Irregularizing Mobility:
Migrant Narratives and Reframing Irregular Migration

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draft only – please do not cite

Jennifer Hyndman writes: "Theorizing mobility begins with people's stories and histories of migration."[1] And so I begin.

John has lived in Morocco for three years, for the most part in an irregular migrant encampment at the Mohammed I University in Oujda, and hopes to reach Spain one day. An accounting graduate, his journey from Nigeria took eighteen months as he was forced to stop in several places to earn enough money to pay for the next "leg" of the journey along well-known and well-traveled routes. He paid for passage at each step, but adamantly denies having been "smuggled." Instead, he paid for transportation and for bribes paid to police and border officials. He was also paying for the knowledge of others who have made the journey themselves, or have seen so many others attempt it that they know all the tricks to getting across international borders, and to surviving as an unwelcome "illegal" in places and spaces made transnational by their status as transit zones. He is migrating because he is not "living comfortably" in his – or in any – country. John doesn't accept the "regular" definition of a refugee as one fleeing political persecution with justified fear. Rather, he argues, persecution is more spread out, and more general, and to be a refugee is to lack rights and opportunities. "In every civilized world, you should live comfortably" he says, showing me a letter from the UNHCR indicating that an application for asylum had been filed in one of the transit countries, and that temporary asylum had been granted while full status was considered. He is not going to file an application for asylum in Morocco, though – he is waiting to reach Spain, and plans on destroying his documents when he crosses the border so that he can't be "sent back." For now, the UNHCR letter stays in his breast pocket. He has now been deported to the Algerian desert several times by Moroccan authorities, but he always returns to Oujda, waiting for the next chance to make the final leg of a long journey to Spain. When he succeeds, he hopes to continue his education and to find work, to marry and to have children. For now, though, he says he is "stranded" – unable to move ahead or to go back. He has no status or rights, and is frozen in a state of irregularity that makes being temporary a permanent way of being and stops the future from happening.[2]

Unlike John, who has crossed several borders as he moves to a destination of his own choosing, Basil lives only miles from the border of his home country in Nduta refugee camp in Kibondo, Tanzania. He is a *prima facie* refugee, a status that is rigidly controlled and that does not carry with it the rights and freedoms outlined in the United Nations Convention for Refugees. His individual refugee status has never been determined, and his individual claim has not been processed with any rigour. Rather, he was granted status by virtue of his nationality at the decision of the Tanzanian government in the wake of a mass migration. He knows that he is a refugee, one of hundreds of thousands of Burundians who fled civil conflict during the 1990s into Tanzania; he also knows that he is being denied what rights a "refugee" is entitled to. He blames the government of Tanzania, and feels that the message being sent is that he is not welcome. Basil has lived in Tanzania for several years, but his biggest problem remains where he will be tomorrow. "A refugee is not a human being," he says. The constant state of temporariness stops him from investing in anything long term – including the concept of home. Rather, home is where he has slept today. It is no longer Burundi, to

[1] Jennifer Hyndman, Managing Displacement: Refugees and the Politics of Humanitarianism. Minneapolis: The University of Minnesota Press, 2000, p. 29.
[2] "John" (false name), Individual Interview, Migrant. Oujda, Morocco. April 2008.

which he is afraid to return regardless of the fragile peace. It is not Nduta camp, nor Kibondo or Tanzania. In the strictest of senses, Basil is not irregular. Yet, the Tanzanian government began a program of repatriation for the Burundian refugees in 2004. Basil is refusing to go, and has written several letters of appeal to the UNHCR. It is a problem for refugees to go back, he says – they don't belong anywhere. They are temporary, even in Burundi. This is a lesson he learned in the late 1990s, when he did return to Burundi from Tanzania. He was forced to flee again, and to return to the tentative status of "refugee" within a year. There is no such thing as stability in the lives of those who are being "encouraged" to repatriate, he says. There is no future.[3]

Irregularity, to be "irregular", in migration is to experience mobility in ways that are outside of the strict policies and procedures of management and control that govern border regimes. To become irregular, one crosses a border without permission or in a way outside of the frameworks provided for, bypassing all check-points and without valid papers. To move in any way outside of the state frameworks and structures is to move "irregularly." While this most often denotes what is commonly called "illegal migration", I argue that it also encompasses those who do not bend to the categorizations and understandings – and subsequent movements and identities – shaped by the state. A refugee who refuses to participate in a repatriation program, in this way, becomes irregular.

"Regular" migration is, in fact, regulated migration. It is mobility that takes place through the processes orchestrated by the state as ordered gateways within the architectures of border control erected in the name of security. This regulation takes place through the marking of certain bodies as acceptable, appropriate and allowed – a marking that is communicated both by who they are, but also by how they move. Other bodies are thus unacceptable, inappropriate and disallowed – these are more officially marked by how they move, while the marks of identity, particularly race and class, work to constrain and shape the experience of irregularity. Border politics, particularly in the "West", is obsessive over this distinction, managing regular migration into well understood and ordered processes and fiercely controlling, repelling and, when at all possible, stopping irregular migration, portraying it as dangerous, threatening, and criminal.

The literature that interrogates migration, its governance, and its effects on border politics and their consequences frequently leaves migrants themselves as faceless and nameless bodies – often worthy of sympathy and concern, but un-individuated nonetheless. More critical texts work to tell contextual stories of consequences, and to highlight the violences and lived consequences of such policies. Even here, however, regular migration remains normal, abstracted and general. While the "irregular" migrants are given a place in the story, the degree to which irregularity itself plays out across multiple contexts, multiple places and spaces, and multiple narratives remains obscure. There is today an international migration regime. It operates at state borders globally, taking different specific forms but always maintaining a regular migration that is state-condoned and an irregularity that exists outside of the official narratives of status, identity and mobility. The consequences of such status have similarity across context and space, and an understanding of this is needed if we are to apprehend the implications of the

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[3] "Basil" (false name). Individual Interview, Burundian Refugee. Nduta Camp, Kibondo, Tanzania. December 2007.

exclusions the regular/irregular divide imposes. To achieve this, migrant narratives themselves must be incorporated into our framing of categories, precisely to destabilize these categories and open up space for a potential politics. In rupturing the border and resisting its fixity, such narratives tell us more about the distance between the practice and rhetoric of the society whose borders we patrol than anything else.

The following will begin an examination of this understanding of irregularity and its narratives and lessons. I begin with situating the context of migration control and border management in current policy and literature, and continue to an assessment of the situation in my chosen cases of the border between Spain and Morocco and the refugee camp in Tanzania. Comparison across cases that present as so different in context, policy, and experience is a difficult proposition. When the border is the focus of the study, such comparison seems to be a futile exercise with little to add to our understanding of international migration globally. When the narratives of the migrants themselves are introduced into the study, however, striking parallels and themes emerge that are closely similar. The individual stories the migrants themselves tell are different; they follow different routes, have different motives for migrating and have faced different policy regimes. In both Spain and Tanzania, however, irregularity is criminalized and marked by a refusal to participate in state border programmes and regimes. Both irregularities are marked by a refusal to cross borders in ways demanded and regulated by the state. The direction of crossing – a demand for entry, or a refusal to exit – is less important, as the consequence of each is to be irretrievably irregular. This irregularity has produced a temporariness felt to be permanent, and the instability and exclusion the follows from this creates a sense of being static, unable to envision a future within structures imposed by state policies of border control. And in both cases, the refusal to submit represents a politics of resistance that cannot go unnoticed if international border crossings are to be understood.

Regulating Mobilities: When Movement Becomes Illegal

The shrinking space for asylum and refugee migration is perhaps the most important indicator of the changing international migration regime. As "regular" migration is usually limited to immigration that follows the appropriate channels, makes the proper applications, pays the correct fees and waits for the official permissions, I argue that refugee migration is similarly "regular." To become a refugee (although not necessarily to be an asylum seeker), an individual must also go through a particular process, make certain applications, and receive permissions. More importantly, however, "refugee" is a status that has a clear definition in both international and domestic law.[4] Such individuals are seemingly easily categorized, and have ascribed rights, duties and behaviours that enable the state to regulate such mobility in defined ways. The impetus of most refugee migration, however, remains with the individual. Rather than waiting for permission from the state to move, a refugee waits instead for permission to reside. As such, the act of crossing the border still represents a rupture, and regularization occurs after the fact. Refugee migration is thus at the limit of regular migration, and so

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[4] see, in particular, the 1951 United Nations Convention on the Status of Refugees. United Nations, *1951 Convention on the Status of Refugees*. [online] (Switzerland, 1951)

measures that constrain and manage mobility are first and most obviously seen (and experienced) within this category. This is evident across multiple contexts and spaces, as is the immanent irregularity experienced by asylum seekers waiting to achieve the "regularized" status of the "refugee." In the West, this status is difficult to achieve. Nevzat Soguk writes: "Nowadays, "becoming" a refugee or an asylum seeker through legal openings is almost an impossibility, while illegal immigration translates into experiences of overwhelming estrangement from basic rights."[5] Asylum seekers are pushed into the realm of irregularity – an identity marked by how the border was crossed. This mark is frequently made visible by race and country of origin as the unauthorized crossing of a Western border by a racialized man from the developing world is the "story" told of the irregular migrant in Europe.

The closing of space for asylum applications, and thus for "regular" refugee migration, is directly connected to anxiety over irregularity and associated concerns over security.[6] The issue is one of "false" asylum claims, which seem to many to indicate that the channels of asylum are being taken advantage of those otherwise ineligible for regular migration. In Europe, Fiona Adamson writes that false asylum seekers, combined with high levels of "illegal" migration (she cites 30 to 50 percent of all migration to the "West" as illegal) are contributing factors to a growing sense of declining ability to exert sovereign control over borders.[7] Such decline is the source of a significant anxiety in the policy community, which is reflected in both popular perceptions and the academic community. The solution, and thus the focus of most analysis, is state policy. Policy successes and failures and the closures and ruptures in the border they enable or prevent are the objects (and subjects) of analysis, rather than the experience of the migrant. In this way, migration is treated as another problem of border politics, empty of individual subjects. Adamson writes:

> [l]ike other dimensions of globalization – whether financial flows or information technology or marketization processes – the intervening variable for understanding the relationship between migration and security is state policy, and much of migration policy is about designing systems that allow some categories of immigrants in, while attempting to keep other categories out – clearly a significant challenge.[8]

The border is the problem, in which the migrant is an object. And so, rather than attending to the experience of the migrant, the integrity of the border becomes central to analysis.

Didier Bigo argues that the reactivation of border controls in the post 9-11 world is little more than a simulacrum – albeit a necessary one. He calls it a "ritual against a

[5] Nevzat Soguk, "Border's Capture: Insurrectional Politics, Border-Crossing Humans, and the New Political" in Rajaram, Prem Kumar and Carl Grundy-Warr, eds.. Borderscapes: Hidden Geographies and Politics at Territory's Edge. University of Minnesota Press, Minneapolis, 2007. p. 289.

[6] See: Ole Waever, "The Constellation of Securities in Europe" in Aydinli, Ensel and James N. Rosenau, eds.. Globalization, Security and the Nation-State: Paradigms in Transition. New York: State University of New York Press, 2005. pp.151-174.; Andrew Geddes, The Politics of Migration and Immigration in Europe. London: SAGE Publications, 2003.; Elspeth Guild, "Protection, Threat and Movement of Persons: Examining the Relationship of Terrorism and Migration in EU Law after 11 September 2001" in Crépeau, François et al., eds.. Forced Migration and Global Processes: A View from Forced Migration Studies. Toronto: Lexington Books, 2006. pp. 295-318.

[7] Fiona Adamson, "Crossing Borders: International Migration and National Security" International Security 31:1 (Summer 2006), p. 174.

[8] Adamson, p. 175.

fear of the unknown."[9] Despite its palatable failures against that which most starkly represents insecurity – the threat of terrorism – it is a necessary state practice to give the appearance, at least, of security. The policy implications of this anxiety over controlling irregular migration are clearly visible in immigration and border control strategies globally. Emma Haddad cites particular "myths" that are perpetuated in a feeling of danger linked to migration. The popular feelings that refugees (and irregular migrants) cause unemployment, indicate a loss of control over borders and thus over national security, weaken national identities and bring disease are only some of the xenophobic sentiments that exist in domestic societies which justify crack-downs at the border.[10]

This focus on security and threat is, in current literature, examined almost entirely in the context of Europe. Similar concerns are beginning to drive policy concerns in the "developing" world, however, frequently under the leadership of Western-based organizations such as the International Organization for Migration. Not all policy "learning" is in this direction, however; innovations in European border control are also taking their lead from practices in Africa. This is most visible in the creation of irregular spaces within which migrants can be contained, managed and (eventually) returned to their country of origin; such spaces, which include detention centres, immigrant reception centres, "processing" centres, mirror the African refugee camp. Bigo notes that detention camps are often located in specific places at border zones that are somehow outside of the rigid sovereignties of a given state – they are "in-between."[11] As what Robert Davidson calls "non-spaces", these camps enclose areas in which the regular law of the state is suspended.[12] In Africa this has generally meant that the camp is governed by organizations such as the UNHCR and considered to be fundamentally separate from the domestic community. At the borders of Europe, they are increasingly outside of the sovereign territory of the state itself, existing as a displacement of the border.[13] Otherwise, interdiction – interception, deflection and prevention – is practiced at airports, at fences and at sea as the border becomes far more than simply a line in the sand. It is an actual place where law is suspended, rights denied and migrants held in a static temporariness that concretizes exclusion into a permanent state.

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[9] Didier Bigo, "Detention of Foreigners, States of Exception, and the Social Practices of Control of the Banopticon" in Rajaram, Prem Kumar and Carl Grundy-Warr, eds.. Borderscapes: Hidden Geographies and Politics at Territory's Edge. University of Minnesota Press, Minneapolis, 2007. p. 10.

[10] Emma Haddad, "Danger Happens at the Border" " in Rajaram, Prem Kumar and Carl Grundy-Warr, eds.. Borderscapes: Hidden Geographies and Politics at Territory's Edge. University of Minnesota Press, Minneapolis, 2007. p. 126.

[11] Bigo, p. 5.

[12] Robert A. Davidson, "Spaces of Immigration "Prevention": Interdiction and the Nonplace" *diacritics* 33.3-4 (Fall-Winter 2003), p. 15, 4-5.

[13] See: Channe Lindstrøm. "European Union Policy on Asylum and Immigration: Addressing the Root Causes of Forced Migration: A Justice and Home Affairs Policy of Freedom, Security and Justice?" *Social Policy and Administration 39*:6 (2005). pp.587-608.; Andrew Geddes, "Europe's Border Relationships and International Migration Relations" *JCMS* 43:4 (2005). pp. 787-806.

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

Driving past the Spanish consulate in Casablanca it is impossible to not see the line, which is at least three people wide and very long. The taxi driver tells me that it is a line of those hoping to migrate to Spain – some to stay, some just to visit, some are from Morocco, some are just passing through. Leaving from Morocco, a visa is required. On the train from Casablanca to Rabat I sit across from a young man who tells me how his visa to Spain – which he wanted so he could see a football game – was denied without explanation, even though he has had a visa before, and currently holds one to the United States. He believes it is because he is a young student, about to graduate from University.[14] The line and his story reflect the reality of regular migration to Spain from Morocco: a rigid system of visas and permissions. The importance of the border between Spain and Morocco cannot be understated; it illustrates the new form of international migration with poignant clarity. As the only land border between Africa and Europe – between "developing" and "developed" – it is crossing this border that increasingly creates irregularity, and controlling this border that focuses present-day European anxiety over irregular migration. This anxiety is marked indelibly on the bodies of trans-Saharan migrants as they try to make their way through Morocco to reach Spain, and the European Union.

Although immigration now tops national surveys as a key issue,[15] and although irregularity is now almost synonymous with illegality in official lexicons, irregular migration has not always been so closely associated with criminal transgression in Spain. Historically, in practices that remain part of daily lives, "irregularity" has been about labour. The underground, or "black", economy has consistently been an important part of Spanish life, particularly in Southern agricultural areas.[16] As with other Southern European states, an important part of this underground economy was, and is, migrant labour – much of it "irregular." In this sense, "irregular" denotes status, although not necessarily mode of entry. Rather than illegal, irregular labour existed/s in a grey area that is functional to employers and is condoned through inattention by the state.[17] To understand irregularity as it is constituted in the current international migration regime a distinction must be made between irregular labour in the Spanish context and irregular migration, which I argue is a more broadly European concern. The two are very often conflated with one another. This conflation, however, is more about the identity of the migrant (racialized, poor) than how s/he became irregular. In Spain, irregular labour is in many ways created by the state. It is not about how a border was crossed, but is instead marked by a lapse in valid documentation.

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[14] "Rabah" (false name), Individual Interview, Moroccan Migrant/Citizen. Casablanca, Morocco. April 2008.

[15] In 2003, immigration rated the second most important issue after terrorism. Nieves Ortega Pérez, "Spain: Forging an Immigration Policy." *Working Paper: Migration Information Source.* (Feb 2003) p. 1.

[16] "Jose" (false name), Individual Interview, Government of Spain. Madrid, Spain. March 2008.; "Cristina" (false name). Individual Interview, Human Rights Activist/NGO. Almería, Spain. March 2008.

[17] This is not to say that it is not a status that leaves migrants open to extreme exploitation and instability. In this instability and precariousness, irregularity in labour is the same as the "new" irregularity of migration.

Kitty Calavita argues that Spanish law itself is designed to maintain the social and economic exclusion perpetrated by irregularity. For example, while renewals of work visas are possible, they require twelve months of continuous residence despite normal visas being granted for only nine month periods. The result is that there is a period of at least three months of irregularity built in to the labour migration program.[18] According to a government official, the problem is that the bureaucratic system for permits takes to long to process applications, and so produces an irregular black market of labour.[19] As much as the state has perpetrated this irregularity, it is also managed and controlled by the state through regularization programs.[20] Spain's first regularization program took place in 1985-1986. It has since had three programs, all of which have focused on workers and have instituted particular criteria designating on-going, gainful employment as necessary for eligibility. They have also required that applicants have currently, or have previously held, a valid permit for work and residence.[21] It is this limitation in regularization programmes that most clearly illustrates the difference between irregular labour and irregular migration. Irregular migrants – those who experience irregularity as stasis in temporariness, insecurity and illegality as a result of unauthorized crossing of borders– are permanently ineligible for regularization programs based on valid residence and/or valid documents that have lapsed. Those eligible for regularization have not so much broken the law as slipped into a grey area that is in many created by the state itself.

Irregular status is primarily about labour and lapsed status; irregular migration and the "irregularity" it produces is about how an individual has crossed the border – and, almost entirely, about where they have come from. That irregularity which is the root of anxiety and fear, and which is tightly controlled, deterred and punished by a complex system of law and policing is linked fundamentally to migration from the developing world through the southern borders of Spain. It is the irregularity experienced by sub-Saharan African, Asian and North African migrants living in suspension in the enclaves of Ceuta and Melilla, waiting in spontaneous camps in Moroccan borderlands, and attempting treacherous crossings of the Mediterranean on leaky boats. Where this experience of irregularity collapses into irregular labour is on the body of the migrant. Irregularity that must be controlled, that is rigidly regulated, and that is excluded from possibility of regularization – of being brought back into the fold of the state – is that of the migrant from the developing world. Although national public opinion surveys and popular perceptions hold Spain to be one of the least anti-immigrant states in Europe, with low levels of racism and xenophobia,[22] the association between irregularity and illegality is marked on racialized, poor bodies. Calavita argues that the determinant of who is truly an outsider to be restricted and controlled is the person's location in the global economy; specifically, the law is designed to marginalize and exclude migrants from the developing world.[23] She writes that Spain's laws, "[i]nstead of controlling

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[18] "Jose"; "Cristina"; Kitty Calavita, "Immigration, Law and Marginalization in a Global Economy: Notes from Spain." *Law and Society Review*. 32:3 (1998). p. 531.

[19] "Jose"

[20] For more on the function of regularization programs in controlling irregularity, see: Amanda Levison, "Why Countries Continue to Consider Regularization." *Working Papers: Migration Information Source*. (Sept. 1 2005). [online]

[21] Calavita.

[22] Calavita 1998, p. 553; "Cristina"

[23] Calavita 1998, p. 560, 530.

immigration… control the immigrant."[24] The shift of focus to irregular migrants (rather than irregular status) is one that reflects a more generalized European anxiety. This can be tracked by tracing the development of border policy, and by the experience of the migrants at the border.

Calavita writes that the evolution of Spain's immigration laws has been "hand in hand" with the process of European integration.[25] Despite the disconnect between the regularization of labour in Spain and the unauthorized crossing of borders, Spain's regularization programs and perceived lack of attention to its Southern frontier led to the perception among the Northern members of the European Union of Spain as the "soft underbelly of Europe."[26] Spain was seen to be the weak point in the external border control of Europe, and changes since the early 1990s in Spanish policy are largely perceived as at the behest of the European Union.[27] The concern was in the potential for further migration beyond Spain as internal border controls were lowered. This was a strong motivator although, as a government worker observed, the concern is misplaced as people can move, but cannot work in the Schengen area. Why, he asks, would migrants leave legal work?[28] The understanding of the anxiety around controlling irregularity is associated, again, with labour. The practice of control, however, focuses on the crossing of borders. The perception in the NGO community is that the EU does not permit the government to "do any politics" for those without documents. As a result, the focus is on border control, and the Spanish responsibility is to "Stop! Stop! Stop!"[29] The experience of crossing the border irregularly marks irregularity onto the body of the migrant in a way that permanently marks them as excluded, unwelcome and criminal. It is not the potential participation in irregular labour that is at the root of the concern, but the unauthorized movement and mobility of migrants despite all controls. It is the crossing of borders that is the problem. As I have argued, it is not that people have become irregular through a lapse in status, but that they have been irregular in their mobility itself.

As European integration has developed the gap between Spanish policy and European interests has closed. According to a government worker, when Spain joined the European Community there was intense pressure on the Ministry of the Interior to "step up" in its control of the border. Now, however, they are very much on the same page as Germany, France and other Northern European member states. It is important, he argues, to have a sense of effectively dealing with migration because it gives the population a sense of control – although, he acknowledged, this may not be good for the migrants in Spain.[30] In recent years, Spain has been one of the staunchest proponents for tougher border controls, including signing several readmission agreements that allow irregular migrants to be returned, if not to their country of origin, then to a transit country

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[24] Calavita 1998, p. 560.
[25] Calavita 1998, p. 543.
[26] See: Geddes 2003.
[27] "Jose"; "Cristina"; "Mohammed" (false name). Individual Interview, Government Worker Morocco. Rabat, Morocco. April 2008.; "Peter" (false name). Individual Interview, UNHCR Spain. May 2008.
[28] "Jose"
[29] "Cristina"
[30] "Jose"

outside of Europe.[31] The readmission agreement that Spain has with Morocco enables migrants to be sent to Morocco if there is no agreement with their country of origin.[32] As with all agreements, Spain has the responsibility to "stop the door"; now, it has given that responsibility to Morocco as well.[33] FRONTEX, a coordinated policing organization that represents the European Union in its control of its external frontiers, was a Spanish initiative. A network of radar, sensors, cameras and "immigration centres" have been placed along the Southern border to interdict "illegal" migrants; the Strait of Gibralter, for example, has become the most heavily policed Southern point in Europe.[34] Following conflict between migrants and border guards in 2005, the enclaves of Ceuta and Melilla have been more heavily fortified. Robert Franks, a government spokesperson in Ceuta, stated that: "Without a doubt this is the Southern frontier of the Europe of Schengen. We have a whole continent to the south of us. It is increasingly evident that this wall is necessary."[35] In Melilla, what was at one point a low fence has become a double fence, thirty feet high and topped with barbed wire. Both Spanish and Moroccan authorities patrol it at either side, armed with rifles paid for by the European Union.[36]

   Throughout the same period, Spain's refugee and asylum procedures also became increasingly restrictive, and by 1993 the denial rate of applications reached 96%. By 1996 only 5500 refugees were living in Spain.[37] In 2000, 7926 asylum applications were filed, but only 453 findings were favourable.[38] Says a member of the Ministry of the Interior, all that is really happening is the control; in the increased management and control of the border, and the associated control of irregularity, we are seeing "the death of asylum."[39] The coordinator of a Madrid migrant support and human rights organization agrees, but broadens the accusation to all of Europe. Refugee status in Europe is disappearing as a meaningful concept, he says. At the same time, however, to be a refugee is becoming the only way to reach many member countries within a regular framework.[40] The result is an increase in irregular migration, as refugees are afraid to make claims – either to refugee status, or to any kind of social support - concerned that their story will not be good enough that that their deportation will be immediate.[41] Again, the key issue is one of proper documentation. If the border crossing itself – the exercise of mobility – has been unauthorized and thus irregular, it is very difficult to obtain legitimate or valid papers, and the migrant becomes permanently excluded from the potential of regularization through refugee law. Throughout my interviews with human rights and migrant support organizations, a suggestion was made repeatedly and often explicitly: this emphasis on papers is designed against the sub-Saharan African migrants, who have little choice but to use irregular routes and border crossings.[42]

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[31] Peter Andreas, "Redrawing the Line: Borders and Security in the Twenty-First Century." *International Security* 28:2 (Fall 2003). p. 105. See also: Lindstrøm 2005; Geddes 2005.

[32] Geddes 2005, p. 165.

[33] "Cristina"

[34] Andreas 2003, p. 105-106.

[35] Andreas 2003, p. 106.

[36] "Margrit" (false name). Individual Interview, Human Rights Activist. Melilla, Spain. April 2008.

[37] Calavita 1998, p. 545.

[38] Ortega 2003, p. 6.

[39] "Jose"

[40] "Miguel" (false name). Individual Interview, NGO. Madrid, Spain. May 2008.

[41] "Miguel"

[42] "Cristina"; "Peter"; "Miguel"

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

To access these narratives, I move my analysis beyond Spain to Morocco and the migration experience "just before" Spain is reached. The role of Morocco in creating irregularity in Spain, and so in Europe, is one of a transit zone increasingly vested with the responsibility of deterrence and deflection on behalf of European authorities. Migrants from Senegal, the Gambia, Sierra Leone, Liberia, Mali, Côte d'Ivoire, Ghana, Nigeria, the Democratic Republic of the Congo (DRC), Cameroon, Sudan and the Horn of Africa have in recent years been joined by individuals from Bangledesh, Pakistan, India and China as they make their way through well-known migration routes into North Africa for the purpose of reaching Europe. Between 65,000 and 120,000 migrants enter the Maghreb annually, with between 20 and 30 percent of whom entering Algeria and Morocco. From there, tens of thousands attempt to cross the Mediterranean to Southern Europe.[43] In his study of migration through the Maghreb, and particularly Morocco, Hein de Haas has found that migrants are often well educated, and from moderate socio-economic backgrounds. Although trans-Saharan migration was initially thought to be driven by conflict in the Great Lakes Region (Rwanda and the DRC particularly) and civil conflict in both Sierra Leone and Nigeria, it has continued to increase even as open conflict has declined.[44] People move, de Haas argues, because of a lack of opportunity and a fear of persecution and violence.[45] The Sahara is a historical transit area, but represents only one stage of most journeys. They are generally made in several phases, at the end of each the migrant pauses at a "migration hub" – usually an urban centre – to earn and save money for the next leg of the journey.[46] Generally, migrants move from Agadez in Niger to Tamarasset in South Algeria. From there, using false papers and transportation provided by those usually referred to by authorities as smugglers or traffickers, they move to Northern Algeria and enter Morocco through the border nine kilometres from Oujda. From Morocco, migration to Spain takes several routes: through one of the enclaves of Ceuta or Melilla, via the Canary Islands, or across the Mediterranean more directly. An increase in surveillance and policing has led to an increasing diversification of crossing points.[47] Attempts are usually made in groups, and are often coordinated by traffickers. In 2003 the cost for crossing the border was

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[43] Hein de Haas, "Trans-Saharan Migration to North Africa and the EU: Historical Roots and Current Trends." Working Papers: Migration Information Source. (Nov. 2006) [online] p. 1.
[44] Hein de Haas, "Morocco: From Emigration Country to Africa's Migration Passage to Europe." Working Papers: Migration Information Source. (Oct 2005) [online] p. 3.
[45] de Haas 2006, p. 1. My own research supports this argument.
[46] de Haas 2006, p. 3.
[47] de Haas 2006, p. 6.

estimated at $200 for minors, and $500 to $800 for Moroccans. Migrants from Sub-Saharan Africa, however, were paying between $800 and $1200 per person.[48]

At the Mohammed I University campus in Oujda there is an unauthorized camp with a fluctuating population of approximately 2000 irregular migrants. A quirk of Moroccan law dictates that the authorities cannot enter the campus without express, written permission from the President of the University. Although rarely enforced, this law does enable the camp to exist in a grey area – relatively protected from constant police interference, but not immune to occasional, often violent, raids. (The threat of these has meant that the bulk of the camp is in the forest behind the school rather than on the campus proper.) For the University's part, the migrants are tolerated – and sometimes supported with the provision of supplies and more solid shelter in bad weather – out of a sense of social justice and humanitarian principles.[49] The population at Oujda is fluid as individuals leave to make an attempt to cross into Spain either through Melilla, Ceuta or the Canaries, and return if they fail to regroup for another attempt. Some migrants have returned from being deported; if they are deported to Algeria, they simply walk back to Oujda. Depending on where in the desert they are left, and provided they are not injured and they have enough money to bribe any guards they meet, it is only a seven hour walk.[50] Occasionally, someone makes the journey to Rabat to try and contact the UNHCR and file an asylum application. Many of the migrants in the camp already have some sort of paper from the UNHCR in other places, either documenting an application or the granting of some sort of refugee or asylum visa or status.[51] For many who have worked with the migrants at Oujda, the only distinction that exists now between an "irregular migrant" and a "refugee" is the possession of these papers; their experience of temporariness and exclusion remains the same.[52] This trip is not common, though; the goal, for asylum, is Spain. Morocco, in the eyes of these migrants, is not hospitable to asylum seekers and particularly to those from sub-Saharan Africa.[53] It is perceived as a racist community, while Spain and Europe is understood as respecting human rights, and providing protection, security and support to refugees.[54] The public claims made by Spain to this effect are taken as evidence of such principles. Although "illegals" are the "most terrible" problem in Spain right now, a local human rights activist and social worker claims that the situation in Morocco is worse – and "it is black people that is the problem."[55] The racism in Morocco is institutional. According to human rights workers who work with migrants, if the police see you in a car with a black person you can be accused of trafficking. Taxis will not carry an African person, and African men cannot sleep in a hostel.[56] Paul Silverstein writes that the brutality of Moroccan security forces against Sub-Saharan African migrants and the mass deportations that have resulted belie

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[48] de Haas 2006, p. 4.
[49] "Amir" (false name). Individual Interview. Oujda, Morocco. April 2008.
[50] "John"; Group Interview (5 participants), Cameroon Migrant. Oujda, Morocco. April 2008.
[51] "John"; "Francis" (false name), Individual Interview, Cameroon Migrant. Oujda, Morocco. April 2008.; Group Interview, Cameroon Migrants.
[52] "Mohammed"
[53] "John"; Group Interview
[54] Accusations of racism in Morocco is borne out somewhat by the national media which, in 2005, referred to Sub-Saharan migrants as "black locusts" invading Northern Morocco. (de Haas 2005, p. 5).
[55] "Cristina"
[56] "Cristina"

overt state attempts since 1999 to present Morocco as a modern democratic state that guarantees human rights.[57] Migrant narratives provide an important perspective to this. Far from ignorant to the connections between Spain and Morocco in the management of migration, and although they are not always aware of how direct such links are, it is the firm belief of those at Oujda that the Moroccan authorities are acting on Spanish request (or orders) in their attacks and deportation. They claim that it is the Moroccan police themselves who have told them of these directions.[58]

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

It is the racialized body of the sub-Saharan migrant that has become the locus of concern over irregular migration. This is true not only of Morocco, but also of Spain. After the border clashes at the enclaves, Moroccan authorities turned to nationwide arrests and raids of irregular migrants. De Haas reports that a group of 1500 migrants was rounded up, deported and abandoned in the Algerian desert as a direct result of this backlash.[59] In 2004, Moroccan authorities claimed that over 26,000 migrants were intercepted in attempts to cross to Spain, of whom 17,000 were from Sub-Saharan Africa. In the same year 15,675 boats were intercepted by Spain at sea, 43 percent of which contained Sub-Saharan Africans.[60] For those who do manage to make the crossing, the experience is one of exclusion and removal. Migrants rarely remain held at the Canary Islands because of concern over the impact on tourism.[61] Similarly, the authorities often swiftly move on black irregular migrants from Melilla.[62] In both cases it is not concern for the migrant, but rather for the public perception that irregular migration is being dealt with that inspires swift action. Sub-Saharan migrants have become the archetype representing the "problem" of irregular migration, and so they are removed from public view. They are not necessarily, or even usually, returned to the mainland, however. Instead, readmission agreements enable the rapid deportation of individuals out of Spain. Silverstein writes that: "Within this ambivalent context, sub-Saharan transmigrants are socially and politically invisible, falling under the purview of neither citizen rights not refugee protection…"[63] He argues that migrants are in a state of permanent transit.[64]

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[57] Paul Silverstein, "States of Fragmentation in North Africa." *Middle East Report* 237 (Winter 2005). p. 27.
[58] Indeed, one man was firm in his position that the police had been told to kill all the blacks in Northern Morocco to prevent their movement. "Francis"
[59] de Haas 2005, p. 5.
[60] de Haas 2005, p. 7.
[61] "Peter"
[62] "Margrit"
[63] Silverstein 2005, p. 32-33.
[64] Silverstein 2005, p. 33.

Their irregularity is one of static temporariness, permanent exclusion, and categorization in criminality that must be controlled.

Irregular as a Refugee: Refusing Repatriation in Tanzania

Irregularity in the African context has a different policy profile than in Europe. It is not a commonly targeted policy concern in African states, except in international forums where states are framed as countries of origin for irregular migration. Within this framework, the focus of concern is not, therefore, migration into a state, but out of the state as citizens emigrate to become irregular migrants in other places. In-bound migration in Tanzania that is identifiable as "irregular" is most commonly understood as refugee migration, and thus discussions of irregularity in Tanzania have become fundamentally tied to discussions about the management and control of the refugee population. Despite the differences in context, and even in defined status, the experience of irregularity revealed by migrant narratives at the Spanish border and in Tanzania remains strikingly similar. Insecurity, stagnation, exclusion and a temporariness that exists at the root of it all is what characterizes the experience of a *prima facie* refugee expected to participate in the state-regulated and state-enforced program of repatriation as much as it does the experience of a sub-Saharan unauthorized migrant moving through Morocco and attempting to cross into Spain. In both cases the marking of "irregularity" is in the nature of border crossing and the consequences of a mobility that is not regulated by the state, but is instead outside of that framework and so is understood as illegal – and unwelcome.

While the status of "refugee" has narrowed in scope in the European context, it remains a form of "regular" migration – rigidly controlled, clearly defined in law, and determined on an individual basis. This experience of "being a refugee" is markedly different in an African context, where refugee migration is in far larger numbers and, in many ways, less controlled. The status of *prima facie* refugee, a status granting individuals asylum protection on a temporary basis and within parameters defined by the host state, is far more common than full Convention status and is granted on a group basis. The temporariness built into *prima facie* status softens the boundaries of regularity within the refugee community and ties it more closely to irregular migration that parallels the experience of asylum seekers at the Spanish border. The control of irregular migration in policy frameworks in Tanzania is closely linked to a perceived need to address the incapacity to control borders by focusing instead on controlling migration.[65] These efforts include an increasing emphasis on repatriation for the refugee community. The boundary between refugee experience and the experience of irregularity has collapsed entirely for many as they actively refuse, avoid and subvert state programmes.

The refugee experience in Africa is most frequently described in terms of massive numbers. In 2004 there were 2.8 million refugees in African, 30 percent of the global total. Between these numbers and the staggeringly high number of internally displaced persons (13.5 million in 2002), one in fifty people in Africa have been displaced from

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[65] "Jeff" (false name). Individual Interview, IOM Tanzania. Dar es Salaam, Tanzania. January 2008. "Mr. N" (false name). Individual Interview, Government Employee Tanzania. Dar es Salaam, Tanzania. January 2008.

their home at some point in their lives.[66] At the end of 2007, UNHCR data counted 11.4 million refugees worldwide, not including asylum seekers. 22 percent were in Africa, of which 435,000 were in Tanzania.[67] Humanitarian imperatives, and a low capacity to effectively control borders, have meant that refugee migration is fairly easily accomplished. Tanzania has land borders with eight surrounding states, all of which have at one point since their respective independence struggles undergone refugee producing conflict. Since the 1990s, refugees from Rwanda, Burundi and the Democratic Republic of the Congo have been in the largest numbers. Following a repatriation program for Rwandan refugees that is widely condemned as having been "forced", Burundian refugees are today the overwhelming majority at 336,000.[68]

Despite a limited capacity to control refugee migration, it is a source of anxiety for African states generally and for Tanzania specifically. It is frequently argued that refugee flows are often the vehicle through which internal fighting spreads to neighbouring states.[69] This is especially true for those refugees living close to the border, prone to cross-border attacks that can lead to international war, argues Boaz Atzili.[70] Bronwen Manby writes that "[m]any refugee camps in Africa continue to be placed dangerously close to international borders and are subject to military infiltration and recruitment of adults and children."[71] Rather than moving refugees closer to the interior, however, and focusing on integration and settlement designed, the policy response to this perceived threat has been a camp system of rigid containment and an increased policing of borders close to camps. It was this approach that was used by Tanzania to prevent recruitment and cross-border attacks involving Rwandan refugees in the aftermath of the 1994 genocide,[72] and the same approach has been maintained for Burundian refugees to the present day. Policy makers have turned their attention to more clearly marking the regular (acceptable)/irregular (unacceptable) divide. As Christopher McDowell and Nicholas Van Hear argue, the current humanitarian regime is not up to diverse categories of migrants.[73] The result is that refugee control and management – which, in humanitarian policy focuses on physical protection and basic needs, but in migration policy focuses on containment in camps – is the primary method of also controlling what is categorized elsewhere as irregular migration. However, the large number of refugees has in the IOM's view led Tanzania to take up the issue. In 2007 the Ministry of Home Affairs set up a task force on illegal migration.[74] These efforts have included an increased focus on refugees, and the IOM has begun to work more closely with the

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[66] Bronwen Manby, "The African Union, NEPAD, and Human Rights: The Missing Agenda." *Human Rights Quarterly* 26 (2004). p. 1018.

[67] United Nations High Commissioner for Refugees. *Statistical Yearbook 2007.* (Geneva, 2008) [online] p. 4, 25.

[68] UNHCR 2008.

[69] Boaz Atzili, "When Good Fences Make Bad Neighbours: Fixed Borders, State Weakness, and International Conflict." International Security 31:3 (Winter 2006/2007). Haddad, 2007.

[70] Atzili 2006/2007, p. 152.

[71] Manby 2004, p. 1018.

[72] Atzili 2006/2007, p. 152.

[73] Christopher McDowell and Nicholas Van Hear, eds.. Catching Fire: Containing Forced Migration in a Volatile World. Lanham: Lexington Books, 2006. p. 1.

[74] "Jeff"

UNHCR to screen irregular migrants for asylum seekers – and asylum seekers for irregular migrants.[75]

Tanzania has historically been the largest refugee hosting state in Africa. This is largely due to its highly porous land borders, but also to a high degree of cultural affinity within the Great Lakes region, which makes migration within the region an easier prospect. These conditions have led to near incapacity for border control and describe a border regime that is highly vulnerable to irregular migration. For scholars of Tanzanian refugee policy, however, it was the government's "Open Door" policy as governed by the Refugee (Control) Act of 1966 that is the most important historical factor for the high level of refugee migration.[76] This policy enabled liberal application of group determination of status, provided for generous allocations of land, and facilitated local integration with offers of citizenship.[77] As a migration control document, however, the 1966 Act had a number of problematic characteristics including the absence of a clear definition of "refugee" (which facilitated irregular migration under the cover of asylum seeking), and absence of provisions for "refugee entitlements" and discretionary powers for local officials and police that allowed a preoccupation with control and coercion.[78]

The 1990s ushered in a sea change in Tanzania's approach to refugee migration and began what has been called a "temporary protection" emphasis, which replaced the old focus on integration.[79] The 1998 Refugee Control Act repeals its predecessor. Khoti Kamanga argues that the 1998 Act signals a deterrence message and a disenchantment with the international humanitarian assistance system's insufficient support, and is directed at reassuring the Tanzania population by creating legal means to deal with the problem of migration.[80] The Act rejects local integration as a solution, and shifts back to individual determination of full refugee status in place of group determination and en masse regularization.[81] In the refugee information booklet published by the Ministry of Home Affairs, the only reference to local integration (and acquisition of Tanzania citizenship) reads: "At the present time the fees are rather high (over Tshs 600,000).[82] These shifts parallel shifts that are perceptible in the global regime. Deterrence is now a key part of border control in most places; it is a stated goal for FRONTEX. The individual determination of refugee status is an even more important reflection of the globality of increasingly rigid regimes. It marks a moment whereby to become a refugee, to achieve full Convention status with all associated rights and freedoms including those to employment and movement, is a rare and difficult thing. As much as asylum has become difficult to access in Europe, full refugee status is becoming rarefied in Tanzania.

The 1998 Act also clearly defines a refugee according to the legal definitions found in the UN Convention of 1951, and the Organization for African Unity Convention. It adds to these that a refugee might also: "Belong to a group who, by

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[75] "Jeff"

[76] Khoti Kamanga, "The (Tanzania) Refugees Act of 1998: Some Legal and Policy Implications" *Journal of Refugee Studies* 18:1 (2005). p. 102-103.

[77] Kamanga 2005, p. 103.

[78] Kamanga 2005, p. 103.

[79] "Mr. N"

[80] Kamanga 2005, p. 104-105.

[81] Kamanga 2005, p. 108-109.

[82] Refugee Services and UNHCR, *Information for Asylum Seekers in Tanzania*. Dar es Salaam: Ministry of Home Affairs, United Republic of Tanzania. p. 8.

notice in the Government Gazette, has been declared to be refugees."[83] This group is the *prima facie* refugee population, from Burundi and the DRC, and forms the vast majority of those refugees hosted in Tanzania. These *prima facie* refugees exist in a context far more strictly regulated than would a "Convention" refugee. In the Tanzanian context, this regulation mirrors closely the regulation of irregular migration both in the strict control of mobility and in the association with criminality any resistance or refusal of state regulation produces.

The confinement of refugees to camps is directly linked to the control of migration. A Ministry official stated that the limits of refugee mobility are designed to reduce the number of refugees accessing residency permits or permits for further migration. He went on to explain that the camps are kept close to the border to facilitate repatriation.[84] Such limitations are also supported by both local and international non-governmental organizations. Given the experience of the refugees, and "because some of them are criminals," the limitation of movement is seen as a necessary evil.[85] Tanzania's policy change is "not so much about border control as it is about migration control."[86] The border cannot be controlled, but there is within those borders significant capacity to control migrants. Law can be enforced in the villages, even if it cannot be enforced at the border.[87]

The 1998 Act makes residence in a "Designated Area" (DA) mandatory.[88] A DA is a refugee camp, and anyone in Tanzania claiming refugee status either by individual application or via *prima facie* status must live in a camp.[89] In the DAs, the rights of refugees are tightly circumscribed. By policy and managed by the international community, education and health care (including necessary drugs) are provided. Participation in the local economy via employment, however, is forbidden and the only income refugees can earn beyond basic provisions and the food aid provided by the camp management is through "income generating programs" that include raising cattle and handicrafts.[90] Participation in the broader society is prohibited. Refugees cannot go more than four kilometres outside the boundaries of the camp, and must be within its borders by five in the afternoon, by which point all non-refugees, including international staff, must have departed for the day.[91] A strict division between the citizens and "regular" migrants – the international staff – and those at the brink of irregularity, the refugees, is maintained.

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

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[83] Refugee Services, p. 4.

[84] "Mr. N"

[85] "Baraka" (false name). Individual Interview, NGO. Dar es Salaam, Tanzania. December 2007.

[86] "Mark" (false name). Individual Interview, INGO. Dar es Salaam, Tanzania. January 2008.

[87] "Mark"

[88] Kamanga 2005, p. 110.

[89] Ministry of Home Affairs. *Refugees Act 1998*. Dar es Salaam, United Republic of Tanzania (1999). [online]

[90] "Nam" (false name). Individual Interview, Nduta Camp Employee. Kibondo, Tanzania. December 2007.

[91] "Nam"

"migrant" and "refugee" in the African context.[92] This is conflated by a lack of capacity for the control even of regular migration or processes of regularization. Manby notes that dozens of African states have no effective system that enables long term residents to acquire citizenship, and that the registration of births and deaths within the country may not take place.[93] Officials at the IOM in Dar es Salaam make note of the very limited capacity of the immigration officials to control the border of Tanzania. There are problems with identification documents and with registration, as a culture of identity cards does not generally exist.[94] As a legal advocate who works with migrants in Dar es Salaam explained, the concentration of refugees is justified by the link between refugees and illegal migration.[95]

The situation of migration in Tanzania is such that irregular migration is not simply a concern for those coming into, but also for those exiting from the refugee population. Becoming "irregular" is not always about entering the country– it is also about refusing to leave. This is particularly true for the Burundian refugees currently living in Tanzania. In September of 2003 the UNHCR reported that 95 percent of Burundi's refugees had taken up residence in Tanzania. The conflict in Burundi has been ongoing for thirty years. The most recent crisis began in 1993, and is connected to the Rwandan genocide. It produced a mass mobilization of refugees across the Tanzanian border, and by 2003 750,000 refugees were living in Tanzanian camps. In addition, between 170,000 and 200,000 were living in the Tanzanian settlements that were created for the Burundian refugee population in 1972, and a further 300,000 Burundians were estimated to have spontaneously settled in Tanzanian villages along the border.[96] In 1998 negotiations for peace were initiated, and the Arusha Peace and Reconciliation Agreement for Burundi was signed on August 28, 2000. Approximately 200,000 refugees voluntarily repatriated during this process. However, no ceasefire was signed and as more intense fighting broke out again, most fled for a second time. A ceasefire was signed in October of 2003 between the Burundian government and the largest rebel faction.[97] In 2002 an official repatriation program was launched, and negotiations between the UNHCR, the government of Tanzania and the government of Burundi began for the return of the refugees. In 2006 the UNHCR began a "promoted repatriation" program.[98] The package provided to those returning included six months worth of food rations and fifty US dollars.[99]

Officials involved in the process at all levels insist, publicly, that the repatriation of the Burundian refugees is voluntary. Privately, they frequently acknowledge that a degree of coercion is present. They insist, however, that this is necessary to maintain the integrity of the border and the migration system. Otherwise, a message of permissiveness

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[92] "Mark"

[93] Manby 2004, p. 1019.

[94] "Jeff"

[95] "Alfred" (false name). Individual Interview, NGO. Dar es Salaam, Tanzania. January 2008.

[96] Susan Forbes Martin and Trish Hiddleston. "Burundi: A Case of Humanitarian Neglect" in McDowell, Christopher and Nicholas Van Hear, eds.. Catching Fire: Containing Forced Migration in a Volatile World. Lanham: Lexington Books, 2006., p. 15, 34-35.

[97] Forbes Martin 2006, p. 15-16.

[98] International Rescue Committee. *Fact Sheet: Refugees in Tanzania, April 2007*. Dar es Salaam (2007). p. 2.

[99] "Nam"

to both refugee and irregular migration would be communicated.[100] This coercion is largely found in a widespread reduction of services and supports. In July of 2000 the World Food Programme cut food rations in the camps by 40 percent because of a shortage in donations. The rations were eventually restored to 80 percent of the daily recommended minimum. In 2003, however, rations were cut again to 50 percent of the minimum and then were restored to only 72 percent.[101] In December of 2007 further cuts had been made, and the rations provided were below the levels required for successful anti-retroviral treatment programmes. As a result, many refugees who were HIV-positive and had access to ARVs free of charge – not something that would be possible upon a return to Burundi – were nevertheless unable to safely participate in treatment.[102] Other measures taken included further reductions in mobility rights and the consolidation of camps. In the Kigoma region, Mtendeli and Mkugiwa were consolidated into Nduta camp, leaving only two refugee camps to provide for the entire population.[103] Secondary schooling was also cancelled in the fall of 2007, as were most income generation programs. Youth programmes were the next services slated to be shut down.[104]

The refugee narratives in experiencing this repatriation are clear: they believe that the Tanzanian state is forcing them to return through a steady denial of services and a declining quality of life in the camps and of protection.[105] In Kibondo, the District Commissioner ordered all adult Burundian refugees to produce letters explaining why they did not want to return, and threatened to close all the camps.[106] Every refugee I spoke to, both individually and in groups, expressed the feeling that the repatriation program was "forced." Whether they intended to return to Burundi or not, they felt that they would never be "part of Tanzania" despite having been resident for up to fifteen years.[107] For many who were returning, they were moving because they saw no other option; one man said that he was taking his family back, despite fearing for the future, to remove them from harassment in Tanzania.[108] Those attempting to stay also expressed that they felt they had no other choice. The possibility of citizenship, or of regularization, in Tanzania was seen as limited – unless they could escape the "eyes of the government." Several had appealed for citizenship. The government officials hearing the case summarily rejected one such appeal, made after ten years in Nduta camp and with evidence of legitimate fear for his safety in Burundi despite the peace. "They said 'how dare you!'" he says. "There is nowhere that I belong." Between 2001 and 2005 285,000 refugees returned to Burundi. A further 150,000 to 390,000 returned in 2006.[109] In early

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[100] "Nam"; "Mr. N."; "Jeff"; "Charles" (false name). Individual Interview, Nduta Camp Employee. Kibondo, Tanzania. December 2007.
[101] Forbes Martin 2006, p. 36.
[102] "Nam"
[103] International Rescue Committee, p. 1.
[104] "Nam"
[105] "Basil"; "Amil" (false name). Individual Interview, Burundian Refugee. Kibondo, Tanzania. December 2007.; Group Interview (15 participants), Burundian Refugees Nduta Camp. Kibondo, Tanzania. December 2007.
[106] US Committee for Refugees and Immigrants. "Refoulement/Protection" *Tanzania Country Report 2006*. Washington, 2006. [online]
[107] Group Interview
[108] "Amil"
[109] Forbes Martin 2006, p. 223 (editor's note)

2006 all the refugee reception centres in north-western Tanzania were closed.[110] Nduta camp was closed in the summer of 2008.

Studies of refugee policy in Tanzania, particularly one that focuses on camp management and operation of domestic and international NGOs, are consistently couched in terms of "durable solutions" and a return to stability for the refugee. By addressing policy and process, however, the emphasis that is placed on repatriation as the "only durable solution" is rarely questioned. That a prima facie refugee could become irregular and criminalized during the process is never accounted for. It is only by taking narratives seriously that this comes to light. While there is some official acknowledgement that there may be a "residual caseload" of refugees who cannot return, the practice is to delegitimized these claims and requests.[111] Refugees are portrayed as "lying" and "manipulating their stories to get what they want."[112] This is despite little clear understanding of what it is they do want. Refugees are only consulted about services in the camps, and are not seen as having the "skills necessary" to comment on policy. Wither very little explanation of why local integration would be negative or dangerous, it is taken for granted that the refugees will return to their country of origin. They did not ask permission before they crossed the border; they must return. This has strong parallels with the experience of border crossings in Spain, where an irregular (unauthorized) crossing permanently exempts individuals from regularization.

Conclusions: Irregular Resistance

An official at the IOM in Tanzania argues that illegality and irregularity are actually the same thing. Irregularity, however, is broader because it is about process and procedure rather than simply about law.[113] This understanding of irregular migration points to two underlying themes: first, irregularity exists within the systemic structures that shape international border regimes. There are important differences in the ways it is created and experienced, but there are also similarities that point to a perceivable international regime of border control. Common expectations of authorized and regulated crossing, and common anxieties over transgressions of this regulation create common consequences of exclusion and reduced opportunities for the "regular" migration of refugees. What these policies and programmes have meant is that all mobility not strictly regulated by the state, including that movement that is across borders, is understood as "irregular" and "illegal." As with the experience of migrants at the borders of Spain, this "illegality" produces for individuals who insert themselves outside of this framework – in Tanzania, sometimes in a refusal to move in repatriation – are thrust into a condition of irregularity. What marks the experience of irregularity for migrants is the perpetuation of instability, temporariness, and insecurity resulting from an exclusion that also represents immanent removal.

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[110] US Committee for Refugees and Immigrants.

[111] There are only 200 registered "asylum seekers", individuals with an active individual asylum application in process, from Burundi in Tanzania, as of January 2009. United Nations High Commissioner for Refugees, UNHCR Global Appeal 2008-2009. Geneva, (Dec 1, 2007). p. 121.

[112] "Richard" (false name). Individual Interview, Nduta Camp Employee. Kibondo, Tanzania. December 2007.; "Nam"

[113] "Jeff"

The second theme that emerges, however, is that as much as irregularity is determined by state structures, it is also determined by the politics that govern these structures. As such, the state is not the only producer of irregularity; decisions made by migrants themselves as they resist state structures and categories also produce irregularity. Irregularity is counterposed to the regularity of state policy, decision making, and categorization. In its instability, it reveals not abject exclusion but tenacity and determination. The migrants encamped at Oujda continually return from not only deportation to the Algerian desert, but sometimes also from deportation to their country of origin. They make repeated attempts to enter Spain, by whatever means necessary. In this, they are demanding that the public rhetoric of anti-racism and anti-xenophobia, of protection of human rights, and of integration for immigrants become practiced as part of the politics at the border. Meanwhile, refugees in Tanzania who are refusing repatriation are demanding that refugee protection be taken seriously not as a state project, but as a political project that validates human experience and individuals over borders.

Recent theoretical literature that examines the border and the camp as exclusionary spaces that create "bare life" can miss the radical political potential of those who are "irregular", caught in a static temporariness that excludes and imposes violent measures to deter and deflect migration, but that also demands political change, to become regular not within the structure and policy we have in practice, but the structure and policy we claim to have.

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