

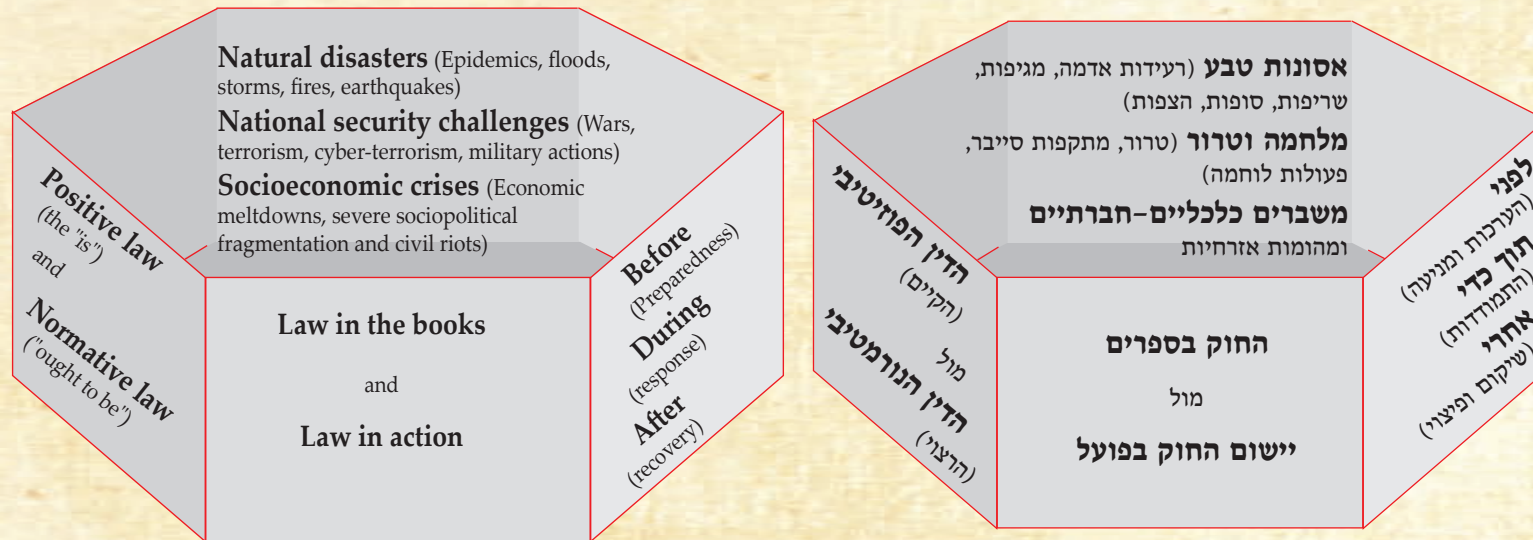
Appendixes

***Appendix 1: Law and Emergencies – a comparative overview,
Background material for discussion in round tables – February 17th
2014***

Enclosed is the title and table of content. The full appendix (122 pages) is available online in our website under [Databases](#).

משפט ומצבי חירום: מבט משווה

Law and Emergencies: A Comparative Overview



תמונות: Thinkstockphotos





Minerva Center for the Rule of Law
under Extreme Conditions

מרכז מינרבה לחקר שלטון החוק במצבי קיצון, אוניברסיטת חיפה
The Minerva Center for the Rule of Law under Extreme Conditions, University of Haifa

משפט ומצבי חירום: מבט משווה

מצע לדיון

Law and Emergencies: A Comparative Overview Background Materials for Discussion

חוקרים: עו"ד ענת קבילי, אילנה גימפלסון, עו"ד טליה שוורץ, ד"ר מיכל בן גל, ד"ר גיא לוריא ויונתן אורפלי
חוקרים בכירים: פרופ' אמנון רייכמן, פרופ' עלי זלצברגר, פרופ' גד ברזילי ופרופ' דבורה שמואלי
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17.02.2014

תוכן העניינים

3	מבוא
8	המסגרת החוקתית והחקיקתית להסדרת מצבי חירום בטורקיה
20	המסגרת החקיקתית להסדרת מצבי חירום בניו-זילנד
33	המסגרת החקיקתית להסדרת מצבי חירום בארה"ב
49	המסגרת החקיקתית להסדרת מצבי חירום בבריטניה
62	המסגרת החקיקתית להסדרת מצבי חירום בישראל
Emergency Laws and Regulations in India	1*
Emergency Laws and Regulations in Japan	13*
Emergency Laws and Regulations in Germany	27*

Appendix 2: Dr. Guy Lurie CV + research proposal

Curriculum Vitae: Dr. Guy Lurie

Education

- 2013 – Ph.D. in history, Georgetown University. Dissertation title: Citizenship in Later Medieval France, c. 1370 – c. 1480.
- 2009 – Master of Arts in History (in passing), Georgetown University.
- 2004-2007 – Studied for (but did not complete) a Masters Degree in European Late Medieval History, Tel-Aviv University.
- 2002 – Bachelor of Law (LL.B.) and International Relations, Hebrew University of Jerusalem – *Magna Cum Laude*.

Fellowships and Awards

- Summer 2012 – Grant from the Minerva Humanities Center, Tel-Aviv University.
- 2007-2012: Graduate School of Arts and Sciences, Georgetown University – assistantships and fellowships.
- 2009 – Piepho Award from Georgetown's department of history.
- 2007-2008: **Fulbright Doctorate Fellowship.**

Publications

Articles

- Guy Lurie, "The Attorney-General in Eighteenth-Century England," *The Journal Jurisprudence*, 16 (forthcoming July 2013).
- Guy Lurie, "Sir John Fortescue's Legal Prestige," *History of Political Thought*, 32 (Summer 2011): 293-315.

Books

- Guy Lurie, *Safeguarding Justice: Reforms in the Judiciary and the Prosecution*, supervised by Mordechai Kremnitzer (Jerusalem: Israel Democracy Institute, 2011) [Hebrew]

- Guy Lurie, *Failing the Buzaglo Test: How Law Enforcement Authorities Confront Criminal Violations by Public Officials*, supervised by Mordechai Kremnitzer (Jerusalem: Israel Democracy Institute, 2008) [*Hebrew*].

Articles Submitted and Under Review

- Guy Lurie, "Citizenship in Late Medieval Champagne: The Towns of Châlons, Reims, and Troyes (1417 – c. 1435)."
- Guy Lurie, "French Citizenship and the Uprisings of 1380-1383."

Presentations at Conferences and Workshops

- Guy Lurie, "An Imagined Commonwealth: Civic Ideologies in Late Medieval France," presentation at the eighth annual conference of the Israeli Society for Law and History, Jerusalem, October 15, 2012.
- Guy Lurie, "French Citizenship and the Uprisings of 1380-1383," presentation at the Oxford/Cambridge International Chronicles Symposium, Oxford University, July 5-7, 2012.
- Guy Lurie, "Theory on Citizenship in Late Medieval France," presentation at the Law and History workshop of the Faculty of Law at Tel-Aviv University, May 1, 2011 [*Hebrew*].
- Guy Lurie, "Citizenship in Late Medieval Champagne: The Towns of Châlons, Reims, and Troyes (1417 – c. 1435)," presentation at the Young Scholars of Early Modern Europe workshop at Ma'ale Hahamisha, Israel, April 13, 2011 [*Hebrew*].
- Guy Lurie, "Legal Institutions and Conceptions of the Nation in Renaissance France," presentation at the Israeli Law and Society Association International Conference, Tel-Aviv, Israel, December 20-21, 2009.
- Guy Lurie, "An Early Sign of a Changing Monarchy: Claude de Witart's Discourse on Peace, 1570," presentation at the fifth annual graduate conference in Political Science, International Relations and Public Policy, Jerusalem, Israel, December 10, 2009.

- Guy Lurie, "The Attorney-General in Eighteenth-Century England," presentation at the annual conference of the Israeli Association of History and Law, Jerusalem, Israel, September 29, 2009. [*Hebrew*]
- Guy Lurie, Amnon Cavari and Ofer Kenig, "A 'Think Tank' Writes a Constitution: A Catalyst for Bridging Gaps in Israeli Society," presentation at the annual conference of the Association for Israel Studies, Tucson, Arizona May 29, 2005–June 1, 2005.

Membership in Organizations

2012-Today: Member of the group "Living Together: Exploring Modes of Political Membership" at the Minerva Humanities Center at Tel Aviv University.

2009-Today: Research fellow at the Curiel Institute for European Studies.

2003: Accepted into the Israeli Bar.

Professional Experience

2009-Today: Israel Democracy Institute – Research Staff.

2007-2009: Georgetown University – Teaching Assistant in the following classes: Medieval Ireland (fall 2007); European Civilization from 1789 (spring 2008); European Civilization to 1789 (fall 2008); The Atomic Age (spring 2009).

2006-2007: The Shamgar Commission – Coordinator of the Shamgar Commission on writing a code of ethics for government ministers.

2004-2007: Israel Democracy Institute – Research Staff.

2003-2004: Gil Ron, Keinan & Co. Law Offices – Associate Attorney.

2002-2003: Yigal Arnon & Co. Law Offices – Internship in advocacy.

2000-2001: The Justice Ministry – Research Assistant.

1995-1998: Military Service.

Languages and Language Training: I read English, Hebrew, French, and Latin. I completed an advanced summer course in Medieval Latin and Paleography, held at the Jewish National and University Library, Jerusalem, during August 2010.

Post-Doctoral Fellowship Research Proposal

State Power and Emergencies:

A Case-Study of Late Medieval France, 1315 – 1484

The Questions

In the aftermath of the terror attacks of September 11, 2000, the U.S. and other Western states adopted various harsh methods to combat terrorism. These harsh measures sparked a lively academic discussion on their legal justifications. Some scholars focus on the use of the legal construction (or fiction) of the "state of exception," or, the "state of emergency," as the basis for these measures. Some of them argue that such usage exposes the centrality of the "state of exception" in the foundations of the modern secular state. They claim that the modern state's paradigm of power is deeply linked with emergencies and the states of exception that deal with them. Some scholars go so far as to claim that the "state of exception" is the theological ground on which the secular modern state was founded and on which it stands to this day.¹

The state of exception is a legal construction that allows the state to increase its abilities to unleash power in the face of an emergency (real or fictional). How are we to understand this legal construction? Is it indeed inherent in the modern secular state? Should we understand it as a justification – or even an excuse – that executives use in order to escape constitutional constraints? Could we understand it also as a means of state-building and not only of executive power-building? Is this construction a permanent means in the hands of executives of breaking the rule of law, and does it indeed stand at

¹ See, for instance the various works in Christoph Schmidt, Yehouda Shenhav and Shimshon Zelniker eds., *State of Exception and State of Emergency* (Jerusalem: Van Leer Jerusalem Institute, 2009)[*Hebrew*]; Giorgio Agamben, *State of Exception*, trans. by Kevin Attell (Chicago and London: The University of Chicago Press, 2005).

the foundations of the rule of law in the modern secular state as some scholars seem to argue?

The Historical Process

All too often these legal and political issues are examined without a close look at the historical process, or a look only at ancient (Roman) and modern times (past two hundred years or so). Yet the historical evidence from the state-building period in Western Europe, i.e. since c. 1300, can help to generate a greater understanding of these questions. The early modern European state assembled some of its basic building blocks – a permanent military, a taxation system, and a beauraucracy – in the late medieval period, i.e. in the fourteenth and fifteenth centuries.² In France the justifications – or excuses – for their creation were based on legal responses to acute emergencies. The French monarchy had to deal not only with incessant wars, but also with the social and material products of other long-term crises and emergencies: environmental (the Little Ice Age began at around 1300); demographic (famine struck time and again since 1315; the Black Death recurred several times after 1348-9; the extended wars); and economic (cereal yields dropped in the period between 1350 and about 1450, in some areas by more than sixty percent).³ The French monarchy had to respond to these recurring emergencies that threatened to tear its social fabric as well as its very existence.⁴

² On state-building processes in France of this period see for instance: Albert Rigaudière, *Penser et construire l'État dans la France du Moyen Âge (XIII^e - XV^e siècle)* (Paris: Comité pour l'histoire économique et financière de la France, 2003); Olivier Guillot, Albert Rigaudière and Yves Sassier, *Pouvoirs et institutions dans la France médiévale: Des temps féodaux aux temps de l'État* (Paris: Armand Colin, 1998).

³ For the environmental processes, see Emmanuel Le Roy Ladurie, *Histoire humaine et comparée du climat: canicules et glaciers XIII^e-XVIII^e siècles* (Paris: Fayard, 2004), 31-89. On the 1315-1317 famines, see William Chester Jordan, *The Great Famine: Northern Europe in the Early Fourteenth Century* (Princeton: Princeton University Press, 1996), 7-39. On recurrence of the plague, see Robert S. Gottfried,

The legal responses of the French crown to these emergencies were strongly connected state-building processes in France, and particularly to its intertwined taxation and military systems. Taxation was also closely tied with citizenship. In late medieval France, taxation again and again mobilized the urban population to political action (against it). In this manner taxation served as a unifying civic issue in terms of political citizenship. Beyond its unifying force as a political or civic issue, the right to consent to taxes and the duty to pay them were also tightly attached to legal citizenship even when they were in dispute. As such privileges and duties related to taxation formed part of the status of legal citizenship, and helped to differentiate between the citizens and the outsiders.⁵

Methodology and Sources

In the coming research I propose to study the use of the state of exception in France between 1315 and 1484 in the specific context of taxation and citizenship. In the early fourteenth century, legitimate taxation often relied on the justification of "defense of the realm." As time went by, such justifications changed (for instance, to "defense of the commonwealth" in the late fourteenth century), yet rulers kept relying on states of exception, emergencies or necessities in justifying taxes. I intend to examine these processes in late medieval France, from 1315 to 1484. My primary sources will include

The Black Death: Natural and Human Disaster in Medieval Europe (New York: The Free Press, 1983), 133 and 156. On economic processes see Hugues Neveux, "Déclin et reprise: la fluctuation biséculaire 1330-1560" in *Histoire de la France rurale: l'âge classique des paysans 1340-1789*, ed. Emmanuel Le Roy Ladurie (Paris: Seuil, 1975), 41-87.

⁴ On rising social tensions and social violence in this period see for instance: Claude Gauvard, *Violence et ordre public au Moyen Age* (Paris: Picard, 2005), 206-213; Michel Mollat and Philippe Wolff, *Ongles Bleus Jacques et Ciompi: les révolutions populaires en Europe aux XIVe et XVe siècles* (Paris: Calmann-Lévy, 1970).

⁵ Guy Lurie, "Citizenship in Later Medieval France, c. 1370–c. 1480" (Georgetown University, 2013), <http://search.proquest.com/docview/1319506775?accountid=11091>.

political theory tracts, legal writings, legal proceedings and decisions, edicts and political speeches. I have already used these sources for other purposes in my doctoral dissertation, on a different subject matter and not on the state of exception (but rather on conceptions and practices of citizenship). I will also use the secondary literature that studied late medieval taxation in France as well as its state-building processes.⁶

I will examine the development of law and of the political and legal language through looking at five episodes in French political history and the ways politicians, administrators, scholars and jurists wrote during these episodes. This comparative research will allow me to study French law, and the political and legal language of the time, in the specific context of states of exception, citizenship and taxation:

1. The leagues and charters of 1314-5: In that period jurists held that the king may collect taxes according to the principle of “necessity” when they were needed for “defense of the realm.” In 1314 the king raised taxes to fight a war against the count of Flanders. Collection of these taxes met with concerted resistance, as regional leagues formed to oppose it. These leagues managed to receive charters of liberties providing protection for some regions against taxation unless demanded by a “clear utility or emerging necessity.”
2. The Estates-General of 1355-8: The second episode will involve one of the most famous constitutional crises of French medieval history. The crisis due to the war with England was especially at issue. Again, taxation and a state of emergency justifying this taxation were at issue.

⁶ On taxation see especially: John Bell Henneman, *Royal Taxation in Fourteenth-Century France: The Captivity and Ransom of John II, 1356-1370* (Philadelphia: The American Philosophical Society, 1976); John Bell Henneman, *Royal Taxation in Fourteenth Century France: The Development of War Financing, 1322-1356* (Princeton, N.J.: Princeton University Press, 1971).

3. Tax uprisings of 1380-3: Many of the taxes of this period were based on a taxation regime that the crown put into place as an emergency measure to pay for the ransom of King Jean II in the 1360s. The tax uprisings of 1380-3 sought to abolish most of this tax regime.
4. The civil war, 1405-1420: The Armagnac-Bourguignon civil war was also fought in a large measure over taxation and its justifications. I will focus specifically on taxation and its justifications, and on the Burgundian opposition to the tax regime.
5. Estates-General of 1484: I will use the meeting of the Estates General of 1484 to discuss the taxation regime imposed by Charles VII (r. 1422-1461) and Louis XI (r. 1461-1483). These monarchs reimposed much of the former tax regime, previously shattered by the wars, and based it on new legal fictions connected to the war with England. The assembly of 1484 saw a counter-reaction against this tax regime.

Through this case-study I will be able to shed light on the assumptions of scholars on the intrinsic link between the state of exception and the modern secular state. The French crown used various versions of the state of exception to justify the legal measures employed to deal with the emergencies. Was the French crown using the state of exception as an excuse or as a true justification? Was it a means of state-building, of unleashing executive power from constitutional constraints, or of both? How were these measures accepted by political society? Should we see them as standing at the foundation of the early modern French state? By answering these historical questions I hope to help achieve a deeper understanding of the theoretical issues that scholars discuss today with regard to the current uses of the state of exception.

Appendix 3: Alyssia-Nurit McBride – CV and research proposal

Alyssa-Nurit McBride

58/1 The Jacob Blaustein Institute for Desert Research ♦ Midraseth Ben Gurion, Israel 84990
 ♦ 972.052.954.0964 ♦ anuritmcbride@gmail.com

Profile

I have had a multi-faceted career in academia, the public sector and the military. In each area I have strived for personal success and the fulfillment of public duty. As my career has developed I have become increasingly interested in the plight of refugees, migrants and displaced persons; as well as the social, political and economic factors that shape their situations and the local, governmental and international response to those situations. I seek to continue my studies into a PhD where I can further develop my understanding of this complex issue and contribute to the academic discourse on the subject.

Education

University: Ben Gurion University of the Negev, Be'er Sheva, Israel

School: Albert Katz International School of Desert Studies

Degree: *Masters of Science*, Environmental Studies

Pending Graduation: October 2013

Current GPA: 3.85 of 4

Thesis: Contingency Planning for Climate Migrants: Realities, Responses and Planning

University: University of South Florida, Tampa, Florida

School: Government and International Affairs

Degree: *Bachelors of Arts*, Political Science

Graduation: August 2007

GPA: 3.03 of 4

Areas of Concentration: US domestic policy, political economy and resource allocation

University: University of South Florida, Tampa, Florida

School: Government and International Affairs

Degree: *Bachelors of Arts*, International Studies

Graduation: August 2007

GPA: 3.03 of 4

Areas of Concentration: State infrastructure failure, power vacuums in Sub-Saharan Africa

Academic Experiences

- ♦ **Research Assistant 2012-2013:** For Dr. Arnon Karnieli (Professor of Remote Sensing, Department of Environmental Physics, and Ben Gurion University) performing a literature survey on the perceived reversibility of desertification in current academic and popular literature.
- ♦ **Research Assistant 2006-2007:** Assisting Dr. Earl Cohteh-Morgan (Professor of Political Science, University of South Florida) in writing expert country conditions reports for pro-bono asylum cases.
- ♦ **Summer with CEMAT 2006:** Attended eight week seminar at Centre d'Etudes Maghrebines a Tunis in Tunis and Morocco studying Arabic and North African politics

Employment History

Company: Refugee Youth and Family Resettlement Program, Palm Beach FL

Position: Program Manager 2010-2011

Duties: Responsible for the day to day operation and management of resettlement and continued care services for refugees and asylees in Palm Beach County, Florida. Supervised a staff of 15 social workers and case managers. Wrote grants and budgets in order to continue services. Communicated with government and NGO's as well as educated the community on the needs of refugees. Selected

Alyssa-Nurit McBride

cases to be resettled to the area. Participated in the collection of data to be used by the larger organization for publication.

Company: The Florida Center for Survivors of Torture, Tampa FL

Position: Case Coordinator 2007-2010

Duties: Identified survivors of political torture from within the local refugee population. Conducted an intensive psychosocial intake assessment and collected the client's torture story. Researched and developed a case to support the client's claim of torture and present the claim in front of a panel of experts for admission. Provided data and narratives for UN, Federal and State reports as well as data for internal use and publication. Kept a case load of three to five cases and preformed intensive case management in addition to other standing duties. Contributed to the "Advancing Promising Practices in the Torture Treatment Field" curriculum available by the National Consortium of Torture Treatment Programs.

Military Service

- ◆ **Branch of Service:** United States Navy
- ◆ **Highest Rank:** E-7 Master EOD (Explosive and Ordnance Disposal)
- ◆ **Type of Discharge:** Honorable Discharge **Year of Separation:** 2005
- ◆ **Theaters of Service:** Iraq Operation, Afghanistan Operation
- ◆ **Duties:** Disarming ordnance, IEDs and high explosive munitions, certified maritime welder, Navy diver, Navy airborne, specialized in improvised and underwater explosives, worked with local populations in regards to ordnance location and ordnance avoidance education
- ◆ **Merits:** 2004 Purple Heart, 2004 Defense Superior Service Medal

Personal Information

- ◆ **Gender:** Female
- ◆ **Date of Birth:** 15th of April 1982
- ◆ **Marital Status:** Single
- ◆ **Citizenship Held:** Israel and United States of America
- ◆ **Language:**
 - **English-** Speaking: Mother Tongue, Reading: Mother Tongue, Writing: Mother Tongue
 - **Hebrew-** Speaking: Moderate, Reading: Moderate, Writing: Moderate
 - **Arabic-** Speaking: Moderate, Reading: Moderate, Writing: Moderate

References

- ◆ **Dr. Isaac A Mier**, Thesis Advisor, **Tel:** 972-8-659-6880, **E-mail:** sakis@bgu.ac.il
- ◆ **Dr. Hendrik J. Bruins**, Lecturer BGU, **Tel:** 972-8-659-6863, **E-mail:** hjbruins@bgu.ac.il
- ◆ **Dr. Yaakov Garb**, Lecturer BGU, **Tel:** 972-8-656-3423, **E-mail:** ygarb@bgu.ac.il
- ◆ **Dr. Earl Conteh-Morgan**, Professor USF, **Tel:** 01-813-974-0787, **E-mail:** conteh@usf.edu

PhD Research Proposal: International Law, Protracted Refugee Crises in Africa, and Local Host Communities: Evidence from Kakuma and Dadaab, Kenya

A.N. McBride

Abstract

The vast majority of refugees in Africa today will find themselves in a protracted refugee situation which will keep them from a normal life in their home or host country for decades. These protracted situations stress the fragile international aid system designed for their short term care, raise complex legal issues and is a source of national and regional tension. This study will approach the issue of long standing refugee camps from the local host community's perspective in the hopes of understanding the dynamic relationship between the two groups and how both national legal regimes and international law affect this complex relationship. It is the researcher's hypothesis that local social and political drivers help foster the continuation of protracted refugee situations. This forms local laws, affects national policies on refugees, the United Nations ability to assist these refugees and raises questions of the effectiveness of international refugee law in practice.

Introduction

In December 2012 the United Nations High Commission on Refugees: Africa listed their Strategic Objectives for 2013. Finding a solution for protracted refugee situations was top priority. Though there has been limited success with repatriation over the last year most refugees in protracted refugee situations¹ have no permanent solution in sight. The plight of refugees has received a great deal of academic attention, the effects of refugee camps on the local host community however has not been as comprehensively analyzed. When the host community has been considered in the literature, the primarily focus has been on the national level. Little attention has been given to the impact on the local community or the local community's impact on the refugees. The effect of protracted refugee situations has received even less attention.

It is the objective of this research to provide a comprehensive study of two of the oldest continual refugee hosting communities in Africa, Kakuma and Dadaab, Kenya. This study will focus on the relationship between the local host community and the refugees, looking for signs of cooperation or conflict along economic and social lines as well as how international refugee law affects the complexity of their relationship. This is done in the hope that generalizable results can be extracted from the Kenyan example that could have application in other PR situations and in addressing issues of applicability of international refugee law. This is especially pertinent as time in flight throughout Africa, Asia and the Middle East has been continuously lengthening since World War II (Kunz 1973, Loescher, Baldwin et al. 2001, Adebajo 2002, Bakewell 2009).

¹ Protracted Refugee Situations are defined by the UNHCR as refugees residing in a host country for longer than five years in a population of 5,000 or more. Kakuma has been open 21 years and serves approximately 70,000 refugees. Dadaab is 23 years old and serves 439,000 refugees.

It is the researcher's hypothesis that a political stalemate is created between the host government, local community and refugee community in concerns to resources gained by hosting the refugee camp and that this contributes to a protracted refugee crisis. All three are not having their full needs met and may even incur negative side effects, such as vulnerable borders and dependency on international assistance, however, the situation still provides enough to make the alternative unattractive even if rationally it is known to be unsustainable in the long term. Therefore these choices contribute to the perpetuation of protracted refugee situations.

This stalemate leaves a heavy economic and structural burden on the UNHCR which is left to stand in as the de facto government for the refugees. This role is far beyond the UNHCR's mandate. It also creates a situation where local administrations can adhere to intentional refugee standards a la carte. For instance **The 1951 UN Convention Relating to the Status of Refugees** clearly states that hosting nations must grant refugees the rights necessary to live in dignity as they await a durable solution. This includes the freedom of movement (article 26) and the ability to find wage employment (article 31). Kenya ratified both the 1951 Convention and the 1967 Protocol and yet its' refugees are limited in movement to the refugee camp and face negative consequences if found outside of protected custody (Hathaway and Neve 1997). Likewise, refugees are forbidden to work or even sell homemade goods through an NGO. Article 35 of the Convention states that signing nations must inform the United Nations Secretary-General of national laws and regulations adopted to ensure the application of the Convention.

It would seem that Kenya is not in compliance with the Convention and her refugee laws would be noted as such by the Secretary-General. However, this is not that case, Kenya is considered in compliance with international standards. This is achieved by exploiting a loop hole. By signing the 1951 Convention a nation is not required to enact national laws in reference to refugees. With the exception of identifying and registering refugees, Kenya has few national laws on the topic (Crisp 2005). However, local legislation is not subject to UN review. County and regional politicians are under stress by the local community to protect the weak peripheral job market. Regional laws do not specifically forbid refugees from working but instead limit legal employment to citizens and add heavy fines and incarceration for those who employ non-citizens (Foster 2007). Working permits are extremely rare and limited to high end fields which are not in demand in Turkana and Garissa. As most of the Somali refugees are itinerant herders by trade, working permits are nearly impossible to acquire (Horst 2008). This affectively shuts the refugees out of the local job market. Kenya is not unique in this respect, almost every hosting nation limits refugee participation as it was ratified in the 1951 Convention (Hathaway and Neve 1997, Jastram and Achiron 2001).

Background

Firstly, a brief history of protracted refugee situations is necessary to continue. The current service model for the refugee care industry is based on a series of suppositions:

1. That it will be possible to define the refugee in strict legal terms as one who has fled from war and persecution, isolating the phenomena from the polycentric discourse

of war, poverty, injustice, environmental pressure, etc. Therefore making persecution the only indicator formerly considered.

2. That relief of that indicator (war) will conclude the need for the refugee's flight.
3. That the refugee will find repatriation a more appealing choice than remaining in flight or migration to another country.
4. Therefore, repatriation to one's home country is the solution for the majority of refugees with a few specialized cases requiring resettlement in third party countries.

These principles were founded in the wake of World War II in Europe as immigrating international aid organizations dealt with displaced people and were fairly successful in repatriating or assimilating these cases (Loescher, Baldwin et al. 2001). The system however has proven less successful outside of the European context where the polycentric discourse of underdevelopment may actually make the harrowing experience of flight better for the refugee than returning home. Refugees have become a constant part of the political, social and physical landscape in Africa and Asia as the consequences of host countries continuing to limit assimilation², third party states are reluctance to resettle cases, there is lack of international or regional intervention and mediation of conflict, also lack of support for repatriation and general underdevelopment (Loescher and Milner 2005). The researcher believes that manipulation of the legal system to isolate the refugees should also be included on this list. Repatriation alone has proven to be insufficient in alleviating refugee situations, so much so that Zetter referred to it as the international community's belief in the myth of repatriations rather than the fact (ZETTER 1999). These stimuli create a situation where refugees have few options but to stay in the camp and rely on international aid.

The role of the host community in PRS is a variable that has not been extensively researched. These host communities within their national discourse are already peripheral communities both geographically and socially (Porter 2008). African political structure is dominated by metropolises of power. As one moves away from these metropolises in physical space and in the sociocultural structure, the less access one has (Alix-Garcia 2010). This point is galvanized in the very name of one of the communities; Kakuma is the Swahili word for *nowhere* (Eggers 2006). For those living in the Turkana and Garissa provinces of Kenya, access to basic infrastructure, health care, steady employment and education is limited (Okwi 2007). These locations are physically harsh, semi-arid areas that are sensitive to drought and have limited fresh water (Barrett 2006). Also the refugee population, though warehoused³, which hampers their ability to move and find

² These limitations are directly in opposition to the 1951 UN Convention on Refugees.

³ Refugee Warehousing is a term used by refugee professionals to describe the situation of people suspended in protracted refugee situations. These individuals are unable to repatriate to their home countries due to continued conflict, are not absorbed into their host country, are denied freedom of movement and employment by their host country which violated rights specified to them in the 1951 UN Refugee Convention and are not eligible for resettlement in a third party country, finally leaving them to the confines of the refugee camp and the administration of the UNHCR and camp managers.

employment, outnumbers the local citizens. The population of the town of Dadaab in 2012 was 103,671 and the population of the Dadaab Refugee Complex was 439,000. The entire population of Garissa County was only 623,060 people according to the 2012 Kenyan Census.

Though conflict and violence has occurred between the two groups in Kenya, the camps are also a source of employment and health care for many locals (Adebajo 2002). It behooves the local community to both limit the refugees' movement and employability but it also helps them by having the refugees nearby. This creates an environment where refugee warehousing best suits the local community which will exert social and legal pressure to promote that option. We can see examples of this type of situation with refugee Burmese in Thailand, Tamil in India, Burmese in Bangladesh, and Afghans in Pakistan.

The host-refugee relationship is further complicated by the artificial nature of boarder delineations in Africa. The Turkana live primarily in the Turkana province of Kenya but there are populations of Turkana in South Sudan and Ethiopia. Some of these individuals have found themselves in the Kakuma camp in Turkana. Do these individuals find more support in the community because of their shared cultural experience or does the community resent the services given to the refugee Turkana that are denied the Kenyan Turkana? What is the relationship between the local government and the camp? It is the researcher's hypothesis that national governments and local communities are willing to allow these camps to continue in their protracted state because the camp administration has a positive residual effect on the local host community, even if there is an economic or cultural tension and security concern. They provide employment and aid that the host government may have difficulty providing for their own periphery citizens. There would be no incentive therefore to assimilate these refugees out of the camps into Kenyan life as all it would achieve is creating more underserved periphery individuals. Therefore local law is used to support this while national law does not address it and the intention of international law is augmented to accommodate. The dynamics of the relationship between the host community and the refugees is complex but may provide valuable insight in creating new solutions for protracted refugee situations and help create policies that could dampen the destabilizing effects of PR situations.

Thesis Question

Within the complex and interwoven structure of the phenomena of protracted refugee situations is it possible to identify the effects of the refugees on a local host population and vice versa? How is the law used to formalize these relationships? Furthermore from the given examples of Kakuma and Dadaab, which are some of the oldest PRS currently, can aspects be isolated and generalizations be made which can be applied to PRS cases worldwide?

Theoretical Framework

The theoretical framework of this study is grounded in positive political theory. Positive political theory is concerned with the understanding of phenomena through analytical models which, it is hoped, yield insight into why outcomes materialize in a

certain way (Austen-Smith and Banks 2000). This approach presumes that political outcomes are the consequence, intended or not, of decisions made by individuals. The researcher assumes that all participants (organizations and individuals) are acting in their own self-interest and make social and political choices that maximize their ability to pursue those interests. As such, decision-making patterns can be isolated and generalizations can be made. Though a simple ethnographic study of Kakuma and Dadaab would be enlightening and valuable in its own right, it is the researcher's belief that they are not isolated unusual cases. Instead these cases are the oldest of a set of cases that all share some common denominators. Truly this has been proven in regards to the flight of protracted refugees through Gil Loescher and James Milner's extensive research. In which a series of causalities were identified in cases from around the world (Loescher and Milner 2005). Likewise, the host community's role to play in these situations may also help further understand the issue and create realistic solutions.

Proposed Methodologies

The methods proposed for this project will have a mixed methodology approach, represented in a two stage process including both ethnographic field work and analytical model development. Though the classic methods of fieldwork will be utilized,⁴ attempts will be made to avoid inherent bias (Conquergood 1991). Notable scholars such as Norman Denzin, Yvonna Lincoln and Linda Tuhiwai-Smith have stripped away the notion of the unobtrusive observer recording events. As Tuhiwai-Smith put it 'research' imbued with its colonial, imperialist past, is the dirtiest word in the indigenous world's vocabulary (Denzin and Lincoln 2000). Instead the researcher must recognize herself as a participant in the discourse and be forth coming about her position therein.

Multiple iterations and means of interaction create a web of information that has better opportunity of representing the truth (Conquergood 1991). Denzin and Lincoln go on to criticize mixed methods as the tool of the technocrat interested only in identifying what works. In this case, however, mixed methods is not an attempt at quantifying soft data but instead to speak a variety of 'languages' in order to provide data that is useful to a host of users. This will include the use of both ethnographic tools such as observation and interview as well as standardized survey tools which can be used to quantify data statistically.

Study Design

Data collection can occur in 4, 2 month field sessions with at least one field session occurring in the rainy season and the dry season respectively to see if there is a change in data due to water and food availability. The major form of data collection will occur through site observation, interview and survey. The researcher will utilize existing connections with local church and school groups to help conduct a 20-25 question survey to local community member related to the research topic. The survey will be written in English and then translated into Swahili and Turkana by the researcher. The survey will be reviewed by supervisors and appropriate parties to ensure sensitivity to gender, culture

⁴ observation/participation, formal/informal interview and survey

and socio-economic bias. Though a written copy will be available for the surveyed to take and bring back to the researcher at their convenience, studies by Bakewell have shown that completion with the researcher at time of meeting greatly increases the rate of return at the expense of the anonymity of mailing in (Bakewell 2008). The survey will be reviewed after approximately 10 iterations are complete and revised to better assess the research question if need be.

The researcher will utilize her language skills to the level appropriate. Given this fact and the relative availability of English speakers, informal interpretation through local English speakers or formal interpretation with a paid or professional volunteer interpreter will be utilized when appropriate. The researcher has received extensive training both in interviewing with an interpreter and in interpretation in order to eliminate bias, intimidation and to accurately convey the persons meaning. This can be achieved at little to no cost to the project

Additionally, more intensive interviews will be conducted with local political and cultural leaders, national administrators, NGO and UNHCR officials, as well as a sampling of local community member. This will further elaborate the different players involved in the situation, their perspectives and needs. Also policy analysis of local and national laws will be conducted and comparisons made between them and current international refugee standards.

Potential Impact

The potential impact of these findings could address many issues on multiple levels of the discourse. Firstly, it would provide academic insight into two sub-fields of refugee studies that are lacking in scholarship; impact on host communities and the effects of protracted refugee situations. The advancement of both of these sub-fields will help academics grasp the totality of the refugee experience and help inform a more effective response.

Secondly, the local host communities in Kenya could benefit from this research by having their issues and concerns brought into the larger discourse. This may lead to further dialogue and cooperation between the two communities. Also if, as the research suspects, universal phenomena can be gleaned from the Kenyan example other host communities throughout Africa, Asia and the Middle East might find valuable resources through the furthering of this treatise. Likewise, national governments that are hosting protracted refugees both in Africa and elsewhere may find this data extremely useful in planning for refugees and mitigating effects on their citizens. The results of this research would help service NGOs and the UNHCR improve interaction with the local host communities. Finally, this investigation can contribute to the state of research on the disconnect between legislative ideals and realities in concerns to refugee law.

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PhD Research Proposal

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