

**Part 3.**  
**Claiming Humanitarian Admission. Survival Strategies  
and Litigation Attempts**



# Chapter 7: Unpacking Vulnerability: An Ethnographic Account of the Challenges of Implementing Resettlement Programmes in a Refugee Camp in Uganda

*Sophie Nakueira*<sup>1</sup>

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1 Research Fellow in the Department of Law & Anthropology, Max Planck Institute for Social Anthropology.

## Introduction

Legal scholarship on refugees often describes refugee strategies that fall outside the ‘formal’ state-approved channels in two opposing terms – legal and illegal. An anthropological approach enables us not only to understand how these strategies emerge but also to interpret them in ways that are meaningful for addressing the issues that such policies produce. To this end I conducted an ethnographic approach which entailed relying on empirical evidence to make my interpretations.

Proceeding with the definitional problem that is implicit in the eligibility for resettlement, I show how the UNHCR vulnerability categories have been complicit in creating or constructing personhood in Nakivale settlement in ways that reify these categories and specific narratives of suffering to the exclusion of others for resettlement purposes. I argue that although resettlement programmes are intended to take the most vulnerable refugee populations out of their countries of asylum and provide them with better protection in countries in the West, they act as a governance tool that controls refugee population outflow in practice. Therefore, viewed from the broader lens of migration control, I contend that UNHCR’s vulnerability criteria, and the bureaucratic processes that determine the ‘desired’ candidate for resettlement, act as regulatory tools for migration control in a humanitarian context.<sup>2</sup> In discussing the multiple issues that are raised here, I draw on diverse disciplines to make sense of the resettlement scheme as a tool of governance. Before concluding, I discuss the challenges of implementing such a policy in a context where majority of the refugee population is vulnerable *ab initio* by showing the challenges of achieving the objectives of international humanitarian law and the implementation gaps of the resettlement policy in practice.

We are living in a time where policy debates on migration and asylum have diverted attention from ‘humanitarian relief to security threats and cost’.<sup>3</sup> More countries are calling for border closures and there is a rise in nationalist and protectionist sentiments. The increasing externalisation of

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2 K Bergtora Sandvik, ‘Introduction: Refugee Resettlement as Humanitarian Governance. Power Dynamics’ in A Garnier et. al. (eds), *Refugee Resettlement: Power, Politics and Humanitarian Governance* (New York, Berghahn Books, 2018) 65.

3 C Krishnadev, ‘How Technology Could Revolutionize Refugee Resettlement’ (2019) *The Atlantic* < <https://www.theatlantic.com/international/archive/2019/04/how-technology-could-revolutionize-refugee-resettlement/587383> > accessed 11 October 2019.

European borders<sup>4</sup> has made it more difficult for asylum seekers to use informal channels to reach Europe and apply for asylum, raising concern amongst human rights advocates, and sparking debates about the appropriate form of refugee protection that would slow the tide of death of people risking their lives across the Mediterranean sea to reach the West. Scholarly debates on humanitarian admission and how it would be implemented contrast sharply with politicians who see development as the main solution or realistic channel to solve the current migration crisis. The two options are contradictory because while proponents of humanitarian admission aim to find ways to enable legal and safe access to Europe, a focus on addressing development issues aims at keeping migrants in their home countries. The latter option erroneously assumes that the root cause of migration can be resolved by addressing development issues alone. In so doing it ignores the causes of war and conflict and the role of West in perpetuating these for their own benefit. Proponents of the developmental approach aim to tame the tide of population flows leaving countries on the African continent and risking their lives in search of safer spaces or better economic opportunities in Europe. The situation is particularly dire for African refugees majority of whom continue to lose their lives in desperate efforts to reach Europe through the Mediterranean sea while others have fallen victims of modern slavery in Libya.<sup>5</sup>

The answer as I argue here, does not lie in creating more legal protection or new policy models for reaching Europe safely and legally but, rather, in addressing the implementation gaps of current resettlement programmes. I show the limits of the criteria used by UNHCR by focusing on the challenges encountered in implementing the resettlement programme through an ethnographic account of the ‘on-the-ground’ realities of how UNHCR’s resettlement policy is experienced by refugees in one settlement in Uganda. It is crucial to examine resettlement as a ‘bureaucratic-legal arrangement’<sup>6</sup> because critical scholarship on this policy is scant despite it

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4 A Betts and J Milner, ‘The Externalisation of EU Asylum Policy: The Position of African States’ (2006) 36 *Working Paper of the Centre on Migration, Policy and Society, University of Oxford*. Also see M Maes, M-C Foblets and P De Bruycker, *External Dimensions of European Migration and Asylum Law and Policy / Dimensions Externes du Droit et de la Politique d’Immigration et d’Asile de l’UE* (Brussels, Bruylant, 2011).

5 R Sherlock and L Al-Arian, ‘Migrants Captured In Libya Say They End Up Sold As Slaves’ <<https://www.npr.org/sections/parallels/2018/03/21/595497429/migrants-passing-through-libya-could-end-up-being-sold-as-slaves?t=1572517711075>> accessed 31 October 2019.

6 K Bergtora Sandvik (2018) (n 2).

being widely implemented in Africa. The term bureaucratic-legal arrangement is used by Skandiv to describe the guidelines that agencies use when assessing refugees' eligibility for resettlement. A critical examination of resettlement as a legal tool or 'bureaucratic legal arrangement' is conspicuously absent from legal scholarship and critical legal studies.<sup>7</sup>

### *1 A Word on Method*

The empirical data from which interpretations for this chapter are drawn were collected over seven months cumulatively. By empirical data I broadly refer to observations in the refugee settlement, interviews with aid workers and refugees including an analysis of documents circulated by diverse agencies within the settlement. I expound on the details of data collection (below in this section). The initial data collection took five months in 2017 and another two months in 2018. In both periods, I shadowed Refugee Law Project (RLP) – an organisation that offers legal services to refugees in various settlements. I followed their activities in the field and observed their interaction with refugees and other aid workers. Through RLP, I got (limited) access to other aid offices and open access to refugees who came to inquire about their cases or file complaints. I attended many official meetings, community sensitisation programmes and training sessions of refugee leaders, media and other personnel. My time during the fieldwork was divided between aid offices and refugee living quarters, court sessions, churches, prisons or trading spaces. Thus, I was able to collect data through participant observation, informal conversations, formal interviews, which were conducted in a semi-structured as well as unstructured manner. Owing to the lengthy period I spent in the diverse spaces in the refugee settlement and aid workers' offices and social spaces, I was able to get in-depth information, and as a result was well acquainted with how aid workers and refugees conducted their daily activities in executing their tasks or accessing aid services, particularly in pursuit of 'resettlement'. Formal and informal interviews were made with aid workers from different agencies and refugees from diverse countries. Using an ethnographic approach, I oscillated between the world of aid workers and refugees, maintaining enough distance as an insider and outsider to understand how they perceived their respective spaces. Shore and Wright posit that it is important to keep a balance as an 'insider' and outsider' in the field. They argue

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7 *ibid.*

that, as an insider, an anthropologist should appreciate ‘the beliefs, values and ritualised practices’<sup>8</sup> of the actors’ world. Explaining the benefits of keeping a distance as an outsider, they posit that this allows one to ask important questions about how actors perceive their worlds and the implications for theory.<sup>9</sup> In this particular settlement, observations, conversations, interviews, documents and interactions with aid workers and refugees were triangulated in ways that exposed how these actors viewed their worlds. The empirical data allowed me to understand the world of the implementers of the policy as well as the experiences of refugees in respect to the resettlement program. The result is hopefully a nuanced understanding of the difficulties of implementing the resettlement policy.

Scholarship on resettlement that has been conducted in Uganda has focused on the distribution of resettlement spaces and centred on urban refugees in Kampala and the ‘formal, informal and illegal’<sup>10</sup> systems into which these refugees enrol in efforts to attain resettlement slots. In her article, ‘Blurred Boundaries’, Sandvik argues that rather than create homogeneity, ‘the regularization of resettlement has engendered a pluralist system that draws on and combines multiple sources and levels of legal and bureaucratic norms’.<sup>11</sup> This chapter builds on existing research by going beyond the procedural and administrative ambiguities that are reported to emanate from the transnational soft law system created by the resettlement handbook of 2004, as identified by Sandvik in the highlighted work. Transnational soft law in this context refers to the guidelines stipulated in the resettlement handbook and which are meant to be applied in assessing the resettlement eligibility of refugees in various contexts. I argue that although the legal and procedural ambiguities identified are important, they are only a part of the implementation problem. Thus, this chapter contributes to legal and anthropological scholarship by analysing how resettlement is implemented in a refugee camp in rural southwestern Uganda – thereby showing the effects of the policy’s implementation in a rural con-

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8 C Shore and S Wright, ‘Conceptualising Policy: Technologies of Governance and the Politics of Visibility’ in C Shore et. al. (eds), *Policy Worlds: Anthropology and the Analysis of Contemporary Power* (New York, Berghahn Books, 2011) at 15.

9 *ibid.*

10 K Bergtora Sandvik, ‘Blurring Boundaries: Refugee Resettlement in Kampala—between the Formal, the Informal, and the Illegal’ (2011) *PoLAR* 34 1. Sandvik explores the variegated strategies that refugees use in their attempts to acquire resettlement slots. This includes legal and illegal ways as well as informal avenues (which may not encompass any illegality).

11 *ibid.*

text. Second, it starts with the premise that there is an inherent problem with the definition of who warrants international protection, which raises issues of who defines ‘vulnerability’ and whether the current definition and categories suffice, given evolving and contextual forms of threats to human security. I posit that although international protection mechanisms such as the resettlement policy and other forms of humanitarian admission are well intended, their translation on the ground may have adverse effects, and the implementation of protection mechanisms may be hindered by factors that may not have been envisioned by the policy nor can be easily addressed by laws. Thus, although the focus of this chapter is on the challenges of implementing resettlement programmes, it is also motivated by a broader goal of illuminating on what these challenges teach us about humanitarian aid or developmental programmes more broadly.

Therefore, inspired by Shore and Wright’s explanation of the importance of conducting an ethnographic account of consequences of policy implementation, which they refer to as an anthropology of policy<sup>12</sup>, this chapter examines the resettlement programme as an international protection mechanism and its implications for protecting the most vulnerable in a refugee settlement in Uganda. In essence then, this chapter is simultaneously an ‘anthropology of the resettlement programme’ as well as a critique of the execution of the this programme. In problematising this policy, it asks the following empirical questions: How do refugees relate to or experience the resettlement programme as a protection mechanism? What meaning does resettlement take on in a refugee settlement? By the preceding question I aim to investigate the significance of resettlement to the lives of refugees and those who implement the resettlement program. Examining the role that resettlement plays in the lives of the implementers and subjects of this policy will reveal the (unintended) consequences that arise from the implementation of the resettlement program and its implication as a tool of protection for refugees.

## *2 Problematising Vulnerability*

As will be shown below, the concept of vulnerability used by UNHCR vulnerability criteria, does not capture in entirety the various social, economic and political factors as lived in the everyday lives of refugees in Nakivale

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12 C Shore and S Wright (2011) (fn 1) at p 8.



settlement. In fact social science scholars such as Bakewell<sup>13</sup> and Clark<sup>14</sup> have questioned the usefulness of the concept of vulnerability pointing out that it is ‘essentialist, paternalistic and reductionist’.<sup>15</sup> Although, as my findings show, the concept of vulnerability is mainly drawn upon by refugees in the refugee settlements in efforts to fit into UNHCR’s vulnerability criteria, some scholars assert that it has little meaning to refugees beyond humanitarian contexts.<sup>16</sup> Moreover, it is worth noting that for a long time, no country had any allocated slots for African refugees, and resettlement was not favoured in policy or practice.<sup>17</sup> Developed countries did not have any quotas for African refugees because they were regarded as too numerous to render the refugee term applicable.<sup>18</sup> Moreover, when resettlement was considered, selection was based on educated or skilled refugees. Thus at the insistence of African leaders who feared that this might lead to brain drain of Africa’s elite, refugees fleeing conflict regions in Africa were placed in other parts of the continent (and not in developed countries).<sup>19</sup> It was not until the 1990s that things began to change, when UNHCR advocated for resettlement out of Africa by putting an emphasis on *suffering* as a requirement for resettling the deserving refugee.<sup>20</sup> The disadvantage of the emphasis on suffering as a criteria for resettlement, is that although international protection is intended as a ‘durable solution’, it has created a competition based on the metrics of vulnerability where a refugee with the most traumatic experience of suffering is rewarded with resettlement.

It is the turn to ‘vulnerability’ that led to the inclusion of African refugees as candidates for resettlement to the West.<sup>21</sup> In spite of this, only a small percentage of people from the continent get resettled. For example, according to the Resettlement Factsheet for Uganda, at the end of August 2018, out of the submission target of 5,426 refugees for resettlement only 2,937 submissions were made. Of that number only 1,787 refugees depart-

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13 O Bakewell, ‘Research Beyond the Categories: The Importance of Policy Irrelevant Research into Forced Migration’ (2008) 432 *Journal of Refugee Studies* 21 4.

14 C Christina, ‘Understanding vulnerability: From categories to experiences of Congolese young people in Uganda’ (2007) 21 *Children & Society* 4 284 at 296.

15 M-T Schueler, *Disability and Logics of Distribution in a Refugee Settlement* (PhD Dissertation, University of Zurich, 2018) at 18.

16 *ibid.*

17 K Bergtora Sandvik (2018) (n 2) at 47.

18 *ibid.*

19 *ibid.*

20 *ibid* at 48.

21 *ibid.*

ed the country. This suggests logistical problems in meeting submission targets (UNHCR, 2018) and that third countries take only those few refugees that meet the resettlement criteria.

### 2.1 *Conforming to Vulnerability Categories*

UNHCR's vulnerability categories create sub-classes of subjectivity that are intended to offer more protection to refugees based on a 'hierarchy of suffering'.<sup>22</sup> In this respect, the resettlement policy attempts to 'define' and 'manage' refugee populations as subjects.<sup>23</sup> To this end, refugee settlements become 'disciplinary spaces'<sup>24</sup> in which refugees as subjects are managed by a set of institutions, bureaucratic processes, laws and policies. The unintended consequence of this subjectivity is that in a context where majority of the refugees are de facto and ab initio vulnerable (given the fact that they are exiled in an underdeveloped country with no real prospects of becoming economically independent), this incentivises refugees to construct their identities in a manner that is legible to the humanitarian system. In the case where certain subjectivities are rewarded with a chance at resettlement to a developed country, this incentivises refugees to construct vulnerable identities to fit into pre-conceived categories of vulnerability, especially if their identities do not neatly fit into UNHCR criteria for resettlement.

An understanding of the history of the inclusion of African refugees in the resettlement scheme is crucial for managing expectations of what the future holds for the protection of vulnerable populations in the current era. Sandvik argues that African refugees were not even considered political subjects to begin with but 'subjects of development'.<sup>25</sup> It is said that the reluctance to 'endow African refugees with the capacity to have legal problems' was because African refugees were considered too numerous, dis-

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22 J Betsy, 'Trauma as Hierachy in The resettlement Process' (2018) *News Deeply: Peace Building* <<https://www.newsdeeply.com/peacebuilding/articles/2018/08/08/hierarchy-of-suffering-trauma-as-currency-in-the-resettlement-process>> accessed 10 Match 2019.

23 C Shore and S Wright (2011) (fn 1) at 11.

24 *ibid* citing D Hubert and P Rabinow, *Michel Foucault: Beyond Structuralism and Hermeneutics* (Chicago, University of Chicago Press, 2nd Edition, 1983) at 121.

25 K Bergtora Sandvik (2018) (n 2) at p 55 citing L Robyn, 'The international government of refugees', In W William and LWendy (eds), *Global Governmentality: Governing International Spaces* (London/New York, Routledge, 2004).

persed, premodern, and poor to make individual assessments to establish the elements of the refugee definition possible or necessary.<sup>26</sup> Thus due to 'the emphasis on material assistance, overseas resettlement was rarely offered to Africans'.<sup>27</sup>

This exclusion had implications for how they were protected. Humanitarian assistance was based on a developmental approach as it was assumed that Africans needed 'emergency assistance, rather than international legal protection'.<sup>28</sup> The argument made by the West for excluding Africans, despite the numerous conflicts that had resulted in the displacement of many populations on the continent, was that they were too numerous to render the application of the 'refugee' definition useful.<sup>29</sup> Moreover, despite the realities on the ground, flawed assumptions about Africans were premised on a homogeneous African culture that would render assimilation in any African country they were resettled in 'spontaneous'.<sup>30</sup> Assertions were made that refugees did not want to be resettled out of Africa and that if they were, they would not be in position to integrate.<sup>31</sup>

While great strides have been made since the 1980's – when such assumptions prevailed – and some countries have made provisions for resettling refugees from Africa, participating countries are few. Many challenges that were faced early on in implementing the resettlement programme prevail to date albeit not on the same scale. For instance, the logistics of running of humanitarian assistance programmes in poor countries in Africa continues to take up a lot of the UNHCR budget.<sup>32</sup> And developmental programmes based on 'self-sufficiency' continue to be implemented in settlements despite the fact they often do not yield the intended results. And assumptions about local integration as a durable solution made in the 1970's continue to prevail. This is not to argue that these are not

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26 W. Holborn Louise, *Refugees, a Problem of Our Time : The Work of the United Nations High Commissioner for Refugees, 1951-1972*, (Metuchen, N.J., Scarecrow Press, 1975) at 836; K Bergtora Sandvik (2018) (n 2) at 55-56.

27 *ibid.*

28 K Bergtora Sandvik (2018) (n 3) at 55 citing G Loescher, 'The UNHCR and World Politics: State Interests vs. Institutional Autonomy' (2001) 35 *The International Migration Review* 1, 50.

29 K Bergtora Sandvik (2018) (n 3) at 55.

30 *ibid.*

31 C Shore and S Wright (2011) (fn 1) at 58 citing R John, 'Africa's Displaced Population: Dependency or Self Sufficiency?' in C John et al. (eds), *Population and Development Projects in Africa* (New York, Cambridge University Press, 1985) at 68-83.

32 K Bergtora Sandvik (2018) (n 3) at 47.

good long term solutions, rather I posit that they are idealistic at best as practical challenges make them difficult to be achievable.

Currently, one of the main challenges UNHCR faces is implementing the resettlement programme in an era when politicians are advocating the closing of borders in America and elsewhere in Europe. While there are many countries contributing to the running of refugee settlements,<sup>33</sup> very few are partners in resettlement. In the case of Uganda, according to UNHCR's Resettlement Factsheet, there are only six Resettlement Countries, namely USA, Norway, Canada, Sweden, Australia and the Netherlands.<sup>34</sup> Although France and Finland have since taken refugees, as of December 2018, they had taken five and two refugees respectively.<sup>35</sup>

Marfleet argues that large numbers of refugees are *produced* by overlapping factors such as 'economic, political, social, cultural and environmental'.<sup>36</sup> Yet proponents of migration use securitisation frameworks to vilify victims of war as potential terrorists. Moreover, when it comes to refugees from Africa, they are labelled as 'mere' economic migrants looking for better opportunities, instead of *forced migrants*. This labelling is problematic when viewed in light of Marfleet's argument that forced migration is caused by a multitude of factors.<sup>37</sup> The 'securitisation of migration'<sup>38</sup> started after 9/11, but particularly in the Trump era, which saw the banning of Muslims from select countries two months after he got into office, the increase in this trend has been palpable. The travel ban has not only had adverse effects on Muslims from blacklisted countries, but it has particularly affected refugees from Somalia who had been living in this settlement for a protracted duration and who were themselves victims of war. One has to understand the lengthy and drawn out process of resettlement to appreciate the effects of this travel ban on Somali refugees who had been "processed" and approved for resettlement only to be banned from entering America.

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33 A noticeboard at the entrance of the shows lists Belgium, Switzerland, Germany, Japan, as donors to the resettlements programmes but many of them are not listed on UNHCR's resettlement countries in the resettlement Fact Sheet. United Nations High Commissioner for Refugees, *Uganda Resettlement Factsheet* (2018; 1) <[https://reliefweb.int/sites/reliefweb.int/files/resources/67858\\_0.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/67858_0.pdf)> accessed 5 May 2019.

34 *ibid.*

35 *ibid.*

36 P Marfleet, *Refugees in a Global Era* (New York, Palgrave Macmillan, 2006) at 7.

37 *ibid.*

38 H CC García, 'Deconstructing Crimmigration' (2018) 52 *University of California, Davis Law Review* 197, 253.

Additionally, it should be noted that not all those who are selected for resettlement interviews get effectively resettled. In principle, refugees cannot apply for resettlement. One can only be recommended for resettlement if one fits the specific criteria laid out in the UNHCR Resettlement Handbook and this recommendation is exercised at the discretion of particular protection officers in certain aid agencies. Criteria for being considered include refugees in need of 'Legal and physical protection', 'Survivors of Violence and Torture', refugees in need of medical treatment that cannot be offered in Uganda; Women-At-Risk, e.g. single mothers; elderly refugees or refugees with 'lack of integration prospects'.<sup>39</sup>

UNHCR projected that 153,000 refugees in Uganda would be in 'need of resettlement in 2019'.<sup>40</sup> This is a modest number in relation to the 1,350,504 refugees that were registered as of January 2018.<sup>41</sup> In fact, statistics show that less than one per cent of the refugees who meet the criteria for resettlement get effectively resettled to a third country. Thus many of the refugees looking to be resettled try to tell their stories and emphasise their suffering in ways that could make them legible to the vulnerability-sensibilities of aid agencies. The aid agencies are specifically chosen by the refugees because of their ability to recommend solutions for 'the suffering refugee' of which resettlement is but one option. The other options range from counselling, referral to another agency or technical support within the mandate of the agency in question.

These categories are so broad that they could easily be applied to majority of the refugees, yet, simultaneously, so narrow that they exclude other forms of vulnerability. Thus, given the limited slots for resettlement, refugees' stories of suffering reveal diverse layers of trauma or insecurity, suggesting that refugees try to fit their traumatic experiences into multiple layers of UNHCR's vulnerability categories. Thus, the resettlement policy has not only created a system that rewards the most vulnerable refugee but has produced immense distrust between aid workers and refugees because of the lack of transparency in how refugee slots are distributed.

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39 United Nations High Commissioner for Refugees, '*Resettlement Submission Categories*' <<https://www.unhcr.org/558bff849.pdf>> accessed 11 October 2019.

40 *ibid* at 2.

41 *ibid*.

## 2.2 *Multiplying Soft Law Regimes*

Based on ethnographic research in Kampala, Sandvik posits that there is not much ethnographic engagement on the legal pluralism linked to ‘soft law regimes’ nor the manner in which ‘such regimes shape everyday interactions between humanitarian workers and their clients’.<sup>42</sup> In this section, I contribute to the legal pluralism scholarship by showing how aid agencies’ guidelines act as soft law and how the adherence to these guidelines shapes implementation of resettlement scheme on the ground. In so doing, it becomes clear that diverse agencies, each with its own norms and way of assessing vulnerability, are central to the implementation of the refugee resettlement programme.

There are several aid agencies in Nakivale refugee settlement that cater to diverse refugees needs – ranging from food rations, counselling services, education programs, legal aid, farming needs, security provision, housing and livelihood and so forth. All these agencies, as one aid worker explained to me, describe what they do to ensure refugee ‘protection’. One could argue that this broad view of providing aid services recognises the diverse but overlapping issues that constitute human security. However, in executing their mandates, these different agencies have their own respective guidelines to which they must adhere when providing services or solutions to problems that refugees who interface with them. I argue that these guidelines are *akin* to normative orders or soft laws that aid workers must follow in screening or assessing refugees. The result of strict adherence to these guidelines is that this creates plural normative orders, which sometimes compete or contest with different notions of ‘vulnerability’ of other agencies providing aid services within the same physical space. This is because each agency, depending on its mandate in the settlement, has developed its own distinct method for assessing vulnerability or protection needs. In doing so, aid agencies invariably influence the resettlement process in the screening of refugees for protection needs.

The strict adherence to these guidelines in service provision results in what some have argued as the prioritisation of ‘procedure and consistency to the detriment of humanitarian goals’.<sup>43</sup> Extending this argument, I posit that in the context of the Nakivale refugee settlement, strict adherence to guidelines was due to a combination of several factors. First, it was a result of a mistrust of refugees’ narratives of suffering by aid workers with whom

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42 K Bergtora Sandvik (2011) (n 10) at 12.

43 Cited in K Bergtora Sandvik (2018) (n 3) at 204.

they interfaced. Second, aid agencies' forms often had prescribed solutions that did not leave much room for flexible or creative ways to respond to specific needs. Third, there was an inherent contradiction in the recommendation of resettlement by an agency and accepting that would amount to an implicit admission that that the agency recommending resettlement has failed to address the problem faced by the refugee. As one refugee told me, 'this place is insecure but government don't want to admit that because it would mean that it cannot keep us safe. So if you report any incident of insecurity, they can never recommend resettlement'.<sup>44</sup> The same interlocutor said that the main problem that they [refugees] face is that the 'aid agencies do not understand our problems'.<sup>45</sup> These problems, which sometimes did not fall within the exact frames of vulnerability as defined by the mandate of a specific agency were either relegated to a less critical category or excluded altogether. In the context of resettlement, this means that a refugee claiming to be suffering or facing a protection need that is outside the UNHCR criteria of vulnerability may not be eligible for resettlement even if the effect of said suffering culminates in a serious form of vulnerability. A common example that was often brought up by refugees of Congolese descent included instances of suspicions or accusations of witchcraft.<sup>46</sup> Many refugees I interviewed or held informal conversations with claimed that witchcraft was a serious problem in the settlement. Many believed that the delay in their resettlement cases, or the rejection of their resettlement cases, was the result of evil effects of witchcraft from envious neighbours.<sup>47</sup> The effects of such accusations are serious and could have dire consequences for those who are accused. In one particular village, it led to the burning down the house of a woman suspected of witchcraft.<sup>48</sup> However, allegations of witchcraft, despite having life threatening effects for the accused, fall outside UNHCR's vulnerability criteria. Moreover, as some of my interlocutors explained to me, when they reported to the police, they were often told that the police did not deal with

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44 Informal conversation, October, 2018.

45 *ibid.*

46 N Sophie, 'The Politics of Accusations Amidst Conditions of Precarity in the Nakivale Resettlement Camp' (2019) 37: 2 *The Cambridge Journal of Anthropology* 39, 56.

47 *ibid.*

48 *ibid.*

witchcraft. In their earlier work, Comaroff and Comaroff<sup>49</sup> noted that accusations of witchcraft in South Africa increased at a time when the effects of global processes could not be understood by the locals.

I argue that delays in processing resettlement cases or the rejection of resettlement claims create the very conditions that the resettlement policy aims to alleviate. By taking a long time to process claims, the resettlement programme further exacerbates vulnerability not only for those who are 'in the process' but also of those suspected to be the cause of delaying the resettlement process because they are consequently accused of witchcraft. Moreover, that the latter cannot rely on the police (or other agencies in the camp) to protect them, given that witchcraft allegations do not fall within the mandate of the diverse agencies, not only shows a lack of contextual understanding of security threats but also highlights the limits of the law. The fact that the police as law enforcers are not equipped to deal with crimes involving witchcraft is crucial to understanding the limits of Ugandan criminal law since it does not address how to deal with the supernatural.

This suggests that in assessing resettlement claims, what counts as vulnerable should be broadened to include traditional beliefs. Belief in witchcraft and its evil effects is particularly common in Africa, and while in this specific settlement accusations and precautions against witchcraft were mainly prevalent among Congolese refugees, scholars have noted that the difficulty in policing or enforcing witchcraft allegations are very common. Sandvik argues that UNHCR recognises witchcraft as a security threat<sup>50</sup>, however interviews conducted with refugees as well as some aid workers suggested that it is not recognised as a vulnerability criteria for resettlement.

UNHCR acknowledges three key challenges in implementing resettlement programmes. The first is the necessity for more 'resettlement submission opportunities to meet increasing needs'. The second is a logistical issue. Resettlement is an arduous process that requires more personnel just to meet the submission targets. For instance, as mentioned earlier, according to the UNHCR Resettlement Factsheet for Uganda, the submission tar-

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49 J Comaroff and L John Comaroff, 'Occult Economies and the Violence of Abstraction: Notes from the South African Postcolony', (1999) 26:2 *American Ethnologist* 279, 303.

50 K Bergtora Sandvik, 'The Physicality of Legal Consciousness: Suffering and the Production of Credibility in Refugee Resettlement' in A Richard Wilson & D Richard Brown (eds), *Humanitarianism and Suffering: The Mobilization of Empathy* (Cambridge, Cambridge University Press, 2008) at 225.



get was 5,426 but only 2,937 applications were submitted and only 1,787 of that number were resettled to the respective Resettlement Countries<sup>51</sup>. Lastly, one of the main challenges that UNHCR faces is ‘managing refugees’ expectations’ owing to the low number of slots.<sup>52</sup> As one interlocutor who has been in the resettlement process since 2013 explained to me, ‘we were told that resettlement is not a right.’ This response could have been elicited because aid workers state that most refugees consider resettlement as the only durable solution available to them. Consequently, aid workers try to manage refugees’ expectations by offering counselling or other practical solutions to complaints that refugees report to them. These solutions are not always well received by some refugees who perceive resettlement as the only durable solution to their problems. One refugee working in one of the aid agency explained that as male survivor of sexual violence, remaining in the settlement was not an option because he endured homophobic slurs regularly.<sup>53</sup>

In the section that follows, I discuss UNHCR’s vulnerability categories and show the specific ways in which refugees seeking resettlement in Nakivale experience vulnerability, or make vulnerability claims, in order to demonstrate how the disjuncture between these categories and refugees’ experiences presents a challenge for implementing the resettlement programme.

### 3 Unpacking UNHCR’s Categories of Vulnerability

Various scholars have noted the ubiquity of labels and categories in humanitarian contexts.<sup>54</sup> Glasman argues that UNHCR’s interventions and distribution of resources are inherently premised on specific categories.<sup>55</sup> This is particularly evident in the implementation of the resettlement programme, and also in the ways diverse agencies in Nakivale refugee settlement allocate resources such as food rations, education scholarships, housing material and other services. Aid services are provided by multiple agen-

51 United Nations High Commissioner for Refugees (n 28) at 1.

52 *ibid* at p 2.

53 Informal conversation, November, 2019.

54 See for instance R Zetter, ‘Labelling refugees: Forming and transforming a bureaucratic identity’ (1991) 4:1 *Journal of Refugee Studies* 39, 62; J Glasman, ‘Seeing Like a Refugee Agency: A Short History of UNHCR Classifications in Central Africa (1961–2015)’ (2017) 30 *Journal of Refugee Studies* 2 337–362.

55 *ibid* J. Glasman (2017).

cies in Nakivale refugee settlement. The pluralisation of aid services is aimed at the broader goal of protecting refugees in this settlement and is overseen under the auspices of United Nations High Commissioner for Human Rights (UNHCR) and the Office of the Prime Minister (OPM). The aid agencies offer different but complimentary forms of protection that are aimed at providing refugees with food, housing, education, legal aid, medical treatment and identification cards.

In line with anthropological scholarship, UNHCR vulnerability categories centre on the 'suffering body',<sup>56</sup> suggesting that in many ways suffering is the 'most legitimate source for claim-making and legal and political recognition'<sup>57</sup>. I argue that as valid as these categories are, they only capture a small fraction of the varied ways in which refugees experience vulnerability. The result is that other forms of suffering are framed differently and thus addressed in ways that do not solve the problem in reality.

This results in a reframing of these problems and their repackaging by refugees in efforts to make them legible to the humanitarian system. The effect of this is forum shopping, as refugees attempt to make their claims to as many aid offices that will recognise their claims. I argue that the use of UNHCR categories in the implementation of the resettlement programme is an attempt at having a uniform standard,<sup>58</sup> while efforts by refugees to bypass these mechanisms of bureaucratic control through reframing of their problems and forum shopping should be understood as an exercise in agency.

In the following section, I discuss the many ways in which many refugees experience vulnerability in their everyday life in Nakivale. In doing so, I show the extent to which these categories are not encapsulated by the UNHCR criteria of vulnerability for resettlement. I argue that refugees' experiences of other forms of suffering outside those recognised by UNHCR exacerbate the harsh living conditions in the settlement in ways that enhances their vulnerability. Below are some examples of the factors that further exacerbate vulnerability in ways that international and resettlement policies do not anticipate or address on the ground.

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56 K Arthur et. al. (eds), *Social suffering* (Berkeley, University of California Press, 1997).

57 T Miriam, 'Transnational Humanitarianism' (2014) 43 *Annu. Rev. Anthropol* 89 273, at 276.

58 K Bergtora Sandvik (2011) (n 9) at p 12. M Liisa, 'Speechless Emissaries: Refugees, Humanitarianism, and Dehistoricization' (1996) 11 *Cultural Anthropology* 3 377 at 404.

### 3.1 Dependency on aid system

Refugees come from different countries and constitute different ethnic groups, which makes adapting to their current reality difficult without any assistance.<sup>59</sup> Not only are many of them impoverished, coping in their new spaces is hindered by lack of resources, language skills or other forms of knowledge that would potentially enable them to engage in economic activities outside the settlement. Moreover, the structure of assistance constructs refugees as the ‘needy’ recipients of humanitarian assistance and aid workers as the benevolent providers of humanitarian aid.<sup>60</sup> Thus, from an anthropological perspective, humanitarian assistance is ‘but a moral transaction which defines status and power relations between the giver and the recipient’.<sup>61</sup> Quoting Mauss’ famous work Benoit, et al equate humanitarian assistance with ‘the gift’. Maus argued that ‘[the gift] not yet repaid debases the man who accepted it’.<sup>62</sup> Thus, the way in which refugees are helped places them ‘at a structural disadvantage with respect to their helpers’.<sup>63</sup> This makes refugees vulnerable in ways that might not be envisioned or recognised in UNHCR’s categories of suffering.

### 3.2 Climate Change

When refugees come to Uganda they are given a small plot of land as part of the self-sufficiency strategy developed by UNHCR and Uganda. The idea behind this strategy is that refugees can, with time (within a period of 6 months), be expected to supplement their aid supplies with food they have grown. While well intended, especially in light of dwindling donor support to aid programme, climate change has affected the farming seasons and people can no longer predict the rainy season accurately so as to know when to plant their crops. The long dry spells in Nakivale often end up scorching the earth. In 2016, for instance, the drought caused the death of several animals and people, affecting both the host community and

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59 B Jacques et al, *Anthropology in Humanitarian Assistance* (Brussels, European Commission, vol 4, 1998).

60 *ibid* B Jacques et al (1998) at 50; Z David, ‘Vernacularising Asylum Law in Malta’ in R Arnold and V Colcelli (eds), *Europeanization through Private Law Instruments* (Regensburg, Schnell & Steiner, 2016).

61 *ibid* B Jacques et al (1998) at 50.

62 Cited in *ibid* B Jacques et al (1998) at 50.

63 *ibid* B Jacques et al (1998) at 50.

refugees indiscriminately. The effects of climate change make both the refugees and the host community vulnerable since refugees are expected to rely on the land they are given for subsistence farming, while the host community is not entitled to food aid. Thus, it is worth noting that climate change has serious implications for diverse experiences of vulnerability on the ground – not only among refugees but owing to human security issues, also among those generally not identified as needing international protection.

As Imana, one of my interlocutors explained to me in 2017 when complaining about the small food portions, most of the health problems people complain about are stomach related. This is because ‘security starts with the stomach.’ In their chapter on ‘Vulnerability and Human Security’, Robin Leichenko and Karen O’Brien not only argue but also show how ‘...climate change can contribute to food, water and health insecurities, particularly for vulnerable populations that are burdened by poverty or face other social, economic, political or environmental constraints’.<sup>64</sup> This is especially true in the case of many of the refugees living in Nakivale refugee settlement who relied on subsistence farming to supplement their food aid. Leinchenko and O’Brien posit that in the context of climate change, the concept of vulnerability highlights the ‘social, economic and political factors that expose specific ‘nations, communities, individuals and groups’<sup>65</sup> to more risks. To this end, we see that their definition broadens the concept of vulnerability to acknowledge other factors that make people more susceptible to threats other than those stipulated in UNHCR’s vulnerability criteria for resettlement. In the case of Nakivale, climate change contributes to the reasons why some people want to leave the settlement.

Scholars in the environmental field have acknowledged that vulnerability can also arise from what people depend on for survival. Those whose livelihood depends on naturally and locally available resources and are thus sensitive to environmental changes, such as farmers, fishers or those who engage in forest-based activities, are more prone to the effects of climate change.<sup>66</sup> In the context of refugees fleeing conflict zones in neighbouring regions to Uganda, vulnerability is further exacerbated by their dependency on environmentally sensitive livelihoods if their livelihood is subsistence-oriented. This is because even when they flee to countries of

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64 R Leichenko and K O’Brien, *Climate and Society: Transforming the Future* (Hoboken, John Wiley & Sons, 2019) at 139.

65 *ibid* at 140.

66 *ibid*.

first asylum, they are unlikely to have the capacity to recover from climate change. This is already the case for subsistence farmers and informal workers who have remained in their own countries, as research shows.<sup>67</sup>

### 3.3 Economic Dimension

A review of literature in the Great Lakes region clearly shows a bias in migration scholarship by its focus on ‘conflict-related refugee migration’.<sup>68</sup> This bias ignores labour migrants within and between these countries.<sup>69</sup> I argue that whilst the 1951 convention excludes economic migrants from its definition of a refugee, the reasons for moving render such distinctions meaningless in practice, as one could argue that economic migrants have been forced to move to find a means to make a living outside their home country. If one agrees that people fleeing wars, political or religious persecution or displacement are in need of protection, then economic factors have to be regarded as an inevitable effect. One can still advocate for a narrow view of vulnerability for the sole purpose of precluding a majority of economically vulnerable groups from resettlement and also recognise the connection between these processes and their economic and social effects on those who flee. In the case of Nakivale Refugee Settlement in Uganda, as is indeed the case for most people who live in post-conflict conditions, there is a thin line between forced migration and economic migration.<sup>70</sup> Castles et al posit that ‘efforts for prevention of conflicts and for protection and assistance of forced migrants are far from adequate, since conflict and impoverishment often go together’.<sup>71</sup> This, they contend, makes it hard for UNHCR to respond to appropriately to ‘mixed flows’,<sup>72</sup> particularly be-

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67 *ibid* at 143, citing R Leichenko and A Julie Silva, ‘Climate change and poverty: vulnerability, impacts, and alleviation strategies’ (2014) 5 *Wiley Interdisciplinary Reviews: Climate Change* 4, 539-556.

68 S Castles et. al., *The Age of Migration: International Population Movements in the Modern World* (New York, Guilford, 5th ed., 2014) at 186.

69 *ibid*.

70 *ibid* at 185.

71 S Castles, *Migration, Citizenship and Identity: Selected Essays* (Londong, Edward Elgar Publishing, 2017) at 229.

72 C Jeff, *Beyond the nexus: UNHCR’s evolving perspective on refugee protection and international migration* (Geneva, UNHCR Research Paper No. 155, 2008) <<http://www.unhcr.org/en-us/research/working/4818749a2/beyond-nexus-unhcrs-evolving-perspective-refugee-protection-international.html>> accessed 14 October 2019.

cause lines between economic migrants and forced migrants are blurred.<sup>73</sup> I argue that rather than focus on labels to distinguish between these two categories, a more appropriate approach would be to assume that any asylum seeker or forced migrant is by nature an economic migrant. This approach recognises the indivisibility of human security and would allow for a more realistic approach to address population flows.

### *3.4 Poor Infrastructure*

Uganda has great legal infrastructure and its refugee laws have been hailed as the ‘most compassionate’ laws in the world because of its welcoming refugee policies. Theoretically, refugees in Uganda are allowed to work, have freedom of movement, free education, the right to health, and they are given land on which they can farm and build a small house. However, these services have often remained hard to access, for refugees and citizens alike. In particular, healthcare remains a challenge in the settlement, which has a small health centre that caters to a large population of over 100,000 refugees. Refugees complained that the health centre was equipped with only one doctor and that they often had to queue up for long periods before they could be attended to. While interlocutors complained about not having money to pay for the ‘free’ education, they also cited the long distance that high school students had to walk to attend the only school catering to refugees from different villages. One Somali interlocutor said that he could never allow his daughter to walk that far from home because he could not guarantee her safety. These few examples show the limits of law. While it is true that the laws provide for adequate refugee protection on paper, accessing services such as health, education and work remains a challenge in practice. While many interlocutors gave ‘hard life’ or lack of employment as the reason they wanted to be resettled to a country in the West, majority of them complained that the lack of good healthcare and seeing no future in Uganda were the main reasons for wanting to leave. Thus, the presence of an ever-increasing refugee population due to conflict in the neighbouring countries compounds the problem of poor public service provision. This is the case not only for Uganda’s citizens with whom refugees have to share already strained, poor infrastructure but as research by other scholars has shown elsewhere ‘...vulnerability of poorer populations is sometimes tied to infrastructure and provision of public

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73 S Castles, et. al. (2014) (n 62) at 229.

services'.<sup>74</sup> This is the case for most refugees who live in refugee settlements and neighbouring host community which are often situated in rural areas, thus presenting Uganda with a whole new set of social and economic challenges. Socially, host communities around areas near refugee settlements that are comparatively poor have expressed their frustration at being evicted from land to make space for more refugees. Host communities have at times been hostile towards refugees because of what they interpret as preferential treatment of foreigners by the aid system, which gives food rations and other provisions to refugees but not to the local community. As one interlocutor told me, the 'nationals' sometimes destroy their crops. Another interlocutor, who is a chairperson for one of the zones in the refugee settlement, told me that many of the cases or complaints that are brought to him are conflicts between 'nationals' and refugees, with the latter reporting that the locals had destroyed their crops. This suggests that the aid system creates vulnerable conditions for refugees through the preferential allocation of land and other resources, thus making them potential targets to hostile attacks from those who feel excluded and perceive themselves as equally vulnerable and deserving of help from the aid system or the government.

### 3.5 *Contested Concept of 'Family'*

Customarily, in most African countries, cultural definitions of family often go beyond the nuclear family. For the purposes of attaining refugee status within the country of asylum, any relative that joins an asylum seeker that is granted refugee status in Uganda is welcomed. However, for the purposes of resettlement, the idea of family takes on a different meaning. In line with UNHCR's principles of keeping families united, those who are approved for resettlement are often resettled with their close relatives. However, it is up to the receiving country to decide whether or not they will accept the family size. In an informal interview with UNHCR officer in charge of resettlement, she gave a hypothetical example, elucidating that houses in Finland are small and that it was unlikely that a large family would be resettled in Finland because if a refugee has a large family. Thus, although UNHCR tries to keep families together, the idea of family is narrowly defined as it excludes married adults. A western conception of family in a refugee context disregards the refugees' histories and the bond they

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74 R Leinchenko and K O'Brien (2019) (n 58) at 144.

share with family members with whom they have endured so much suffering while fleeing their countries of origin.

### 3.6 *Conflict of Interest in the Provision of Aid Services*

As explained above, humanitarian services in Nakivale refugee settlement are provided by diverse aid agencies that cater to refugees' diverse needs. This is in line with many other refugee and asylum centres where non-governmental organisations have taken on governance responsibility under the auspices of UNHCR and the host countries. In the case of Uganda, funding for the operations of Nakivale refugee settlement hails mainly from donor countries in Europe as well as America and a few Asian countries. While there are many countries that donate to the aid programmes, very few of them participate in the resettlement scheme. I argue that the aid agencies in this specific settlement perform a dual role that is inherently contradictory. These agencies' very existence depends on funds donated by States because of their demonstrable expertise in the aid service provision or capacity to solve protection needs of refugees in the country of asylum. Therefore, they are important actors in constraining or enabling refugee outflows. In essence then, these agencies act as gatekeepers by ensuring that refugees' needs are addressed in the country of asylum and that only the most vulnerable refugees are recommended for resettlement.<sup>75</sup>

This results in gatekeeping practices as aid agencies have to write reports and keep records that account for provision of protection solutions to refugees in the country of asylum. Consequently, aid offices are effectively transformed into 'borders' of first instance, where refugees make their 'vulnerability' claims. Viewed from a broader perspective, aid agencies are important actors in the externalisation process in which undesirable populations are screened and documented before a decision can be made on their desirability as potential immigrants to developed countries in the Global North. This is because the bureaucratic process of making a vulnerability claim warrants admission on the part of the agency recommending resettlement that it cannot provide the service, or address the needs required to keep the refugee in the country of asylum. It is no surprise then that few

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75 S Nakueira, 'Governing through Paperwork: Examining the regulatory effects of documentary practices in a refugee settlement' (forthcoming 2020) *Journal of Legal anthropology*.



agencies would be ready to recommend resettlement given the implication of such a recommendation. As noted by Sandvik,<sup>76</sup>

access to third-country resettlement is in essence a question of administrative discretion about whether to grant admission to the First World. Legal bureaucrats, not judges, therapists, political leaders, human rights researchers or journalists, are in charge of determining the adequate threshold of suffering.

This raises issues of justice in the discretion exercised by agencies in the screening process. The section below will explore how this discretion affects the implementation of the resettlement programme.

### 3.7 *The Exercise of Discretion by Aid Agencies*

Discretion has been a key issue of contention in administrative law, with some scholars arguing that the exercise of discretion can lead to injustice.<sup>77</sup> While acknowledging the need for discretion, Davis argues that it has a high risk of leading to injustice.<sup>78</sup> In the context of implementing the resettlement policy, the exercise of discretion has grave implications for the protection of extremely vulnerable refugees who may be eliminated by a system that positions legal protection officers as objective assessors of vulnerability.<sup>79</sup> Thus, Sandvik urges us to ‘scrutinize these processes of administrative humanitarian interventionism, and the technologies of control that the machineries for human rights protection provide for legal bureaucrats’.<sup>80</sup>

In many of the forms I analysed, the exercise of discretion was structured and confined to pre-conceived solutions on many of the agency forms. Therefore, aid workers could choose which solution to recommend

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76 K Bergtora Sandvik, ‘The Physicality of Legal Consciousness: Suffering and the Production of Credibility in Refugee Resettlement’ in A Richard Wilson & D Richard Brown (eds), *Humanitarianism and Suffering: The Mobilization of Empathy*, (Cambridge, Cambridge University Press, 2008) at 225.

77 DKenneth Culp, ‘Confining and Structuring Discretion: Discretionary Justice (1970) 23 *Journal of Legal Education* 1 62 at 56.

78 *ibid.*

79 T Marnie Jane, ‘“Giving Cases Weight”: Congolese Refugees’ Tactics for Resettlement Selection’ in A Garnier et al. (eds), *Refugee resettlement: power, politics, and humanitarian governance* (New York, Berghahn Books, Studies in Forced Migration, vol. 38, 2018).

80 K Bergtora Sandvik, (n 44) at 225.

based on limited choices stipulated on these forms. However, there is an inherent distrust of refugees' stories among aid workers. Many aid workers I interviewed complained that many of the refugees who sought their help were mainly looking for resettlement and would do anything (including making false accusations of rape or defilement) so as to get in the resettlement process. These real or perceived bogus claims are often accompanied with equally dubious papers meant to support their claims that have been acquired from an illicit market of actors seeking to capitalise on the desperation of refugees seeking to circumvent the formal resettlement process. It is mainly due to this distrust of refugees' narratives of suffering that many aid workers do not recommend resettlement but often refer the refugee for counselling – an option that is already provided for on many agency forms. This issue of distrust raises important questions on how aid workers make decisions, how they distinguish between true and bogus claims, and the resulting consequences for refugee protection. This problem is compounded by the fact that not all those who have acquired supporting documents illicitly are making bogus claims. Rather, many genuinely vulnerable refugees are often victims of an illicit market that capitalises on their despair and solicits bribes in return for fake 'supporting' documents.

The screening process embedded in the documents of aid agencies reveals not only power relations between aid workers and refugees, but also another aspect that may not be so apparent, namely 'governing at a distance'.<sup>81</sup> Since the selection or recommendation by aid agencies in the settlement results in the resettlement of a few of the most deserving suffering refugees to participating resettlement countries in the Global North, this raises two interrelated key issues. First, aid agencies become de facto 'gatekeepers' or external migration control officers for resettlement countries. As inadvertent policing agents of resettlement countries, aid agencies become conduits through which migration control is exercised in a humanitarian context. This image invokes Osborne and Gaebler's popular image of 'steering' and 'rowing'<sup>82</sup> with resettlement countries doing the steering and aid agencies doing the rowing of migration control. This transforms not only the resettlement programme into a regulatory tool that controls refugee outflows from the Global South to the Global North but also

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81 N Rose and P Miller, 'Political power beyond the State: problematics of government' (1992) 61 Suppl 1 *The British Journal of Sociology* 271 at 303.

82 D Osborne and T Gaebler, *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector* (Melbourne, Addison-Wesley Publishing, 1993) at 28.

refugee settlements into complex spaces. For they are at once refugee settlements and transit spaces where the management of population outflow is exercised through humanitarian protection regime.

This externalisation of migration control on the part of countries in the Global North in humanitarian spaces makes aid workers key decision makers in the implementation of resettlement programmes. Through bureaucratic documents, each agency in the settlement fills out a form in which refugees are classified and offered preconceived solutions. This leads to a type of 'governmentality' in which settlements are transformed into spaces in which refugees are 'classified and managed'.<sup>83</sup> These documents become important testimonies that attest to refugees' vulnerability, thereby positioning aid workers and refugees in asymmetrical power relations. The latter has consequences for how aid workers interact with refugees in a context where the process of selecting the most vulnerable among a broad population of vulnerable refugees is not transparent.

This highly intransparent bureaucratic process creates room for exploitation of already vulnerable populations and gives aid workers a wide range of discretionary powers, whether real or imagined. This gives unscrupulous aid workers the capacity to take advantage of refugees who seek to influence the resettlement selection process. It is this imagined power over the selection process and the opacity in the allocation of resettlement slots to refugees that fuels accusations of corruption. One aid worker declared that the system has the potential to exploit refugees seeking resettlement, 'It is easy to exploit them as they are all looking for resettlement and will give anything to get it.' However, he was quick to add that not all agencies can recommend resettlement as a durable solution and that his agency was one of those that do not. The allegations that one has to pay money in order to be shortlisted was often cited as a reason for self-exclusion on the part of some refugees, since they were of the opinion that they stood no chance of being selected even though they felt that they qualified for resettlement. Despite well-positioned noticeboards cautioning people not to engage in resettlement fraud, there was a persistent belief that the system favoured those with money and not people with genuine protection needs.

Moreover, the Initiative for Enhanced Resettlement of Congolese Refugees which was introduced in 2012 to resettle Congolese refugees due to the protracted nature of the war in DRC<sup>84</sup> remains ambiguous to many Congolese refugees. It is unclear whether all refugees from Congo in the

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83 C Shore and S Wright (2011) (fn 1) at 16.

84 United Nations High Commissioner for Refugees (n 28) at 2.

settlement are eligible for resettlement, or only those who came in the 1990's referred to as 'old case'. In a conversation with a UNHCR official, she mentioned that they cannot reveal some information about the selection process to the refugees, as much of it remains at the discretion of the Resettlement countries. Therefore, it was not uncommon for interlocutors to complain that some Congolese refugees who came recently were being resettled while those who have spent several years in the settlement are still waiting for their turn. Such complaints suggest that lack of opacity can spark a lot of distrust in the system and in the aid workers themselves who are deemed by refugees to have power to influence the selection process. Moreover, confusion and distrust is made worse by the shortlisting of Congolese refugees of Tutsi ethnicity on UNHCR noticeboard, prompting further allegations that Rwandans are getting resettled or are posing as Congolese refugees, when in fact they are Congolese by nationality. This apparent misunderstanding is explicable. The shortlisted Rwandese ethnic surnames on the UNHCR noticeboards, which are in plain view for anyone to read, have no resemblance to other ethnic groups from Congo – thus causing speculation of corruption.

#### *4 Escaping Vulnerability: Survival Strategies*

Whilst interviews with refugees revealed that many of them fit the vulnerability criteria in one way or another, exasperation and motivation for wanting to be resettled was explained by the precarious nature of life in the settlement. Lack of economic opportunities, a poorly equipped health centre and 'no hope' in the country of asylum or Africa generally were the most cited reasons for the desire to 'look for survival' elsewhere. Looking for survival outside the settlement was also the reason that young people who had given up faith in the system are reported to have embarked on dangerous journeys through Libya to reach Europe or end up servitude in host communities. Servitude was one of the options for some refugees who worked as herders for 'nationals' – as Ugandans near the settlement are referred to. Payment was often through exchange of labour for food or small wages, given that the Ugandan villagers that employed them are themselves usually poor.

While many refugees adapt to life in the settlements, others do not see settlements as permanent homes. This is especially the case with educated refugees who cannot imagine spending the rest of their life in the rural spaces they now find themselves in. In thinking about the future for themselves or their children, many refugees spoke of an ideal life in the West,

where they saw a better future for themselves and their children. Despite not being in the resettlement process, some refugees were waiting until they got abroad to start families, thus putting family life on hold.

Although many refugees queue outside aid offices and the UNHCR building, not all are looking for resettlement. Interviews I conducted with people waiting outside UNHCR offices revealed that many of the refugees were already in the resettlement process, but had been waiting for years to leave the settlement. One of my interlocutors, who was finally resettled to Sweden in August 2018, had been in the resettlement process for six years.

Those who had resettlement claims approved on grounds of medical needs were afraid that their relative would not make it out of the settlement alive. One refugee, whose sister had been approved for resettlement on medical grounds told me that his sister had died before getting resettled and he was now seeking resettlement on grounds of security – having missed the chance to get resettled by default on account of his sister's death.

In general, some refugees find it hard to integrate in settlements – they deem them unsympathetic to their needs for survival. Specifically, inadequate healthcare and unemployment were the most cited reasons for refugees desiring to leave the settlement. Many refugees that were interviewed saw no future in a third-world rural settlement, which lacks basic institutions to make permanent arrangements thinkable. In Uganda, the Self Reliance Programmes, which assume that refugees that have been given plots of land will grow their own food and be self-sufficient and consequently less dependent on aid, render the idea of local integration impossible for refugees that are not from agricultural backgrounds. Moreover, this is not discounting the fact that even for those refugees that have an agriculture background, yielding crops in a changing climate make it difficult for them to anticipate when best to plant food crops on account of long spells of dry seasons. It is for this and many other reasons that resettlement remains the most desired durable solution for many, and it is also why the broad overlapping conditions which structure vulnerability make it difficult for the programme to be implemented in a context where there are multiple and overlapping layers of vulnerability, some of which are produced by the resettlement policy itself.

## Conclusion

This chapter set out to show how refugees engage with the resettlement programme in a refugee settlement in Uganda and the meaning resettlement takes on in this refugee settlement.

In doing so, this chapter exposed the shortcomings of the resettlement policy by extrapolating in detail the challenges of implementing the resettlement programme on the ground. It showed that while international humanitarian law attempts to offer protection to displaced people, the translation of international law on the ground does not offer adequate protection in a meaningful way. Moreover, as the chapter has illustrated, the resettlement policy offers protection to only a limited number because admission to third country States is discretionary. I have argued that the vulnerability criteria used in assessing resettlement cases privileges specific taxonomies of suffering over others. That leads refugees to reconstruct legal personhood in ways that fit forms of suffering required in the country of asylum as well as for the purposes of resettlement. Additionally, by describing the discretion exercised by aid actors involved in screening or the selection of vulnerable refugees, I show that, in essence, while the resettlement programme is meant to protect the most vulnerable refugees, it promotes interests of third countries as an effective regulatory tool of refugee outflow. For those refugees looking for a way out of the precarious conditions of the settlement, the resettlement policy is a means through which they aim for a chance for a better life in America, Europe or elsewhere in the West. This not only creates opportunities for exploitation by aid workers who do the screening process, but in a context where majority of the refugees are vulnerable, the system creates potential for excluding those refugees who may not adequately or credibly meet indeterminate performative standards of vulnerability.<sup>85</sup>

By taking an anthropological approach in unpacking the resettlement policy, I have shown the ‘messiness and complexity’ as well as the ‘ambiguous and often contested manner’ in which the resettlement policy is implemented. In the context of Nakivale settlement, the resettlement policy, in essence, is a regulatory tool that controls refugee outflows from the Global South to the West, as well as a protection tool. The difficulty is not only in discerning how it manages to select the most vulnerable in a context where majority of the refugees are vulnerable because of the broad and overlapping conditions which shape vulnerability and precarity in the settlement.

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85 K Bergtora Sandvik (2018) (n 3) at 227 .

As may have been obvious to the perceptive reader, not all the issues can be remedied by the resettlement policy. For many of the problems faced on the ground are beyond what the protection regime of resettlement is intended to achieve. Yet the paradox is that if not remedied, these problems will render the majority of refugees suitable for the resettlement programme. It is for this reason that I suggest that any discussion of another kind of humanitarian admission to Europe– in spite of its well-intended objectives – would do well to anticipate how to address existing challenges such as the ones mentioned above

