nights at the end of September and the beginning of October, migrants undertook what was described by Abdellah Bendhiba, the governor of Nador province, as “an assault of rare violence” (BBC 6 October 2005). In one night, an estimated four hundred migrants attempted to enter Melilla. Moroccan troops opened fire in “self-defence.” At least six migrants were killed and 290 were arrested. Meanwhile, at Ceuta five migrants had already died in attempted crossings, deaths for which neither Spain nor Morocco was willing to take responsibility. The Spanish

Interior Ministry stated that an internal investigation had confirmed that Spanish shots were not what killed them. De Haas (2005, 5) reports that in the aftermath of these clashes, fifteen hundred migrants were rounded up and deported or abandoned in the Algerian desert in a national effort by the Moroccan authorities to remove irregular migrants.

Attempts to cross the fence into Melilla were and are attempts to gain entry into Europe through Spain. The fences surrounding the enclave, for many, represent a safer and more sure way of border crossing than do the seas between Africa and Spain, most often crossed using small, wooden boats called *pateras*, overcrowded and subject to capsizing in the rough waters of the Mediterranean. The crossing is one of the final stages of a journey that has often been several years long, as migrants from Sub-Saharan Africa walk or pay for passage through known migration and smuggling routes through Africa from Cameroon, Mali, and Nigeria (see: De Haas 2005; Carling 2007). In entering Melilla, however, migrants are not crossing into Europe in anything other than a strict territorial sense. Rather, they enter a migration non-place, captured by the European border regime of migration control. As is the case for the detention centres in Australia, and the Nduta refugee camp in Tanzania, Melilla represents a space of exception as characterized by Agamben's Camp. However, it is different from the detention centre or the refugee camp in that it encompasses an entire city rather than a cordoned off piece of territory. Agamben (2000, 41) writes that "we will... have to admit to be facing a camp virtually every time that such a structure is created, regardless of the nature of the crimes committed in it and regardless of the denomination and specific topography it might have." In this, he is gesturing to the existence of the space of a camp even outside of our traditional imagination of such a place.

He describes a soccer stadium used to house illegals and airport zones as possibilities. I argue that Melilla is similarly such a place. Camps may include detention centres, immigrant reception centres, “processing” centres, holding rooms at airports or border check points, or refugee camps. Bigo (2007, 5) argues that they are “in-between”, located in border zones outside of rigid sovereignties as what Davidson (2003) calls “non-spaces.” In the case of the Spanish enclaves in Morocco, the non-space takes the form of an autonomous city, surrounded by high fences. Here, the practices, programs and policies of border control operate to capture migrants and to sort them into categories of “unwanted” and “wanted”, “irregular” and “regular.” In consequence, some are deported, returned and removed from the sovereign space of Spain/Europe. Some wait for years even for this result. A few are transferred to the mainland and granted asylum. Fewer still achieve immigration, or are procedurally transferred to the mainland to disappear into the irregular economy.

Many have analyzed spaces of migration control in terms of the structure of the Camp, where politics is reduced fundamentally to biopolitics, life to bare life, and where the agency and capacity of individuals is stripped away in the exertion of the sovereign’s power capacity to exclude, to locate people outside of the normal state of law, and to make them exceptional (see: Andrijasevic 2010; Cornelisse 2010; Edkins and Pin Fat 2004, 2005; Gregory 2007; Perera 2002; Rygiel 2011; Sanyal 2011). Here, migrants live in a state of exception, unable to access or to participate any further in mobility (unless it be removal or deportation), and seemingly unable to participate in the politics of migration. This is the analysis most often applied to the refugee camp and detention centre, as discussed in Chapter 6. Such an analysis, however, treats the fences of Melilla (and those of Villawood or

Nduta) as not simply objects that have been crossed, but as limits that permanently mark a break in the migration routes of the sub-Saharan Africans, and of the North Africans, Indians and South-East Asians, who make the crossing. This fails to recognize the ways in which the politics of migration are deterritorialized, existing beyond geography in communities of mobility that shape a profoundly powerful politics. Shifting our understanding away from the reification of borders, however, recognizes the fence as marking a particular stage of movement – a particularly difficult one, to be sure – that exists within a larger political space characterized by a politics of migration that is shaped by the mobility of the migrants themselves.

Hyndman (2000, 1) argues that borders breed an “uneven geography of power and status.” Those individuals that traverse this geography must navigate the impositions of sovereign state power and attempts to define and regulate their status. Dynamics of race, class, gender, religion and ethnicity are all played out along the territorial border, reinscribing it amongst and between migrants as much as it exists in geography. These dynamics shape how the border is experienced, always regulated by programmes and policies of the sovereign state in border management and control. Irregular migration evades this control and crosses geographic borders by ways and means not controlled or condoned by the state.

This chapter interrogates these dynamics by engaging with the spatial dimension of how borders and Camp spaces are constructed and understood. I begin by assessing Melilla as a Camp space despite the lack of a purpose-built structure to capture migration. I then shift the gaze to the other side of the fence to the spontaneous migrant camp in Oujda, Morocco, and argue through Jacques Rancière’s conception of the political that migrants

themselves reshape space through their migration choices in ways that reveal a powerful rather than an abject politics. Finally, I turn to Australia and Tanzania, and apply this analysis to the more traditional Camp structures found there.

Melilla is an integral part of the system of European and Spanish border control. The enclaves represent the only land borders that exist not only between Spain and Morocco, but also between Europe and Africa and as such are the objects of high anxiety. Within the securitized European border regime, Melilla operates as a space of exception, a location of sovereign control where migrants are stripped of their autonomy and held in a state of uncertainty, without voice or the capacity to exert control over their migration futures, always temporary and without a “place” in the society they have entered which is, for them, neither Spain nor Europe. However, by looking over at the other side of the fence and by incorporating migrant narratives we can begin to understand the ways in which the non-place of Melilla is in fact the same space of non-citizenship represented by the illegal camp in Oujda, Morocco. Beginning analysis and engagement from this space, and from the narratives and actions of the migrants themselves, reveals a different kind of politics. Rather than the overwhelming imposition of sovereign power, a potentially powerful politics is revealed; if we include those who are on the other side of the fence, alternative ways of understanding the exceptional space of migration are revealed.

Camp Melilla

Sandra Lavenex (2006, 337) argues that the goal of the European migration regime is to curtail unwanted flows before they reach the common territory. Melilla is before the common territory. It is, however, within the auspices of European policy and as such

migrants find themselves caught in stasis, unable to move either forward or back. The securitization of the borders of Europe is focused fundamentally on the external borders, and becomes visible on the borders of Spain. The arrival of irregular migrants by boat on the Spanish coast has engendered public panic, and further justification for restrictive measures and increased surveillance of the border. The operations of Frontex, SIVE, and efforts in co-patrolling the coast with Morocco have all directed the full attention of the migration-security regime of Europe onto Spain's borders. Within this rubric, however, the enclaves of Ceuta and Melilla have a unique role. They are simultaneously part of Europe, and outside of the "Fortress." In this, they have become a kind of migratory "non-place" within the border control regime. In the space of the autonomous city, migration to Europe has an exceptional character. Far from being included in the migration zone of Europe, within the enclaves the violence and repressive elements of the securitized migration regime loses what thin veil of humanitarian motives remains present on the continent.

Melilla is an area of twelve square kilometres that has a ten kilometre border with the Moroccan province of Nador. This border is marked by a double barbed wire fence, patrolled on each side by both Spanish and Moroccan authorities. The only break in the fence is a gate across the main road, heavily guarded and with two check points for entry, and two check points for exit. The road is lined by a high fence, with a sidewalk for pedestrians that is similarly surrounded. Those individuals crossing the border must present identification and all necessary visas and documentation. Reflecting an agreement between Spain and Morocco, residents of Nador are able to cross the border freely, primarily to work, and each day thousands who live in Morocco but work in Melilla do so (Carling 2007, 23).

This border crossing is part of their daily commute, and it is this kind of mobility that characterizes “regular” migration across the Melilla border. Strict regulations about residence and work establish the rules by which Moroccan citizens find employment in the Spanish territory. Crossing the Mediterranean to the mainland of Spain, however, is entirely different and requires accessing the regular Spanish immigration regime of visas and permissions. When crossing the Mediterranean, migrants cross another border. The border of sovereign Spain may be the fence in Nador; the border of Fortress Europe is the sea.

While regular migration across the border of Melilla is treated largely as migration to the autonomous city in and of itself, irregular migration is targeted within the understandings and practices of the European border regime. Irregular flows are understood as crossing the border without permission or crossing with permission and illegally remaining. The nature of the free movement of Moroccan citizens across the border, however, creates differences in the character of irregular migration along ethnic lines. Typically, North Africans (such as those from Algeria) use false Moroccan passports to cross the border. By contrast, Sub-Saharan Africans – made more visible by race - must either hide in vehicles crossing the border or scale the fence (“Peter” (false name), interview March 2008). It is this necessity of a more direct subversion of the border that underscored the characterization of the “attack” on the border in 2005 as one by African migrants. As the only route seemingly available, racialized migrants are compelled to make use of more dangerous means of crossing border, in a mobility that reveals the fundamentally racialized nature of border control. Sub-Saharan African migrations are approached from the first with suspicion; it is not imagined as possible that a black migrant could be “regular” or permissible. The increasing level of

security that results increases the vulnerability of black African migrants. It has the further impact of closing access to the “normal” asylum regime, increasing incidents of irregular border crossings.

The choice to enter Melilla itself also reflects a choice between more dangerous and less dangerous routes. Crossing the Mediterranean Sea using the small wooden boats known as *pateras* represents significant risk. The possibility of capsizing and drowning at sea is high, as is the possibility of interception by one of the joint patrols of the Spanish and Moroccan authorities. Either option can effectively end a migratory journey. Crossing the land border of Melilla is thus comparatively safer. Further, interception at the enclave border is more likely to result in removal to Algeria than to a country of origin as it is undertaken by the Moroccan authorities rather than by the Spanish. This less distant removal allows for a greater possibility of future attempts. As such, both asylum seekers and other migrants have identified Melilla as a key gateway to Europe, and the pressure on the border has been significant.

Sub-Saharan Africans began to arrive in Melilla and apply for asylum in numbers in late 1991 (Carling 2007, 23). Most arrived without documents, and an inability to prove nationality thus made it difficult for Spanish authorities to either challenge the asylum claim or to repatriate migrants under one of several readmission agreements (Carling 2007, 23). As the numbers increased, reception centres in Melilla quickly became overcrowded, and the central government initiated transfers to the mainland. Between 1996 and 1999 nearly ten thousand migrants were transferred in this way, only increasing the perception of Spanish vulnerability to irregular migration in popular discourse (Carling 2007, 23). This transfer to

the mainland also represented the final stage of the journey for migrants, enabling them to achieve the goal of reaching Europe, and allowing them access to the asylum system and other processes of formal and informal integration that, although restrictive, represented a possibility of regularization and residence within the EU. As Jørgen Carling notes, more than one million irregular migrants have been regularized in Spain since 1990, a statistic that has made unauthorized entry seem to be a valid possibility for those waiting at the borders of Europe (Carling 2007, 24).

As the restrictiveness of the European asylum system has increased, however, so has the difficulty in bridging this space between Melilla and Europe. The border has been drastically reinforced, particularly after 2005, and the possibility of transfer to the mainland is far less assured. Today, upon arrival in Melilla most migrants register with the police immediately (Carling 2007, 24; “Peter” (false name), interview March 2008). Their assumption and hope is that registration, frequently coincident with the filing of an asylum application, will effectively time stamp their arrival. A lack of documents combined with the asylum claim protects them from immediate removal. The belief is that after a certain fixed time period they will be transferred to the mainland. While it is the case that a three year period in the mainland can entitle a person to residence regardless of how s/he achieved entry to Spain, such a policy does not exist in practice in Melilla (“Jane” (false name), interview May 2008). The city’s autonomy has meant that Spanish state policies are only selectively applied, and the “waiting time” for migrants not only regularly exceeds three years but also frequently ends not in residence in Spain, but in deportation to the country of origin. By registering, migrants enter the migration control system of the enclaves, which reflects the

border control system of the continent. The process is very slow and highly uncertain, and reveals the operations of the sovereign power of Spain in important ways. It is in this increasing restriction that the character of Melilla as a camp becomes particularly visible.

As discussed in Chapter 6, Agamben (2000, 1998) argues that sovereign power is founded upon the ability to decide upon the state of exception, and the Camp is the space in which this is permanently realized. He understands the Camp as a spatial arrangement of the permanent state of exception that remains outside of the normal state of law (Agamben 2000, 39). It is a space of containment that operates not only to exclude individuals from the normal operations of society, but also to keep them outside and to prevent any possibility of bridging this gap.

Chapter 6 describes the impact of living in a camp space as being rendered, in Agamben's terms, as "bare life." Agamben (2000, 4-8) argues that state power is founded upon the ability of the state to keep bare life safe and protected to the degree that it submits itself to the sovereign's right to decide life and death. A state of exception exists when this life is put into question, and revoked as the foundation of political power. As such, bare life *no longer matters*; it does not justify or support power, and so is ultimately vulnerable to power. It "cannot be inscribed into the order" (Agamben 2000, 43). As Agamben (2000, 42) writes, such a state means that literally anything can happen within the camp as the exercise of sovereign power is arbitrary. The lived consequence of this state of being is that migrants caught within the space of a Camp are denied the capacity for political agency, and are instead laid bare to the will of the state to not simply exclude them, but also to remove them entirely. As Jane, a Melilla asylum lawyer and claims assessor says, "only the Spanish

government knows when people will be able to move” (“Jane” (false name), interview May 2008) – and in what direction.

The direction of movement gestures towards the practices of return and deportation that are omnipresent as technologies of control within this regime. They, too, function as “exceptional” politics within the discourse of the “ban.” Nyers (2006, xiii), building upon Agamben, argues that to banish is also to capture according to the logic of the sovereign relation of power. It is essentially the power of delivering something over to its own separateness (Agamben 1998, 109-110). By removing the body of the individual from the sovereign space, denying the individual inclusion or even presence, sovereign power is again incorporating it into its logic as unwelcome, undesirable, and prohibited. The ban, therefore, extends the logic of exceptionality across the border into transversal space. The Camp is not simply a purpose-built structure designed to contain migrants; it can also be a different spatial arrangement such as a city, like Melilla.

Simon ([false name], interview May 2008), an irregular migrant from Chad who has been in Melilla for three years, says that the city is an environment that changes a man. He tried twice to enter Melilla; during his first attempt he was caught and returned to the Algerian desert. He walked back to Oujda and, after some time recovering, made another attempt at crossing the border by hiding underneath a truck. He was successful and, like most other irregular migrants, immediately reported to the police to register. Chad will not accept Simon’s repatriation because Spain cannot prove that he is a national. And so Simon waits. His friend Joseph ([false name], interview May 2008), from Cameroon, has similarly been waiting for five years. As irregular migrants, Simon and Joseph are required to live in

the immigration reception centre, and to carry migrant ID cards issued by the Melilla authorities. These pieces of ID are used as leverage and as technologies of control over migrants. Migrants cannot enter or leave the centre, their only shelter, without them. They cannot access what food is provided (one or two meals a day). If a migrant does something that displeases the authorities – such as speaking with a journalist - the cards are taken away for a period of time. Arun ([false name], interview April 2008), an Indian migrant who has been in Melilla for four years, met me in the private schoolroom of a human rights activist, out of sight. He was defiant in his desire to tell his story, but was afraid that being seen talking to me would be looked upon poorly. He had had trouble before, he explains, when he spoke to some journalists and a filmmaker. His ID had been taken away, and he had been forced to sleep outside and go without food for almost a week. He, too, is waiting and hoping for a residence permit from Spain. “We are mentally damaged,” he says. “Three to four years of nothing but wondering...” Migrants are not permitted to work, and spend their days washing cars to earn small amounts of money from citizens and tourists. They wait and, as Arun says, wonder. They also live in a state of fear of deportation. Joseph ([false name], interview May 2008) describes two nights prior to my arrival, when, in the middle of the night, a group of migrants from Bangladesh had been rounded up and removed without warning. The assumption was that they had been deported, but no one seemed sure of what happened to them. Other Bangladeshis, he explains, had been sleeping outside ever since, fearing another round-up. The remaining migrants, with wide ranging nationalities, live in fear. “We have no papers and can do nothing,” he says. “Everyone is afraid they may be next.”

This state of insecurity in which irregular migrants in Melilla are held is only amplified by the uncertainty created by the unpredictable actions of the authorities. Within the state of exception, politics as participation, engagement and voice seems impossible and whatever agency the migrants may have enacted in crossing the border seems to have been crushed. Yet Melilla is only one place within a broader space of migration along the European border between Spain and Morocco. The act of crossing the fence marks an interruption in the European border regime that is jarring enough to demand an extreme response from the state. But on the other side of the fence, down the road and in Oujda, an “illegal” migrant camp has been set up at the University and hundreds of migrants who have crossed the Algerian desert live there, preparing and waiting for the moment of their own interruption. The state of exception created in Melilla is only one part of the story; to discover other voices we must cross the fence and recognize that the space of migration is only interrupted by the fence, not broken by it, and that the politics of migration at the borders of Europe are shaped as much both those waiting to cross as by those who have already crossed.

The Other Side of the Fence: Oujda

Of the Camp, Suvendrini Perera (2002) writes: “these spaces of restrictions are also subject to a continual stretching and renegotiation of limits by their inhabitants.” Recognizing these dynamics of renegotiation demands that we pay attention to “the other side of the fence” when examining Camps, migration non-places that occupy space at global borders. As Vicki Squire argues, rebordering practices are perhaps better understood through the lens of

irregularity than through one of exceptionality. Rather than normalizing the exception, and seeing it as “the same” in all manifestations, such a viewing enables us to understand how the dynamics of the Camp, but also of the politics of migration, take place across various sites (Squire 2011, 6). Irregularity, understood as an experience and state of being from the perspective of the migrants themselves, enables such an assessment of multiple sites and spaces. While exceptionality can appear as closure and limits, captured by borders, irregularity does not simply disrupt borders, it transcends them. Agamben’s description of sovereign power and the state of exception is almost always framed by a single state (Gregory 2007, 208). An analysis of these politics beginning from the migrant, however, challenges this limitation. Derek Gregory (2007, 209) asks:

If the *state* of exception is also a *space* of exception, as Agamben insists, then in these situations surely the exception depends on the articulation of *multiple* spaces of political-juridical violence and an ex-ception, a “taking outside,” through the *extra-territorial* inscriptions of colonizing power?

This question is particularly apt when examining the politics of Melilla and the fences of Europe. The other side of the fence is Morocco. An inquiry into the dynamics of the Camp as a space that encompasses migratory routes, however, is one that pushes beyond Agamben’s understanding of the Camp as the space of exception. His understanding of the control of challenges to the sovereign power through making individuals exceptional, through suspending law, and through the rendering of bare life remain important insights for understanding the everyday lives and politics of the migrants within the space. What also becomes apparent, however, is that the exceptional space becomes defined by the migrants within it as much as by the sovereign power and this insight, I contend, can enable a different understanding of a potentially powerful politics that emerges from the exception.

The role of Morocco within the European border regime is as both partner and problem. Morocco is a partner in the context of the readmission agreements it has signed with both Europe and Spain to accept back not only those irregular migrants of Moroccan citizenship who have crossed the Spanish/Moroccan border, but also to accept back non-Moroccan migrants who have transited through Moroccan territory (Geddes 2005, 165; see also André and Charlet 2007). It is in this role as transit state that Morocco presents the “problem.” As the main transit zone to Spain, Morocco is increasingly vested with the responsibility of deterrence and deflection on behalf of European authorities. Migrants from Senegal, the Gambia, Sierra Leone, Liberia, Mali, Côte d’Ivoire, Ghana, Nigeria, the Democratic Republic of the Congo (DRC), Cameroon, and the Sudan have, in recent years, been joined by migrants from Bangladesh, Pakistan, India and China as they migrate towards Europe using long established and well known routes (De Haas 2006, 1). For Carling (2007, 9), Morocco exemplifies the “buffer zone,” experiencing a significant influx of migrants – most often through the Algerian desert – and subsequently “housing” them as the border controls of Europe deflect, deter and intercept. In Morocco, unauthorized migration is known as “*birjra sirriya*”, or hidden or secret migration. Within these flows, two distinct systems have become integrated at border points: the older system of migrants of Moroccan origin, and new flows from Sub-Saharan Africa, Asia and the Middle East. They make use of the same boats, and often of the same smugglers’ networks. The trend, however, is towards the newer transit migration. While during the 1990s only two percent of those intercepted while crossing the Mediterranean were non-Moroccans, by 2006 more than one quarter of the migrants were from Sub-Saharan Africa (Carling 2007, 9-10). Between 65,000 and

120,000 migrants enter the Maghreb annually, with between twenty and thirty percent entering Algeria and Morocco. From there, tens of thousands attempt to make the crossing to Europe (De Haas 2005, 3). The Sahara is a historical transit area, but it represents only one stage of most journeys. Migrations are generally undertaken in several phases, from “migration hub” to “migration hub” as migrants pause to earn enough money to pay for the remainder of the journey (De Haas 2006, 3). To enter Morocco, migrants move most often from Agadez in Niger to Tamarasset in South Algeria. From there, using false papers and transportation provided by those who the authorities consider to be traffickers or smugglers, they move to North Algeria and then enter Morocco. Nine kilometres from the border is Oujda (De Haas 2006, 6).

In the unauthorized migrant camp that has sprung up at the Mohammed I University in Oujda, the population of approximately two thousand migrants is highly transitory. Numbers wax and wane as individuals and groups leave to attempt one crossing or another into Spain – either across the Mediterranean to Almeria or Granada, to the Canary Islands, or through the fences at one of the enclaves. If the attempt fails, many return to Oujda to regroup for another attempt. Generally, the consequence of interception by the Moroccan authorities is deportation to the Algerian desert. Depending on where in the desert they are dropped, and if they are not injured and have enough money to bribe any border guards they encounter, it is only a seven hour walk (“John” (false name), interview April 2008; Cameroon migrants, group interview, April 2008). The camp is not inviolate against police raids, but it is less vulnerable than other locations as a small piece of Moroccan law grants the University a degree of autonomy from the state (see Chapter 5). This creates a state of exception in a

vastly different sense from that created in Melilla, where power rests in the goodwill of the University to refuse to grant the police access to its property, thus tenuously protecting the migrants living on campus. Following a sense of social justice and humanitarianism, University authorities tolerate the presence of the migrants, sometimes providing them with supplies and more secure shelter in bad weather (“Amir” (false name), interview April 2008). When the students are gone, however, raids increase as the changeable protection of the University gives way to the power of the state. Despite some degree of exposure, however, migrants at Oujda choose to remain on campus as it provides easier access to the medina in the city, where they can beg and sometimes perform odd tasks for a small wage to earn money for their attempted crossing to Spain (“Amir” (false name), interview April 2008).

Visiting the camp at Oujda presented opportunities to speak with several migrants, sometimes individually but more often in groups, about their experiences and choices to stay at Oujda, and to continue to attempt to reach Spain. They were all men – the women, they explained, were either begging in the medina or are in the forest, out of sight and where it is safer. While the police do not often come onto campus, they watch, and the consequences of being seen can include removal, targeted raids, difficulty accessing the services of local NGOs such as Médecins sans Frontières (which provides health care to the migrants), or problems with papers if they choose to go to Rabat. When I asked what papers they are referring to, Baraka pulled out a folded paper from his pocket and showed it to me. It was a document from the UNHCR, indicating that an asylum application had been filed in Algeria and that temporary status had been granted. “But I don’t know if I should go to Rabat and claim in Morocco,” he says. He prefers to keep the paper with him and, instead, to go to

Spain (“Baraka” (false name), interview April 2008). Many of the migrants in the camp have similar papers, documenting either an application or the granting of some kind of status in various transit countries. To make a claim in Morocco, they must journey to Rabat, where the UNHCR oversees all asylum claims (“Wafaa” (false name), interview April 2008). Most have chosen not to go, however; their goal for asylum is Spain. Morocco is not seen as hospitable to asylum seekers – particularly those from Sub-Saharan Africa. Spain, in contrast, is seen as respecting human rights and as providing protection, security and support for refugees (“Baraka” false name, interview April 2008; “John” (false name), interview April 2008; Cameroon migrants, group interview April 2008).

These migrants are making migration choices in the face of a daunting migration control system that operates to prevent the realization of these choices. The policy objectives of the EU include encouraging migrants to apply for asylum elsewhere, and significant amounts of money are invested in “partner” states annually to build the capacity of these states to process claims and either provide temporary residence or permanent resettlement for those claimants who are successful (see: André and Charlet 2007; Haddad 2008; Lavenex 2006; Wolff 2008). Such efforts mean little to the migrants in Oujda, who instead wait for the opportunity to enter Spain. While they are waiting they choose to live in the camp, under a system of self-organized and representative governance devised by the migrants themselves. “We have a meeting every week for representatives,” John ([false name], interview April 2008) tells me. “And everyone has to come. We don’t work; there is no excuse not to come!” They solve inter-group disputes as well as conflicts between individuals – including theft, violence and harassment – through this group, where each

nationality has at least one representative. Despite their exclusion from society at large, and their vulnerability to violent impositions of the state, they continue to live according to the principles of equality that they argue justifies their migration itself.

“Everyone has the right to move,” John ([false name], interview April 2008) says. Baraka ([false name], interview April 2008) agrees: “Anyone who needs to can claim asylum. It’s law. We shouldn’t be treated different, and I have been here for five years so that I can go to Spain.”

“The part that has no part”

Jacques Rancière, a French political theorist whose work on consensus and dissensus in politics is important in understanding the essential role of voice and contestation in politics, writes: “Politics exists when the natural order of domination is interrupted by the institution of a part of those who have no part” (Rancière 1999, 11). Those who have no part are those who cannot be incorporated into the order of society, and made a partner in its processes. When put in Agamben’s terms, those that have “no part” seem to be easily equated with the “bare life” that is captured and controlled within a state of exception, made voiceless and excluded. Bare life, however, is an abject condition; it has been removed and segregated from society, and is the most vulnerable to sovereign power while also serving as the founding figure of that power through which it is most clearly made visible and accessed. “The part that has no part,” by contrast, is outside of the sovereign order and is a potentially powerful, not powerless, figure. Much of this power comes from its position “outside” and its exclusion. In contrast to the bare life of Agamben, Rancière (1999, 2004, 2011) presents

us with tools with which to understand the fundamentally political capacity and being of those within the Camp. Exceptional it may be, but irregularity is also a position of challenge and contestation.

What we traditionally think of as politics – the procedures and systems of legitimation by which the societal contract is achieved – is, for Rancière, not politics at all, but the end of such. While Agamben’s understanding of bare life seems to suggest that inclusion is the necessary precursor to being political, the denial of which is the dilemma for the irregular migrant, for Rancière (1999) it is exclusion, and the challenge, tension and resistance exclusion makes possible that is the potential starting place for politics. Such a process is, instead, a disciplining exercise for the purpose of governing bodies; it is policing (Rancière 1999, 28-29). Politics is not achieving agreement, thus indicating acceptance and the end of contestation. For Rancière, it is the disagreement, the defiance and the breaking down of such an agreement; it is the challenging of consensus by those who are not part of the normal order. Politics is ongoing, but not omnipresent in this understanding. As Rancière (1999, 17) makes note, it actually happens “very little” or “very rarely.” Politics is momentary, and appears in glimpses and moments of disagreement. It is shut down, only to reappear again in moments of insurrection and challenge.

I argue that this conception of politics characterizes those of migration at the border of Melilla. In Oujda, as migrants defiantly return to the camp time and again after being removed to the Algerian desert, there is an interruption of the controlling logic of removal. As migrants fail to cross the border, but still return to try again there is a similar statement, and a demand to enter the space cordoned off by the fence. Rancière (1999, 30) argues that

political activity is whatever shifts a body from the place assigned to it, or changes a place's destination. In "becoming" an irregular migrant, those who (attempt to) cross the border clandestinely have a place within the border regime assigned to them – one of exclusion, and of removal. By refusing this removal, and returning again, migrants are contesting this assignment of "place." The preservation of asylum papers, but refusal to use them to remain in Morocco rather than for travel into Spain similarly refuses a particular placement within the system. It represents an insistence that the migrant retain control over where and when asylum claims are made, to what state, and under what conditions.

Let us return, then, to Melilla. Irregular migrants living at the reception centre – or, in many cases, squatting in ravines and spaces in the city – have been reduced to Agamben's "bare life." Edkins and Pin Fat (2005) write of refugees that they are bodies that cannot speak, but that can be saved. A similar thing may be said of the camp of Melilla where there are bodies which cannot speak, but which can be held or, better, removed. In Rancière's terms, by ascribing these individuals the "status" of irregular migrant, the state is attempting to make them "a part" – to incorporate them into the state-controlled consensus framework of the border that is the end of politics. With Rancière's understanding of politics, however, the fleeting interruptions and flashes of resistance create politics itself within this state of exception. Within such moments, these migrants find a voice and demand an equality of place.

Arun still takes time to speak with journalists, despite having his ID cards taken away and his food denied. Groups of migrants refuse to sleep in the reception centre, and wash cars to generate their own incomes. My first visit to Melilla was punctuated by such

accounts. On the fourth day I was sitting with a friend at a café during siesta, when we were approached by two young boys emerging from the mosque who asked us if we could take them to Peter (a local human rights activist). They had escaped, they explained, from the centre for unaccompanied minors, a centre designed to house irregular migrants under the age of sixteen who had crossed the border alone. It transpired that they had been beaten, denied food and showers, and finally locked into the centre. Twelve children, all North African and ranging in age from six to fifteen, scaled the outer wall and made their way to the downtown core of Melilla. They wanted to find Peter so that they could go to the police and make a complaint against the authorities. As we waited for Peter to arrive, they chanted in Spanish: We are minors! We have rights! (¡Somos niños! ¡Tenemos derechas!) They insisted upon making the complaint themselves when Peter offered to go for them, emphasizing the potential consequences they could face. They wanted to take ownership, and insisted upon demanding recognition of their circumstances. In this, they were demanding to participate in the equality of law that “regular” people in Melilla enjoy; they were demanding a change in their place and their role. Filing the claim took three hours, earned the authorities at the centre for minors a warning, and ended with all of the children returning to the centre. There was nowhere else for them to go. But, fundamentally, filing the claim was a transgressive and political act, and the “part that has no part” demanded to be given access to a principle that “does not belong to it” – equality (Rancière 1999, 33). They demanded to be heard.

Beyond Refugee Camps and Detention Centres

What happens, then, when we turn our attention to the other side of the fences that surround Villawood and Nduta, the detention centres of Australia and the refugee camps of Tanzania?

The extension of exceptional space across sovereign borders is embedded within the Australian border regime itself. The detention centres in Nauru and Papua New Guinea represent a stretching of the Australian sovereign power at the same time as it becomes more definitive in its capacity to choose, to decide. This is not, however, a stretching of the Camp space into a transversality determined, at least in part, by the migrants themselves. It is a dislocation of the Camp, not a redefinition of its space.

There is, however, evidence of the changing political space of the migration route within the Australian border regime. As at the fences of Melilla, at the shores of Australia the space of exception exists but is consistently and constantly challenged by the migrants moving through the water to make an asylum claim. The border protection legislation passed in 2001 simultaneously excised entire territories from the “migration zone” while also declaring the Australian power to patrol the international waters prior to Australian territorial waters with the intention of intercepting and interdicting unauthorized boats. Despite this excision and heightened attention to interdiction, migrants continue to travel, to arrive, and to make claims – regardless of where they arrive.

Perera (2006, 645) argues that the declaration of absolute power over maritime borders activated specific “imaginaries of sovereignty” within an Australian discourse that defined and redefined where Australia has responsibility according to the desires of the

sovereign power. This was most brutally visible in the sinking of the SIEV X (Suspected Illegal Entry Vessel Ten) in October 2001.¹⁸ The SIEV X was a boat carrying over three hundred irregular migrants that sank off the coast of Australia while on route from Indonesia. It was the largest loss of life within the Australian border regime, calling into question the ethical position of the coast guard in the regime and the humanitarian impact of its policies (see: Marr and Wilkenson 2004). Although the boat sank in international waters patrolled by Australia, the Australian government declared that it had sunk in Indonesian waters, effectively suspending its sovereign responsibility (Perera 2006). The waters are thus in flux, sometimes within the responsibility of Australia and sometimes without, determined by the actions and presence of migrants. When migrants live and can be turned back, or when the waters are empty, they are within the sovereign space; when migrants drown, however, and mark the waters with their presence as an absence of life, the waters are excluded. At no time does the normal law of responsibility and rescue at sea apply. One of the forty-five survivors of the SIEV X gave testimony at the trial of the smugglers, two years later. She said:

Amal means hope in Arabic. That was why my father gave me that name and maybe it was why I survived SIEV X. 146 children, 142 women and 45 men died in the tragedy of SIEV X. I was one of the 45 survivors. I saw it all. I saw so many people die and I have to tell the story.

It has been three years since the sinking of SIEV X but I am still in the water. I can still feel the dead woman whose body I clung to so I could keep afloat. I never saw her face, it was in the water but I talked to her all night. I prayed for her soul and she saved my life.

¹⁸ The term “SIEV” is the acronym for Suspected Illegal Entry Vessel used by the Australian Defence Force and Coastwatch, and is applied to boats entering Australian waters without authorization. These boats are generally associated with people smuggling networks.

I still see what I saw when I first opened my eyes under the water. I saw children dying. I can taste the oil and the salt of the sea, I feel my fear and I smell death. Little children, dead babies, desperate parents, families dying one by one, and I was alone believing all the while my own son was dead. I was in the water for 22 hours waiting for my death. I was like a camera. I saw everything. When the sharks circled I prayed for my death and suddenly a whale rose up beside me. It was as big as an apartment block. It blew water from its blowhole all over me and I thought it would suck me and the woman I clung to into the deep. But the whale also saved me. It saved me from the sharks.

Sometimes when the pain wakes me in the night, in that moment between frightening dreams and the shock of reality, I think the sharks are feeding on my body, tearing parts of me away, and ripping at my soul.

On the second anniversary of the sinking of SIEV X I knew I was ill. On 27 October 2003 I lost my left breast to cancer and now the cancer is in my bones and is eating away at me. The cancer eats like a shark. My doctors are kind and try to manage the pain but there is a deeper pain, the pain of loss, the pain of rejection.

In those hours when I cannot sleep I see the lights that were shone on us as we fought to live in the water. The lights came from ships, I could hear the voices of the men on board so safe and so dry but I could not make out the language they were speaking. I screamed to them to help, we all cried from the sea but they went away. The pain of SIEV X will not go away.

I cry so often. I cried and cried when I saw the Australian families in Bali mourning their friends and relatives, I knew how each of them felt. That is how I feel. I cry when I see the families of the American soldiers who have died in Iraq. That is how I feel. And like them I need to talk about the things that have happened to my life and my family because of tragedy. I cry when I think of my beloved Iraq, the land of my birth, reduced to rubble and my people dying and I cry when I think of my father who is still in Baghdad so ill and so poor. When I was a child we spoke English in our house and my father took me round the world and I learnt so much and met such wonderful people.

Our family was torn apart by Saddam Hussein. My mother died hungry. My husband and I were forced to flee to Iran with our children. But we knew we could not stay there and we believed in Australia so my husband went ahead. He was waiting for us for when SIEV X sunk.

When we were rescued I spoke English again. I said “I want to go to Australia and learn very good English and then I want to go on Larry King and tell the world what happened to us.” In all the months we waited in Indonesia and were questioned over and over I still believed in Australia. And I still believe in Australians because they do care about us and they are kind and loving friends. But none of us from SIEV X feel safe; we cannot be safe until we know we belong, until we can be citizens.

I may not have long now but I speak English well enough to give evidence for Australia in a court of law without a translator. And I can speak in public without notes and I want to tell my story. The Australians who have spoken up for us are my angels and I thank God for them. And now I want to spend what time I have left telling people what it was like to be there, awaiting my death, there in the water being kept afloat by the body of a dead woman and seeing it all happen.

We still need help. All of us from SIEV X still need your help. On the eve of the third anniversary of the sinking of SIEV X I pray to God for the people who died and for all the people who loved them and I pray too for the survivors.

We are all in different places and our lives will never be the same but now I know Australians will never forget. I don't have time to write a book but I want to talk and I want to talk now. My name is Amal. It means hope. And I will not give up hope until the day I die. (quoted in Perera 2006, 639-642)

In the space of the seas surrounding Australia, the migrants who continue to arrive, or who land on an excised island and claim asylum anyway, refuse the power of the Australian state to make them invisible, to banish them, and to exclude them from the politics of migration that are caught up in the Australian border regime. In her testimony, Amal refuses to be silent. “I have to tell the story,” she says, demanding voice and participation. “I will not give up hope.”

At Nduta, there is again a different kind of politics that stretch the space of the Camp. Again, however, we can see the ways in which migrants are pushing back, resisting

and refusing their exceptionality and shaping their politics of migration. At Nduta, as at the other refugee camps in Tanzania, at “the other side of the fence” lies repatriation, often a return to “safe zones” within the country of origin. On the other side of the fence of Nduta lies either a return to Burundi or an underground existence in Tanzania.

To live underground is to live precariously, relying upon the tolerance of Tanzanian citizens. If caught, the punishment is a fine and up to six months in prison before being returned to the refugee camp. As Bakewell (2008, 442) observes, however, the conditions of camp life are such that “[r]efugees often make strenuous efforts to remain outside the formal systems of protection and support which would require them to live in a camp.” As of the 31st of August 2007, Tanzania estimated that 41,262 irregular migrants were in the Kagera region alone (United Republic of Tanzania 2008b, 3). By settling themselves among the local population, refugees place themselves outside of the world of aid interventions and prescribed protections of the host governments and humanitarian NGOs (Bakewell 2008, 444).

The repatriation of refugees to Burundi, the DRC or Rwanda is captured within what Hyndman (2000) refers to as “preventative protection.” She defines this as:

the establishment or undertaking of specific activities inside the country of origin so that people no longer feel compelled to cross borders in search of protection and assistance. In this sense, for instance, action on behalf of the internally displaced can be defined as preventative protection, although the primary motive may be to address a genuine gap in protection rather than to avert outflow. Preventative protection in this sense may also include the establishment of “safety zones” or “safe areas” inside the country of origin where protection may be sought. It relates therefore to the protection of nationals in their own country. (Hyndman 2000, 17)

As discussed in Chapter 4, Tanzania's first large scale repatriation was the forced repatriation of the Rwandans in December of 1996. By January 1997 it was announced that 20,300 Rwandans had been repatriated. On the ninth, however, three thousand more resurfaced in the camps; they had hidden or claimed that they were Burundian. It was estimated that at least another twelve thousand remained in the area, while thousands more had fled again to Namibia, Zimbabwe, Uganda, Malawi and Zambia (Amnesty 2004, 14).

The repatriations underway in 2007 and 2008 were, in contrast, not “forced.” However, they were understood by the refugees as coercive. The decline of services and camp consolidations were only some of the ways they felt that they were being forced to leave, even if it was to live in a different kind of camp in Burundi. In 1996 Tanzania called for the creation of safe zones in Burundi to “reinforce the rights of citizenship” (Daley 2007, 156). It was to these that refugees are to return. They are given a return package with a six month supply of food and fifty US dollars (“Nam” (false name), interview January 2008). Some of the recommended safe zones are also being designed specifically for single mothers, in response to the increasing abandonment of wives by husbands during the repatriation process. The problem is that while polygamy is legal in Tanzania, it is illegal in Burundi and punishable by prison sentences. Men who have taken more than one wife, or who do not know what has happened to a first wife, are abandoning second and third wives and their children rather than risk being in violation of the law (“Jonas” (false name), interview December 2007).

Most refugees are very suspicious of these spaces; there is a history of “safe zones” in Burundi from prior to the repatriation. “Safe zones” were established in Burundi during the

1990s in response to the outbreak of conflict. Some were created by the government, and some by the UNHCR. Even those under international protection, however, were not safe spaces. Described by Nelson Mandela as concentration camps, they were extremely poorly provisioned and quickly became strategic tools to restrict further Hutu support for the rebels (Daley 2007, 121).

The response to the repatriation efforts is mixed, and is characterized largely by a sense of inevitability. Many are reluctant to return, or feel unable to. Fears of torture drive one young man's reluctance, fear of her late husband's family a woman's ("Matthew" (false name), interview December 2007; "Mary" (false name), interview December 2007). Michael (false name, interview December 2007), who did some translation work with me, is adamant that he will not return. He visited Burundi last year, he says, and saw the man who had killed his family and took his farm. This man was now in government, he says. "I cannot return." In the face of both the conditions of the camp and the pressure to return, many refugees are leaving the camps to self-integrate (illegally) into the local community.

They are claiming a control over their own mobility that directly challenges the sovereign power of the Tanzanian state to declare them exceptional, and to direct their movement. Even within the camp, the steadfast refusal to participate in repatriation represents a political position being taken – a position made more powerful by the choice of life and death it is understood by the migrants themselves to represent.

Conclusion

I do not want to romanticize the power of oftentimes momentary and only fleetingly powerful politics that exists across the fences of Melilla, the detention centres of Australia, and Nduta. Returning to Melilla three weeks after the children filed their complaint, I found that all but two of them had been deported – according to Peter (false name, interview May 2008), they were rounded up in the middle of the night and likely dumped somewhere in Morocco. Those arriving at Australia’s borders in small boats have survived an extremely difficult journey but, more often than not, are nevertheless turned back immediately. In Tanzania, refugees caught in the community are sentenced to prison in conditions of massive overcrowding and hunger that have caused an extremely high inmate death rate (“Craig” (false name), interview January 2008). These events represent a sovereign response, an expulsion, a silencing and a re-taking of control that is both violent and terribly final in its consequences for the individuals it touches. The consequences of the politics of migration are often thus, carried out in the name of security, of controlling irregular migration, and of re-establishing the regular order.

The degree to which such actions deter and prevent these politics, however, is always a question – and by asking this question, by responding to the demand, and understanding migration politics as Rancière’s politics of dissensus, disruption, interruption and contestation we open up powerful potentials for change in an otherwise rigid regime.

CHAPTER 8

Irregularizing Agency

Irregularity is not simply a status or label; it is an experience, a way of being that fundamentally shapes the day to day lives of migrants at global borders. It characterizes life and mobility in the interstices between the politics and discourses of border control, migration and asylum. Captured within the technologies of border control, and managed through discourses of humanitarianism, to be irregular is often to be relegated to a space of exception described by Agamben's Camp. As the preceding chapters have demonstrated, however, irregularity is also profoundly determined by the choices, actions and voices of migrants themselves as they shape, at least in part, the space of exceptionality through which they move, and challenge the operations of sovereign power. In this way, irregularity is not an end point in the politics of control, but a key stake within the politics of mobility (Squire 2011, 3). As Squire (2011, 4) writes: "Resistances and contestations can in this respect be viewed as immanent to the politics of mobility, yet also as bringing heterogeneity to such a politics."

Soguk (1999, 222) argues that in statist terms, refugees have only collective content and voice. Their perceived instability, characterized by the sense of permanent temporariness discussed in Chapter 5, renders refugees and irregular migrants as an undifferentiated mass. Within the future and problem-solving orientation of statist discourse (see the Introduction), they do not – even cannot – appear as individuals with specific stories. Exclusion into the Camp, the rendering of irregular migrants as "bare life," underscores this amalgamation. In collapsing the experience of migration and exceptionality

in to apolitical, universal “sameness”, the space of the Camp and the technologies of border control collapse the multiplicities of experience and identities of irregular migrants that are at the root of migrants as agents into a singular category of “non-citizen” denied agency, and thus denied this diversity of voice. This is the picture that emerges when viewed from a top-down and policy perspective.

A study of irregularity that begins from the narrative of the migrant and draws upon the insights of Rancière’s (1999, 2004, 2011) analysis reveals not simply a commonality in diverse experiences – temporariness, insecurity, exclusion – but also the ever-present capacity for action and voice that the space of the Camp seemingly denies. This agency can produce a multiplicity and diversity in experience and narrative within irregularity as a space of politics. Irregularity, as shaped by the individual choices and actions of migrants, thus reveals the diversity that exists within the population of irregular migrants. The challenges and resistance enacted by individuals who, despite the temporariness, exclusion and control of state structures, continue to take action and speak in everyday moments can interrupt discourses of control. An agency and politics at the level of the “everyday” is constituted in momentary decisions, confrontations, and exclamations – or whispers. Irregular agency is sometimes simply a defiant presence or arrival. It is different from the political subjectivity we have come to expect from the space of the citizen, but is no less powerful or potentially transformative of our understandings of and engagements with the politics of borders, migrations and asylum.

The use of qualitative methods embedded in the field left me open to interactions and relationships that were unplanned and surprising, and in each field site I found myself

interacting with migrants for seemingly unique, disconnected moments that were nevertheless profoundly revealing about the divide between citizen and non-citizen and the practice of politics. Detainees and ex-detainees who participate in a public protest outside of the immigration courts in Sydney, Australia; “illegal migrant” children who demand that the Spanish authorities hear their complaints about their living conditions in Melilla, Spain; and refugees who, in defiance of prohibitive laws, choose to work outside the camp in Kibondo, Tanzania: each transgress expected norms of behaviour for individuals caught within the webs of global migration control. My encounters with each were fleeting, momentary, and elusive. Nevertheless, they reveal glimpses of a deeper political activity that operates at the level of the every-day and the local; they reflect political decisions being made quietly that have the potential to profoundly reshape our understandings of the ways in which migrants enact agency, and how these decisions intersect with political action.

This chapter begins an engagement with the politics and agencies of irregularity, assessing moments of speech and action from each site and bringing the analysis of previous chapters to bear on the everyday politics of irregular migrants. I begin by accounting moments from each site, and then frame this analysis within our understanding of the political agency of both citizens and non-citizens. I assess the potential for solidarity across the non-citizen/citizen divide, and argue that when we begin from the non-citizen rather than the citizen a new understanding of politics can emerge. Finally, I present the concept of “moments” as a new way of situating and approaching the study of politics.

Speech and Action from the Space of Exception

Australia

The best known assertions of agency in the Australian context emerge from detainee protest within the onshore detention centres. Throughout the years just prior to and at the beginning of the Pacific Solution, detainee riots, mass breakouts and both individual and group acts of self-harm became commonplace in the detention centres that housed “unauthorized arrivals,” particularly at Woomera, Baxter, and Port Hedland. They were not the first instances of migrant protest; in 1992, in response to the initial implementation of mandatory detention, asylum seekers had been instrumental in protests and rallies against the legislation, including hunger strikes, organized with coalitions with citizen groups (Watson 2009, 90-93). In 2000-2001, the height of the restrictive legislative changes made to the entire border regime, the incidents of detainee protest, hunger strikes and act of self-harm reached “crisis” levels.

Most people thought that the riots were effective in garnering public attention for asylum seekers and detainees, Kyle, a trauma centre worker, tells me. They were in all the onshore centres, and even Nauru had a certain level of protest. “Physical protest was one of the few tools [the detainees] had to get their message across,” he says. Most went on hunger strike because they believed that their applications had been stalled, and they wanted answers. People were being penalized for damage to property or to others – but not for damage to themselves. “Self harm was the only action available,” Kyle explains. “I am speaking of them as acts of protest. It was very thought through and conscious. They wanted certain outcomes” (“Kyle” (false name), interview August 2008).

Not all political agency in the centres has been expressed through physical protest, however. “There are detainees at Villawood who have turned themselves into quasi-lawyers,” Marshall ([false name], interview August 2008), a citizen activist, tells me. He presented their actions as remarkable. Two detainees in particular were active in engaging with and using Australian law to advance their claims. Despite being told that the law did not apply to them and that they had no rights, despite being made exceptional in the space they inhabited, and in the policies and practices that structured their lives, they engaged in a “taking” politics – a politics that demands and claims rights, attention, and entitlements rather than simply passively receiving them. They demanded that the equalities and respect for human rights embedded in the Australian Constitution and body of law apply to detainees. Together, they challenged the labour practices under which detainees worked in manufacturing for one dollar an hour. They challenged the right to access cell phones and the internet based upon a “right to communicate.” They challenged the practice of keeping the women in “lock down” in isolation on a twenty-four hour basis, except for at meals. On these issues, and others, they took the government to court, advocating on their own behalf, and they won (“Marshall” (false name), interview August 2008).

It was one of these detainees, Prakesh, to whom I paid a visit in Villawood detention centre at the end of August 2008. He had been in detention for seven years after spending eight years in Australia, most of which on a lapsed visa. When he was arrested for living in the community illegally he applied for asylum, claiming political persecution in his home country. His application had been denied, and he was engaged in an ongoing series of appeals. I was accompanied by his friend and former associate in detainee legal advocacy,

Siva, who had been released from detention on a humanitarian visa after three years in detention. Prakesh was on a hunger strike in protest of his scheduled deportation in two days. We talked of their successes. We also spoke of consequences; they believed that Prakesh was being deported because he had done “too much,” caused too much trouble, and his case had become personal. We had a frank discussion of tactics, and the conversation reveals not only that these actions were consciously political, but that they were intertwined, knowledgeably chosen and strategized with a profound awareness of the relative power position detainees hold within the Australian border and detention regime (“Prakesh” (false name), interview August 2008; “Siva” (false name), interview August 2008).

“Hunger strikes work,” they tell me. They are harder to sustain, though, as conditions improved. Letters from detainees and citizen allies to authorities, and particularly to politicians, are also useful, but only if they have pointed and specific questions. To commit what are understood as violent acts, such as riots, the support of Australian citizens is needed or detainees are dismissed as too radical. Communication and full documentation were all important, they explained. It is important to pay attention to building up a case (“Prakesh” (false name), interview August 2008; “Siva” (false name), interview August 2008).

“But whatever you do, it has to be honest.” Prakesh ([false name], interview August 2008) says, emphatically.

There was a great deal of advocacy taking place on Prakesh’s behalf in the wider community. The day after my visit, a rally was held in front of the department of immigration in Sydney. Inside, the final appeal against his deportation order was being heard. The small crowd that gathered listened to several speeches made about his case,

including a statement he had prepared and provided to one of the citizen activists, each advocating for his release from detention and the regularization of his status in Australia.

One of the leaders and organizers of the protest was Siva. Afterwards, Siva ([false name][2], interview August 2008) confided to me that he did not think that Prakesh had done enough to stay, and that he was very worried. Prakesh did lose his appeal, and he was deported the next day.

Spain/Morocco

In Melilla, where I conducted research in the spring of 2008, there is a Centre for Unaccompanied Minors where several children who have crossed the borders on their own are housed while they are processed by the state. Most of the children, aged six years to fifteen years, are Moroccans who claim to have come to work. Formally, they are required to attend one of the local schools. Their actual attendance, however, is poorly monitored and of the twelve children I met personally, at least two (aged twelve and thirteen) were working for a local café and being paid under the table.

As I described in Chapter 7, during my first trip to Melilla, myself and another researcher were approached by a group of twelve boys who were looking for Peter, a human and child rights advocate we were both working with. They had “escaped” from the centre, and wanted his assistance. They explained that they had been beaten several times, denied food and showers, but had finally left (by climbing the wall) because they had been told that they were no longer allowed to go outside. They wanted Peter to help them file a complaint with the local police station about their living conditions and treatment in the centre. While we

waited for Peter, their spirits were high as they laughed, talked and joked. They told us about their families back home in Morocco, talked about their hopes for “when they grew up” – which included being a doctor, a mechanic and an astronaut. Often, they broke into a chant in Spanish: We are minors! We have rights! (¡Somos niños! ¡Tenemos derechas!) Peter initially tried to dissuade them from going to the police themselves, offering to file the complaint on their behalf, which, he felt, would reduce their vulnerability to any repercussions. They refused, and insisted upon going to the station themselves. Once there, it took three hours, but they filed a complaint like any citizen. The police officers took them back to the Centre where the complaint was followed up, and formal reprimands were administered.

Insisting upon making a police complaint did not challenge the overarching Spanish border policy; it was far more localized and everyday in its challenge. As I argue in Chapter 7, however, it did establish the children as rights-bearing subjects despite their non-citizenship. Although as illegals they were not entitled to the protection of the state or of specific rights, they effectively called upon the state to intervene in their daily lives. Their status as irregular migrants did not change, nor did the precarity of their presence in Melilla. For the moment, however, they achieved recognition as rights-bearing subjects.

Meanwhile, across the fence in Oujda, the migrants encamped at the University campus continually return from not only deportation to the Algerian desert, but also from deportation to their country of origin. They make repeated attempts to enter Spain, by whatever means necessary. In this, they are demanding that the public rhetoric of anti-racism and anti-xenophobia, of protection of human rights, and of integration for immigrants become practiced as part of the politics at the border. They are making demands

rooted in discourses normally associated with citizenship. Again, their demands are rooted in discourses of inclusion and participation in the policies that shape their lives.

Tanzania

The hills around the town of Kibondo, about a one hour drive across country from Nduta refugee camp, house the various headquarters of the international non-governmental organizations and services that work in the camp. The area is extremely rural and within sight of the border with Burundi. Walking through the hills with one of the workers ten days before Christmas 2007, I came across a young man walking back from work in one of the surrounding fields who asked us for change. When he learned that we were “internationals” who were working in the camp (after asking why two white girls were out walking), he immediately began to ask very detailed questions of why the Tanzanian government was not allowing refugees to stay, or live in the community. He asked us if we could help him get a visa or, better yet, be resettled in a Western country. It quickly became clear that he was a Burundian refugee from Nduta – far outside of the prescribed limit around the camp, and working illegally. The camp service worker I was with encouraged him to return to the camp, warning of imprisonment if he was to be caught by the authorities. He shrugged her off, declaring that he could get work in the community and blend in well enough. “I don’t want to go back,” he said. “No matter.”

Agency for the refugees within the encampment regime of Tanzania is expressed in another way again than that in the other sites. While the actions in Australia – both public and private – have been directed at the government, and those in Spain expressed through

demands for recognition and stubborn mobility, action and voice in Tanzania is profoundly local, directed to the community or family unit, or even to the individual herself. The expression of migrant agency is more about a refusal to move or a quiet self-integration into the economy or the community than a demand for mobility. Irregular agency in Tanzania is expressed as actions and decisions that are intended to facilitate a degree of control over mobility and space.

Some of the first examples of this kind of agency were pursued by several Rwandan refugees resisting the forced repatriation of 1996. By claiming to be Burundian, or simply by hiding in the camps among other populations, several thousand individuals evaded the authorities. It was not a coordinated effort, but the exercise of individual and family choice. This action is mirrored in the current context by both the refusal of individuals to participate in the “voluntary” repatriation program, and by refugees who choose to leave the camp to hide among the local population and “pass” as Tanzanian. “Everyone knows about the refugees outside the camp,” declares Mark, an IOM officer (“Mark” (false name), interview December 2007). The ethnic similarity and resulting difficulties in easy identification, however, prevents most detection by the authorities, barring door to door inspections.

Other actions by refugees are similar forms of a “taking politics” through which refugees assert their own capacity to decide upon their own life conditions. In defiance of the strictures against working, travelling outside the camp, and earning an income, it is common for refugees to leave the camp to work at local farms for cash. As Michel, a representative of ECHO, the humanitarian aid and civil protection body of the European Commission, observes, the repatriation program might in fact produce difficulties in refugee

hosting areas as the source of cheap labour disappears for farmers (“Michel” (false name), interview January 2008). Accounts from refugees are full of experiences in working outside the camp, despite the restrictions and dangers. “I do casual work outside of the camp,” Siku ([false name], interview December 2007, a young woman tells me. “Sometimes I am caught and beaten.” But she continues to pursue this work, usually on local farms. She is also not planning on repatriating to Burundi. What she hopes for, she says, is to go somewhere where there are not any refugee camps. The cash the refugees earn at these jobs is used to buy extra food, or any necessary supplies not provided for in the official rations. These include extra plastic sheeting to reinforce roofs, more soap (each family receives only half a large block of soap each month in the ration), or tools, books, clothes, shoes and other things they need. It is to gain some independence, Robert ([false name], interview December 2007) tells me, that he works outside the camp. “Sometimes the locals, the police, stop me. But all my life I have been in the hands of the UNHCR.”

Other measures are taken even within the camp boundaries. Before the market was closed, refugees used to sell what they received in rations for cash or other supplies that they had a greater need for. Since the market closed, some go into town to do the same thing. In each account, the underlying story is one of survival strategies to overcome deprivation and need. Some of these stories are stark, even brutal, in the choices that are made. Within the HIV positive community, antiretroviral drugs are provided by the IRC to individuals who are open about their status. With the reduced rations, however, the food provided is often not enough to sustain the level of nutrition necessary to take ARVs safely. Throughout the camp are cases of parents – both biological and the foster parents of AIDS orphans – who are

reducing their own food intake in order to boost that of the children so they are able to take the drugs (“Mary” (false name), interview December 2007; “Margaret” (false name), interview December 2007; “Nam” (false name), interview December 2007). These decisions are not easy, and their necessity raises serious questions about the provisions of the camp and the capacity of camp administrators struggling with protracted situations and donor fatigue to meet the needs of the population. Tragic as they are, however, they are decisions being made not by authorities, but by individuals and families, and often in defiance of the regulations and policies that govern camp life as well as at risk of physical harm and arrest. They are, in this sense, defiant contestations of the dominant structures of the camp.

These survival strategies are easily understood as simply choices made due to necessity, reactive and defensive. Such an analysis can remove the politics from the situation, and even remove the possibility of choice; it denies the capacity for agency on the part of refugees. However, I argue that this is a narrow analysis that accepts the victimization of refugees and the exclusion of their position as powerless and exceptional. It is clear that many of the actions taken in family survival strategies – particularly those like the choice to redistribute food to enable drug treatment – are made within a limited range of options and are conditioned by more severe contexts than those encountered by less vulnerable populations. But they are, nevertheless, choices that profoundly shape the life conditions of refugees. They are actions in the face of regulatory environments that can be profoundly disempowering. At the level of the everyday, they shape and change the life chances of individuals in ways that are determinative *of* rather than always determined *by* the spaces and politics in which refugees live. Alex, an officer at the IRC (International Rescue Committee)

(“Alex” (false name), interview January 2008) is frank about the refugee capacity to exert control. “Refugees themselves are good at coping,” he says. “They may not know how to set policy, but they can certainly organize to get what they want.”

Meanwhile, refugees in Tanzania who are refusing repatriation are demanding that refugee protection be taken seriously not as a state project, but as a political project that validates human experience and individuals over borders. The repatriation program resulted from a tripartite agreement between the government of Tanzania, the government of Burundi, and the UNHCR. Although designed for the safe return of refugees, including provisions for welfare and settlement, the agreement is perceived by refugees as a plan imposed upon them. It reflects, in their view, the political interests of Tanzania in particular, which is unwilling to continue hosting refugees. Those who are refusing repatriation are not staking their claim on a generalized condition of insecurity; in each case, they have individualized stories and reasons as to why the repatriation will not work in their case specifically. For some, they argue that local integration is a more productive solution due to continued vulnerability in Burundi. For others, it is the provisions within the repatriation program that are insufficient or inappropriate. In all cases, the demand is for a practice that accounts for the individual. Where such an accounting is absent, they take action themselves, either in direct refusal, or in self-settling practices that defy regulation and policy.

Each of the moments, narratives and experiences described above reflect the ongoing interactions between the practices of the “Camp” and the challenges and resistances of non-citizens against their exclusions and exceptionality. In the detention centres of Australia, the reception centres of Melilla and the unauthorized camp of Oujda, and the

refugee camps of Kibondo non-citizens are bridging the gap in moments of activism and solidarity. Although each site describes a different context, each is a spatial representation of broader practices that control both the mobility and the agency of the non-citizen. In each case, however, the migrants are involved in a contestation of their right to remain in their states of asylum: the detainee who wishes to become a status refugee and remain in Australia; the children who wish to remain in Melilla to work; the refugee who refuses the repatriation program while leaving the camp to find work. In each case, migrants are transgressing “expected” behaviours: the detainee and former detainee are openly challenging the legal system of Australia; the children are making conscious, political demands of the police; the refugee is working in the community. Finally, in each case, the migrants involved engaged with citizens in their activities, and their actions represented, if only temporarily, the establishment of a relationship of solidarity between non-citizens and citizens within the politics of asylum. In these moments, the “activism” that takes place is easily understood as political action when we begin from the citizen position, as part of a long-term challenge to the established state order. They should be understood as similarly political when we begin from the position of the migrant.

The Citizen/Non-Citizen Divide

The implications of these moments for non-citizens living in spaces of exception as characterized by the refugee camp in Tanzania, the reception centres of Melilla, and the detention centres of Australia are profound for our understanding of their political agency. The space of the Camp is not simply about exclusion and exceptionality. It is also about the

silencing of voices, and the rendering of political beings into bare life; the Camp is a technology designed to disempower and to remove the agency of those caught within its space.

Irregular migrants are non-citizens. In a world constructed in the image of the nation-state, and determined by its discourses and practices of statecraft, the non-citizen is not accepted as a political agent; she cannot be a political agent, at risk of disrupting the structures upon which the system rests (see Chapter 3). An emerging literature within Citizenship Studies is both insightful and important in our developing understanding of this dynamic. The works of Nicholas de Genova (2010), Engin Isin (2008, 2009), Anne McNevin (2006, 2007), Sandro Mezzadra (2003), Peter Nyers (2006, 2009, 2011), Kim Rygiel (2010), Nevzat Soguk (1999, 2007), Vicki Squire (2009, 2011), William Walters (2008, 2010), and others, represent crucial contributions to conversations about how we conceive of political agency, which also contribute to how we mobilize and enact agency, and recognize it in others. Bleiker (2000, 24) argues that “[h]uman agency is, at least in part, determined by what is asked about it in the process of imbuing human action with socio-linguistic meaning.” Most commonly, the agency of the non-citizen is analyzed with regard to refugees and asylum seekers; the figure of the refugee is used to represent the archetype of the non-citizen. Reflecting my analysis in Chapter 3, which traces a shift in paradigm from a forced/voluntary dichotomy in migration to that of irregularity/regularity, I argue that in the contemporary politics of migration it is the irregular migrant who is reflective of this archetype. The analysis based upon refugees and asylum seekers, however, still applies and is valuable; the non-citizen is a complex and multi-dimensional figure. What we must ask

about political agency, therefore, is how to engage with and understand its manifestations when they come from the space of the non-citizen.

Soguk (1999, xiv) argues that within the discourse of the nation-state, refugees are allotted characteristics – speechlessness, invisibility, passivity – that are the obverse of the sovereign identity of citizenship. He writes:

In all... they are seen as incapable of participating as effective, knowledgeable actors in the tasks essential to the efficient and orderly organization of the community – obtaining security, stability, welfare and self-governance. (Soguk 1999, 19)

A traditional citizen-centred understanding of political agency is deeply rooted in nation-state theory and practices of sovereignty. In this framework, it is the citizen who is endowed with the capacity to act and so to engage in politics. Within the structure of the nation-state system, political agency is enabled, but it is also managed and controlled, concretizing a rigid separation between the citizen and the non-citizen. As Soguk (1999, 197) argues, “[i]t is only the citizen-subject who can exist properly, in a community of citizens made possible only within the spatial borders of the sovereign state.”

Within the discourse of citizenship, the non-citizen “Other” is necessarily characterized not by the presence of political agency, but rather by its absence. “Refugees challenge the time-honoured practices of democracy insofar as they call into question the legitimacy of exclusionary political and cultural practices that centre on the citizen” (Soguk 1999, 209-210). Nyers (2006, 2009b) argues that conventional representations of refugeeness cast the refugee as the mirror image of the citizen. He also writes that “[refugee] voices are emptied of political content, reduced to a pitiful cry vis-a-vis the articulate speech of the

citizen” (Nyers 2006, 50). Through the deprivation of rights the non-citizen is denied the fundamental quality of the citizen: the capacity to participate in determining sites of governance, and to act as a political agent. The question is not one of potential agency. Instead, it is one of whether participation is permitted as legitimate within the space of politics. In defining the citizen as the ultimate political subject, and the space of politics as that of the citizen, the non-citizen is denied entry into the political sphere.

By defining the border between the citizen and the non-citizen and situating politics as firmly as possible only in the space of the citizen, the sovereign power of the nation-state strives to empty its entire structure of politics as contestation. For Rancière (1999), however, it is this contestation that *is* politics. To be truly political, the “citizen” must be a contested subject rather than defined, and enact an agency that is resisted, taken and active. Non-citizenship marks the borders of not only the territorial state, but also the discursive and symbolic “space of the citizen.” Rights cannot be simply given, nor can recognition. Rather, they must be demanded, taken and enacted (Rancière 1999, 50). At these borders, sovereign power is engaged and challenged in a “taking” politics that demands and enacts recognition and rights that are not granted. Politics is the contestation of the boundaries of citizenship and non-citizenship. Non-citizenship cannot be depoliticized.

Agamben (1998, 21) argues that the refugee breaks the identity between the citizen and the human, thereby bringing the “originary fiction of sovereignty” into crisis. The immutability of the political subjectivity of the refugee exposes the myth that the sovereign nation-state is necessary to the enactment of any kind of political agency. Despite the exceptionality of “bare life” and the relations of violence in which it is engaged, for

Agamben, “bare life” contains the potential for a truly empowered life if removed from the violence and oppression of sovereignty (Agamben 1998, 3-12). However, he notes that there is no autonomous space in the political structure of the nation-state for this to exist (Agamben 1998, 20); the constant representation of the status of the refugee as a temporary condition that will eventually lead to either naturalization or repatriation is indicative of this. He argues that the modern functioning of sovereign power is increasingly rendering all life, non-citizen *and* citizen, as bare life in that a “life of power” is becoming impossible within the structure of the nation-state because of the level of control that is exerted over all forms of political agency.

Prem Kumar Rajaram (2002b, 247) argues that within the humanitarian discourse refugees are denied the right to produce “narratives of consequence.” The connection of political agency to citizenship in a nation-state means that those without this status are rendered speechless and in need of another form of agency to speak for them – a role taken on by the UNHCR and other humanitarian agencies within the politics of asylum (Rajaram 2002b, 251). Hyndman (2000, xxii) tracks this trend within the discourse and policy of the international refugee regime, noting that it is the international media, humanitarian agencies or human rights organizations that represent refugees rather than refugees representing themselves. The refugee is rendered speechless in his or her location outside of the framework of political participation, the space of the citizen. He or she is abstracted away from a political and historical context and operationalized instead as a depoliticized, dehistoricized and universal figure of the refugee as a mute victim (Rajaram 2002b, 248). As

Edkins and Pin Fat argue, refugees are life that can be saved but that cannot have a political voice (2005).

Sovereign Retakings

Nyers (2003, 1090) has observed that the advances, demands and activisms of non-citizens are always subject to “sovereign retakings” that may seem to destroy any advances and that more closely guard the space of citizenship. But there is a redefinition of politics in the contestation non-citizen agency represents. For irregular migrants within exceptional spaces, the implication of these re-takings is an official reconstruction of political action and voice not into political engagement and participation but into other modes, such as “dangerous threat” or “evidence of victimhood,” that can be made exceptional and located outside of the properly political space.

In Australia, this has been effected by a concerted effort by the state to dehumanize and criminalize unauthorized arrivals. In 1992, the participation of asylum seekers in protests was understood as an attempt to undermine the authority of the state, and was portrayed as “radical” and dangerous. This discourse was then used to legitimize mandatory detention (Watson 2009, 90-93, 97). As the boats continued to arrive, and unrest became evident in the centres themselves, these portrayals became increasingly direct. During one incident in which a boat of asylum seekers was being removed from Australian waters under the “Pacific Solution” legislation, a witness tasked with producing images of the navy take-over was told by the Ministry of Defence media advisor not to take pictures that would “humanize” or “personalize” the migrants (Moran 2005, 189). After a breakout from

Woomera in 2000, which featured a peaceful march to the town centre and an all-night vigil, the Minister described the detainees involved as “people who may have substantial criminal records, who could be murderers, could be terrorists” (Mares 2002, 114), clearly creating in the mind of the public the idea of possible threat. One advocate, Helen, recalls that no good news stories of migrants appeared in the media at the time - only images of the riots at Woomera. This, she argues, made people even more frightened because they thought that the migrants were terrorists “become wild with self-harm” (“Helen” (false name), interview August 2008).

In his assessment of Australia’s response to asylum seekers following the outbreak of rioting at Woomera in August 2001, Mares (2002, 49-50) writes:

The scenes at Woomera were ugly, and did great damage to the reputation of asylum seekers and refugees. Subsequent riots there, and other detention centres, have reinforced popular perceptions that people who come to this country uninvited are dangerous criminal elements who pose a threat to the peace and security of Australian society. If they riot and burn down buildings, the reasoning goes, then they are not the sort of people we want in this country. The riots are taken as proof of why mandatory detention is necessary.

Even outside of the discourses of security, the detainees are depoliticized. Within the formal advocacy sector, their voices are not only absent but are increasingly dismissed as useless. This is accomplished through a discourse of victimization. Carol ([false name], interview August 2008), an activist who also works in the formal advocacy sector, describes the position of the “professionals” in advocacy. She argues that there is a sense of “we know what is needed and how to do it, so the voices of the refugees themselves are completely absent.” Most senior advisors had never even visited detention, she says. “It’s disturbing

that people can get second-hand information and then be building decisions and policy on ‘expertise.’” Shelley ([false name], interview August 2008) characterizes the reaction of the formal sector to the protests inside detention as not far different from that of the general public. “The tactics weren’t condoned, and so the organizing wasn’t condoned,” she says. It was understood that detainees were acting from trauma. The result was to treat them as mentally ill, denying their autonomy. Sewing their lips was not seen as political action, she says, but was medicalized. This became the basis of an advocacy that continues to exclude the detainee voices.

This shift towards victimization is important. Outside of the centres of the Australian detention regime, it continues for those who have been released. “[Detainees] are destroyed people,” Fiona ([false name], interview August 2008), a psychologist who works with detainees in Canberra, tells me, “with such high levels of trauma that the majority don’t want to deal with the issue [of detention] at all.” She talks of the capacity of detainees to participate politically after their release from detention, and their relative lack of presence in activist and advocacy groups. Trauma specialists who work with detainees after release are in consensus on this question: the level of trauma after detention, either because of the experience itself or because of the exacerbation of pre-existing trauma by detention, is such that most are incapable or unwilling to engage in society in a productive way (“Carol” (false name), interview August 2008; “Chris” (false name), interview July 2008; “Helen” (false name), interview August 2008). Kirsten, an advocate and psychologist, is succinct in her assessment of the challenges detainees face. When you have been powerless in a number of contexts, she argues, then the sense of your own action is “beaten out of you.” Depression

or anger is turned onto yourself. “It’s too hard to go back to the humiliation and shame of impotence and powerlessness” (“Kirsten” (false name), interview August 2008).

Similar dynamics and sovereign re-takings can be observed in Spain and Tanzania. At Melilla, the attempted mass crossings of the fences were named “attacks.” One story published in *Le Monde* read: “Like medieval warriors waiting outside a besieged fort [...] They evaluated their chances and began their attack. It was the migrants’ first mass action. No one anticipated violence” (Yaghmaian 2007). The article goes on to describe the violence, having established it as somehow caused by the migrants’ aggressive action. The victimization discourse also carries weight, but in this context is a mechanism to cast suspicion upon irregular migrants. The notion of “genuine” refugees as poor and powerless is an image that contrasts too sharply with the proactive migrants who have paid thousands of Euros to be smuggled across borders. That smuggling networks are often the only way to travel and survive the journey and that the prohibitive costs require migrants to stop and work between stages, extending journeys by months or years, is not validated.

When the irregular migrants at the Melilla border are understood as victims, it is in response to the near death (or real death) often suffered during boat and desert crossings, or after a deportation into the desert from Morocco. There is frequently real dismay expressed in the public media when a boat goes down and individuals are endangered or drowned. There is also a significant community of solidarity around the efforts of the Red Cross in sea rescues and advocacy. The issue is often medicalized, however, and the concerns expressed are for the life and health of migrants rather than for their political status or claims. Indeed, within this humanitarian discourse, concern does not often extend to a validation of an

asylum claim. Once healthy, migrants are still contained and deported. Neither does it extend to recognition of any political voice or subjectivity.

In Tanzania, refugee populations are subject to similar criminalization. Many put the securitization of the refugee population down to the rise of multi-party politics, and the use of the refugees by politicians as scapegoats for “all that is wrong” in their attempt to win elections (“Jonas” (false name, interview December 2007; “Michel” (false name), interview January 2008). Security problems and violence in the townships are consistently laid at refugee feet. As one NGO worker observes, however, the local populations generally have no problem with the refugees; tensions are created by the authorities (“Michel” (false name), interview January 2008). They are also caused by failures within the camp systems of support. The most frequent complaint is that refugees “steal the harvest” by leaving the camp at night and taking from the surrounding fields. It is worth observing, however, that these events are far more frequent during periods when the camp rations have been cut (“Nam” (false name), interview December 2007). As S. Mwachofi Singo (2005, 12) argues, this violence and instability in refugee hosting areas adds weight to the argument made by the government and occasionally by the managing international NGOs, including the UNHCR and IOM, that refugees are a source of insecurity. Exclusion and repatriation thus become legitimate policies to pursue. At no point is the legitimate political action by refugees endorsed.

Coupled with the security arguments are, again, discourses of victimization that serve to de-voice the refugee population. Poverty and poor living conditions, set against notions of why refugees flee and the impacts that violence, war, and trauma have, construct the

refugees in Tanzania as grateful receivers of charity whose only concerns are for physical safety and basic needs. When complaints are raised by refugees, the discourse quickly flips and it is observed that “refugees are actually quite a privileged group” (“Michel” (false name), interview January 2008) when compared to the local population in terms of development investment. Those who have raised the complaints are cast as ungrateful and undeserving, but still as outside of politics. This suspicion of refugee voice is to the extent that I was warned several times “not to believe everything” the refugees told me, as they would “exaggerate because they want to see what they can get from you” (“Nam” (false name), interview December 2007; “Charles” (false name), interview December 2007; “Richard” (false name), interview December 2007; “Mark” interview, interview December 2007; “Alex” (false name), interview January 2008; “Michel” (false name), interview December 2007). Despite the implied capacity to be aware of their political position and to strategize around their use of voice to achieve an outcome, however, the possibility that I might not get the “truth” from refugees is understood as interference in my research, and further evidence of a suspicious, possibly ungrateful, character. That such a strategic use of voice and reshaping of narrative could reflect political awareness is not accounted for.

It must be recognized that agency is almost universally understood by the advocates, support workers, citizen activists and other citizens I spoke with as the capacity not simply to participate and exert the capacity for control and decision over the conditions of life, but as the capacity to organize, act together and have a perceptible effect on social space. Coming from a perspective that locates agency with the citizen, this understanding of agency is normalized within our discourses. Beginning from the non-citizen, however, a different

understanding is necessary. Agency from irregularity and this position of non-citizenship is from the margins of society, and is demanding of rights that, in the idealized structure of citizen/nation/state, are taken and demanded rather than granted and allowed. This creates two, potentially oppositional, conceptions of political agency: that of the citizen, framed and enabled through the discourse of citizenship, sovereign power and the nation-state; and that of the non-citizen, an agency that is expressed in a political contestation of power and manifested in a refusal of the constraints and impositions of sovereign power, and that can never be entirely removed or silenced.

Solidarities across the Citizen/Non-Citizen Divide

The framework of the citizen as political agent for understandings of political action – both in academic analysis and in strategy for activists – has serious implications for what is understood as effective in making change. Within this traditional framework for understanding agency the citizen forms the crucial bridge between the activists and the state/power structures. The citizen becomes a necessary partner – indeed, a central partner – for change to be effective. Without the citizen to sustain and interpret the discourse, non-citizen action is not “political” in its mobilization of agency and voice. Jef Huysmans (2002) argues that migrant protest in bodily acts such as lip-sewing, which has been dramatically prevalent in global detention centres, only has political significance if mediated by public media, mobilizations on behalf of asylum questions, contestations of human rights in the courts, etc.. They require the intervention of the citizen.

Political activism can be understood as resistance to particular structures of power; it is about building relationships among people that foster change (Martin, Hanson and Fontaine 2007: 3). In more traditional analysis, it is found in social movement organization, collective action, and public protest. Studies suggest that at the centre of the activism discourse is a commitment to change and a methodology relying on public protest. The notion, be it implicit or explicit, is that activism requires organized, collective action and social protest (Sowards and Renegar 2006: 57-58). It is most easily recognizable in what Aristide Zolberg (1972, 183) refers to as “moments of madness” where people believe that “all is possible.” He argues that Paris of 1968 was such a moment, where those participating in the streets challenged the structures of their society, demanding change;

the moment of immense joy, when daily cares are transcended, when emotions are freely expressed, when the spirit moves men to talk and to write, when the carefully erected walls which compartmentalize society collapse... (Zolberg 1972, 186)

These moments are how political activisms are imagined – rallies, marches, letter writing campaigns, alternative newsletters. In all, however, it is those who are already members of society who are talking and writing, or who are enabling others to do so. Without the citizen, the movement collapses. Activism, in this understanding, is directed at the society (the state, the world) as a whole, and at resisting social norms and pressures (Sowards and Renegar 2006: 65, 59). It is public and collective, sustained and outspoken and explicitly directed at broad power structures.

What Engin Isin (2008) terms “acts of citizenship” are central to an understanding of activism as distinct from simple civic participation. Isin (2008, 15) argues that an “act” is

distinct from “action” in that it represents a challenge to “habitus” – the ways of thought and conduct internalized by members of society over the long term. For Isin (2008, 18), it is momentous acts that are required to break with habitus. Such a notion corresponds closely with Zolberg’s conception of moments of madness. This focus allows our understanding of political activism to call into question the traditional emphasis of social and political thought on orders and routinized practices, and to instead enact the unexpected, unpredictable and unknown (Isin 2008, 20, 27). It is a rupture in the given (Isin 2008, 25). Acts are creative, answerable, and responsible, and actualize ways of being political in that they break with habitus and thus challenge the normal of society. They create and effect change. And, most crucially for Isin, acts produce actors; they produce activist citizens (Isin 2008, 38). An activist, he argues, is engaged in writing, not following, scripts. But activists here remain cast in the mode of the citizen and, thus, activism remains the privilege of the citizen. Too often, the world of the legitimate political act is accepted as being that of the citizen, while the non-citizen – the refugee, asylum seeker, irregular migrant, etc. – is understood as being excluded from such an arena. The citizen, then, can advocate on behalf of the non-citizen, and solidarity thus becomes a clientelistic relationship rather than one of equally powerful, political voices. In order to be effective in expressing demands or giving voice to concerns, non-citizen activism as understood within this frame requires the citizen to “deliver” the message. Without the involvement of the citizen, no voice is possible and the demands or concerns go unheard.

Within this frame, starting from the position of the citizen, wherever irregular, non-citizen action can be understood as effective, the moment is easily coded as being “about”

citizen action “on behalf of” non-citizen migrants. In Australia, it is the citizen presence at the rally that enables the safe presence of non-citizens and that mobilizes both political and moral leverage against the government by enacting citizen rights of free-speech. Further it is a citizen who delivers the message from the detainee about to be deported, without which his voice would not have been present. In Spain, it is the assistance of Peter, the human rights activist who is a citizen, that enables the children to gain access to the police. It is his ongoing advocacy and action that has created (or, at least, largely created) the context within which they are able to make claims and demand a change to their condition. Finally, in Tanzania, those national Tanzanians who facilitate work for the refugees by hiring them and paying them wages in spite of the law, and who protect refugees who are outside of the camp from detection and arrest, are not necessarily engaged in large-scale, organized protest. By their decisions and actions, however, they are resisting the frameworks proposed and enforced by the state. It is the citizens’ actions, their agency, which enables the refugees to challenge the structures and regulations that control their lives. The recommendations for improvements in the camps made by Amnesty International made no reference to including refugees in decision making, and the government consultations include refugee viewpoints not through the refugee leaders themselves, but through “representation of refugees” by UNHCR protection officers. The citizens retain the political voice, speaking for the refugees.

In each case the impetus for action does not necessarily begin with the citizen. In each, non-citizens are present and it is their “world” and condition that is the object of the demands being made. But in each case, it is possible to assume or understand the citizen as

the translator of non-citizen demands into legitimate political voice, who enables the claims, and who makes the actions effective. Within a traditional framework and by beginning from the citizen position, the picture that emerges is one of citizen action as political activism.

Clearly, controlling migrant/non-citizen presence also impacts their capacity to act. The practical implications of such policies are that, where removal is imminent and exclusion into defined spaces away from general society is mandated by law, actions are also controlled. The object of the policy, however, is not non-citizen action but non-citizens themselves. Non-citizen protest, therefore, is “a demand for a return to properly political power relations” (Edkins and Pin-Fat 2005: 12). It is a demand that the actions of non-citizens be, in Isin’s terms, “acts.”

Beginning from the Non-Citizen

Recent scholarship within migration and refugee studies argues convincingly in favour of the capacity of non-citizens to exert agency and thus participate in transforming the relationships of violence in which they are embroiled into relations of power. Nyers (2006, 49) writes:

By challenging the state’s prerogative to distinguish between insiders and outsiders, political movements by and in support of undocumented migrants and “non-status” refugees force the matter of sovereignty to the forefront of their political strategy.

In challenging the drawing of lines between citizens and non-citizens on the basis of the capacity for political action and voice, such movements attempt to dispense with the categorical definition of refugee identity as non-political (Nyers 2009b).

Isin's definition of "acts of citizenship" enables such a reconceptualization. In focusing on the act rather than the actor, the identity category is displaced from being the defining concern. Indeed, inasmuch as refugee political action is "unexpected, unpredictable and unknown," it represents a more profound rupture in habitus than many acts by citizens. In its challenge to "normal" understandings of who can act, non-citizen/migrant activism is extremely productive of claim-making subjects. If understood as practices and acts carried out by the refugee, such activism and advocacy become acts from an exceptional space, speaking from the outside and the margins which, while powerful in its challenge, is more easily dismissed from official or legitimate discourse. I propose that we regard such moments as being neither, but instead as being moments of solidarity that reflect "acts of citizenship" in that they reflect practices that produce a particular, active subject. Scholars such as Soguk (2007, 300) argue that "of all the insurrectionary struggles, migrants' struggles, especially the movements of illegal migrants, asylum seekers and refugees, exemplify insurrectional politics most instructively." For him, they epitomize the challenge to territorial and national orders (Soguk 2007: 300). For Mezzadra, the logic of domination that Agamben speaks of is diffused throughout the structure of society and to effectively challenge it, we must escape the paternalistic vision of this categorization and see migrants as central protagonists (Mezzadra and Neilson 2003).

These understandings allow us to shift the frame for understanding political activism from one that centres on and begins from the citizen to one that begins with the non-citizen. This makes possible a reconceptualization of the engagement of citizens as simply one part of the overall event rather than the enabling factor. Rather than working or speaking "on

behalf of” migrants, citizens are thus working and speaking “with.” Further, citizens are themselves not entirely necessary to understanding an event or act as political. Such an understanding shifts events and decisions within the politics of asylum from moments where the citizen enables the non-citizen to moments of solidarity between citizen and non-citizen. “Solidarity” implies here not one legitimate voice speaking for another illegitimate/vulnerable/less outspoken voice, but a multitude of voices speaking together in the same message, demand, or refusal.

What remains, however, is the question of what “counts” as activism. Isin argues that activism involves “momentous acts”, evoking images of public and risky acts. Nyers (2006, 2009b), Soguk (1999, 2007), and Mezzadra (2003) all retain a focus on public protest or broad movements. In each of the moments in the field that provoked this study, however, such loud, public assertions are either absent or not central to the larger claims. It remains true that, even if we are able to understand action and voice on behalf of non-citizens and migrants as political, their subject positions within larger societal frameworks are vulnerable. Even as they demand participation in power relations, the relationships of violence identified by Edkins and Pin-Fat (2005) are still in operation. Often, a loud, demanding and outspoken politics is not possible for longer than a quiet moment as the risk represented by such an engagement is very real.

In Australia, the detainee engaged in the appeal was unsuccessful, and was deported the day following the rally. For the ex-detainee who participated on his friend’s behalf, state surveillance increased and his partner’s status in Australia – already precarious as she held only a bridging visa until final determination of her status was reached - was more closely

scrutinized. In Spain, the actual consequence of making the police complaint for ten of the twelve children was deportation to an unknown location. In Tanzania, individuals caught working or living in the local community face jail time or deportation, and so maintain as much invisibility as possible, even to the extent of denying their nationality, as a survival strategy. The real life impacts of political action for non-citizens can be devastating – more devastating, it should be recognized, than those for citizens. As a result, it is easy to assume that non-citizen activism is rare. In fact, attention to heightened risk can enable a return to centralizing the role of the citizen as the citizen becomes not only an enabler but, in some ways, a “protector” as citizen engagement can buffer some of the profoundly negative effects of activism for non-citizens. Solidarity slips away in this framework.

Building on feminist theories of everyday activism, however, and accepting that “acts” can be both individual and collective with short and long term durations, a different analysis is possible as incidents of “momentary activism” are revealed that capture eruptions of non-citizen political agency in ways that profoundly challenge and shape societal structures – even if for only a moment.

Moments

The contribution of feminist theory to understandings of activism is to bring it to the level of the personal and the everyday. Stacey Sowards and Valerie Renegar (2006, 61) argue that activism might also include grassroots models of leadership, using strategic humour, building feminist identity at the personal level, sharing stories and resisting stereotypes and pressures in everyday life. Feminist activism may operate in private settings, they argue, and as such

may go unnoticed. Activism is thus present in everyday life and in the small contributions individuals make (Sowards and Renegar 2006, 62). Sidney Tarrow (1993, 282) asks, in reference to Zolberg, “[if] moments of madness produce as rich a tapestry of collective action as we think, why has the repertoire developed as slowly as it has?” In this, he is observing that as much as mass movements and protests are inspiring in their objectives and the political messages and meanings they carry, their ambitions are seldom realized at the scale at which they are expressed. He answers his own question by arguing that social transformation as brought about by activist politics is evolutionary and long term – change does not happen all at once, but in cycles of mobilization (Tarrow 1993, 283). Such notions of longer term change are important in understanding classic political activism and historical change. They also gesture, however, to the possibility of broader notions of activism that need not be captured only by the mass, momentous movement but can instead be found in smaller “acts” at the individual or local level. Edkins and Pin-Fat (2005, 5) quote Foucault on resistance to the same ends:

[There are] are a plurality of resistances, each of them a special case: resistances that are possible, necessary, improbable; others that are spontaneous, savage, solitary, concerted, rampant or violent; still others that are quick to compromise, interested or sacrificial; by definition they can only exist in the strategic field of power relations. But this does not mean that they are only a reaction or a rebound, forming with respect to the basic domination an underside that is in the end always passive, doomed to perpetual defeat.

Deborah Martin, Susan Hanson and Danielle Fontaine (2007, 2) similarly work to open up the conception of activism “to consider actions and activities that, because of their limited

geographic reach, normally are considered too insignificant to count as activism and yet do create progressive change in the lives of women, their families and their communities.”

In such arguments, theorists are shaping an understanding of activism that operates not necessarily in the public view and aims not to transform the “entire” world, but rather the life-world of the activist herself (Sowards and Renegar 2006: 65). Sowards and Renegar (2006, 2) write: “[o]ur intention is not to identify every daily act as activist, but to theorize how small acts transform social relations in ways that have the potential to foster social change.” The criteria set out, therefore, is one of political meaning. When viewed in light of Isin’s work on “acts of citizenship”, this can be operationalized as acts that produce a rupture and a “newness” in the “script” of society. Such ruptures can be embedded in everyday life as much as they can be “moments of madness” or “momentous” acts that are collective; they can be small, quiet and individual as much as they can be loud and outspoken. Indeed, from the perspective of the irregular migrant and non-citizen, they often are.

Zolberg (1972, 207) observes that beneath the macro-events of protest and mass mobilization lies “a multitude of micro-events.” For Soguk (2007, 307), a new view of being in society is both created and carried out in the day-to-day reality of migrants. Understood by Larch Maxey (2004, 160) as “attempting to do as much as we can from where we are at”, “[a]ctivism always involves creating change, but creating change can mean simply intervening when and where one happens to be” (Martin et al. 2007: 8). This includes intervening from the subject position, status, and political identity one happens to have within the “normal” of society, in an effort to change what that normal is. For Sowards and Renegar (2006, 69),

“[p]owerful forms of activism can be individual and private. This individual activism may or may not inspire public protest...”

It is this kind of everyday activism that characterizes the activism of the marginalized, the irregular migrant and the non-citizen. It is both ongoing in struggles of resistance and survival in individual daily lives, and momentary in that it becomes visible in moments of solidarity between non-citizen and citizen. Within dominant nation-state structures shaped by sovereign power that exist in a relation of violence with the non-citizen, citizens make the activism visible. They do not, however, enable the acts themselves, nor do they make the challenges audible. The challenges are there; the demands are spoken. What is needed is recognition not in speaking on behalf of, but in speaking with so that the volume can be turned up.

Rancière (1999, 11) writes: “Politics exists when the natural order of domination is interrupted by the institution of a part of those who have no part.” As outlined in Chapter 7, those who have no part are those who cannot be incorporated into the order of society, and made a partner in its processes. For Rancière, it is the disagreement, the defiance and the breaking down of such an agreement; it is the challenging of consensus by those who are not part of the normal order. Politics is ongoing, but not omnipresent in this understanding. As Rancière (1999, 17) makes note, it actually happens “very little” or “very rarely.” Politics is momentary, and appears in glimpses and moments of disagreement. It is shut down, only to reappear again in moments of insurrection and challenge. In Rancière’s terms, by ascribing these individuals the “status” of irregular migrants, asylum seekers or refugees, and by

confining them to a camp space, the state is attempting to make migrants “a part” – to incorporate them into the state-controlled consensus framework of the border that is the end of politics. With Rancière’s understanding of politics, however, the fleeting interruptions and flashes of resistance that are visible create politics itself within the state of exception. Within such moments, migrants find a voice and demand an equality of place.

Locally, moments have profound impacts. Citizens who believe in a benign state are jolted out of placidity by the relations of violence revealed by the sudden absence of individuals. In Australia, non-citizens take a leadership role in activist movements, and remind citizens that the struggle is ongoing despite a change in government. In Melilla, customers of the local café notice the absence of children, and question the nature of the border control apparatus governing their territory. In Tanzania, local villagers who identify with refugees both in language and ethnicity come to see them as neighbours and workers rather than as “dangerous”, “criminal” or “foreign.” The absence of the non-citizen, after a moment of solidarity, leaves a mark in the local politics of borders and asylum and, while they may push the state to greater extremes, they also alert individual citizens to the politics of their own space. In this way, a bridge is created between the non-place of the detention centre, or the reception centre, or the camp, and the community in which the citizen resides.

Moments such as these carry limited political meaning without the production of longer term struggles and patterns, a succession of encounters where the moment is revealed to not be unique, but instead to be one eruption of an ongoing political struggle. Studied in isolation, they can be seen as isolated and exceptional. Read together, across multiple

contexts, they become something else as an ongoing story of which we have only had a glimpse. Drawing on an emerging field of critical citizenship studies, Isin (2008, 16) argues that citizenship is increasingly understood as practices of becoming claim-making subjects.

He writes:

We define acts of citizenship as those acts that transform forms (orientations, strategies, technologies) and modes (citizens, strangers, outsiders, aliens) of being political by brings into being new actors as activist citizens (claimants of rights and responsibilities) through creating new sites and scales of struggle. (Isin 2008, 39)

The migrants themselves must tell the story. In each case they do, in the terms of citizenship from a space of non-citizenship: the right to remain and to raise a voice for change, the right to claim the protection of the state, and the right to work and to reside. It is in these transgressive solidarities, therefore, that the citizen may be able to re-found the practices that define “acts of citizenship” and re-enable citizenship as a practice rather than a state of being. Said (quoted in Rushdie 1991, 178) writes: “there seems to be nothing in this world which sustains the story; unless you go on telling it, it will just drop and disappear...”

To romanticize this agency and naively extort its potential power as positive and transforming of politics should be tempered, however, by a recognition of the darker consequences of this exercise of agency. Irregular agency demands a change in the conversations that take place in the politics of migration and a shift in policy understandings as migrants are centred in analysis. However, as I have argued, agency expressed from a position of irregularity is frequently coded as threatening, dangerous and unwelcome. It disrupts the order of the nation-state, and so must be constructed as dangerous to sovereign power and the border between the citizen and the non-citizen upon which it rests. This

tension is augmenting the crisis of authenticity for asylum seekers and more firmly entrenching notions of the “genuine” refugee as opposed to the “illegal” migrant that underpin policy developments. It is the expression of agency that distinguishes between the two, defining the border between genuine and deserving and threatening and malicious. Any expression of agency by an irregular migrant becomes a justification for an active, and ultimately violent, protection of sovereign power in the securitization of migration. In the management of the political agency of non-citizens, these are two sides of the same coin, necessary foils to one another in the maintenance of the “normal” order of the nation-state.

For Agamben (1998, 3), a life of power is only possible when what is at stake is living itself. It is only when this form-of-life (in his terms bare life that is inseparable from political life) becomes possible that emancipation from the violence of sovereign power also becomes possible (Agamben 1998, 8). For the non-citizen, it is living – both in the sense of being alive, but also in terms of how a life is lived – that is at stake. Life is more than mere existence, it is shaped by thought, voice and action: “living” is the expression of all three. In their acts, migrants are, then, living and accessing an agency that in both its challenge to and also assertion of power is absolutely political. Agamben (1998) cites the refugee as a figure that is representative of a coming politics marking the end of the nation-state. I believe that the nation-state, as an idea and a powerful tool in struggles for self-determination and autonomy will remain an important part of the coming international and global politics. The structure and place of the nation-state does seem to be changing, however, as sovereign power is reshaped and recast into forms yet to be realized, and may become detached from the structure of the nation-state. Irregular migrants may be seen as on the precipice of this.

Through their actions, and despite the impossibility of agency and voice within the structure of sovereign power in which they exist, they have called attention to their condition. By exerting control over themselves, they have demanded that attention be paid. In this, they are participating directly in the politics that are shaping their lives. Bakewell (2008, 449) argues that “[b]y staring too hard at “refugees” or “forced migrants,” we fail to see their “normality”; we make them exceptional and exclude them from our “mainstream” theories, and cast them as passing through a liminal period.” As Turton (quoted in Bakewell 2008, 449) contends, we need always to think of forced migrants as “ordinary people”, or “purposive actors”, embedded in particular social, political and historical situations.

Hyndman (2000, xxix) observes that these vigorously maintained and heavily defended borders are tacitly reinscribed by the migrants who manage to cross them. In the end, borders are practices, not subjects or unchangeable realities. They are foundational to the order of nation-states as it exists today, but they do not have agency and can be contested. Refugees and asylum seekers, irregular migrants within the politics of asylum, do have agency, and this agency is uniquely equipped to contest these borders and to engage in power relations that re-establish politics against its control by sovereign power. Malkki (1995, 254) argues that displacement, exile and refugeeness can provide new dimensions to the study of the order of nation-states. This can be taken further: migrants as non-citizens can pose a fundamental challenge to this order and the violences it perpetrates, illuminating a new, more emancipatory politics.

CONCLUSION

Stories About Migration

This study began with a focus on asylum seekers and refugees, but shifted towards a focus on irregularity in response to encounters I had during my field research. In talking with migrants themselves and in becoming more familiar with the practices of border policy it became clear that the irregular migrant occupies a space of non-citizenship within the contemporary politics of migration in ways even more profound than does the more classic figure of the non-citizen, the refugee. I am concerned with the politics of non-citizenship, and how the agency of non-citizens is controlled through border practices and the spaces of exception that exist at global borders. I ask questions about what asserting the citizen as the only legitimate political agent means for the politics of migration and asylum, and how we could come to a different understanding if we started not from a place where citizenship is the “normal” against which everything must be compared, but rather from the centrality of the non-citizen as a transgressive and disruptive figure in world politics who challenges the ways we understand political subjectivity and agency. I am also concerned with the ways we understand the globality of the migration regime, and pursued a study that began not only from the migrant perspective, but also with an assumption that there is a global system of migration control that is expressed through common practices and policies at global borders to manage the agency and mobility of irregular migrants.

I tackle the issue of non-citizenship through my focus on migration. This focus was chosen at first because the figure of the refugee is so often understood as the archetypical non-citizen. Indeed, as I show in Chapter 3, the refugee is defined precisely in terms of a

lack of citizenship, and a return to citizenship frames the accepted solutions to the “refugee problem.”

Refugees do occupy a central place in this study. The chosen site of the refugee camp in Tanzania is testament to this, and the experiences and narratives of the refugees who lived in Nduta camp were important to the understanding I developed of the operation of border and migration control in a “global South” context. But these individuals, by and large, were group-determined, *prima facie* refugees. They were thus not granted full status under the UN Convention. The elusiveness of Convention status was a stark theme across all three of my sites, and I came to understand that the experience of seeking asylum, rather than that of achieving or living in asylum, is a defining element to the everyday life of migrants at global borders. It is the seeking out of status through making asylum claims, and the challenging of the parameters of identity ascribed to migrants at the border that migration politics take place; it is the mobility and choices of the migrants themselves and not only the state determined frameworks of regulated asylum and refugee status that are crucial to understanding the global politics of migration and asylum.

Accounts and narratives from my other two sites at the Spanish/Moroccan border and in Australia underscored the difficulties of achieving full refugee status and the importance of the asylum seeker identity that Tanzania revealed. They pushed this analysis further, however, emphasizing the theme of irregularity and highlighting the ways in which the identity of asylum seeker often – and with increasing frequency – overlaps with that of the irregular migrant. The communities overlap, as do the migration routes, strategies and border experiences of mobile individuals. These overlapping dimensions point us to a

consideration of the degree to which the paradigm of forced/voluntary migration upon which study and practice has been premised since the end of the Second World War is being supplemented by new paradigm of irregular/regular migration. More importantly, these ongoing narratives in multiple global contexts highlight the ways in which the figure of the irregular migrant, in the denial of rights, marginalization and enforced exclusion but also in the politics of demanding rights and voice, of enacting agency and of challenging power, is a critically important figure for understanding non-citizenship in the contemporary politics of asylum.

It is the narratives of migrants themselves that enables this understanding of a global shift in migration politics. This understanding is only deepened when these narratives are used to inform our understanding of emerging state policies and practices. The overarching focus upon and practice of state control is shaping asylum and migration politics in multiple global contexts. Despite wide differences in national policies and experiences of migration, this particular shift is constant across all three of my chosen sites. Moreover, in each site the object of concern for policy makers and practitioners is not the refugee population, but irregular arrivals. The concern is autonomous migration, migration that is independent of state permissions and frameworks; the emphasis is on how borders are crossed. A study of state policy could indicate this global shift, and a comparison of such policy complemented by elite interviews could illustrate the development of a global regime of migration control. However, I argue that this kind of study could only ever provide a partial picture of the politics of migration; a study that not only incorporates, but centres, the migrant narrative reveals the consequences of this policy shift and its practice. It is the migrant narrative and

the experience of irregularity that connects these policies, which often occur at the border, to larger concerns of citizenship and non-citizenship.

This concluding chapter has three objectives. The first is to restate and reflect upon the three goals of this study as laid out in the Introduction. The second is to briefly revisit each site of intervention, and update the empirical context of each by providing an overview of the major changes and developments that have occurred since my field work ended in 2008. The third is to reflect critically on the project, and provide possible avenues for future research.

Revisiting the Study

The goals of this study were three-fold. The first was to situate migrant narrative and voice within a broader study of global politics in a way that reconfigures our understanding of irregularity. Achieving this required certain methodological choices, as outlined in Chapter 2. I emphasized open-ended interviews, and engaged in participant observation at each site. The stories and voices of migrants form the central concern of this study. It is migrant narrative that is the firmest indicator of the continuity of experience across the different contexts of this study. In each chapter, new dimensions of irregularity are revealed through narrative. Chapter 5 describes the lived consequences of irregularity as an exclusion and a feeling of “permanent temporariness” that is present in Tanzania, Spain and Morocco, and Australia. It is the migrant voice that most clearly describes the commonality of experience between refugee camps in Tanzania and detention centres in the Australia, experiences that are echoed and reaffirmed by migrants at the border between Spain and Morocco. Chapters

6 and 7 investigate the ways in which migrants shape the spaces in which they live, first in the space of the “Camp” and then by looking at the “other side of the fence” and challenging the exceptionality of the Camp. Here, again, it is migrant narrative that reveals the ways in which mobile individuals interact with the spaces they live in and move through. This challenges many traditional conceptions of such political space, where the transitory nature of the migrants renders them as excluded, often abject, objects – if they are visible in the first place. Chapter 8 investigates the politics of the voice of the irregular migrant, advancing a conception of migrant agency that is momentary and everyday but that nevertheless is productive and powerful.

The second objective was to assess the presence of a global regime for international migration that is perceptible from the perspective of the local. It is my fundamental contention that there is a global regime of migration control that exists across diverse contexts and places. This is evident in common policies and practices taken by states. The specific content of policies is not necessarily the same, but the goal of control, the focus on the mode of border crossing, the concern with irregular migration, and the prioritizing of the state capacity to decide is consistent. Moreover, the ongoing shift towards greater control is perceptible in all cases. As outlined in Chapter 3, a paradigm shift in the global politics of asylum is underway that moves away from the forced/voluntary distinction that has underscored migration and asylum politics since the end of the Second World War, to an emphasis on the distinction between irregular and regular migration. This paradigm is driven by concern over autonomous migration and border control, and is not simply present in the

global North. As the site of Tanzania illustrates, the shift is also central for policy makers in the global South.

One of the distinguishing features of the global migration regime is the degree to which it is perceptible through the lens of the local. Chapter 4 investigates this dimension, describing each site's national policy context, including a brief history of each regime. The "local" is located in the specificity of the policies, the degree to which they have individualized impacts on migrants crossing the borders, and the effects they have on the local geographies of each state's border region. Policy is often made at the national level, but it is practiced more locally. Moreover, the consequences of policy are found at the local level. Significantly, and as I have attempted to demonstrate throughout this study and particularly in Chapters 5, it is in the localized and lived consequences of these policies, in the experiences of irregular migrants themselves, that the commonalities between each site are also revealed, and that the global regime takes shape.

The third objective emerged directly from the first two. In prioritizing migrant narrative in the study of non-citizenship and global politics of migration, and by understanding irregular migrants as actors in the practices and structures of migration, an engagement with the everyday lives and politics of irregularity is possible. This engagement allows us to interpret an agency that is potentially powerful and transformative at the level of the everyday and the momentary. This emphasis on agency is present throughout the study. The methodology developed in Chapter 2 works to value migrants as political agents, as subjects within the study and not as objects. The descriptions of the global migration and asylum regime broadly speaking and locally described in Chapters 3 and 4 also affirm

migrants themselves as actors in shaping the regime. Moreover, the character of the regime is outlined in Chapter 4 not only in terms of state preferences and actions, but also in terms of the experience of the migrant. Chapter 5 conceptualizes irregularity as an experiential concept with active subjectivity, while Chapters 6 and 7 illustrate how the irregular migrant politically interacts with the spaces of migration, shaping them as much as being shaped by them.

It is in Chapter 8 that these diverse moments of migrant agency and subjectivity are brought together. In this chapter I work to push my analysis further, and propose a way of understanding migrant voice that enables us to perceive the powerful political agency enacted by irregular migrants that is often not recognizable in traditional frameworks. By using the concepts of the momentary and the everyday, we are able to engage irregular migrants as non-citizens who are agents. This, in turn, raises possibilities for solidarities across the non-citizen/citizen divide and a different understanding of political agency itself.

Revisiting the Field

The field research upon which this study is based was conducted from November of 2007 to September of 2008. I began in Tanzania, moved next to Spain and Morocco, and finished in Australia. As is always the case when studying current events, the contexts and situations in the field change after the researcher has left. There have been many changes in my three sites of intervention since the time of my research, some large and some small. In the case of Australia, seemingly radical changes were occurring even when I was there due to a change in government, although a prevailing lack of clarity prevented their effective

incorporation into my study. What is disappointing, however, is that the changes that have taken place have done little to disrupt my conclusions about the plight of irregular migrants and the efforts being undertaken to control their mobility in increasingly restrictive ways. Below, I outline some of the major changes to each context and provide some brief speculations about what they might mean for the politics of irregularity at global borders.

Australia

The Australian federal election in the fall of 2007 resulted in a change of government, and Kevin Rudd of the Labour Party replaced John Howard as Prime Minister. In January of 2008, the government announced that the temporary protection visa (TPV) regime would be cancelled immediately, and that the Pacific Solution would be ended as soon as possible. These announcements were met with both delight and relief in the refugee advocacy community, albeit with a healthy dose of scepticism. By the time I left Australia at the beginning of September of 2008, however, there was still little sense of what form these policy changes would actually take and what the “real” implications would be for the lived lives of migrants.

The TPV regime has been replaced by a system of permanent visas. This is a welcome change, and has alleviated some of the precariousness of migrants who achieve refugee or humanitarian status. However, the practice has been to systematically prevent unauthorized arrivals from accessing the system to acquire status in the first place. Efforts at interception and interdiction have been markedly effective, and the diversion of unauthorized arrivals to Christmas Island, which is excised territory, locates migrant outside

of the “migration zone” and so bans them from accessing the asylum system. Migrants in detention on Christmas Island are thus excluded from permanent status.

The Pacific Solution was cancelled by the Rudd government, and the offshore processing centres located in other sovereign states were closed. The system of mandatory detention remains in place, however. In 2008 only two onshore detention centres remained: Villawood in Sydney and Marybong in Melbourne. However, the new “state of the art” detention centre that the Liberal government under Howard had planned for Christmas Island was finished in the Spring of 2008. Rudd announced his full intention to keep it open, and to use it for immigration detention for all unauthorized arrivals. The stated government goal was that no unauthorized arrival would be detained on the mainland, which meant that immigration detention in Villawood and Marybong would be limited to visa overstayers.

The Christmas Island centre was built with advice from American military consultants from Guantanamo Bay (“Graeme” (false name), interview August 2008; “Kathy” (false name), interview July 2008), and represents all the lessons that Australia had learned during the period of unrest in the onshore detention centres at the turn of the century. The hooks in the walls and on the doors were designed to collapse if too much weight was placed on them, to prevent attempted hangings by detainees. Similarly, showerheads were embedded into the ceilings. The roofs of the complex were set at such an angle that it was impossible to climb onto them. The centre is subject to twenty-four hour video surveillance in all areas, and to twenty-four hour lighting. There is motion detector technology under the ground to track the movement of the detainees. More worrisome than all of this, however, is the isolation of Christmas Island. It is located approximately two thousand kilometres from

the Australian mainland, and is accessible only with flights that are prohibitively expensive. Throughout the advocacy community there was a significant anxiety as to what this separation of all detainees from the Australian citizenry would mean for solidarity and advocacy efforts.

These legislative changes in Australia have had an important, and somewhat unexpected impact on the political action around detention and asylum within the social justice community. Advocacy groups began to dismantle themselves. The Refugee Action Collective (RAC) meets less frequently, with fewer members, and the attendance at forums and protests is dropping. Fundraising efforts are proving more difficult as the public loses interest. The change of government was met with relief, Kathy, an active member of RAC, tells me. Many people believed that with Howard out of office, the problems would go away. The battle had been won, and things would improve. This belief has been sustained, she points out, even in the absence of concrete evidence that that is what is happening (“Kathy” (false name), interview July 2008).

The 2010 Spring election results returned the Labour party to government again – but barely. The Australian parliament is now in a minority situation. Migration was not an election issue, but in 2010 the boats began to arrive again and unauthorized arrival has returned as a major political concern. In the same year, the capacity of the detention centres was reached and exceeded, with more than two thousand migrants on Christmas Island and the remainder in overflow on the mainland in Sydney and Melbourne (BBC 19 Aug 2010).

In 2010 134 boats arrived carrying 6,535 migrants, overtopping the arrivals in 2009 by almost four thousand. From January to April of 2011 sixteen additional boats arrived

with 921 migrants. By April 2011, 1,748 detainees lived on Christmas Island, and 4,552 detainees were being held on the mainland in centres throughout the country, some of which were newly (re)opened (BBC 21 April 2011). The increase in arrivals and the overcrowding in detention has led Rudd's successor, Julia Gillard, to announce that she will be revitalizing certain aspects of the restrictive Howard-era policies. The Australian government has entered discussions with the governments of East Timor, Papua New Guinea and Malaysia to develop what Gillard calls a "regional solution to a regional problem" (ABC 7 May 2011). In July 2010 East Timor rejected the Australian proposal to establish a processing centre on its soil, but discussions to reopen the Papua New Guinean centre are ongoing. The hope of the Australian government is that Papua New Guinea will host an assessment centre that will eventually become a "regional processing centre" (ABC 7 May 2011). In this emphasis on burden sharing, Gillard's rhetoric marks an important shift towards emphasizing migration as a regional phenomenon. The Australian government's new expectation is that the "burden" of irregular migration should be shared regionally, which is a change from a more unilateral policy approach (Murphy 2010). It is also, however, a continuation of the ongoing emphasis on an externalization of policy, shifting state practice "offshore" to deal with irregular migration before it even reaches the border. It also parallels several EU proposals regarding "regional solutions" and Tanzanian and East African efforts to develop regional approaches.

On May 7 2011 an agreement with Malaysia was announced. Under its parameters, Malaysia (which is not a signatory to the UN Refugees Convention) has agreed to accept up to eight hundred asylum seekers in exchange for Australia's resettlement of up to four thousand status refugees (ABC 7 May 2011). The agreement with Malaysia highlights the

Australian focus on control; the concern is not in numbers (as made evident by the five to one exchange), but in Australia's capacity to decide. Gillard states that the message to asylum seekers is clear: unauthorized arrivals to Australia will not be processed; they will be removed and will go "to the back of the queue." The Liberal Party opposition in Australia fears that this will simply "open a back door to Australia" in Malaysia (ABC 10 May 2011). However, an emphasis on control and the capacity to decide would indicate that this does not present a serious problem as, even if asylum seekers do migrate to Malaysia hoping to make a claim in Australia, the Australian capacity to control the final stage of migration remains in place. To date, one boat has arrived that will be processed under this agreement. The thirty-two migrants who landed on May 7 2011, however, are currently being held on Christmas Island for an indefinite period as there is no firm timeline in place for the conclusion and implementation of the Malaysia agreement.

Detainees have not been silent or invisible during these developments. In April 2011 a protest that began with one individual expanded to include up to one hundred detainees by April 20th. Described by the media as "rioters," detainees burned down nine buildings in the Villawood centre and occupied the rooftops, protesting conditions of overcrowding and long processing times for asylum applications (Bryant 2011). Government discourse continues to characterize protesting detainees as guilty of "criminal activity", going so far as to suggest that such action would make individuals ineligible for refugee or humanitarian status (BBC 21 April 2011). Little that is directly from the detainees is publicly available; beyond the generalized concerns that motivated the protests, no individual stories are present. The protests continue to be representative of a "taking politics", however. As Chapter 8 argues,

the narratives of the detainees could be indicative of an even deeper politics and a voice that continues to be sorely lacking the politics of migration in Australia.

Spain/Morocco

Efforts at the European level have continued to move towards the communitarization of asylum policy. In 2008 the “Immigration Pact” was adopted at the Brussels summit. Previously, the practice has been to set out five-year strategic guidelines from the European Council punctuated by individual summits to intervene in EU negotiations for their implementation. The Pact bundles these two elements together (Angenendt and Parkes 2009, 77). Angenendt and Parkes argue that the “governments of the EU member states have recognized that a common approach is required to regulate international migration” (Angenendt and Parkes 2009,78). Despite this cooperative approach, however, the Pact frequently prefers national solutions over European ones (Angenendt and Parkes 2009, 85-86). As has been the trend throughout European developments, legislation and practices that control asylum and combat irregular migration continue to see a significant degree of cooperation. The European Parliament adopted a plan pertaining to illegal migrants that allows migrants to be detained for six months initially, with possible extension to a maximum of eighteen months for reasons including a “lack of cooperation.” Increased detention is accompanied by a re-entry ban to Europe for five years for any irregular migrant returned to a country of origin or of transit. Amnesty International has been critical of the plan, as it “does not guarantee the return of irregular migrants in safety and dignity” (BBC 18 June 2008).

In 2008, faced with increased arrivals that eventually reached an all-time high of 13,425 (BBC 17 Jan 2010), Spain announced that it would repatriate all illegal migrants. In support of these efforts, the government reinforced partnerships with other European states and increased naval patrols. In the fall of 2008, however, heavy rainfall flooded Melilla and washed away part of the border fence. Migrants “flooded” across the border, according to media reports, although only thirty seven individuals were actually documented as having made a successful crossing, and were detained in Spanish territory (BBC 27 Oct 2008; Africa Research Bulletin November 2008). Most who attempted the crossing were detained by Moroccan authorities (Africa Research Bulletin November 2008). In 2009 a new immigration law was passed in Spain that both expands already existing law and brings it more in line with European directives. It is specifically oriented towards tough new measures for unauthorized migrants, including greater restriction of unemployment rights.

Since 2008, the number of irregular arrivals in Spain has been in steady decline. The Spanish government is attributing this drop to increasingly effective security measures, increased repatriations and greater cooperation with countries of origin and transit in Africa (BBC 17 Jan 2010). Other commentators, however, are attributing the drop in numbers to the global recession, which has been particularly difficult in Spain. The resulting decrease in economic opportunities for migrants has decreased the strength of the “pull factors” that are understood to be key drivers of irregular migration (BBC 17 Jan 2010; Kingstone 2009). This discourse, it should be recognized, underscores the suspicion of irregular migrants and asylum seekers discussed in Chapters 3 and 4; the notion that migrants are “economic migrants” and thus “bogus asylum seekers” remains particularly strong, and gives

explanatory power to the recession and its correlation with a drop in migration numbers. Given the prevalence of this discourse in justifications for increased security measures, it is interesting that the government has not taken it up. One possible explanation is that a security discourse remains necessary to support ongoing border restrictions that will not be eased even as numbers decline. As in Australia, migrant narratives are difficult to find in assessments of recent policy developments. The democratic uprisings in Tunisia, Egypt and Libya in the Spring of 2011, and the subsequent NATO bombardment of Libya, have created significant mass migrations, some of which are towards Europe. The most common entry point, however, is Italy and the most popular destination has been France. The policy and actions of these two states – again, characterized by a strong control agenda – have thus dominated public attention in recent months, and the relatively quiet border of Spain has faded from the agenda.

Tanzania

Nduta refugee camp was closed in December of 2008, leaving only the Mtabila camp open to house refugees in Western Tanzania. At its closure, the ten thousand refugees that remained in Nduta were transferred to Mtbala, and the promotion of the repatriation efforts continued. With Nduta's closure, the UNHCR announced that it would be scaling back its operations in Western Tanzania. Over 470,000 individuals were repatriated between 2003 and 2009 (Africa Research Bulletin December 2009). Less than fifty thousand refugees from the 1990s caseload were reported to remain in Tanzania by the end of 2009.

The efforts to deal with the Burundian refugee population address the largest group of refugees in Tanzania, but despite their success Burundians remain a significant proportion of the total refugee population. At the end of 2010, 274,650 refugees remained in Tanzania, of whom 53,800 were from Burundi. 63,300 refugees are from the Democratic Republic of Congo, 1,400 from Somalia, and the remainder represent smaller groups (Kingdom of Denmark 2009). A joint evaluation of the protracted situation of the Burundian refugees by Danida, the Danish development organization, and the UNHCR observes that the efforts of the Tanzanian government seem to be in support of its goal to make Tanzania a “refugee free zone” (Kingdom of Denmark 2009).

The 1972 caseload of Burundian refugees has also experienced significant change. The Tanzanian government announced in 2007 that it would support the repatriation program by closing the old settlements. Through the Tanzania Comprehensive Solutions Strategy (TANCOSS), a citizenship option was provided to the 1972 refugees, and they were able to apply for citizenship, be naturalized, and become integrated into the Tanzanian population (Africa Research Bulletin December 2009). By 2010, 162,156 refugees from the old settlements had been granted citizenship, but their full naturalization was stalled when the government announced that applications would be put on hold until relocation from the settlements could be arranged (Kingdom of Denmark 2009; Mgonja 2010). The timeline initially established to complete the program had a target at the end of 2009, but this has been extended to 2014 (Kingdom of Denmark 2009).

There are other changes within the border regime of Tanzania. Although there is no official Immigration and Citizenship Policy, the government is in process of developing a

comprehensive piece of legislation. The Commissioner of Immigration Services situates this effort in the context of a migration strategy, stating:

Putting in place proper and sustainable migration management systems so that migration benefits individuals, their countries of origin and destination remains a viable, but challenging option (Mgonja 2010).

Complementing these efforts in the regional asylum sector, UNHCR has launched the “Convention Plus” initiative, working with multilateral groups of states to generate agreements on three issues: the strategic use of resettlement as a tool of protection, a durable solution and a tangible form of burden sharing; more effective targeting of development assistance to support durable solutions; and a clarification of the response of states in the event of irregular secondary movements (Taylor 2005, 578). Again, these efforts reflect wider themes apparent in Australia and Spain and Morocco as a turn towards (continuing) regionalization of migration policy and practice and renewed emphasis on irregularity as a central issue has emerged. The Tanzanian government, meanwhile, has also been heavily involved in the development of regional frameworks to address migration. The IOM has set up the Tanzanian Regional Immigration Training Academy (TRITA) to build the capacity of Tanzanian authorities to monitor the borders and to both recognize and address irregular migration. Under programs built through TRITA, 8,682 irregular migrants were apprehended between 2007 and 2010 (Kingdom of Denmark 2009), where it had hitherto been an unrecognized category of migration. The East African Community (EAC) has established a five-year framework to move towards a freedom of movement zone in the region, and Tanzania has established the African Capacity Building Centre (ACBC) within

TRITA to reinforce and build upon regional efforts under the EAC (Kingdom of Denmark 2009).

Recent developments in Tanzania show the continuation of two key themes. First, they indicate that the government has leadership in the process and is not simply responding to Northern pressure. Indeed, the goal of being “refugee free” is in response to the failures of burden sharing by the North. The narratives of migrants moving within these frameworks are, so far, largely absent in analysis. This is at least partially because of the number who have been repatriated and also because those who remain, but who are outside of the camp, are of necessity living underground. Their concerns and actions remain present if we look for them, however. Ten thousand Burundians continue to resist repatriation. The 1972 caseload refugees are publicly registering their discontent with the nationalization process. Despite Tanzania’s desire to close its borders, irregular migrants continue to cross, and asylum seekers continue to make claims.

Looking Forward: New Fields, New Exceptions, New Mobilities

In 1995 Malkki wrote:

It is striking how often the abundant literature claiming refugees as its object of study locates “the problem” not first in the political oppression or violence that produces massive territorial displacements of people, but within the bodies and minds of people classified as refugees. (Malkki 1995, 8)

Her words are no less applicable today as we see the development of policies and practices that act directly upon the bodies of migrants with little regard to changing the discourses and structures that govern their migration except, perhaps, to make them more rigid. In the

contemporary politics of migration and asylum, however, it is the irregular migrant that has taken centre stage as the object of concern.

Within critical security studies and migration studies in particular, more and more is being written about the plight of “illegal” or “undocumented” or “unauthorized” migrants (see De Genova and Peutz, eds. 2010; Hyndman and Mountz 2007; Koser 2003, 2007; McNevin 2006, 2007; Miggiano 2009; Monforte and Dufour 2011; Morrison and Crosland 2001; Moulin and Nyers 2007; Nyers 2003, 2006, 2011; Perera 2002, 2006; Rygiel 2011; Soguk 1999, 2007; Squire 2009, 2011; Walters 2008, 2009, 2010; Zimmermann 2009). These works focus on a variety of issues, often decrying the security regimes that only make these individuals more desperate and more vulnerable, or speculating on alternative approaches that address the root causes of migration in the country of origin. There is an emerging conversation about migration and asylum that is of immense importance, and this literature includes different voices in that conversation. Overall, however, the voices of the migrants still remain largely absent. Their experiences are told as illustrative tales, but their narratives are not accounted for as political interventions.

Moving forward from this study I hope to continue to work towards addressing the absence of migrant voices, centring their narratives in my research. I intend to continue to focus on these sites of intervention, but to push the conceptualization of space I began to develop in Chapters 6 and 7 into a study of migration routes as political spaces that challenge our conceptualizations of borders. At the policy level, I would like to pursue a deeper study of the emerging regional dimension of migration control and management, again in a way that rethinks political space by centring the migrant narrative. Finally, I hope to pursue work

that focuses on the politics of resistance for non-citizens. Building upon my understanding of irregularity, and further developing the understanding of agency I develop in Chapter 8, further study of how resistance works in momentary and everyday politics in border spaces would be a fruitful and productive study of the subjectivity and voice of the migrant in global asylum and migration politics.

I do not know what has become of most of the migrants I spoke to during the course of my field research for this project. Some were deported to unknown locations and uncertain futures when I was there. Since I have left, camps have been closed, more attempts to cross the border of Spain have been made, and detention centres have been relocated to more distant locales. The precarity of our interactions with irregular migrants can often make sustaining a dialogue that includes the migrant voice seem impossible. This is misleading, however, and is a belief that only maintains the exceptionality of the migrant position within global politics. There is a tension in any study, like this one, that asserts the migrant narrative as central but that nevertheless engages in an analysis, retelling and interpretation of that narrative. My voice is clearly also central, but as a researcher I cannot be rendered transparent at risk of ending what dialogue exists. I am part of the dialogue, and in recognizing my own presence but also my own precariousness, my subjectivity and the ways my own perspective change I hope to remain a part of it in a way that is productive of positive change within the global migration and asylum regime. I can only do this if I continue to listen to the migrants themselves, even in their absence. Borders are practices; so is research, and it is an ongoing practice at that. I look forward to continuing to engage in

this dialogue with other migrants, in the same spaces as before and in different ones, while always including the voices and narratives I heard in the course of this study.

Bleiker (2001, 18) argues that “the nature of IR is intrinsically linked to the stories that are being told about it, and that an unsettling of these stories has the potential to redirect the theory and practice of global politics.” Irregular migrants have stories to tell. They are stories about the practices of borders, about the experiences of identities and status, and about the possibilities and power of mobility, of autonomous migration, and of non-citizenship. The stories are often told quietly. Sometimes they are loud and demanding. They can also be told silently, in action and movement through political spaces. But they all have profound knowledge and insight to impart about the nature of International Relations and of global migration. It has been my privilege to hear some of them.

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Appendix: List of Interviews

Below is a list of all interviews cited in the course of the study. Each interview is categorized according to type, a legend for which is below. When I have permission to do so, I provide the name of the organization with which the individual is affiliated. In the absence of a specific organization name, I have further broken down the categories according to the tasks they pursue, also detailed below.

Activist:	a citizen, self-identified as engaging as a political activist on behalf of migrants
Government of ---:	a worker within the government, including both civil servants and politicians
INGO:	international non-governmental organization, including organizations such as the various development agencies, the IOM and the UNHCR
Migrant:	broad category, including all irregular migrants, asylum seekers and refugees
NGO (Advocacy and Support):	domestic non-governmental organizations providing both basic support services for refugees and also engaged in policy advocacy.
NGO (Camp Service and Management):	domestic non-governmental organizations involved with the running of daily operations in the refugee camps
NGO (Human Rights):	domestic non-governmental organizations primarily focused on direct advocacy.
NGO (Legal Support):	domestic non-governmental organization focused on legal advice and services
NGO (Mental Health):	domestic non-governmental organizations with a focus on psychological services, including trauma and mental illness
Researcher	Including academics and civil servant researchers.

Tanzania

1. “Alex” (false name). Individual Interview, INGO. Dar es Salaam, Tanzania, January 2008.
2. “Alfred” (false name). Individual Interview, NGO (Legal Support). Dar es Salaam, Tanzania, January 2008.
3. “Amanda” (false name). Individual Interview, NGO (Camp Service and Management). Dar es Salaam, Tanzania, January 2008.

4. “Amil” (false name). Individual Interview, Migrant. Kibondo, Tanzania, December 2007.
5. “Andrew” (false name). Individual Interview, NGO (TCRS). Kibondo, Tanzania December 2007.
6. “Basil” (false name). Individual Interview, Migrant. Nduta Camp, Kibondo, Tanzania, December 2007.
7. Burundian Refugees, Group Interview, Migrant (15 participants). Nduta Camp, Kibondo, Tanzania, December 2007.
8. “Campbell” (false name). Individual Interview, Government of Tanzania (Ministry of Home Affairs). Dar es Salaam, Tanzania, January 2008.
9. “Charles” (false name). Individual Interview, NGO (Camp Management and Service). Nduta Camp, Kibondo, Tanzania, December 2007.
10. “Christian” (false name). Individual Interview, Migrant. Nduta Camp, Kibondo, Tanzania, December 2007.
11. “Craig” (false name). Individual Interview, Government of Tanzania (Ministry of Home Affairs). Dar es Salaam, Tanzania, January 2008.
12. “Edwin” (false name). Individual Interview, Migrant. Nduta Camp, Kibondo, Tanzania, December 2007.
13. “Gordon” (false name). Individual Interview, Migrant. Nduta Camp, Kibondo, Tanzania, December 2007.
14. “James” (false name). Individual Interview, INGO (IOM). Dar es Salaam, Tanzania, January 2008.
15. “Jonas” (false name). Individual Interview, NGO (TCRS). Nduta Camp, Kibondo, Tanzania, December 2007.
16. “Margaret” (false name). Individual Interview, NGO (Camp Service and Management). Kibondo, Tanzania, December 2007.
17. “Mary” (false name). Individual Interview, Migrant. Nduta Camp, Kibondo, Tanzania, December 2007.

18. “Mark” (false name). Individual Interview, INGO (IOM). Kibondo, Tanzania, December 2007.
19. “Matthew” (false name). Individual Interview, Migrant. Nduta Camp, Kibondo, Tanzania, December 2007.
20. “Michael” (false name). Individual Interview, Migrant. Nduta Camp, Kibondo, Tanzania, December 2007.
21. “Michel” (false name). Individual Interview, INGO (ECHO). Dar es Salaam, Tanzania, January 2008.
22. “Nam” (false name). Individual Interview, NGO (TCRS). Nduta Camp, Kibondo, Tanzania, December 2007.
23. “Richard” (false name). Individual Interview, NGO (Camp Management and Service). Nduta Camp, Kibondo, Tanzania, December 2007.
24. “Robert” (false name). Group Interview, Migrant (8 participants). Nduta Camp, Kibondo, Tanzania, December 2007.
25. “Sarah” (false name). Individual Interview, INGO (Danida). Dar es Salaam, Tanzania, January 2008.
26. “Shelley” (false name). Individual Interview, Migrant. Nduta Camp, Kibondo, Tanzania, December 2007.
27. “Siku” (false name). Individual Interview, Migrant. Nduta Camp, Kibondo, Tanzania, December 2007.
28. “Susan” (false name). Individual Interview, INGO (NPA). Dar es Salaam, Tanzania, January 2008.
29. “Tasmiha” (false name). Individual Interview, Migrant. Nduta Camp, Kibondo, Tanzania, December 2007.
30. “William” (false name). Individual Interview, Migrant. Nduta Camp, Kibondo, Tanzania, December 2007.

Spain

1. “Antonio” (false name). Individual Interview, INGO (UNHCR). Madrid, Spain, May 2008.

2. “Arun” (false name). Individual Interview, Migrant. Melilla, Spain, April 2008.
3. “Cristina” (false name). Individual Interview, NGO (Human Rights). Almería, Spain, March 2008.
4. “Jane” (false name). Individual Interview, NGO (Human Rights). Melilla, Spain, May 2008.
5. “José” (false name), Individual Interview, Government of Spain. Madrid, Spain, March 2008.
6. “Joseph” (false name). Individual Interview, Migrant. Melilla, Spain, May 2008.
7. “Margrit” (false name). Individual Interview, NGO (Human Rights). Melilla, Spain, April 2008.
8. “Miguel” (false name). Individual Interview, NGO (Advocacy and Support). Madrid, Spain, May 2008.
9. “Peter” (false name). Individual Interview, Activist. Melilla, Spain, March 2008.
10. “Simon” (false name). Individual Interview, Migrant. Melilla, Spain, May 2008.

Morocco

1. “Amir” (false name). Individual Interview, Researcher. Oujda, Morocco, April 2008.
2. “Baraka” (false name). Group Interview, Migrant (8 participants). Oujda, Morocco, April 2008.
3. Cameroon Migrants, Group Interview, Migrant (5 participants). Oujda, Morocco, April 2008.
4. “Francis” (false name). Individual Interview, Migrant. Oujda, Morocco, April 2008.
5. “John” (false name). Individual Interview, Migrant. Oujda, Morocco, April 2008.
6. “Mohammed” (false name). Individual Interview, Government of Morocco. Rabat, Morocco, April 2008.
7. “Rabah” (false name). Individual Interview, Moroccan Citizen. Casablanca, Morocco, April 2008.

8. “Wafaa” (false name). Individual Interview, INGO (UNHCR). Rabat, Morocco, April 2008.

Australia

1. “Adam” (false name). Individual Interview, NGO (Mental Health). Melbourne, August 2008.
2. “Alan” (false name). Individual Interview, Government of Australia. Melbourne, Australia, July 2008.
3. “Amy” (false name). Individual Interview, INGO (UNHCR). Canberra, Australia, Australia 2008.
4. “Anna” (false name). Individual Interview, NGO (Advocacy and Support). Canberra, Australia. August 2008.
5. “Anne” (false name). Individual Interview, NGO (Mental Health). Melbourne, Australia, July 2008.
6. “Carol” (false name). Individual Interview, Researcher (Legal). Sydney, Australia, August 2008.
7. “Catherine” (false name). Individual Interview, NGO (Mental Health). Sydney, Australia, August 2008.
8. “Chris” (false name). Individual Interview, NGO (Mental Health). Melbourne, Australia, July 2008.
9. “Colin” (false name). Individual Interview, NGO (Advocacy and Support). Melbourne, Australia, July 2008.
10. “Donna” (false name). Individual Interview, NGO (Advocacy and Support). Sydney, Australia, July 2008.
11. “Fiona” (false name). Individual Interview, NGO (Mental Health). Sydney, Australia, August 2008.
12. “Gareth” (false name). Individual Interview, Researcher. Melbourne, Australia, July 2008.

13. “George” (false name). Individual Interview, NGO (Mental Health). Melbourne, Australia, July 2008.
14. “Graeme” (false name). Individual Interview, Government of Australia. Sydney, Australia, August 2008.
15. “Helen” (false name). Individual Interview, NGO (Advocacy and Support). Melbourne, Australia, August 2008.
16. “Julie” (false name). Individual Interview, Activist. Melbourne, Australia, July 2008.
17. “Kathy” (false name). Individual Interview, Activist. Melbourne, Australia, July 2008.
18. “Kirsten” (false name). Individual Interview, NGO (Mental Health). Sydney, Australia, August 2008.
19. “Kristy” (false name). Individual Interview, Government of Australia (HREOC). Sydney, Australia, August 2008.
20. “Kyle” (false name). Individual Interview, NGO (Mental Health). Melbourne, Australia, July 2008.
21. “Lee” (false name). Individual Interview, INGO. Canberra, Australia, August 2008.
22. “Marshall” (false name). Individual Interview, Activist. Sydney, Australia, August 2008.
23. “Paige” (false name). Individual Interview, NGO (Advocacy and Support). Sydney, Australia, August 2008.
24. “Prakesh” (false name). Individual Interview, Migrant (detainee). Sydney, Australia, August 2008.
25. “Shauna” (false name). Individual Interview, Researcher. Sydney, Australia, August 2008.
26. “Shelley” (false name). Individual Interview, NGO (Advocacy and Support). Sydney, Australia, August 2008.
27. “Siva” (false name) and “June” (false name). Group Interview, Migrant, 2 participants. Sydney, Australia. August 2008.

28. “Siva” (false name)(2). Individual Interview, Migrant. Sydney, Australia, August 2008.
29. “Stephen” (false name). Individual Interview, Government of Australia. Sydney, Australia, July 2008.