

Employing Critical Reflexivity to Democratize Refugee Governance

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## ABSTRACT

This dissertation considers how refugees and internally displaced persons (IDPs) are conceived in international relations, and how they are understood in relation to the global refugee regime complex. This research explores how cognitive frames are impeding fair/democratic governance of IDPs/refugees and employs two case studies to investigate how the practice of critical reflexivity can lead to the creation of democratic spaces for refugees/IDPs to enact protection preferences. The first case analysis argues that Sarvodaya Shramadana's Deshodaya initiative in Sri Lanka has enabled IDPs in that nation to embrace critical reflexivity to re-constitute/reimagine themselves as governing agents who can redefine state and international organization-based definitions of their protection. The second case examines asylum adjudications at the Department of Homeland Security and is an exploration of how that agency's responsible officials can employ critical reflexivity to recognize seemingly hidden governance structures that condition their decision-making and limit refugee choices. Finally, this inquiry offers a new, organic model for conceptualizing both refugee/IDP governance and strategies for democratization of refugee/IDP governance institutions and systems.

**\*\*\*The views expressed here are those of the author and do not represent those of the United States Government. \*\*\***

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## Table of Contents

<b>CHAPTER 1 - DEVELOPING INITIAL QUESTIONS CONCERNING GOVERNANCE OF INTERNALLY DISPLACED PERSONS AND REFUGEES.....</b>	<b>1</b>
THE DRIPPING AIR CONDITIONER AT SARVODAYA SHRAMADANA HEADQUARTERS IN SRI LANKA – AN ENCOUNTER WITH CRITICAL REFLEXIVITY .....	1
EXPLORING THE IMPLICATIONS OF ‘THE WEST’ VIA DOCTORAL RESEARCH IN GOVERNANCE REGIMES OF REFUGEES AND INTERNALLY DISPLACED PERSONS.....	6
THE ORGANIZATION OF THIS DISSERTATION.....	7
<b>CHAPTER 2 - THE ‘REFUGEE REGIME COMPLEX’ .....</b>	<b>9</b>
WHAT IS A ‘REFUGEE’ OR ‘INTERNALLY DISPLACED PERSON’ AND WHERE ARE THEY SITUATED WITHIN GLOBAL GOVERNANCE DISCOURSE?.....	9
<i>Starting with global governance</i> .....	9
<i>United Nations High Commissioner for Refugees (UNHCR) as a point of departure</i> .....	10
<i>The UN Refugee Agency’s cosmopolitan/neorealist paradox</i> .....	12
UNDERSTANDING REFUGEE GOVERNANCE FROM THE AEGIS OF THE REFUGEE REGIME .....	14
<i>The ‘regime’</i> .....	14
<i>The refugee regime as nested within the refugee regime complex</i> .....	16
THE COMPLEXITY OF REGIME OVERLAP AT THE MICRO-POLITICS SCALE .....	20
<i>Five spaces of regime complexity via overlap with the refugee regime – All are grounded in the nation-state</i> .....	22
<i>A micro-political look at moving the regime complex toward democratization</i> .....	24
REFERENCES .....	28
<b>CHAPTER 3 - COGNITIVE FRAMING AND USING CRITICAL REFLEXIVITY AS A TOOL FOR DEEPENING DEMOCRATIC GOVERNANCE OF THE REFUGEE REGIME COMPLEX.....</b>	<b>31</b>
DEEPENING GOVERNANCE OF THE REFUGEE REGIME COMPLEX.....	31
CRITICAL REFLEXIVITY AS A STRATEGY AND METHODOLOGY TO COUNTER NEOREALIST/NEOLIBERAL OBSTACLES IN REFUGEE GOVERNANCE DEMOCRATIZATION .....	34
<i>Neoliberal/Neocolonial/Neorealist obstacles to refugee governance democratization</i> .....	34
<i>The usefulness of cognitive framing via the process of critical reflexivity</i> .....	35
<i>Critical reflexivity via Fraser’s ‘Scales of Justice’</i> .....	39
<i>Critical reflexivity via Butler’s ‘Performativity’</i> .....	40
REFERENCES .....	42
<b>CHAPTER 4 – CRITICAL REFLEXIVITY AND STUDY RESEARCH DESIGN AND METHODS .....</b>	<b>45</b>
INVESTIGATING THE MICRO-POLITICS OF REGIME COMPLEXITY IN THE AREAS OF OVERLAP BETWEEN THE REFUGEE/HUMANITARIAN REGIMES AND THE REFUGEE/SECURITY REGIMES .....	45
<i>Constructivist ontology and critical epistemology</i> .....	47
<i>The relevance of paradigmatic case study methodology</i> .....	48
RESEARCH SETTINGS- SARVODAYA AND THE U.S. ASYLUM PROGRAM.....	49
STUDY LIMITATIONS.....	51
EVALUATING THE RESEARCH .....	52
ETHICAL/POLITICAL CONSIDERATIONS.....	52
RESEARCH METHODS.....	53
<i>In-depth, semi-structured interviews and observation—Sarvodaya case study</i> .....	53
<i>Observation—Asylum adjudications Case Study</i> .....	56
<i>Data analysis</i> .....	58

REFERENCES .....	60
<b>CHAPTER 5 - ENDOGENOUS NONGOVERNMENTAL ORGANIZATIONS: VEHICLES FOR MOBILIZING PROTECTION STRATEGIES GENERATED BY INTERNALLY DISPLACED PERSONS</b> .....	<b>64</b>
ABSTRACT .....	64
INTRODUCTION - REVISITING THE INTERNATIONAL DISCOURSE CONCERNING THE PROTECTION OF INTERNALLY DISPLACED PERSONS (IDPs).....	65
ENDOGENOUS NGOS ACTING AS VEHICLES/MECHANISMS TO CATALYZE AGENCY IN MARGINALIZED POPULATIONS .....	69
CONCLUSIONS.....	82
REFERENCES .....	82
<b>CHAPTER 6 - RECOGNIZING AND CONFRONTING STATE SUBJECTIVITY IN ASYLUM ADJUDICATIONS</b> .....	<b>85</b>
ABSTRACT .....	85
INTRODUCTION .....	86
STATE SOVEREIGNTY IN ASYLUM ADJUDICATION .....	87
THE ETHOS, PATHOS AND LOGOS OF ‘SIMULATING’ THE STATE.....	89
RECOGNIZING STATE SUBJECTIVITY AND BREAKING DOWN BINARIES .....	93
<i>Challenging State Subjectivity - Aesthetic Imagination</i> .....	96
<i>Challenging State Subjectivity - Cognitive Imagination</i> .....	98
<i>Challenging State Subjectivity - Affective Imagination</i> .....	99
<i>Challenging State Subjectivity - Moral Imagination</i> .....	102
CONCLUSION.....	104
REFERENCES .....	105
<b>CHAPTER 7 - CONCLUSIONS</b> .....	<b>109</b>
REFERENCES .....	112
<b>APPENDIX</b> .....	<b>114</b>
APPENDIX A – RECRUITMENT EMAIL FOR SARVODAYA CASE STUDY .....	114
APPENDIX B – CONSENT FORM FOR SARVODAYA CASE STUDY.....	116
APPENDIX C – IN-DEPTH INTERVIEW SCRIPT FOR SARVODAYA CASE STUDY .....	119
APPENDIX D – IRB APPROVAL FOR SARVODAYA CASE STUDY .....	121

## **Chapter 1 - Developing initial questions concerning governance of internally displaced persons and refugees**

### **The dripping air conditioner at Sarvodaya Shramadana Headquarters in Sri Lanka – an encounter with critical reflexivity**

Ten toes, two soles, two heels— two feet. They sat on the white couch, attached to a person, of course. This meant that I was not the first staff member to arrive at the office that day. Dr. A.T. Ariyaratne, (typically called Dr. Ari by friends, colleagues and acquaintances), a Sri Lankan Gandhi Peace Prize winner and president of Sri Lanka’s largest endogenous nongovernmental organization, Sarvodaya Shramadana, had already arrived. I walked to my desk and started preparing for the workday ahead. I shuffled papers and then yawned with my entire body. I stretched my arms up and almost brushed my fingertips on the bottom of the clunking air conditioner (AC) above my desk. The reaching created space for a full gush of hot, sticky, island air to dive inside my lungs and swim back out again. I lowered my arms and stuck my hands in my skirt pocket in hopes of finding a morning mint. Instead, I found a deflated balloon from the birthday party I had thrown for a friend the night before. As I walked to the trashcan, I saw the feet again. They seemed to be staring at me. I looked away from them and turned to my computer to turn it on and get cracking on a grant proposal for the United States Agency for International Development’s ‘Post-Conflict Reintegration Programming for Tamil Internally Displaced Persons.’

As the computer booted, I glanced at the map of Sri Lanka that hung next to my desk below the AC. The map had squirmy river lines all over it. I looked back at the white couch and the feet. Their soles resembled that Sri Lankan map, with lines created by years of walking all over the country striving for the rights of the marginalized. Those feet had walked alongside feet attached to individuals from every ethnic background and about half of all of the villages in Sri Lanka, and had stood on the same ground with representatives of groups in conflict, while their owner encouraged the people to work together to see themselves as deserving of inter-communal peace. But today, those feet were resting on the couch in the office suite where I worked each day. I looked around. “Era! Era! Dr. Ari is here on the white couch in his office!” I called out. Era usually came to the office every day at 8:30 a.m. His first job in the morning as Dr. Ari’s

personal assistant was to massage his boss's feet. But, Era did not appear. Nonetheless, the feet were not an apparition and I pondered whether I should offer to massage Dr. Ari's feet. It seemed as if those mischievous toes were calling my name, but I could not hear them over the concert that was the clunking AC. At that moment, the spicy Sri Lankan rice and curry breakfast in my stomach began bouncing around and caused my stomach to start grumbling, which added more dissonance to the cacophony.

I sat back down in my desk chair. I had a big grant I was drafting regarding work on intercultural programming of internally displaced communities and I did not have time to be distracted by pesky toes! I created a new Microsoft Word document and tried to focus, but my eyes kept returning to those feet on the couch. I started typing: "USAID grant report by Emily Barry, U.S. Government Boren Fellow to Sri Lanka, volunteer graduate student and management intern to Dr. Ari. ...". But, the clicking of the computer keys seemed only to add to the jarring concert of the air conditioner and my complaining stomach.

I pondered my predicament. Maybe I could just ignore the toes, and the discomfort that the sleeping man attached to those feet would feel as soon as he woke up. I said to myself, "I am here to help out with nonprofit management and grant writing and to learn, not to rub feet. ... This grant is due today and I must complete it. I have no time to give foot massages! Where is Era anyway?" I rose from my desk again and poked my head out into the hallway. No Era.

I looked back at those feet and considered giving them a massage. Would it be so bad to offer a foot massage? As it happens, I hate feet, all feet, even my own feet. But, suddenly, the toes stopped wiggling and the man attached to them woke up. Oh no, I thought to myself. I know what he is going to say next, and Dr. Ari called out in his native language: "*Era, eneva. Karunakarala! Mate patah oya owneva!* (Era, come. Please! My foot needs your hand.)" I paused in the hope that Era would pop his head into the room. That did not happen, so I spoke, "He's not here yet, Doctor." I responded in English. I hesitated. Then I spoke again, "Do you want me to help the circulation in your feet this morning? I'm not sure what time Era will get here." "Yes, thank you. They are really hurting me this morning" he responded. I started my walk across the office, past Dr. Ari's musty archives from when he first started his community

mobilization work more than 50 years ago, and the brightly colored photographs hanging around the office of him accepting awards all over the world.

When I reached the couch, I looked at those feet, which were attached to legs covered in a traditional white sarong. Dr. Ari's torso was covered in a western-style business shirt buttoned up to the very top. The torso belonged to a man of 79 who had hair that perfectly matched the color of his Sri Lankan sarong and his shirt. I was close enough to smell a faint scent of coconut, most likely from his stylish coconut oil-gelled hair. I had just enough room to sit at the end of the couch right next to his feet.

I gingerly placed my hands on his feet and started to get his circulation moving. My grasp was meek at first, but once I noticed a bit of comfort come to Dr. Ari's face, I started squeezing his feet in a fast rhythm; each grip gave me more confidence. My goal was to get his blood circulating. I stopped focusing on the fact that I was massaging this man's feet and I began to smile, knowing that I was helping Dr. Ari feel just a little bit better. I forgot the clunking AC unit and I took pride in knowing that I was able to give something to this world-renowned man who is suffering from poor blood circulation to his feet. He had traveled recently from a large conference of village leaders in the eastern part of the country. That part of Sri Lanka was heavily affected by the civil war that had just ended a few months earlier and Dr. Ari was leading a movement of village groups to recognize oppressive power structures and to create community-based forms of reconciliation and reintegration programming to counter them. Dr. Ari's assistant had not come to massage his feet, so now I had a unique opportunity to assist this great man.

I found myself reflecting in that moment that I, of all people, had the good fortune to obtain funding from the American government to spend a year in Sri Lanka with this amazing Yoda/Gandhi hybrid of a person who is filled with so much wisdom. My research was going to be so easy to write, considering I had Dr. Ari's brain to pick! I found myself imagining a host of post-conflict internally displaced persons that Dr. Ari had helped to establish protection programs and mused, "they would do ANYTHING to be here right now, thanking this man for his work by providing him a foot massage." Then I began to hear the clunking of the AC unit

again and began to sense an uneasy feeling in the pit of my stomach, my fingers felt like they had turned to lead and it became difficult to continue.

The AC unit kept clunking. Why is that air conditioner in this office, I thought to myself. It remains so hot and sticky in this building that it is clear that it barely does anything anyway. And it is a waste of energy. A fan would be much more appropriate for this space.” The modern, but barely operating AC unit in this Sri Lankan office seemed so ... unnatural. The parts were probably fabricated here in Sri Lanka or somewhere else in Asia, then shipped to the United States (U.S.), assembled there and then shipped back to Sri Lanka and sold for an unfair price. Or perhaps this machine from the 1980s had been defective in some way, so it was shipped to Sri Lanka because no firm in America wanted it. It was probably purchased for a price that could have fed 30 youngsters for a month at one of Sarvodaya’s children’s homes. It looked and sounded ugly, but it was there most likely because at the time it was installed, it was some great technology, some advancement from the U.S. And, my work desk was placed in the only office with air conditioning. I felt a curdling in my stomach as I saw a drop of contaminated condensation from the AC drip on the Sri Lankan map. My heart started to beat to the rhythm the unit made.

Suddenly, I no longer felt lucky to be sitting there massaging Dr. Ari’s feet. I began to reflect not only on the oddity of the AC unit, but also my relationship to it. What would someone think if they saw the American air conditioner dripping icky water on the Sri Lankan map; would they move the machine or the map? Also, what would they think about seeing an American name on a grant proposal coming from an endogenous Sri Lankan organization? I tried to banish those thoughts from my mind. I needed to forget such reflections and focus on how lucky I was to be there, helping Dr. Ari, as the AC sounded: *clunk-Clunk, clunk-Clunk*.

But why am I the only intern with Dr. Ari all the time? And why did he invite me here to work as his intern? Why did he ask staff members who were busy with their own work when I first came take a part of their afternoon to move a desk and other things into his office, the only office with an AC unit, to accommodate me? *Clunk-Clunk*. Why did he call on me to stand up and introduce myself to his family, his organization and hundreds of volunteers at the New Year’s Day celebration, while no other new Sri Lankan interns were asked to do the same? Is it because I am

young? *Clunk-Clunk*. Is it because I am white? *Clunk-Clunk*. Is it because I am a student with ‘authenticated’ western knowledge? *Clunk-Clunk*. Did he invite me because when he met me he thought I was a nice person and a student who could help him and he could help me learn and spread his work? Or, is my good fortune in being here not luck at all, but simply another evocation of my privilege? *Clunk-Clunk*. Is it class or racial privilege that also has to do with my gender, level of education, nationality, financial background, a combination of these, or some other factor(s) of which I am unaware? *Clunk-Clunk*. Why am I the special guest of Dr. Ari and why am I expected to engage Dr. Ari in philosophical conversation? Why is Dr. Ari’s assistant, a bright energetic Sri Lankan, massaging his boss’s feet? And, if I am feeling this uncomfortable about my position here, and all that I represent as a westerner, how must those involved in programs with this organization feel about me and what I represent during Dr. Ari’s talks all over the country about village-level strategies for recognizing and overcoming the hegemonic west? *Clunk-Clunk*.

At this point in my musings I frankly could not tell if the ‘clunks’ were coming from my heart or the AC machine. I stopped the massage and stood up. “I’m sorry Doctor, would it be OK if we waited until Era gets here for him to continue?” I said. He smiled and said, “*Ovu, estuthi, Emily nangi* (Yes, thank you, Emily small sister)” in his language. I walked back to my office seat and sat down and stared at my computer screen for a moment. *Clunk-Clunk, clunk-Clunk*. I looked up at the AC unit. Its noise and presence was reverberating through my heart and very being. *Clunk-Clunk*. A condensation drop fell—on my glasses lens—and blurred my vision of the Sri Lankan map and the grant proposal on which I was at work.

I realized then that I needed to get out of the office to regain my balance. I exited the building, and for a moment I forgot the sound of the clunking and the sight of Dr. Ari’s toes. I took in the humid blanket of moisture that now surrounded me and I focused on the calming sounds of chirping tropical birds. I looked across the compound to the canteen and I saw the employees there preparing ginger tea. I knew that in about 10 minutes all my friends, leaders of the village organizations, would meet there to chat, drink tea and have cookies. But, I decided not to join them this morning. Instead, I needed to write about the AC machine, its symbolism as ‘west’ to me, and my realization of its presence. I passed Dr. Ari’s office on the way to my hostel, and at the moment I passed, I was not sure if I heard or felt an echoing *Clunk-Clunk*.

## **Exploring the implications of ‘the west’ via doctoral research in governance regimes of refugees and internally displaced persons**

I spent the first year and a half of my doctoral program studying international relations, nonprofit and nongovernmental organization management and international development. I was extremely lucky to meet a Gandhi Peace prizewinner and founding director of a famous grassroots development organization in Sri Lanka during his visit to my university and he invited me to join him in his native nation to learn about his entity’s efforts. I spent the next year of my doctoral program in Sri Lanka as both his management intern and a doctoral researcher in post-conflict displacement and re-integration. The United States government funded this opportunity for me as a Boren Fellow.

The vignette above concerning my encounter with the noisy air conditioner and Dr. Ari’s aching feet depicts some of the questions with which I wrestled in my role during my stay in Sri Lanka. I began early in my year with Sarvodaya to consider the importance of critical reflexivity and its potential to uncover unconscious components of neorealist, neoliberal and neocolonial governance of internally displaced persons (IDPs) and refugees. I then returned to my home university for a final year of coursework in political theory, critical theory, research evaluation and the politics of humanitarianism. Thereafter, I returned once more to Sri Lanka for two final months of doctoral field research on post-conflict integration before beginning full-time work as an Asylum Officer with the Refugee, Asylum and International Operations Division of the United States Department of Homeland Security. I extended my consideration and practice of critical reflexivity to my work as a federal government refugee and asylum adjudicator, and I recently completed the two years of federal government service required of me as a recipient of a Boren Fellowship.

My on-the-ground involvement with and research into the re-integration of Sri Lankan IDPs gave me the opportunity, from the perspective of the field, to investigate and explore the systems and processes that govern displaced person and refugee populations. I was able to witness first-hand how displaced individuals understand, counter and overcome ‘hegemonic’ or ‘western’ obstacles to recognize themselves as agents in their governance, and thereby come to play decisive roles in decisions concerning their protection. And, my practical experience of

adjudicating refugee petitions both in the United States and abroad has given me an opportunity to investigate governance systems for protection of refugee populations and to explore the role of individual regime arbiters in enacting ‘hegemonic’ or ‘western’ practices that condition the character of those processes.

### **The Organization of this Dissertation**

These two different perspectives, in combination with my doctoral course work, have afforded me an opportunity to consider IDP and refugee constructs, and how/where they are situated in relation to the global refugee regime complex, which is detailed in Chapter 2. After setting the stage with a discussion of refugee governance and its accompanying regime, Chapter 3 explores critical reflexivity as a tool for democratizing that system. The chapter examines this approach as a strategy for both refugees/IDPs and those involved in governance systems concerning these populations to counter neoliberal, neorealist and neocolonial obstacles to providing spaces for refugees/IDPs to exercise agency to realize their protection preferences. Chapter 4 sketches my research methodology for the two case studies that resulted from my experiences with Sarvodaya in Sri Lanka and my role in asylum adjudications with the Department of Homeland Security. The first, detailed in Chapter 5, is an analysis of the Deshodaya program, and in it I argue that initiative enables IDPs to embrace critical reflexivity to re-constitute/reimagine themselves as governing agents who can and do re-define state and international organization-based definitions of their protection. The second analysis, detailed in Chapter 6, is a case study of my work as an adjudicator for the Department of Homeland Security, and constitutes an exercise in how one can employ critical reflexivity to recognize seemingly hidden governance structures that condition adjudicative decision-making that may limit refugee choices.

Taken as a whole, my dissertation project investigated the following questions/concerns:

- How can analysts conceive of the refugee regime’s complexes/sites of overlapping contestation at the micro-political level? What competing claims are at play within them?
- What neorealist, neoliberal or neocolonial representations condition IDP/refugee governance and can be uncovered using a critically reflexive approach?

- How can IDPs/refugees and those involved in the regimes that govern these groups employ a practice of critical reflexivity to democratize IDP/refugee governance/create opportunities for IDPs/refugees to have more of a say over their protection choices?

Finally, Chapter 7, my conclusions, outlines the key findings from my two case studies and suggests further opportunities for inquiry concerning efforts to democratize refugee governance.

## **Chapter 2 - The ‘Refugee Regime Complex’**

**What is a ‘Refugee’ or ‘Internally Displaced Person’ and where are they situated within global governance discourse?**

*Starting with global governance*

In conceptualizing the refugee and internally displaced persons, we must start with the global governance literature that guides us in considering what orders and defines these particular individuals. Chhotray and Stoker (2009) have outlined five different schools or theoretical streams in political science and public administration that shape current thinking about how institutions enact effective governance. They have discussed how Klijn et al. (1995) and Kickert et al. (1999) have developed the idea of governing through networks. They have also described managing network structuring, which, as Sorensen (2006) has observed, represents a meta-level understanding of governance via arranging strategies aligning different actors to ensure stability and order. They also analyzed Bertelli’s work (2006). He has offered a delegative model of governance in which principal agent and rational choice theories are key. According to Bertelli, actors make self-interested choices based on the environments they confront. In this view, effective governance results from smart design and how incentives are structured.

For his part, Newman (2001) has investigated social interpretive theories of governance. In this conceptualization effective governance requires overseers to shape the production of meaning in social settings and work to direct how alternative meanings are subjugated and pushed aside. Meanwhile, Jones (2001) has described an approach rooted in social psychology and cognitive thinking that suggests that governance demands that its progenitors understand the cognitive limitations resulting from breakdowns and communication and human error in processing information and find new ways to anticipate actor decisions based on that knowledge. Finally, Hood (2000) has avoided the positivistic rational choice theory underpinning Bertelli’s delegative view of governance and drawn on Newman’s social interpretive framework and Jones’ cognitive limitations approach to posit an institutional theory of governance that considers both the social and cultural production and subjugation of meaning within institutions and the fact that organizations overlap and develop relationships with one another.

To investigate ‘the place’ of refugees and internally displaced persons within global governance, one may combine Hood’s cultural institutional theory of governance and the meta-level concept of network theory to investigate how refugees and internally displaced persons (IDPs) are created and defined through a network of institutions. Actually, this construct is a network of regimes in which institutions are situated that culturally produces, creates and defines what it means to be a refugee.

*United Nations High Commissioner for Refugees (UNHCR) as a point of departure*

My experience as a student of global governance privileged to work with returning populations in post-conflict Sri Lanka and as a professional adjudicating refugee petitions for the United States Government has encouraged me to study displaced populations. A central focus for my research is a key international institution charged with overseeing the protection of refugees and internally displaced persons, The United Nations High Commissioner for Refugees. UNHCR was established in 1950 and now has an annual budget of \$5.3 billion (United Nations 2013). It is responsible for promoting regional and international stability relating to refugee and displacement crises and works to organize states and other international organizations to develop what it calls ‘durable solutions’ for displaced populations.

The origin of the term refugee within our modern state system can be traced to the Peace of Westphalia in 1648 when this population was first defined as individuals who had lost the protection of their state. An early international concern for refugees originated in 1921 when the League of Nations and Red Crescent movement lobbied for a central organization to be assigned primary responsibility for individuals fleeing from revolution and civil war in Russia; this entity came to be The League of Nations High Commissioner for Refugees (Barnett 2002, p. 241). In the 1920s and 1930s during the Great Depression and on into World War Two (WWII), the international community was very restrictive in serving the needs of refugees. Indeed, during WWII, many people from Eastern Europe and the Soviet Union were repatriated against their will, although later in that conflict, many western powers did not agree with refugees being involuntarily returned to now socialist-ruled areas (Betts, Loescher and Milner 2012, p. 11).

In 1947, the WWII allied powers established and funded (primarily by the United States) the International Refugee Organization (IRO) to recognize refugees’ right not to be repatriated

against their will without due process. The new agency shifted the approach of international refugee protection from a focus on designated groups of displaced individuals from specific countries to an analysis of the particular experiences of persons who had experienced persecution and could not return to their country of origin (Barnett 2002, p. 242). The 1940s and 1950s saw an increasing number of people experiencing displacement in Europe, Eastern Europe, India, Korea, China and Palestine. That fact convinced United Nations Security Council members that an urgent need existed for a new international organization to address these refugee crises. The United States High Commissioner for Refugees was established in 1950 to respond to this scenario and improve upon previous efforts of the United Nations Relief and Reconstruction Agency to assist displaced persons (Barnett 2002, p. 245). The new entity did not originally focus on material assistance for refugees, but was primarily concerned with institutionalizing legal protections for refugees within and among states, most importantly within states, on the basis of the requirements of the 1951 Convention on the Status of Refugees (Barnett 2002, p. 245). In 1967, The United Nations ratified a protocol to expand the scope of its High Commissioner for Refugees and gave that office the ability to implement protection programs for displaced individuals worldwide (Betts, Loescher and Milner 2012, p. 31). As such, UNHCR became the locus of efforts to define international norms and expectations concerning that population.

UNHCR defined its mission from the outset as ‘impartial’ and ‘non-political’ and its leaders saw it as tasked with a ‘humanitarian’ mission of assisting refugees. This stance gave the organization legitimacy and therefore leverage with states and in the 1970s the United Nations asked the High Commissioner to begin to provide material/humanitarian assistance to individuals who were not only displaced beyond the borders of their native countries, but within those boundaries as well (Barnett 2002, p. 248). Later, in the 1990s at the end of the Cold War, many in the international community argued that UNHCR had failed to respond effectively to successive crises in Somalia, Yugoslavia and Rwanda in the 1980s and 1990s (Barnett 2002, p. 253).

From that point forward, international regional security and a perceived refugee crisis began to gain salience. Many nations reduced their emigrant assistance programs during this time and many countries also limited the number of asylum-seekers they granted entry as these individuals

came to be seen as possible threats to both state and international peace and security (Betts, Loescher and Milner 2012, p 57-58). However, inter-organizational collaboration, in the form of agreements and strategies such as UNHCR's durable solution strategy that originated in 1998, engendered new approaches to foster coordination and engagement in support of peacekeeping, humanitarian and security agendas (Betts, Loescher and Milner 2012, p. 91). The events of September 11, 2001 lent yet more urgency to security concerns within the High Commissioner's office work.

Today, UNHCR sees itself as maintaining norms, rules, principles and decision-making processes that shape the refugee protection behaviors of states (Betts, Loescher and Milner 2012, p. 2). It aims to do this this by building protection programs, institutionalizing safety and assistance norms, and arranging for cost sharing among relevant countries (Betts, Loescher and Milner 2012, p. 94). The High Commissioner promotes the protection of individuals whose relationship with their native states has broken down. Refugees and displaced persons are created when states are unable or unwilling to uphold citizen rights, and in such cases, the UNHCR is tasked with protecting those populations and re-establishing their citizenship connection with a country (Betts 2013a, p. 1). In a sense, the UN refugee office is charged with developing what Kuyper has described as network governance mechanisms that link individual refugees with states and international society (2014, p. 637). The right to protection based on a citizenship relationship with a state is key to UNHCR's mandate from the UN. In this sense, that office really is a "creature of the state" (Barnett 2002, p. 260).

#### *The UN Refugee Agency's cosmopolitan/neorealist paradox*

This fact points to a key paradox at the heart of the agency's mandate. UNHCR's mission is grounded in two conflicting ontologies: a cosmopolitan ideal of international solidarity toward refugees and a neorealist understanding of state territory and power. The organization aims to promote a cosmopolitan understanding of international protection and solidarity for refugees and IDPs, but is bound by state-based funding and state-centered understandings of refugee and displaced person protection. As Haddad has observed, "[The refugee] is portrayed as a given, known concept who is created by illiberal governance in contrast to the 'normal' rooted citizen. The international context in which the refugee emerges as 'problem' is not questioned ... the

existence of modern political borders will ensure the constant (re)creation of refugees” (2008, p. 3).

Furthermore, with a large number of state governments, international institutions, local institutions, civil society organizations and refugees involved in creating, defining and addressing the question of ‘the refugee,’ one can view UNHCR as a central arbiter of refugee and IDP protection. At least implicitly it does so by upholding a neorealist perspective of state sovereignty, that is, by seeking citizenship with state-based rights for refugees and the displaced. Although UNHCR consistently emphasizes its nonpolitical and non-state character, there are, in fact, few things more political than protecting the rights of noncitizens (Betts 2013a, p 1).

Refugees are understood through a system of legitimization, in which practices of domination categorize and exclude populations from ‘the right to have rights.’ Several analysts have suggested that this logic of categorization should be rethought (Agier 2001, p.28). As Agier has observed:

By de-centering and reflecting on politics at the basis of this double-exception – as a series of special categories in spatial, social and legal terms, and as the expression of a specific political inequality and minority – it is possible to render more visible the violent production, by the state, of norms and the abnormal ... and those left out of account (Agier 2001, p. 28-29).

Agier has also argued that, “... every act of naming and classifying is a political act. It is based on simple tautologies, i.e. on closed circuits of reasoning in which figures can only confirm the arbitrary definitions given a priori in specific contexts according to the devastating logic of categorizations” (Agier 2001, p. 33).

To delve more deeply into UNHCR’s operating reality of cosmopolitan aims grounded in neorealist practice implemented in the form of neoliberal policies and institutions, it is necessary to explore the logic of categorization aligned with different mechanisms governing refugees. Various authors have offered alternate approaches to understanding refugee governance, whether by means of formal institutions or via informal practices. One conception views decisions addressing this population’s protection as solely a reflection of state interests (Whitaker 2008, p.

241). Neorealists, meanwhile, have contended that hard power dominates refugee governance (Kuyper 2014, p. 627). Both neorealist and neoliberal institutions and informal practices view refugee governance as concerned only with formal rules and how those align with a larger liberal agenda (Kuyper 2014, p. 627). Whitaker has suggested that regimes control decision-making processes regarding refugees (2008, p. 241). In this view, to conceptualize governance mechanisms and grasp the logic of refugee categorization, analysts must look to the concept of the ‘regime.’

### **Understanding refugee governance from the aegis of the refugee regime**

#### *The ‘regime’*

The word *governance* originated from the Greek verb meaning ‘to steer.’ The term can be seen as a theoretical concept referring to the processes (and also actions) that arise and persist within organizations. I lean toward global governance theory (rather than international governance theory) as I see global governance varying from international governance as the latter implies formal legal authority and police powers, while global governance, according to Rosenau, includes informal, nongovernmental mechanisms by which actors satisfy needs (Rosenau 1992, p. 3-5 in Hira and Cohn 2002, p. 10). Rosenau has argued that the regime concept can be useful for discussing and understanding global governance because such a construct does not simply point to the overarching idea that an institution or institutions should oversee members of international society. Instead, regimes are, “more specialized arrangements that pertain to well-defined activities, resources, or geographical areas and often involve only some subset of the members of international society” (Rosenau 1992, p. 8-9 in Hira and Cohn 2002, p. 11).

I am not interested in considering regimes as a 1970s realist would use the term; as a construct that incorporates economic transaction costs to understand the nature of coordination and stability in international relations. I am not looking to explore a conception of the refugee regime as solely a reflection of state interests (Whitaker 2008, p. 241). Nor, do I wish to embrace a purely neorealist conception of the concept that sees hard power as dominating all choice making (Kuyper 2014, p. 627). I am also uninterested in adopting pure neoliberal thinking, which describes the refugee regime as concerned with formal rules and how those are used to further a liberal agenda (Kuyper 2014, p. 627). Instead, I am looking to explore neorealist, neoliberal and

also other thinking on how ideas about refugees and their associated regimes are conditioned by their tendencies to influence decision-making processes and encourage certain behaviors of states and institutions that condition and define refugee protection. I am interested in examining refugee regimes within the frame of broader global governance theory and using the concept to explore formal and informal processes that guide and restrain institutional action. Betts, Loescher and Milner have argued (as noted above) that, “In international relations scholarship, a ‘regime’ is understood to be the ‘principles, norms, rules and decision-making procedures around which actor’s expectations converge in a given issue area. ... [The] global refugee regime can be understood as the principles, norms, rules and decision-making procedures that influence the treatment of refugees by actors in the international system, including states, international organizations, and NGOs” (2012, p. 125).

However useful this concept may be, it is also clear that global policymaking concerning issue-areas often evidences boundary-spanning problems (Jochim and May 2010). To be more specific, each governance regime or ‘subsystem’ has its own lens through which its members view the world. In consequence, participants in individual regimes generally do not attend to messy policy concerns that cut across multiple policy/governance arenas (Jochim and May 2010, p. 304). Although Jochim and May have written largely about national policy regimes, their work is useful in that they view each ‘subsystem’ (or, as the term is employed here, each ‘regime’), as shaping problems, definitions and norms and thereby evidencing a distinct “way of doing business” (Jochim and May 2010, p. 305). For example, “the threat of terrorism looks different to those who are concerned with public health than those who are concerned with domestic security” (Jochim and May 2010, p. 311). As such, not all of the parties involved in the refugee regime may be members of the same ‘subsystem.’ The ‘different ways of doing business’ of states, international organizations, civil society groups, etc., relating to refugees in fact can be a bit more complex and messy than a single governance regime, “Regimes compose both material and ideational qualities that define, order, and stabilize meanings, rules, and norms within a certain issue-area,” but they can become sites of “contestation” (Kuyper 2014, p. 627).

### *The refugee regime as nested within the refugee regime complex*

The idea of the regime complex encapsulates these spaces. These are comprised of overlapping regimes that do not share the same norms and principles. The notion of ‘regime complexity’ involves institutions nested within a wider framework of governance, having parallel obligations in similar areas and possessing overlapping areas of authority regarding the same issue (Alter and Meunier 2009). More precisely, Orsini, Morin and Young have defined a regime complex as, “a network of three or more international regimes that relate to a common subject matter; exhibit overlapping membership; and [that] generate substantive, normative, or operation interactions recognized as potentially problematic, whether or not they are managed effectively” (Orsini, Morin and Young 2013, p. 29). Likewise, the refugee regime complex occurs when, “...different institutions overlap, exist in parallel to one another, and are nested within one another in ways that shape [institutional] responses toward refugees” (Betts, Loescher and Millner 2012, p. 126). This complexity and overlapping can create problematic interactions, but also complementarities (both obstacles and opportunities) (Orsini, Morin and Young 2013, p. 29). It is relevant to both conceptualize and understand the refugee regime complex because it influences how involuntary emigrants and IDPs are able to access protection, durable solutions and assistance from UNHCR and other international institutions (Betts 2013b, p. 71).

Betts (2013b) has argued that international institutions can employ three strategies to respond to regime complexities. These include, first, engaging with the politics of other issue areas (issue linkage-demonstrating to states how wider interest in related regimes and areas can be useful while mitigating the power of any single actor involved), second, enlarging the scope of their work into new areas (maintaining ongoing relevance to states) and, third, seeking complementary overlaps (creating new partnerships/synergies) (Betts 2013b, p. 76-78). Similarly, Kuyper has suggested that regime complexes are evolving, dynamic and contested sites of governance that allow for international institutions to adopt strategies through which they may respond to issue complexities; he notes these are forum shopping, issue linkages, cognitive framing and bargaining (Kuyper 2014, p. 630).

In this sense the refugee regime complex involves multiple institutions intersecting both in scope and purpose and with shared authority concerning the same issue. This situation can allow

UNHCR to exercise a wider reach through working with other institutions and allow the agency to appeal to state's interests beyond appeals to moral authority by linking their agenda to issues of other regimes (Betts, Loescher, Millner 2012, p.131). This complexity can also be beneficial because of institutional overlap arising from partnerships and shared resources, but at the same time, such coincidence creates a competitive institutional environment in which different institutions have different agendas and it is not often clear which actor is responsible for what (Betts, Loescher, Millner 2012, p. 145). It can also result in overlapping regimes co-opting the refugee question to press other agendas. UNHCR operates at the center of the refugee regime complex, but as that agency seeks to press its policies and programs by building ties across regimes, the politics of the entities with which it interacts inevitably affect decision-making on UNHCR's "home turf."

Generally speaking, regimes are comprised of institutions that coalesce around certain issue areas that lead to a greater adherence to norms among those organizations, and increased interest in collective monitoring and sanctioning. However, as regimes grow into regime complexes, rule-based orders tend to fade as institutional proliferation dilutes focal points of power, creates new centers of influence and results in overlapping mandates and increases transaction costs for engaged actors (Drezner 2009, p. 66). This process gives powerful institutions, such as states, the ability to lead other organizations and engage in forum-shifting and forum-creating strategies (Drezner 2009, p. 67). Forum shopping or regime shifting has become the norm for states, as choices concerning which regime to support determine which institutions and service providers garner support and credence (Betts 2013b, p. 70). As a result, regime complexity leads to opportunism for state parties to those structures.

As such, regime complexes permit shifting politics, "the movement of the most relevant politics for an issue area from one regime to another" and transferring among states, "the movement of states from one regime to another to address a given problem" (Betts 2013b, p 70). When refugee crises arise all institutions seem to do a "waltz around responsibilities, in which no-one dares to take the first step, for fear that the partners step back" (Duriex 2013, p. 60). This makes it difficult for UNHCR to mediate protection solutions and the agency is therefore often the scapegoat for lack of cooperation or determination among other (especially state) actors (Duriex 2013, p. 60).

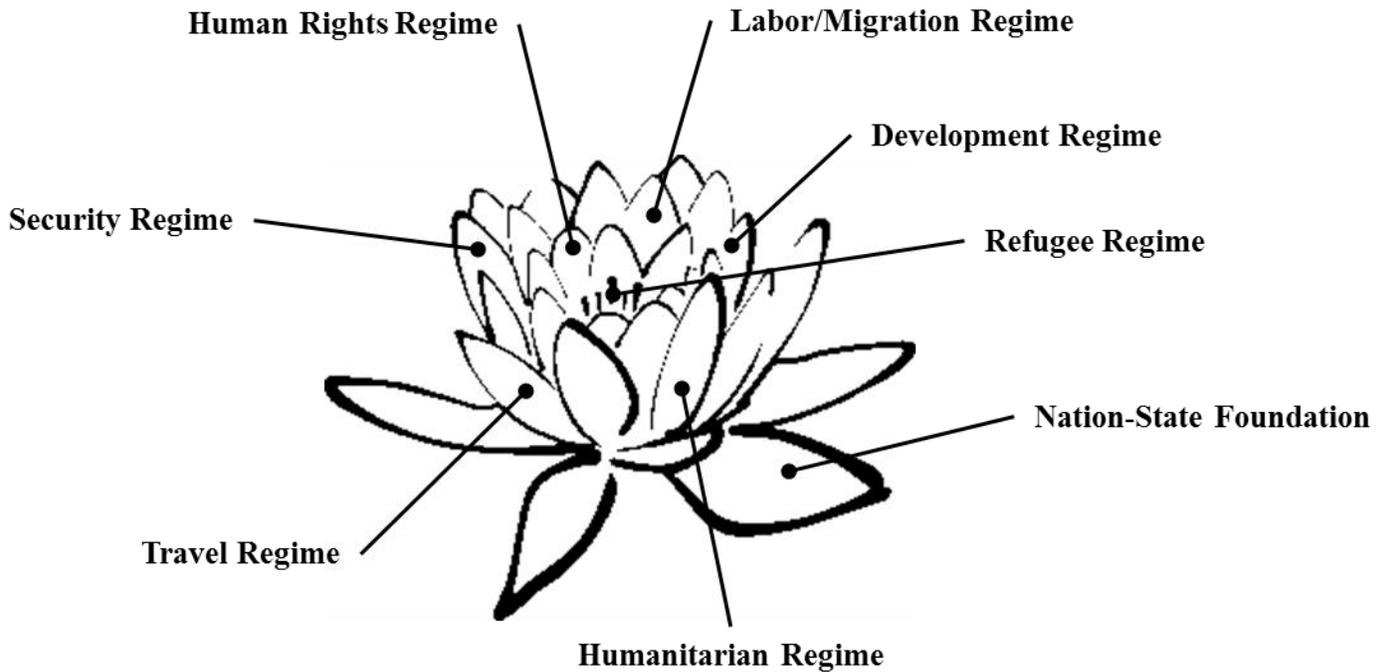
Regimes adapt and overlap when there are incentives for inclusion or exclusion in an issue area on both domestic and international levels (Betts 2013a, p. 9). They engage in a process of stretching that “highlights the way in which a regime may adapt at the national level of implementation, even in the absence of adaption of the levels of international negotiation or institutionalization” (Betts 2014, p. 78). Betts views this process as “the degree to which the scope of the regime at the national or local level takes on tasks that deviate from those prescribed at the global level” (Betts 2013a, p. 30). There are three levels of this broadening or change. The first is international bargaining, the second is institutionalization and the third is implementation. Stretching as bargaining is pretty straightforward and results in treaties and agreements between and among states. Institutionalization occurs when international organizations outline the norms in a specific issue area and work with the state on a technical plan for incorporating those customs within the state’s apparatus. Implementation occurs at the national level (the level of domestic political contestation) at which the local beliefs and practices of actors filter whether, how and when institutionalized international efforts are realized in practice (Betts 2013a, p. 50-51).

Whitaker has similarly argued that the relationships between regimes and states are dynamic, interdependent and incentive-driven. She has suggested that funding limits and requirements constrain the ability of states to comply with UNHCR’s protection agenda. This fact can result in reduced safeguards for refugees. She has also contended security concerns inevitably play a large role in state decisions regarding refugee populations (Whitaker 2008). As a general proposition Whitaker has further argued that states seek persistently to externalize their refugee protection costs to the international system (Whitaker 2008, p. 254). Extrapolating from Whitaker, it appears that a country’s reputation for fair dealing and vigorous refugee protection practices indicate a willingness to share the refugee ‘burden’ with the international community, making it less risky for UNHCR to collaborate with that state.

National governments will not protect migrants if they are not held accountable to do so by the international community or by their domestic populations (Betts 2013a, p. 70). Protection for groups such as survival migrants may fail at the implementation stage if xenophobia is an issue in domestic populations, if officials in charge of ensuring safety practices fear electoral losses or defeat with implementation or if international organizations may have not worked with a state to

institutionalize shared refugee security norms (Betts 2013a, page 134). There may be many situations in which no local or national incentives for protecting survival migrants are in place. State engagement and compliance with international refugee protection norms will likely increase if cooperation yields financial gains or offers positive electoral incentives. It may also rise with effective pressure from civil society organizations or international movements (Betts 2013a, p.108). UNHCR addresses its mandate successfully only when governments are willing to act on the basis of its proposed norms (Betts 2013a, p. 76).

Orsini, Morin and Young have observed that skills for navigating regime complexes are different than traditional definitions of power, and that discursive production of norms sets rules and constraints for participants (Orsini, Morin and Young 2013, p. 37). These analysts have also argued that network theory is useful in understanding regime complexes because that frame allows scholars to locate regimes and links between/among them, using arrows to represent directional flows of influence (Orsini, Morin and Young 2013, p. 33). Network analysis allows observers to see and map interactions that take place concerning norms and norm compliance (Orsini, Morin and Young 2013, p. 37). And, “perceptions draw the boundaries of the complex, indicating which regimes are recognized- or not- as elements of a complex” (Orsini, Morin and Young 2013, p. 29). Mapping the different links movements of influence within a refugee regime complex can be useful in recognizing its perceived boundaries and overlaps.



*Figure 1: Refugee Regime Complex*

### **The complexity of regime overlap at the micro-politics scale**

Figure 1 suggests that various other international regimes commonly overlap with the refugee regime and share authority regarding some portion of that practice domain (Betts, Loescher and Milner 2012, p. 126). I have developed this rendering of the refugee regime complex on the basis of previous work by Betts, Loescher and Milner (2012, p. 127). They portrayed this governance structure as a Venn diagram with the refugee regime in the center circle. I have instead sought to depict the network as an active organism, a lotus flower, whose petals represent regimes that overlap with each other and support/connect with UNHCR, located at the center. Also, unlike Betts, Loescher and Milner, I portray the entire complex as supported by a nation-state, the flower's support base of leaves. Ultimately, states accept or reject refugee and IDP constructs and legitimize and fund (or not) international institutions such as UNHCR.

My use of leaves to represent nation states in the refugee regime complex is deliberate. Plant biology teaches that the leaves of a plant generate the energy and life for it through

photosynthesis. Nation-states are likewise a source of energy and life for the refugee regime complex. As mentioned above, Orsini, Morin and Young have suggested that the skills necessary to navigate regime complexes are different than those in situations characterized by traditional definitions of power. Regime norms and rules are set discursively and are the product of negotiation among network participants (Orsini, Morin and Young 2013, p. 37). So, acknowledging the nation state as a key actor in regime complex governance and one that provides its 'energy' for these systems recognizes the role that countries currently play in both conditioning the construct and in defining who constitutes a refugee. As the section above concerning the cosmopolitan/realist paradox and UNHCR suggested, not only is the refugee organization a 'creature of the state,' as Barnett (2008) has argued, but refugees themselves are also defined ultimately and their protection and vulnerability is understood through nation-states (through the 'energy' of the support base of leaves in Figure 1). So, if refugees and IDPs are only understood collectively as in a broken relationship with their state, and refugee protection within the regime complex is understood as reuniting refugees and IDPs with state protections, then displace person and refugee options for 'protection' are indeed discursively limited via statist discourse.

My depiction of the refugee regime complex is an effort to conceptualize the constant movement, growth, push and pull that occur within a dynamic system. As mentioned above in the discussion on regimes, Kuyper (2014) has developed a taxonomy of forms of interaction between and among boundaries that constitute a substantial share of this activity: cognitive framing, issue linking, bargaining and forum shopping (p. 632). Within the context of the refugee regime complex, I understand cognitive framing as the conceptualization of a refugee protection challenge solution in a manner applicable to the relevant regime, issue linking involves connecting the concerns of one regime to those of another's members, bargaining within the refugee regime complex encompasses promoting or adapting the agenda of one regime in return for undertaking the same for another. Forum shopping is as a process of investigating and then selecting the particular regime within the refugee regime complex that appears most sympathetic to the claims and perspective of an engaged state or institution.

*Five spaces of regime complexity via overlap with the refugee regime – All are grounded in the nation-state*

As described above, the refugee regime is firmly underpinned by the nation-state and related discourse concerning how to define and ‘protect’ refugees. But, as the lotus diagram above indicates, and as Betts, Loescher and Millner’s 2012 work has also suggested, various other regimes interact with the refugee regime within the refugee regime complex: The human rights regime, the humanitarian regime, the development regime, the labor/migration regime and the travel regime. Each of these overlaps in different ways with the refugee regime and the combination of these intersections creates the complexity of the refugee regime complex. A brief overview of some of these connections follows.

The human rights and refugee regimes overlap in what Betts, Loescher and Millner (2012) have called the complementary protection overlap. Many human rights instruments provide matching protection or provide legal resources for refugees. One good example of this is Article 3 of the European convention on human rights. Another is the convention against torture and the principle of non-refoulement from the 1951 Convention on the Status of Refugees. Many of these provisions or agreements are now a part of international law (Betts, Loescher, Millner 2012, p. 127). However, when one examines this protection overlap closely, one can see that the intersection of regimes is still firmly situated on the base of the nation-state. In order for international law to be applicable, for example, national governments must recognize it and legitimate and integrate its provisions into their country’s legislation.

The humanitarian and refugee regimes also overlap. UNHCR’s 1998 formal recognition of displaced persons gave the agency a new responsibility for improving the situation in-countries suffering from scenarios that had created such groups. Then, in 2000, A UNHCR policy paper defined the agency’s relationship with internally displaced persons by arguing that it would assume responsibility for such populations when its protection expertise was needed (Martin 2010, p. 51). As gaps in IDP protection and misinterpretations regarding which institution would assist such groups came to light, UNHCR developed a cluster approach to IDP protection. This strategy joined the protection-related efforts of several institutions and delineated the responsibilities of each (Martin 2010, p. 53). The UN’s more broadly focused cluster approach to

addressing humanitarian crises now benefits from UNHCR's expertise in the area of internally displaced persons. However, the agency competes with other humanitarian organizations to play the role it has undertaken. Indeed, some contend that UNHCR's focus on IDP protection diverts resources and political attention away from refugees (Betts, Loescher, Millner 2012, p. 128). As a large portion of the funding to support the international organization comes from states with strings attached and aid to IDPs is heavily conditioned on whether those nations will allow international organizations to enter their territory to provide aid to the displaced, UNHCR depends finally and virtually completely on state cooperation to pursue its mandate.

The development regime overlaps with the refugee regime in what Betts, Loescher and Millner (2012) have described as the durable solutions overlap. The more recent move of humanitarian aid work from relief to development blurs the notion of which refugee protection institutions should and can be involved in such situations. With adoption and institutionalization of the idea of durable solutions, UNHCR is moving toward provision of more permanent solutions for refugees. As such, peacekeeping efforts can fit inside this regime. Also, the United Nations Development Program (UNDP) and World Bank are international organizations that complement and assist with the creation of durable solutions strategies aimed at generating better protection conditions for returning refugees and IDPs through economic and social development and growth (Betts 2013b, p. 2013). However, Harvey (2005) has argued that development programs can be implemented under the guise of "neoliberal rhetoric, [which] with its foundational emphasis upon individual freedoms has the power to split off libertarianism, identity politics, multiculturalism, and eventually narcissistic consumerism from the social forces ranged in pursuit of social justice through the conquest of state power" (p. 41). Much research shows that 'development' efforts worldwide have varying negative effects on host populations and could privilege the type of 'developmental growth' supported by neoliberal governments funding development efforts that are not beneficial to the populations they are designed to assist (Harvey 2005).

The labor/migration regime consists of the labor and travel regimes and overlaps with the refugee regime in what Betts, Loescher and Millner (2012) have labeled spontaneous asylum overlap. The travel regime represents institutional cooperation concerning regulation of movement across state borders (Betts 2013b, p. 75). These include regional and other forms of

cooperation between countries and corporations that allow governments to manage who enters their territory (these measures include visa controls, admission arrangements and international zones at airports, biometric data, and extraterritorial border management (Betts 2013b). Perhaps the nation-state is most evident in the overlaps between these regimes. There are many forms of institutionalized cooperation of regulation concerning refugee and IDP populations (Betts, Loescher, Millner 2012, p.128). States can use the labor/migration/travel regime to allow refugees through resettlement programs. However, migration controls, such as visa requirements, hinder refugee and IDP movement and therefore their ability to seek refuge in another country (Agier 2001). The travel regime can limit access to migration channels and border controls can prevent spontaneous asylum seekers (Betts, Loescher, Millner 2012 p. 128).

International developments within the security regime such as the UN Peacebuilding Commission overlap with the refugee regime by establishing conditions in countries that create protection mechanisms to provide national possibilities for refugee repatriation (Betts 2013b, p. 72). This can be understood as the ‘durable solutions’ overlap between the security and refugee regimes. However, as with the human rights regime, any policies or programs by security regime arbiters and institutions will be based in the national security policy of a country. And, as past terrorist events such as the September 2011 World Trade Center attacks have shown, an increase in security measures and policies by host governments can restrict entry mechanisms for refugees attempting to gain protection, as they can be perceived as “potential terrorists and security threats” (Betts, Loescher and Milner 2012, p. 62). Overall, UNHCR is positioned at the center of the refugee regime and plays a key role in that complex and it works to seek complementary overlaps with other regime institutions and to mitigate contradictory intersections in order to meet its refugee protection goals.

#### *A micro-political look at moving the regime complex toward democratization*

Much of the literature regarding regime complexity in international relations has investigated how these constellations of values and norms affect state behavior (Raustalia and Victor 2004). However, Betts (2013b) has observed that it is now necessary for analysts to examine how the relevant regime complex influences how refugees and IDPs are able to access protection, durable solutions and assistance from UNHCR and other salient international institutions (p. 71).

While I agree with Betts on a macro-level, I wish here to contend that interested scholars should now employ a micro-political approach to understanding the refugee regime complex in which UNHCR is ensconced. Analysts have previously pointed to the need for this stance. Kuyper (2014), for example, has suggested a micro-political approach might usefully be employed to investigate how individual actors can play a role in democratizing regime complexes. He has argued that there is a deficit in democratic governance at the international level because there are not sufficient standards and procedures nor international institutions able to regulate the variety of dynamics and density of institutions and regimes operating to secure it (Kuyper 2014, p. 621). Thinking concerning international democratization seems to fall into two camps, the cosmopolitan group (including all affected individuals in a democratic process beyond the state) or statist supporters (who contend that global governance can be made more democratic by reinforcing domestic and international linking structures) (Kuyper 2014, p. 621). But the statist understanding does not account for all the private organizations, institutions and actors, such as NGOs and international entities, that are not solely operated by countries (Kuyper 2014, p. 623). Kuyper has suggested that analysts should now examine international democratization processes beyond the state. This perspective highlights the need to investigate how the cosmopolitan/realist paradox that characterizes UNHCR's mission plays out within various overlapping sites of the refugee regime complex and to explore, at a micro-level, how spaces within that complex both enable and constrain the agency, refugees and IDPs.

Kuyper has argued that there are many different models for understanding democratic governance. However, those conceptions have been developed within the notion of, and reflect liberal understandings of democracy (Scholte 2014 in Kuyper 2014, p. 624). In thinking about democratization analysts should think about not which view of global democracy they should employ, but how, "we can think about democratizing different regime complexes by fulfilling a set of values" (Kuyper 2014, p. 625). Kuyper has contended that these democratic values should be equal participation, accountability and institutional revisability (Kuyper 2014, p. 625). When Kuyper (2014) uses the term equal participation, he means it to address individuals affected by rules and regulations. These people should have an equal say in determining the character of the rules that affect their lives (p. 625). For Kuyper, accountability implies rule-takers setting judgment standards for rule-makers and when the latter groups do not meet those criteria, ensuring that rule-takers can impose sanctions on those producing them (p. 626). Finally, when

Kuyper speaks of institutional revisability, he means to refer to ensuring capability for change within and among the key institutions at the core of rule-making when democratic values call for change (p. 626). Thinking about these three values of regime complex democratization push the analyst to consider not merely prescriptive models of democracy, but also frames that focus on issue area specific practices rather than one-size-fits-all policy prescriptions. Some subject domains are more susceptible to discursive democratization than others, for example, than others (Kuyper 2014, p. 640).

Martin (2010) has extended Kuyper's notion of providing individuals affected by rules and regulations an opportunity to enjoy an equal say in shaping those that will affect their lives (Kuyper 2014, p. 625) by arguing that the international community has a duty to protect populations who lack protection because of gaps in safeguards (2010, p. 258). She has contended that UNHCR needs to focus more on protecting persons displaced in situations in which governments are willing to protect them, but unable fully to do so. Basically, Martin wants the refugee agency to focus more on countries that are willing to protect, but lack governance capacity and also nations in which governments are not willing to assist certain populations within their borders. In the latter scenario she suggests that UNHCR can use its expertise and leverage as a refugee advocacy organization, while also holding other national institutions accountable for protecting those populations.

Other scholars have focused on the issue of institutional revisability. The concern today is that the 1951 convention and 1967 protocol did not take into account that the concept of a refugee might need to evolve. Today many individuals fleeing their native countries in the hope of gaining protection are not leaving because of direct persecution by states, but actually because of human rights deprivations arising from governments' failures to ensure fundamental rights (Betts 2013b, p. 2). Today, too, there is both an analytical gap in the conceptual language used to identify who should not be returned to their country as Betts (2013a, p. 4) has argued, but also a practical protection break because the refugee definition now in place and implemented by states focuses on the cases of conflict and not on basic human rights (Betts 2013a, p. 4). Betts (2013a) has investigated why in some instances refugee regimes stretch to protect individuals who are survival migrants while in other circumstances they do not, and argued that the UN should create a new analytic category of 'survival migrants' on the basis of human rights that would afford

protection to all individuals fearing or experiencing such violations in their home countries. He has observed that, “the current delineation of refugee/migrant is based partly on political/economic distinction in underlying motives, but there are many situations in which large-scale deprivations of economic and social rights... can be understood as economic consequences of an underlying political situation” (Betts 2013a, page 18).

Betts is the key scholar interested in understanding regime complexity as it affects refugees, but his work does not address, as Kuyper (2014) might note, strategies for democratization of [refugee] regime complexity, and more specifically, how individuals can play a role in democratizing the refugee regime complex. My research addresses the issue of democratizing the refugee regime complex in Kuyper’s terms of opening space for the expression and pursuit of democratic values within it (equal participation, accountability and institutional revisability). My inquiry also investigated what Cornwall and Coelho have argued, is a need to create more spaces for all people to take part in political life, conceive new political subjectivities and experience opportunities for representative deliberation (Cornwall and Coelho 2007, p. 7).

As Kuyper has noted in his general discussion of governance regimes, and as Betts has observed regarding refugee regime policy specifically, the idea of one refugee protection entity does not explain or capture the competing and overlapping decision-making processes, norms and rules at play between and among different global governance regimes. The field needs a more nuanced understanding of how the security, development, mobility, humanitarian and development regimes overlap with, and operate parallel to, the refugee regime, and how these areas of coincidence affect and define protection norms, rules and decision-making processes.

This chapter has argued that analysts need to explore, at the micro-political level, the places of overlap/synergy/conflict between and among relevant regimes to examine specifically the different areas of cooperation and conflict among them. Such a focus would permit scholars to address questions concerning why/how the U.S. asylum program often appears security-centric and how this potentially limits refugee protection, or why/how the UN durable solutions program is not necessarily conducive to local definitions of protection for IDPs. Additionally, analysts need to investigate how bargaining, issue linking, forum shopping and cognitive framing (Kuyper 2014) in these areas affect refugees’ ability to democratize the regime to their benefit

within neoliberal and neorealist systems of refugee governance. A micro-political approach will allow me to investigate where/how refugees, IDPs and refugee regime arbiters are able to re-define understandings of liberal forms of refugee complex governance to allow them to be perceived as agents. In short, examining how refugees/IDPs are conceived at the micro-political scale and exploring the conditions that both constrain and enable those individuals should provide me a lens into how, when and under what conditions refugees and IDPs are able to practice ‘cognitive framing’ and critical reflexivity, be seen by themselves and by others as agents in their own protection and through these steps, work toward the democratization of the refugee regime complex.

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## **Chapter 3 - Cognitive framing and using critical reflexivity as a tool for deepening democratic governance of the refugee regime complex**

### **Deepening governance of the refugee regime complex**

There is a gap between normative expectations and empirical realities in creating democratic spaces (Cornwall and Coelho 2007, p. 5). As such, Gaventa has argued that even if institutions are designed to promote a democratic agenda, it is important to examine the micro-politics of engagement (Gaventa 2007, p. xv in Cornwall and Coelho 2007). He has argued that democratic citizenship in an area is not simply attaining access to political and civic rights, but instead involves individuals enjoying entrée to social rights and the right to create rights. Gaventa has suggested that a true democracy does not simply afford participants a right to vote or participate in discussions about issues that affect their lives, but instead, “rather it is a process through which citizens exercise ever deepening control over decisions which affect their lives through a number of forms and a variety of arenas” (Gaventa 2007 p. xii in Cornwall and Coelho 2007). Instead of proposing an institutional framework that encourages better organization design and decision-making processes within institutions (Immergut 1992 and Fung 2003 in Cornwall and Coelho 2007) or social mobilization for a fairer distribution of resources (Tarrow 1994 and Alvarez, Dagnino and Escobar 1998 in Cornwall and Coelho 2007); Cornwall and Coelho (2007) have contended that analysts must also examine whether and how individuals see themselves as agents.

Understanding refugees as agents within the refugee regime complex is closely connected to how the idea of what constitutes a refugee is conceptualized and how individuals so designated view their place as governing agents within international protection. As now defined in neoliberal international relations and as implemented through our systems of protection for refugees, such individuals are expected to seek to regain their citizenship relationship with the state through the refugee regime complex. Today, refugees are conceptualized as pure victims, or biopolitical “... beings de-socialized into pure biological life” (Agier 2001, p. 155). Refugees do not enjoy citizenship, and their political exclusion from playing a formative role in governance of the refugee regime complex represents another denial of their political rights. As a result, these

individuals are often forced to resort to either passive submission to refugee ‘assistance’ or illegal solutions/channels (Agier 2001, p. 149).

Duriex has argued that conceptualizing refugees via the lens of biopolitics discursively limits how refugees can be conceived as agents (Duriex 2013, p. 60). He has observed that the refugee regime’s institutional mandates and norms are shaped to phase in and phase out interventions and provide mechanisms by which to transition individuals from refugees to protected citizens experiencing durable solutions. His argument concerning the refugee regime can be extended to the entire refugee regime complex. He has contended that much assistance programming promotes livelihood initiatives that will develop human capacities without acknowledging that these are conditioned on refugee attachment to a host state, and that the notion of progressive realization of economic social and cultural rights cannot be achieved in a short time frame (Duriex 2013, p. 61). Vulnerability can become a resource on which voluntary identification is based to the extent that refugees may even anomalously use the neoliberal/biopolitical label of ‘refugee’ to pursue their own agendas. That is, today many refugees find that they can pursue their own interests only by performing the narrative of vulnerability, thus putting pressure on the labelers to assume responsibility for their protection (Haddad 2008, p.35). Paradoxically, however, even as it undermines the potential of these individuals to exercise agency, the label ‘refugee’ also accords them such legitimacy as they are likely to possess in the refugee regime complex.

However, in order for those at the helm of refugee regime complex governance and for refugees themselves to regard their population as agents in their own governance, it is necessary to re-interpret the narrative of vulnerability ascribed to these individuals. It is necessary to reimagine how refugees, IDPs and those who play a role in protection decisions regarding these groups view their responsibilities and to substitute Kuyper’s institutional revisability, accountability and equal participation in the refugee regime complex as a substitute standard for action. A re-imagining of refugee (and IDP) vulnerability can “publicly set[ting] the tone of an ideological challenge to the principles of the humanitarian organizations” (Agier, p. 159), reconstituting refugees and IDPs as political entities. If refugees and displaced persons and those making decisions that affect these populations shift the neorealist/neoliberal prescribed narrative of vulnerability and instead see such individuals as political agents, these people can exert

themselves as actors who play a role in the protection decisions that affect their lives (Agier 2001, p.148). And similarly, if those in positions of protection can learn to consider refugees/IDPs as individual agents, they can help refugees/IDPs see themselves accordingly.

Various authors have offered different techniques that disempowered populations, including refugees and internally displaced persons, can employ to condition their regime complexes to cater to their desires regarding equal participation in governance, revisability of governance institutions, and accountability of governance institutions to their wants/needs. Many different tools/techniques can encourage movement, forum shopping, issue linkages and cognitive framing and bargaining (Kuyper 2014) within the refugee regime complex to move toward these democratic values. What these strategies have in common is that they look to change, modify or re-interpret the composition of the refugee within the regime complex. It is helpful to look again at the lotus flower metaphor (Figure 1) to visualize this process of movement within the refugee regime complex. In this depiction, the different tools/techniques would be nutrients that enter the lotus flower through its base, thereby changing its composition organically, so to speak.

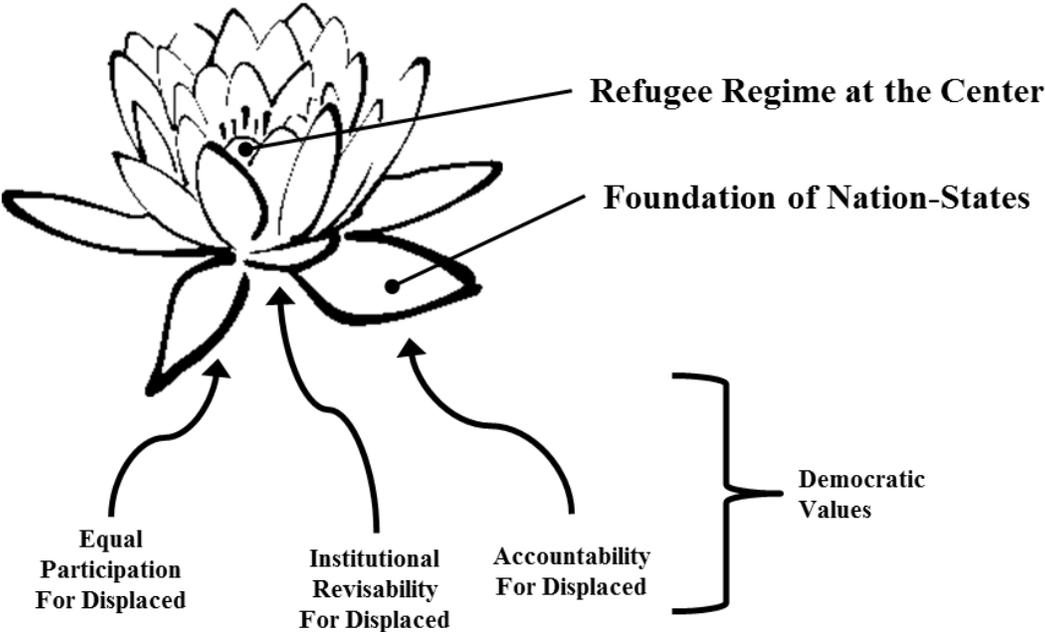


Figure 2: Three Nutrients for Democratizing the Refugee Regime Complex

## **Critical reflexivity as a strategy and methodology to counter neorealist/neoliberal obstacles in refugee governance democratization**

### *Neoliberal/Neocolonial/Neorealist obstacles to refugee governance democratization*

As Jones and Calafell (2012) have argued, neoliberal ideology maintains hierarchy in our speech and thought because of unseen practices of legitimation and othering. Neoliberal values of economic freedom and individual liberty equate in practice to top-down management systems, invasive systems of accountability, standardization and corporatization (Jones and Calafell 2012, p. 961). Neoliberalism's privileging of individualism, meritocracy and personal responsibility fixes identity as stable and emanating from within the individual, making it easy to blame people for their problems instead of critiquing systemic/institutional practices (Jones and Calafell 2012, p. 965). As such, "neoliberalism facilitates some people's movement through space and hinders those who are marked as 'Other' (Jones and Calafell 2012, p.969). In the case of the refugee regime complex, refugees are surely 'others,' because outside the state.

Spivak (1994) is especially relevant to understanding how refugee and IDP populations are constrained by culturally and socially produced and reproduced dominant neoliberal discourses that limit alternative possibilities for their agency/efficacy. She has argued that western hegemonic language has colonized subaltern populations and these groups cannot 'speak' or exert alternate solutions via discourse because the avenue available for them to assert themselves, the discourse, is only available in a culturally and socially produced western and hegemonic form. Copelovitch (2010), echoing Spivak, has used principal agent theory, favored by neoliberals, to illustrate that non-western agents lack the space or 'agency slack' needed to make their own choices.

Agier (2001) has similarly argued that neoliberal ideology categorizes and desocializes refugee and IDP populations by discursively framing them as a threat to the west. Benhabib (2013) has contended that western human rights discourse may represent a 'Trojan horse' for neoliberalism since it stands as an omnipresent reminder that refugees are routinely not given access to universal human rights based simply on their standing as human beings. Benhabib (2013) has likewise suggested that refugees are not given, as Ardent (1969) noted, 'the right to have rights.' Instead, as she has observed, refugees are only offered the legal right to be reunited with a

protector state. Robinson (2011) also has argued that refugees are constrained by a hegemonic, masculine discourse that does not recognize them as humans. This ‘westernized’ conception of the refugee as a political entity constrains refugee regime complex arbiters and limits the possibilities for protection alternatives. If the neorealist/neoliberal cultural and social production of the refugee regime complex discourse conceives the refugee/IDP only in their political relationship to the western state, protection for those groups will remain limited to national-level, state-based solutions.

As long as refugee regime arbiters view those they are aiming to assist as de-socialized, vulnerable populations that can benefit from reunification with state protection and they continue to adopt the refugee/IDP narrative of vulnerability without considering the oppressive nature of that perspective, the refugee regime complex will remain entrenched in neoliberal/neorealist patterns of practice. The network is not likely to move from this stance toward a more democratic style of governance with increased refugee/IDP participation, institutional revisability and accountability until state principals recognize the need to change the assumptions that animate current action.

#### *The usefulness of cognitive framing via the process of critical reflexivity*

To explore the concept of critical reflexivity and how it can prompt ‘movement’ in refugee regime complex governance toward a reimagining of such individuals as decisive agents in their own governance, it is helpful to start with the concept of cognitive frame. One useful way to describe this concept is as the make-up of language in our brain. This composition is defined and understood relative to societal narratives and conceptual metaphors understood as given. Lakoff (2004) has contributed to the understanding of mental framing processes by demonstrating how the use of linguistic tools extends morality-fueled emotional reasoning. He has argued that cognitive models are frames based on language that guides human reasoning. To create frames, words are categorized, divided and classified based on the ideas they evoke (Lakoff 2004, p. 87). The cumulative ideas stimulated by these choices draw people and cultures into a certain conceptual or cognitive frame (Lakoff 2004, p. 3). Lakoff has suggested that linguistic tools, such as simple and complex metaphors can evoke these frames since these tie these constructs

based on morality and an individual's culture of learned experience with their mode of reasoning in a new domain (Lakoff 2004, p. 63).

Building on the idea of the cognitive frame, Foucault's discourse theory took Lakoff's idea of cognitive framing and added the issue of power to the equation. It is essential to consider the question of power to understand the cognitive framing of 'refugee' within international protection discourse. Foucault's conceptualization adds complexity and a dynamic element to understanding cognitive framing in the international arena by highlighting the fact that beliefs cannot be set as once and for all defined constructs, and that therefore individual and collective views are constantly being redefined. Foucault's discourse theory suggests that international policy discourse and the policy change process is not a coherent whole, but one whose many different actors create their norms in the process of interacting with each other (Hajer, 1997, p. 50). Additionally, if not most importantly, Foucault's conceptualization brings the complex notion of social power into the equation in relation to institutions and how they vie for hegemonic influence in the policy process indirectly through the construction of cognitive frames. He examined how institutional power in policy discourse is defined relationally and contextually and depends on narrative discourses that are formed in relation to other actors (Hajer, 1997, p. 49).

The international community now embraces a cognitive frame for conceptualizing displaced populations that is grounded in neorealist and neoliberal narratives. The refugees/IDP frame depicts them as de-socialized and vulnerable and in need of state protection/re-unification. That framing must change and must become more open to IDP/refugee influence in order for regime arbiters to regard those groups as governing agents. Displaced persons, refugees and those advocating for these populations must argue that these individuals should be viewed as agents rather than supplicants. In terms of the lotus flower metaphor presented above, IDPs and refugees must be disconnected from the 'support base of leaves' supporting the neocolonial/neoliberal refugee regime complex. International and state actors need to change the way they view these groups and these individuals likewise need to re-imagine themselves as agents in their own protection, irrespective of whether reunification with a state is a top priority for them.

Critical reflexivity can be used to help refugees become aware of the regnant frame and to imagine alternatives to it. In terms of the lotus flower diagram, one can imagine cognitive framing as a tool to deliver new nutrients to the organic system. In this model, this watering can is the tool and critical reflexivity is the water in the can that revitalizes the refugee system through its base. Viewed metaphorically, the water delivers important nutrients past the nation-state leaves and up to the petals of the refugee regime at the center to foster new growth. That development represents a new cognitive frame for understanding the role of the refugee/IDP in the governance of their protection. And, as these nutrients move throughout the organism in the guise of recognition of refugees as agents, they renew and reconstitute the organism, creating new cells, or life within it.

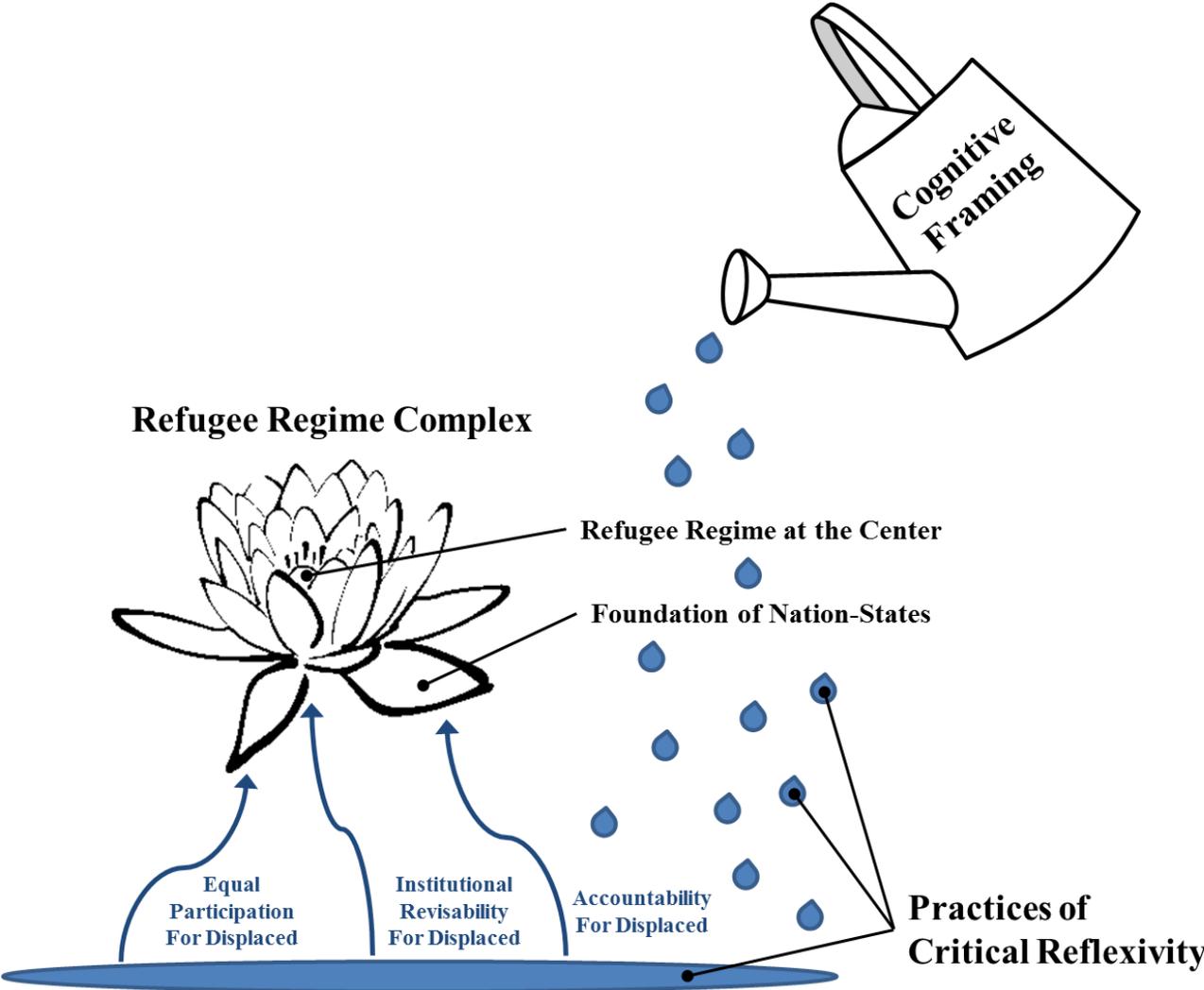


Figure 3: Critical Reflexivity as a Mechanism for Democratizing the Refugee Regime Complex

So what is critical reflexivity, exactly, and how does it relate to cognitive framing? Critical reflexivity is the practice of investigating how subjectivity is discursively constructed and experienced by populations within particular social, political, economic and cultural contexts (Jones and Calafell 2012, p. 11). Critical reflexivity is about questioning assumptions that inform how an individual is making sense of their world, viewing themselves as socially situated; it is about challenging their own practice as a “site for the reproduction of existing power relations and hegemonic discourses about the social world” (Jones and Calafell 2012 p. 10). In reference to refugees, IDPs and official arbiters within the refugee regime complex, critical reflexivity is about examining the neoliberal, neorealist and other narratives presented as given, and instead reframing such individuals as a key agents in defining how decisions are made regarding them.

Trevelyan, Crath and Chambon have argued that analysts need to understand the concept of ‘reflexivity’ as distinguished from other forms of reflection because of its relationship to time (Trevelyan, Crath and Chambon 2012, p. 8). While reflective practices are retrospective examinations of practice situations, “... ‘reflexivity is said to take place in the moment, while one is still in the midst of the incident in question’ ” (D’Cruz et al. 2007 in Trevelyan, Crath and Chambon 2012, p. 9). Additionally, critical reflexivity demands consideration of the sources of types of knowledge and power that structure actions (D’Cruz et al. 2007 in Trevelyan, Crath and Chambon 2012, p. 9). Furthermore, the concept questions assumptions that inform how an individual is making sense of their situation, viewing themselves as socially situated and considering themselves as a “site for the reproduction of existing power relations and hegemonic discourses about the social world” (Trevelyan, Crath and Chambon 2012, p. 10).

As such, “we need to embrace and learn from [ourselves] rather than ignore or disown through the guise of objectivity” (Jones and Calafell 2012, p. 961). This embracing and learning in the form of self-reflexivity can be difficult to practice because it could lead to self-implication, but at the same time it offers individuals an opportunity to hold themselves accountable for how they might indeed be complicit in the perpetuation of neoliberal ideologies (Jones and Calafell 2012, p. 963). Unsettledness and some measure of emotional and intellectual discomfort are unavoidable and necessary to the ethical practice of reflexivity. Non-critical forms of reflexivity “eschew the embracement of difficult emotional and cognitive experiences” (Trevelyan, Crath and Chambon 2012, p.12). Practicing critical reflexivity involves considering a supposed ‘neutral

space' as innately political (Jones and Calafell 2012, p. 966). Refugees themselves can employ boundary-shifting techniques within the refugee regime complex; they can engage in forum shopping, issue linking, cognitive framing and bargaining in creative ways that change the neoliberal/neorealist cognitive frame and 'givens' in current refugee regime complex governance. Fraser (2010), Joachim (2007) and Butler (1990) offer strategies that can be used by refugees, IDPs and refugee regime complex arbiters to shift regime boundaries, constitute individuals as political agents and promote democratic values. Although they do not label these steps critical reflexivity to re-imagine cognitive frames, each suggests that deep reflection regarding hegemonic discourses (for the refugee regime complex that discourse is the neoliberal/neorealist state-based protection norm) can lead toward a shift toward more democratic governance practices.

#### *Critical reflexivity via Fraser's 'Scales of Justice'*

Fraser (2010) is a feminist critical theorist who presents a model of how groups and individuals can exert themselves as agents in their own governance at three different levels. The first level of personal agency involves individuals or groups acting in small ways through the dominant discursive systems and structures to manage and act to redress power imbalances, including engaging in cognitive framing. This seems to include Bourdieu's ideas of agency through social capital. This then leads to a second level of cognitive framing, and acting as agent. Fraser employs Bourdieu to contend that individuals or groups addressing an oppressive governance system/frame must work to re-draw that frame by lobbying national governments and accessing political mobilizing structures. This second level of exerting oneself as agent finds individuals seeking to change discourse practices and how they are authored. This step then leads to a third in which individuals or groups work to re-structure the global governance system including who has access to re-draw the cognitive frame at an international level (Fraser, 2010). This three-step process of re-drawing and re-imagining cognitive frames accords well with the lotus flower diagram above that depicts that process as moving/changing the governance regime complex 'organism' by changing its 'nutrients.'

Fraser's conceptualization of the issue of frame realignment can be linked to Joachim's work on political mobilizing structures. Joachim has contended that non-state actors, such as international

organizations, can and do influence the context of emerging state-based agendas (2007, p. 6). She has argued that although the international political arena is largely governed by power-holding nation states, others within that firmament are not powerless because they can exert influence through the strategic framing of issues on which they elect to focus. Fraser's work develops this idea by arguing that this perspectival structuring process may also include a reconsideration of who gets access to creating the frames that shape the international discourses of power by changing thinking concerning who authors governance discourse, via the individualized practice of critical reflexivity. In speaking of justice, she suggests that power lies not in the question of justice generally, but in who is regarded as an appropriate subject of justice (Fraser, 2010, p. 5). She contends that with globalization, there is a "... new sense of vulnerability to transnational forces" which creates new ways to conceive of international politics and how frames are conceived and legitimated within its dynamics (Fraser, 2010, p. 14-15). Fraser builds on Foucault, Bourdieu and Joachim by providing a tangible, three-step strategy to understand how individuals can constitute themselves as agents in the process and practice of discursive power and frames (Fraser, 2010, p. 15). She suggests that through individual practice of critical reflexivity, those not typically constituted within a body of governance can in fact perceive themselves as agents in that regime nonetheless. In the case of the refugee regime complex, this process results in refugees and IDPs emerging as potential key decision-makers in choices concerning their status and options.

#### *Critical reflexivity via Butler's 'Performativity'*

Butler is known as the founder of queer theory and she drew from Foucault to seek to understand how groups lacking discursive power are often only able to engage in social resistance by using the 'normal' inside/outside discourse (1990). She employed Foucault's discourse theory to contend that the terms in which we speak, write and think about the world are a reflection of wider relations of power and, indeed, are constitutive of that power. Butler agrees with Fraser and suggests that one must shift the dominant frames to create fresh possibilities for disadvantaged groups to initiate change that benefits them. It is very difficult for groups lacking a discursive power of 'the normal' to create and engage in alternate discourses because the only available way to do so is to use the categorizations already created in dominant social and cultural productions (Butler 1990).

Butler writes thoughtfully about gender performativity, but her analysis is also useful in examining how the common understanding of vulnerable refugees/IDPs is ‘performed’ on those groups. She has contended that ‘gender’ is performative as, “the ‘appearance’ of gender is often mistaken as a sign of its internal or inherent truth ... gender is prompted by obligatory norms to be one gender or the other (usually within a strict binary frame), and the reproduction of gender is thus always a negotiation with power” (Butler 2009, p. 1695). As such, she has suggested that understanding gender within the bounds of a binary, hegemonic frame limits different possibilities for viewing it, and conditions society to perform those dichotomies to understand and express the concept. One may extend her analysis of the performative character of gender and apply it to refugees/IDPs. If protection for displaced individuals can only be understood in understanding their binary relationship to state (protected/not protected by the state), the only possibilities for the displaced person are to perform their need for protection by the state, in the form of enacting the narrative of vulnerability previously mentioned, or to resist the ‘westernized’ understanding of protection for the displaced and risk loss of assistance from refugee regime complex arbiters.

Butler also developed the concept of ‘precarity’ for populations. She explained that precarious populations are groups pressed to exist in a certain way in time or space by the way they are defined and by the way that definition is re-enforced via discursive practice (Butler 2009, p. 1696). She argued that, “Precarity also characterizes that politically induced condition of maximizing vulnerability and exposure for populations exposed to arbitrary state violence and to other forms of aggression that are not enacted by states and against which states do not offer adequate protection” (Butler 2009, p. 1696). Butler used this construct to explore how certain populations are understood, defined and performed by all parties engaged in protection for the displaced as vulnerable bodies subject to non-recognition as equal subjects before state and international law. In these terms, refugees and IDPs can be understood as constructed as ‘precarious’ populations and considered as, “... those who do not count as subjects, those who do not sufficiently conform to the norms that confer recognizability on subjects. ... Those who do not and cannot appear as ‘subjects’ within hegemonic discourse” (Butler 2009, p. 1697).

Butler suggests that refugee protection, and thus protection of the displaced in general, is not normally recognized outside of the state. That is, a national law-based protection is understood as

‘normal’ for these groups. As such, the only way for refugees to access these protections is to perform as precarious individuals. However, if the refugee/IDP and other sympathetic regime arbiters are able to understand how the refugee/IDP is performed in relation to the state, and/or how the country itself is performed in relation to the refugee/IDP, then perhaps these individuals can redefine their status as agents able to act on their protection decisions.

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## **Chapter 4 – Critical Reflexivity and Study Research Design and Methods**

### **Investigating the micro-politics of regime complexity in the areas of overlap between the refugee/humanitarian regimes and the refugee/security regimes**

As a researcher, I sought to make a bricolage of sorts, collecting images or representations and assembling them and bringing them to light for the reader (Denzin and Lincoln 2011, p. 4). I saw myself both as a methodological bricoleur performing a number of such tasks, a theoretical bricoleur examining many different interpretive paradigms that can be brought to the refugee governance issue and a critical bricoleur who knows that knowledge is power and investigated the confluence of knowledge and power in the refugee regime complex.

However, I come to this project not only as a researcher, but also as an employee of the United States government. Day in and day out I adjudicate refugee and asylum petitions and use federal law and international humanitarian records to determine whether individuals qualify as refugees and can be granted protection here in the United States. Understanding how the refugee regime complex is perceived, how it operates and how individual refugees act within its structure gives me a very broad-based perspective of the processes that guide individual applicants in their actions and decisions.

Recently, I served in an acting capacity as the Supervisory Program Manager at the U.S. Department of Homeland Security's Arlington, Virginia Asylum office. In that role, I was able to observe how policies and programs of the Asylum Division of the United States Citizenship and Immigration Services are implemented. While serving as a supervisor, I gained a deeper awareness of how I could encourage and support refugees by working to deepen the democratic nature of the United States Asylum Program. I began to see how I am in a unique position as a public official, who can understand not only the discursive realities of how this population is governed, but also practices within the refugee regime complex that can hinder/limit these individuals' agency.

My particular niche combines both my academic and service passions and gives me the opportunity to draw on my knowledge and practical experience in the field to ponder how, as a

refugee regime arbiter, I can work to encourage a re-imagining of the neoliberal/neorealist cognitive framing of refugees and displaced persons. I see my task as examining closely how I can best leverage my role to aid refugees/IDPs in creating strategies to democratize the refugee regime complex. My aim is to help to discover best-practice models that will use critical reflexivity to modify the composition of the refugee regime complex and cater to the democratic needs of the displaced by adding new nutrients (equal participation, institutional revisability and accountability) to the environment and incentives they confront (See Figure 3, p.37).

In other words, my research and practice address the refugee regime complex and discerning ways and means to democratize it. In Kuyper's (2014) terms, this requires developing democratic values in relevant populations (equal participation, accountability and institutional revisability), or as Cornwall and Coelho have similarly contended, creating more spaces for people to take part in political life, creating new political subjectivities and providing opportunities for representative deliberation (Cornwall and Coelho 2007, p. 7). As such, the following research questions have guided this inquiry:

- How can analysts conceive of the refugee regime's complexes/sites of overlapping contestation at the micro-political level? What competing claims are at play within them?
- What neorealist, neoliberal or neocolonial representations condition IDP/refugee governance and can be uncovered using a critically reflexive approach?
- How can IDPs/refugees and those involved in the regimes that govern these groups employ a practice of critical reflexivity to democratize IDP/refugee governance/create opportunities for IDPs/refugees to have more of a say concerning their protection choices?

This study provides an opportunity to examine Kuyper's understanding of regime complex democratization and Betts' arguments concerning the refugee regime at the micro-political scale. In particular, beyond laying out the literature underpinning the importance of this work, I examined two separate settings for this dissertation. I first investigated the above questions and practices concerning the potential of IDPS to democratize the refugee regime complex via Nancy Fraser's three-step strategy of cognitive frame change initiated by critical reflexivity. Thereafter, I addressed the above research questions by exploring my own role and practices as an asylum

adjudications officer for the Refugee, Asylum and International Operations Division of the Department of Homeland Security and investigated how regime arbiters themselves can also employ practices of critical reflexivity to initiate cognitive frame changes and to work to democratize the refugee regime complex via Judith Butler's concept of performativity.

### *Constructivist ontology and critical epistemology*

In order to present the approach/framework and rationale for both case studies, I begin by examining the ontology of this research. As Schwandt has suggested, ontology is “the world views and assumptions in which researchers operate in their search for new knowledge” (Schwandt 2007, p. 190 in Denzin and Lincoln 2011, p. 102). Creswell has argued that ontology involves questions about the nature of reality (Creswell 2007 in Lincoln, Lynham and Guba 2011, in Denzin and Lincoln 2011, p. 102). Broadly speaking, my ontology is situated first within a constructivist perspective, which views reality as socially constructed. This approach acknowledges subjectivity and emphasizes reflexivity and the importance for researchers to make explicit their influence on research design and conclusions (Hennick, Hutter and Bailey 2011, p. 15). While each study was grounded in a constructivist view, one analysis focused on Sarvodaya and the problematique of refugee agency, while the other addressed the asylum adjudications process in the United States.

The ontology of both of my studies is consonant with a critical feminist epistemology in which the goal is to benefit those oppressed by power. This stance focuses on the struggle for power and how social and political interactions privilege some and oppress others, especially members of disadvantaged groups. These dynamics can be based on specific characteristics of the population, in this case, individuals who may be conceived as outside of the governing actors of refugee and IDP protection. This analysis examines the forces of privilege and oppression within the refugee regime complex and how individual actors can re-constitute themselves as governing agents. Such efforts are grounded in critical subjectivity concerned with “understanding how we know what we know and the knowledge's consummating relations” (Heron and Reason 1997 in Lincoln, Lynham and Guba 2011).

My effort is designed to encounter state-centered hegemonic narratives, as Doty did:

As I stood snapping photos I felt the presence of statecraft in its immensity, its pervasiveness, its relentless quest to penetrate even the most remote places and unremarkable lives. This was not an intellectual reflection on the ever-central thing we call ‘the state’ in academic IR circles, but rather a pure gut level awareness that washed over me like the glaring afternoon sun. And it hit me that statecraft pervaded almost every academic journal I had ever encountered and that it was devouring my words (Doty 2010, p. 1048).

My research investigated the pervasiveness of statecraft and neoliberal/neorealist norms and how they create narratives that limit refugees, IDPs and individual regime arbiters ability to see themselves as agents influencing refugee governance and the refugee regime complex.

As argued in the previous chapter, critical reflexivity can be used to investigate how particular narratives form and can also reveal much about values that underpin and guide political practices. It can be used to examine symbols and representations to reflect on the political nature of the refugee adjudicator problematizing social scientific representation and categorical thinking (Bleiker 2009, p. 48). Lyotard debunked the idea of a master narrative, and following him I contend that analysts cannot reach an omnipotent view of how the world works (Lyotard 1979). Instead, those engaged in critical reflexive inquiry can explore, “multiple perspectives, unsettled meanings and plural voices” through a deep reflection of how the individual views, understands and re-defines power constraints (Ellis and Bochner 2006, p. 438).

#### *The relevance of paradigmatic case study methodology*

A case study can be useful to explore specific observed situations of refugee regime complex governance, “To render the totality of the situation while being present within it requires consideration of the whole series of viewpoints on the social and political chessboard that these humanitarian spaces represent” (Agier 2001, p. 69). I use specific cases, or certain spaces, as sites from which to investigate the perspectives of relevant actors in the refugee regime.

A case study is not just a methodological choice, but also a decision to focus on context-specific knowledge. Those who critique this approach contend that such analyses are useful in preliminary stages of investigations, but “cannot provide reliable information about the broader

class” (Abercrombie, Hill and Turner 1984 in Flyvbjerg 2011 in Denzin and Lincoln 2011, p. 301). However, Flyvbjerg (2011) has argued compellingly that this criticism represents a misunderstanding of case investigation and that context-specific knowledge gained through such explorations constitutes a form of expert knowledge.

Case studies can be specifically useful for theory development because they can, as George and Bennett have suggested, offer us, “process tracing that links causes and outcomes, detailed exploration of hypothesized causal mechanisms, development and testing of historical explanations, understanding the sensitivity of concepts to context, and formation of new hypotheses and new questions to study” (George and Bennett 2005, p. 6-9 in Flyvbjerg 2011, p. 306 in Denzin and Lincoln 2011). Analysts may investigate extreme or deviant cases, choose their study targets for maximum variation, develop critical cases or select paradigmatic ones. I was interested in exploring paradigmatic cases and developing frameworks that offer “prototypical value” (Flyvbjerg 2011 in Denzin and Lincoln 2011, p. 308) regarding processes by which to democratize the refugee regime complex. Flyvberg, following Geertz, has argued that analysts should select specific instances that highlight the general characteristics of an issue (Geertz 1973 in Flyvbjerg 2011, p. 308 in Denzin and Lincoln 2011). As Pavlich has suggested, paradigmatic studies examine pivotal examples to reveal key elements of a phenomenon (Pavlich 2010 in Mills, Durepos and Wiebe 2010). In this research, I examined the practices through which refugees, IDPs and individuals within the refugee regime complex can be re-imagined as individual agents who play decisive roles in their own governance. I selected two different prototypes to act as reference points for investigating the micro-politics of governance within the broader global refugee regime complex. I provide the criteria for their selection in the next section. These paradigmatic cases served as exemplars of the practices and challenges involved in democratizing the refugee regime complex.

### **Research Settings- Sarvodaya and the U.S. Asylum Program**

Sarvodaya Shramadana was a particularly apt case selection to explore the humanitarian regime/refugee regime complex. In recent years, Sri Lanka has suffered from multiple displacement-creating events, including a major tsunami in 2004, the bloody end of a long-lived conflict between the Buddhist-run state and a Hindu/Tamil minority group and several large

economic development projects. Sarvodaya Shramadana, a Sri Lankan NGO, has worked for more than five decades to help build better futures for the individuals affected by these events and by other long-standing political, economic and social challenges in the country. The organization undertakes its mission through a small number of national units and hundreds of legally independent organizations, Shramadana Societies, that work autonomously at the village-level to address post-conflict development concerns through a Buddhist spiritual framework of mindfulness based on Sarvodaya (Awakening of All) and Shramadana (Sharing of Labor) tenets.

One of the NGO's key programs is 'Deshodaya,' a Buddhist term that suggests spiritual liberation from individual and unequal socio-economic limitations, to build human potential. The initiative, a part of Sarvodaya's 'spiritual awakening' unit, employs mindfulness and awakening to define and design 'protection' and 'durable solutions' in ways that do not simply follow UNHCR and national liberal norms. The program aims to assist those displaced recognize different power dynamics at play in local, national and international arenas, how those affect their lives and how they can act to identify and reframe the dominant discourses that perpetuate them. Since Sarvodaya seeks to introduce bottom-up processes to facilitate and catalyze the deliberation and advocacy implied by these goals, my aim for this research project evolved into investigating whether the NGO's efforts reflected Nancy Fraser's conception of agency for marginalized groups. With the Sarvodaya case study, my goal was to ascertain whether the NGO could provide an example of how organizations could help refugees/internally displaced persons engage in critical reflexivity and cognitive framing within the global refugee regime complex. I was specifically interested in determining whether the Deshodaya program could serve as an empirical prototype for how internally displaced persons could re-imagine themselves as agents of governance within this international community construct.

For my second case analysis, I looked inward at my work as an asylum officer for the United States Citizenship and Immigration Services (USCIS). American officials with this responsibility are bound by law to provide humanitarian protection for refugees and simultaneously to secure the nation from external threats. This charge requires these professionals, including myself, to balance potentially conflicting claims as we seek both to ensure just treatment of claimants, many of whom have fled terrible conditions, and simultaneously to protect the United States from fraud and security threats. Asylum officers determine whether the facts of each applicant's

case allow them to be defined as a refugee under U.S. Asylum Law. USCIS has many systems in place designed to ensure that responsible officials correctly categorize petitioners and perform legally sufficient refugee determinations. The aim of this study was to examine how I, as a regime complex arbiter, play a role in subjectively constructing refugee regime/security regime complexity through how I perceive and enact the refugee and the state. This analysis explores whether critical reflexivity by asylum officers can help to make the refugee regime complex more democratic.

### **Study Limitations**

As previously discussed, I situated the Sarvodaya case study within a critical ontology/agenda. However, this approach can also be a limitation, as it tends to seek out oppressive power dynamics (Lincoln, Lynham and Guba 2011, p. 105 in Denzin and Lincoln 2011). In other words, I ran the risk of focusing a great deal of effort on locating and analyzing power-related undercurrents that were actually not present in the case I had selected. Additionally, although my proximity to the data as the management assistant to the founding director of the organization can be seen as a great strength, it can also be viewed as a potential limitation, too, on the view that I was (and am) too immersed in the data to examine the information and experiences I amassed in country objectively. This said, I do not pretend I can be thoroughly ‘objective.’ Indeed, my critical feminist research ontology does not support a positivistic conception of ‘objectivity.’ I do not purport to study a single identifiable reality, truth or objectivity. Instead, I view all research as driven by socially constructed knowledge.

Additionally, it may appear that my focus on the self in my adjudications case study may be unduly subjective. However, I grounded my analysis in external data and personal experience for my asylum determinations case study. My hope was that this method would provide revealing empirical and on-the-ground examples and narratives. Furthermore, my exploration of the political grounds the study. I employed aesthetics as a tool for investigating how particular narratives form and reveal much about values that underpin and guide political practices (Bleiker 2009). I also investigated symbols and representations to reflect on the political nature of the refugee adjudicator, thereby problematizing social scientific representation and categorical thinking (Bleiker 2009, p. 48). Analysts cannot reach an omnipotent view of how the world

works (Lyotard 1979). Instead, those engaged in inquiry routinely explore, “multiple perspectives, unsettled meanings and plural voices” (Ellis and Bochner 2006, p. 438).

### **Evaluating the research**

In a more positivistic research proposal, one might evaluate its product by investigating its validity, reliability or generalizability. However, those three terms are very much situated within such an epistemology. Instead, Hennick, Hutter and Bailey note that there are three alternative criteria that can be used to examine the quality of qualitative research. The first is the interpretive problem, whether the research reflects the perceptions of the study population by making the voices of its participants evident (2011, p. 26). The second evaluative criterion, subjectivity, explores whether both personal and interpersonal reflexivity occur throughout the research process. The third strategy for evaluating a qualitative study according to these authors is appropriateness, or whether the questions asked are suitable ones for a particular methodology (Hennick, Hutter and Bailey 2011, p. 26). It follows that my research can be evaluated on whether it reflects nuanced perceptions of the Sarvodaya Shramadana organization and asylum adjudication officers, whether I investigated appropriate questions in my research in Sri Lanka and here in the United States, and whether the methodology undertaken was suitable for the research questions I posed.

### **Ethical/political considerations**

The Virginia Tech Institutional Review Board (VT-IRB) gave me permission for the interview portion of the Sarvodaya case study (see Appendix B and C for detailed information on recruitment procedures and the informed consent process for research participants). As my asylum adjudications case study did not involve other ‘human subjects,’ VT-IRB review was not required for that inquiry.

Informed consent, non-deception, privacy and confidentiality (discussed in the Sarvodaya case study appendices) are all addressed by institutional review board approval of research programs. However, as Christians has argued, “in an instrumentalist, value neutral social science, the definitions entailed by the procedures themselves establish the ends by which they are evaluated as moral” (2011, p. 66 in Denzin and Lincoln 2011). This assumption notwithstanding, the above

terms are not value neutral. For example, the concept of informed consent is ultimately incompatible with my larger interpretive ontology—even though I honored the IRB role, for perhaps obvious reasons—because such an orientation does not reduce humans to subjects and instead is about collaborations between and among individuals (Christians 2011, p. 67 in Denzin and Lincoln 2011).

On a similar note, I have embraced Gilligan’s ethic of care approach in this research, “insisting that human care should play a central role in moral decision-making” (Christians 2011, p. 69 in Denzin and Lincoln 2011). In practice, this ethic operates as an abiding concern about the authority and power the researcher exerts and how analysts must consider their inquiries as more than just ‘getting’ data from participants as a means to an end (Olesen 1994 in Scerri, Abela and Vetere 2012). I sought to filter the decisions I made in the design, data collection and analysis of these two case studies through an ethic of care. I sought to view each research participant and each individual with whom I interacted in the course of my research as an individual deserving of respect and inherently possessing dignity.

## **Research Methods**

### *In-depth, semi-structured interviews and observation—Sarvodaya case study*

As I have noted, critical feminist ontology shaped my data gathering methods as I sought to obtain insights into the structures and systems that impede, support or encourage the agency of displaced persons. My work with Sarvodaya was very much emic and was about gathering rich descriptions (Denzin and Lincoln 2011, p. 9), particularly of systems and structures of neoliberal/neorealist power conditioning refugee and IDP action. As such, I found that the best methods for collecting such information were in-depth, semi-structured interviews and participant observation.

Conducting quality interview-based inquiry involves transparency, or fully displaying the role of the interviewer. It also requires frank acknowledgement of the jointly constructed character of interviews and tying observations to specific elements of the interaction (Roulston 2010, p. 362). In that spirit, I here discuss the interview set-up, my role as interviewer and the interactive character of my research process.

I purposefully selected my interviewees, 12 leaders and staff members over the age of 18 who were working for the Sarvodaya Movement at the main headquarters office. Such focused recruitment is deliberate, which means that it is undertaken on the basis of delimited criteria. In my case, I sought to interview individuals who possessed in-depth knowledge of my topic of study. I also aimed to ensure that those with whom I spoke represented a range of organizational roles so that together they could provide contextual knowledge regarding their disparate experiences of the concerns in which I was interested (Hennick, Hutter and Bailey 2011, p. 85).

My goal was to create “conversations with a purpose” with my interviews (Hennick, Hutter and Bailey 2011, p. 109). I used a semi-structured interview guide (Attached as Appendix D) and focused on establishing rapport with applicants, being empathetic and using appropriate probes to elicit storytelling. Hennick, Hutter and Bailey contend these three components are essential in semi-structured interviews (2011, p. 19). This method was useful for my purposes as such conversation captured rich voices in-depth while also charting interviewee perceptions of context and personal experiences. I designed questions that were easily understandable (Hennick, Hutter and Bailey 2011, p. 118) and recorded each interview. I also sought to ensure that each participant enjoyed an opportunity to address each subject fully. I asked follow-up probing questions when useful. Some of the queries and topics in earlier interviews became subjects I explored further in later conversations. I ended interview data collection with transcriptions of each conversation, which I shared with each study participant to ensure factual veracity. I monitored my progress in understanding the phenomena I was studying and judged that I had sufficiently rich responses (“saturation”) when I had completed 12 interviews.

I supplemented in-depth, semi-structured interviews with participant observation, a process of “systematically observing and recording behavior, actions and interactions” (Hennick, Hutter and Bailey 2011, p. 170). In this process the researcher decides what, when and who to study, and how to record their observations. This effort usually goes hand-in-hand with gathering thick descriptions (Hennick, Hutter and Bailey 2011, p. 170). Geertz has noted that what we now call ‘thick descriptions,’ a detailed depiction that explains both behaviors and environmental context, can place behaviors and actions inside of local frameworks to make sense of culture not by searching for universal laws, but by examining interpretations (Geertz 1973 in Hennick, Hutter and Bailey 2011, p. 170). I focused on obtaining specific contextual and detailed information in

the spirit of realizing a thick description of the concerns in which I was interested (Hennick, Hutter and Bailey 2011, p. 174).

Spradley (1980) has described different varieties of participant observation. I employed the ‘complete observation’ form as I was fully integrated into the social setting I was investigating by living at the Sarvodaya organization headquarters for all of 2011 and two months in 2012 (Spradley 1980 in Hennick, Hutter and Bailey 2011, p. 182). As such, I was present in the NGO’s environment and was an active participant in what was happening around me. I took field notes to get clear and detailed thoughts on paper about what I was observing and collected them in a folder on my desktop so that they would be present in one location for later analysis, I constantly took notes on my work experiences during my stay in Sri Lanka concerning what I saw and heard at Sarvodaya headquarters, and also in the field while interacting with program staff and internally displaced persons.

More specifically, I recorded detailed descriptions of what I was observing. I sought to be quite precise, documenting sequences of events and reflecting on local meanings. I was constantly interpreting what was happening and since my methodology did not assert a positivistic understanding of scientific objectivity, I had no qualms about recording my perceptions and perspectives in my field notes. I sought actively during data collection to reflect on my own background and assumptions and also on how the interpersonal dynamic of my involvement with Sarvodaya influenced my observations and interpretations. Hess-Biber and Leavy have argued that these forms of reflexivity should be included in qualitative data collection and analysis (2006 in Hennick, Hutter and Bailey 2011, p. 21).

I also conducted document analysis to compare rhetoric and undertones in Sarvodaya Deshodaya program materials, including grant requests and proposal responses, email correspondence, publications and mission statements. For example, I considered Sarvodaya’s 2011 *Final Report: Community Empowerment for Peace, Reconciliation and Development (CEPRD)* and Sarvodaya’s *Finding a Solution Together: A Three Year Program to Promote Citizen Engagement in Good Governance and Post-War Reconciliation in Sri Lanka, The Annual Report Year 1*, among other documents (Sarvodaya Shramadana Partner Coordination Unit 2011; Sarvodaya Shramadana Partner Coordination Unit 2012). In examining the presence and

relationships of words and concepts in Sarvodaya documents, I was able to draw inferences concerning meanings from them (Marshall and Rossman 2011, p. 161).

*Observation—Asylum adjudications Case Study*

My methodology for data collection for this case analysis was observation, with an eye toward autoethnographic examination. Autoethnography has roots in ethnography, but instead of being an alternative to that form of analysis, it is, “less of a method and more of a philosophy, theoretical underpinning, or paradigm, aimed at restoring and acknowledging the presence of the researcher/author in research, the validity of personal knowing, and the social and scientific value of the pursuit of personal questions” (Wall, 2006, p. 6). Ellis and Bochner have suggested that, “Autoethnographers tend to vary in their emphasis on auto-(self), -ethno-(the cultural link), and graphy (the application of a research process)” (Ellis and Bochner, 2000, paraphrasing Reed-Danahay, 1997 in Wall, 2006, p. 6). My aim was to use my personal experiences and stories (‘auto’) of working as an Asylum Officer to analyze (‘graphy’) the culture (‘ethno’) of the asylum process.

As a USCIS officer, I interview refugees from all over the world who are seeking asylum in the United States. I read and listen to their stories in order to determine whether to open or close our nation’s gates to them. But, as I do this, as I ‘read’ these immigrant’s stories, I am trained to make connections and understand the story that is on paper in front of me. Like a passport officer, I am, “unlike the immigrant, whose reading of the passport inevitably evoked deeply personal memories of past experiences and connections to various places in the world” (Dawson 2011, p. 61). As Dawson has observed,

The refugee claim process relies on the assumption that the claimants’ stories can be used to gauge the degree of persecution they have suffered. As such, that process necessarily overlooks the fact that all stories- regardless of whether or not they were designed to tell the truth-are imaginative constructs shaped by the words that are available (or not) to the teller, and by the context in which they are told, heard, or read (Dawson 2011, p. 62).

My job for the United States Government is about “fix[ing] immigrant identities within networks of coded writing [to] perform instrumentalized readings of them” (Dawson 2011, p. 61). My

employer asks me daily to situate refugee ‘identity’ to determine whether refugees are telling the ‘truth.’ I often wonder, however, how I can do this when identities are fractured and no true single identity or ‘truth’ exists to attach to these individuals’ stories (Dawson 2011, p. 81). And, in doing this, in being an agent of the state that categorizes, instrumentalizes and de-humanizes refugees, I recognize that I am directly implicated in these migrants’ plights (Dawson 2011, p. 67).

My observation methodology, as influenced by autoethnography, helped me understand how I might be implicated in immigrant’s lives. That reality prompted me to ask how I could begin to think more reflexively about the U.S. Refugee Asylum system and process. I wanted to understand how I construct my role so I could move away from, as Lyotard might say, the ‘grand narrative of the state,’ or as Sharma has observed, “thinking like a state” in [neo]realist binaries that categorize myself as citizen and gatekeeper and petitioners as foreigners, potential national security threats or as the media presents refugees, as individuals who are “undifferentiated and speechless” (Sharma 2005 in Dawson 2011, p. 64-70). Dawson has argued that, “Because of the extent to which the new normal involves construing migrants as a security threat, any attempt to think critically about citizenship must begin ‘by taking the position that citizenship should be viewed from the position of the immigrant, migrant, refugee (Bhandar 2004, 275)” (2011, p. 64). This insight encouraged me to identify practices that might humanize refugees seeking asylum and consider them as agents and their adjudicator (me) as an individual agent in their protection, instead of purely part of the state. As such, my observational methodology focused on investigating the processes of binary creation and fixing categories of identity and truth within asylum adjudications. By attending specifically to these subjective practices, I identified practices that constrain refugee regime complex democratization.

I employed two primary data-gathering methods when obtaining information for my asylum adjudication case study: personal memory chronicling and collecting reflective jottings/head notes. My first focus involved recording and recounting my work as an asylum officer. I inventoried my professional experiences and examined the processes and practices through which I learned key adjudication skills. I created a timeline to reflect on pivotal moments in my experience as a USCIS officer, significant moments of learning that occurred, the training I

received, both in-house and at other federal facilities. I reflected on key conversations and moments of realization and sought to record those as they occurred to me.

I attempted to document subtle processes close to the time they occurred with rich descriptions of their distinctive qualities and features, so when I came back to my notes/observations, I was able to sort them effectively as a result of the memories and images they elicited (Emerson, Fretz and Shaw 1995, p. 14). Because I was at work and in a setting in which I had to record items quickly, my reflections took the form of head notes, or jotting down a word or two that I knew I would remember and be able to expand on later. I focused these observations on key scenes in my training and day-to-day work both in the United States and abroad. I tried to avoid generalization, recording instead concrete details of action and talk, describing emotions as they occurred in the settings in which they arose and adding sensory recollections that could easily be forgotten, but were key to the scenes and experiences I wished to capture (Emerson, Fretz and Shaw 1995, p. 37).

I focused mostly on self-reflective recording of my thoughts, perceptions and emotions regarding my interactions with refugee applicants. In determining how best to capture my practices as an asylum officer, I began particularly chronicling the practices or events that produced strong responses in me as well as what troubles/concerns I discussed with my supervisor and others. I cast my net broadly with observations and then focused on recording certain patterns or anomalies that I saw in various situations that could potentially shed light and illuminate my understanding of refugee regime dynamics. Additionally, and very like the steps I undertook for the Sarvodaya case study, I collected and reflected on external data, including UNHCR documents, written assessments, lesson plans from training sessions and compared/contrasted my headnotes, jottings and reflective notes with those records.

### *Data analysis*

My data analysis occurred as I identified themes and as the deeper structures of the social setting became clear. I next describe how I managed, stored and analyzed the information I gathered (Marshall and Rossman 2011, p. 197).

I followed several steps when compiling my field notes for the Sarvodaya case study. I conducted a post-interview or post-observation write-up of my reflections as soon as possible to avoid forgetting the purport of recorded field notes, avoided simple dichotomous descriptions to prevent simplifying complex notions and conducted retrospective interpretation after the analysis was complete to fill in blanks. I also organized and grouped my notes into episodes and added personal commentaries to create a record of my related thinking and activities (Emerson, Fretz and Shaw 1995, p. 43-95).

I prepared memos from my field notes/jottings throughout the entire process to help me draw inferences and insure reflective and reflexive thinking. These memoranda helped me discern core themes and sub-themes in my field notes (Emerson, Fretz and Shaw 1995, p. 167). These reflections first took the form of methodological accounts that included my thoughts about what was working and not working in my field research. I then undertook to prepare thematic memos in which I sought to discern the meanings of events, behaviors and sentiments I had witnessed or experienced. These notes assisted me in considering the ways that theory and related literature did or did not help me explain or describe my emerging data. Unlike many traditional forms of memos, many of mine were in diagrammatic form; I focused on connecting method and themes I saw in practice and theory in the form of thought maps that would help me understand the different levels of agency at play in the Sarvodaya program.

For the asylum adjudications case study, I employed a form of data analysis that Ellingson has called crystallization. As she has observed, the central image for qualitative inquiry is the crystal—multiple lenses—not the triangle (2011, p. 605 in Denzin and Lincoln 2011). I was able to refract theories of adjudication off my personal experience. I was, in that sense, ‘bouncing light’ against how I perceived the refugee regime complex. I used crystallization to clarify how my practices had been conditioned by how I had been trained to reenact practices that could hinder refugee regime complex democratization. A focus on the self is often seen as not considering the wider process and structures in which one is situated. However, concentrating on one’s subjectivity in this instance clarified for me relationships between the state, capitalism and how USCIS officers create representations of these concepts and others. Many research studies based in state-based or international relations canonical ontology have a desire to categorize, but through my subjective exploration, I explored the notion that there is no value-free knowledge

(Bleiker 2009). I sought to investigate the processes and practices by which narrow realities of notions such as ‘state,’ ‘national security’ and ‘fraud’ created through engrained representational practices..

In order to ‘refract light’ through crystallization, I compared my jottings and headnotes to the external data I gathered (especially lesson plans and materials from UNHCR and from within the Asylum Division) and contextualized those within a variety of frameworks to help me reflect on what I was thinking and feeling. I focused heavily on symbols that I saw in my notes and worked to bring those to light. I self-consciously also sought to consider the practices and processes of how knowledge within the adjudications system is rendered “scientific and instrumental” within the security regime. As Lyotard has argued, knowledge is legitimated via performativity (1979). I used my recorded observations to work toward breaking down the securitized scientific narrative by focusing on the performativity within the security and refugee regimes. Crystallization allowed me to use various authors and theorists as frameworks to challenge prevailing normative understandings of refugee adjudications and realist notions of global governance and state authority.

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# **Chapter 5 - Endogenous Nongovernmental Organizations: Vehicles for Mobilizing Protection Strategies Generated by Internally Displaced Persons**

## **Abstract**

The United Nations High Commissioner for Refugees (UNHCR), various other arms of the UN and a myriad of non-governmental organizations (NGOs) have developed a variety of policies aimed at protecting internally displaced populations (IDPs). The rhetoric of ‘protection’ in these initiatives primarily relies on top-down, international and/or state-led protection mechanisms. But, when it comes to resettlement and reintegration of IDPs that provides a bridge between humanitarian aid and development/recovery, additional efforts appear necessary to stimulate ‘bottom-up’ or grassroots scale mechanisms for protection of these individuals. This might be accomplished through increased emphasis on funding and capacity building aimed at endogenous NGOs that seek to empower displaced individuals to take action to develop strategies and advocate for their own protection. Feminist theorist Nancy Fraser (2010) has offered a scalar model/critical framework detailing how marginalized groups can re-imagine political space to develop and exert themselves as governing agents at local and global levels. Using her conceptualization, this paper presents an analytic case study of bottom-up IDP reintegration programming carried out by an endogenous Sri Lankan organization, the Sarvodaya Shramadana Movement. I argue endogenous NGOs can indeed work as vehicles to encourage the displaced to reimagine themselves as agents and help to mobilize IDP-owned and defined protection and durable solutions strategies.

**Key Words:** Agency, Internally Displaced Persons, Protection, Durable Solutions, Reintegration

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## **Introduction - Revisiting the International Discourse Concerning the Protection of Internally Displaced Persons (IDPs)**

Practitioners worldwide widely employ the United Nations' *Guiding Principles on Internal Displacement* to direct their advocacy and monitoring efforts when working with displaced populations. A UN Global Protection Working Group developed the document and the UN Office for the Coordination of Humanitarian Affairs presented it to the United Nations Human Rights Commission in 1998. The principles' architects prepared them on the basis of the international legal framework for human rights and the Commission translated its handiwork into 35 languages. The Working Group originally convened to address "institutional gaps in humanitarian response" and to "operationalize protection in situations of internal displacement" (OCHA 1998, p. 1). Most basically, the document aimed to establish premises, "to ensure the full and equal respect for the rights of all individuals, regardless of age, gender, ethnic, social, religious or other background" (OCHA 1998, p. 7). The authors of the principles saw "protection of IDPs" as a key objective and viewed this responsibility as primarily resting with nation-states, with oversight and support at the international level.

Although she did not address the question of internally placed persons specifically, Weber's (1995) work is helpful in understanding how dominant international discourses, such as the UN's rhetoric on 'protection,' outlined in its *Guiding Principles on Internal Displacement*, could limit understandings of possible IDP action. Weber first draws from Foucault to argue that many concepts taken as truth in international politics are instead actually represented truths constructed by discourses of power (1995, p. 33). She also employed Baudrillard to argue that notions of 'truth' in international politics are created and reaffirmed through practices, without reference to the real or empirically true (1995, p. 37). Her work suggests that such authoritative power as exists in international politics concerning IDPs arises from states via the United Nations and that the international body's supposed normative 'truths' can be reinforced and legitimized or undermined by national government choices to implement or resist those policies.

Robinson's (2011) recent work echoes Weber's analysis. It was also critical of how dominant discourses are reified and legitimized through the practices of national governments. Robinson argued that prevailing international political understanding results in inside/outside dichotomies

that overlook the social and moral exclusions created by global capitalism and the alignment of elite interests encouraged by such structures (2011, p. 87). By implication, her argument suggested that specific international understandings of ‘IDP protection,’ including the *Guiding Principles* authored by the UN, will define what, who, when, where and how relevant policy and programs can play out even as they exclude possibilities as they define the ascendant discourse. As she contended, “Thinking about ethics of global governance must involve the interrogation of the discursive and material power behind the dominant norms, ideas and institutions that currently guide and shape our world” (2011, p. 91). As with Weber’s analysis, Robinson’s insights invite further inquiry into how/why certain rules and norms concerning IDP protection attain the status of normative truths, and how/why others go unacknowledged, unaccepted or remain hidden. Applying this argument to the discourse concerning IDP protection in the UN’s *Principles* suggests the utility of examining the architecture of assumptions underpinning that document and their implications for those targeted for protection. Several UN entities and other international organizations have sought to undertake just such efforts in the past few years.

Two recent documents have examined the foundational ideas underpinning current international efforts ‘to protect IDPs.’ One of these was UNHCR’s *Role in the Return and Reintegration of Displaced Populations: Policy Framework and Implementation Strategy* (UNHCR 2008). This report addressed principles 28-30 of the 1998 *Guiding Principles* and the specific section of that document entitled, “Protection and the Rule of Law,” that focused on the various national responsibilities for IDP protection and the roles of international organizations in promoting such efforts. But, the refugee agency’s report was not limited to law or to the human rights-based efforts of ‘protection’ outlined in the *Principles*. Instead, the UNHCR effort differed from existing understanding by calling for increased involvement by additional social actors and an expansion of international jurisdiction to include consideration of the experience of those individuals returning to their homes or adopted communities following a hiatus occasioned by war or other crisis. The Policy Framework described the UN refugee agency’s displacement policy as addressing, 1) national ownership, 2) rights, justice and reconciliation and 3) participation and community engagement. UNHCR challenged the dominant discourse and the ‘truth’ of IDP protection offered in the widely accepted *Principles* and called for assistance for this population that was adaptable, multi-faceted, multi-level, multi-sectoral and involving a diverse array of actors.

In 2010, The Brookings Institution, The UN Inter-Agency Standing Committee and the University of Bern collaborated to publish a report, *IASC Framework on Durable Solutions for Internally Displaced Persons*, which also addressed principles 28-30 of the 1998 UN Human Rights Commission framework. This group went beyond the original *Principles* by reconsidering how states and the international community could most effectively assist displaced populations and calling for the involvement of displaced groups in the creation of “durable solutions” to their difficult situations, rather than merely in initiatives aimed at securing their “protection” (IASC 2010).

The IASC report argued that a durable solution “... is achieved when internally displaced persons no longer have any specific assistance and protection needs that are linked to their displacement and they can enjoy their human rights without discrimination on account of their displacement” (IASC 2010, p. 5). The main aim of this analysis was to, “... help international and non-governmental actors to better assist Governments dealing with humanitarian and development challenges resulting from internal displacement” (IASC 2010, p. 3). The Committee’s authors saw the creation of durable solutions for IDPs as a gradual and complex process that was not limited to the traditional human rights challenge of ‘protection,’ but instead recognized that long-term support often implied a need to address not only those concerns but also, humanitarian, peacebuilding and reconstruction (social development) challenges as well. These authors also suggested that, “The rights, needs and legitimate interests of IDPs should be the primary considerations guiding all policies and decisions relating to internal displacement and durable solutions” (IASC 2010, p. 11). The Committee’s Framework outlined different types of information that international and national bodies could provide to IDPs to ensure their participation in ‘durable solution creation’ processes that shape their individual and collective futures.

Taken together, the UNHCR and IASC documents suggested the UN’s original *Guiding Principles on Internal Displacement* were neorealist in character and limited the authorship, scale and scope of IDP protection while also de facto curtailing the development of alternate conceptualizations of how best to support such populations. While avowedly comprehensive in their reach, both proposed approaches nonetheless emphasized the international community’s responsibility to promote ‘protection’ and ‘durable solutions,’ principally by means of

advocating the importance and the responsibility of national programming, with at least some participation of additional actors, including IDPs. In seeking the involvement of other actors under the leadership of a national government effort, these analyses embraced a more nuanced understanding of the stakeholders who could play a role in displaced person action agendas. Nonetheless, this emphasis on nation-led initiatives can mislead as well as illuminate. First, these reports' focus on state responsibility for leadership in IDP protection programming obscured the reality that many national governments cause or play a role in population displacements in the first instance, and therefore may not be in a position or possess the capacity or means to lead IDP reintegration efforts. Second, these frameworks did not consider seriously the idea that the individuals most affected by dislocation could in fact serve as leaders in the design and implementation of IDP reintegration efforts.

In comparing the two documents, the IASC report went further than the UNHCR framework toward a new and more subtly calibrated agenda for IDP action. However, neither effort imagined the displaced could be leaders in the creation of solutions that would affect their lives. Instead, these efforts emphasized the international community's responsibility to pressure national governments to 'involve' IDPs in the creation of durable solutions through action planning. Indeed, the IASC report called for the vigorous 'involvement' of vulnerable populations, especially IDP women and children, in international and national programs working from the community level upwards. At first glance, this aspiration seems to address the challenge of engaging the displaced as actors in solution creation. But, this seemingly bottom-up approach still works under a top-down understanding of international policy that fails to account for the possibility that consultation through 'participation' or 'involvement' does not per se equate to durable solutions for IDPs. That is, even though the IASC proposed approach represented a step forward, it was limited by its top-down assumptions and was unable to foment mechanisms of 'bottom up' IDP agency sufficiently.

The IASC Committee and the authors of the UNHCR Framework assumed that an international system characterized by power differentials could implement approaches that ensure a Habermasian-like ideal notion of rational speech, suggesting that if all parties, (in this case international organizations, national governments, local governments and IDPs) could gather in meetings and discuss shared concerns, emancipatory solutions would result. The Committee's

report, despite its recognition of the need to ensure IDP agency in processes addressing their status and future, offered no mechanisms to insure that such individuals actually could exercise agency and shape significantly the ‘protection’ or ‘durable solutions’ in whose development they were to participate. So, even though the IASC and UNHCR efforts represented a significant start in expanding conceptions of displaced persons’ engagement, they nonetheless in practice still offered limit scope and scale for these groups’ involvement in initiatives that offered already ‘created’ options for action. The challenge this reality suggests raises at least two major questions. First, what vehicles/mechanisms can assist international institutions and nations to help IDPs realize their own roles as protection agents in such efforts? Second, what vehicles/mechanisms might be devised to secure the collaborative support of international (and national where appropriate) actors for IDP decision processes?

### **Endogenous NGOs acting as vehicles/mechanisms to catalyze agency in marginalized populations**

Civil society organizations, including local/endogenous NGOs, are becoming increasingly involved in post-conflict and IDP protection work. The UN and other organizations that work in the field of peacekeeping and security are working with such organizations in fragile and post-conflict environments more and more frequently (Stephenson and Zanotti 2012, p. 4). As the world continues to globalize and become more interconnected, debate concerning local civil society organization roles and functions has become progressively more linked not just to local, but also to national and international agendas as well. For this reason, it is essential to investigate the changing and contested role of civil society organizations operating in post-conflict environments. It is also important to examine how they work to help IDPs conceptualize themselves as governing agents in protection of these groups and leading planning and decision processes to help achieve durable futures for displaced populations.

Some NGOs have been able to reimagine current thinking on protection and durable outcomes and the role of the state, international organizations and IDP actors in this discourse. The experiences of two NGOs that have done so are detailed in Farmer’s (2001) *Infections and Inequalities: The Modern Plagues*, and Smillie’s (2009) *Freedom from Want: The Remarkable Success Story of BRAC*. These efforts describe how these civil society organizations navigated

and overcame many obstacles at the local and international levels to offer space and possibility for the empowerment of otherwise marginalized populations. Similarly, Stephenson and Zanotti (2012) have provided detailed case studies demonstrating how three organizations (including Partners in Health) navigated post-conflict environments in targeted nations. They examined two NGOs that enjoyed success and one that was less effective, and found that, “organizations that are locally rooted, maintain their financial independence, adopt a self-reflective approach, and remain engaged with the communities with which they work—rather than embracing preconceived prescriptions for bringing about peace—have performed better in achieving their goals and in limiting the unintended consequences of their presence and efforts” (2012, p. 3).

Kaldor has argued that local NGOs are less likely to be controlled by states than international organizations and offer opportunities for free association to marginalized groups (2007, p.142). She has also described how civil society is comprised of layers of institutions from local up to global levels, and that the growing interconnectedness of these groups can create political space for human rights narratives to develop (Kaldor 2007, p. 138-129). Ferris (2011), meanwhile, has suggested that while international institutions that possess power can pressure authoritative bodies to act in certain ways by controlling relevant discourses, the complexity of practice may nonetheless allow those targeted organizations a considerable measure of autonomy. Ferris contends that no single discourse dominates how NGOs can act. She has highlighted the positive and negative effects of local nongovernmental organization involvement in post-conflict peacebuilding, and while she argues that civil society organizations often support the foreign policy of international organizations and donor governments, she also has suggested that NGOs are guided, too, by their own assessments of local post-conflict challenges (Ferris 2011, p. 100-105).

So, instead of serving as pawns of international organizations in pre-determined ways, Ferris has argued that NGOs are important actors that not only have an impact on what happens at the local level, but also to do so, must navigate complex discourses and strategic and operating environments successfully. Mosse and Lewis have similarly contended that NGOs possess the potential to practice resistance to dominant discourses and structure fresh fields of action around new “regimes of truth” (2005, p. 13). These analyses suggest that these organizations can indeed

exercise a significant measure of agency and the groups with whom they work can act, to some degree, as autonomous agents within local, national and international contexts.

Nancy Fraser, a critical feminist theorist, has offered a framework by which to make sense of how marginalized populations can re-imagine themselves as governing agents and exercise agency in the face of dominant discourses of power. I argue that this framework is consonant with the contentions just outlined concerning the possible roles of endogenous NGOs in serving as vehicles of agency in post-conflict environments. Fraser (2010) has described a critical theory of framing that explores how justice for marginalized groups is viewed through the lens of Westphalian international politics. She has contended that justice for such populations should be addressed via three scales or dimensions. The first is the issue of redistribution or the substance, or the ‘what,’ of justice. Fraser has urged that the following questions be addressed when considering redistribution: “How much economic inequality does justice permit, how much redistribution is required, and according to which principle of distributive justice?” (Fraser 2010, p. 15) According to Fraser, the second first-order dimension or scale is recognition, or the ‘who’ of justice, that asks such questions as, “What constitutes equal respect, which kinds of differences merit public recognition, and by which means?” (Fraser 2010, p.15) Finally, Fraser contends that representation represents the second-order scale of concern that must be addressed in efforts to encourage agency among the marginalized. This dimension examines the ‘how’ of justice by asking, “What is the proper frame within which to consider first-order questions of justice? Who are the relevant subjects entitled to a just distribution or reciprocal recognition in the given case?” (Fraser 2010, p. 15)

Fraser’s work suggests that vulnerable populations, including, for present purposes, displaced groups, are not allowed to participate as architectural agents of the frames affecting their lives as they are excluded from the process of defining what concepts of ‘protection’ and ‘durable solutions’ mean. Nonetheless, Fraser’s analysis also suggests that re-framing this perspective would materially advantage these three groups. As Fraser asked, “Why are some people not even allowed to participate in authorized contests of justice?” (Fraser 2010, p. 19). She has argued that the Westphalian frame itself is blocking many groups from challenging forces that oppress them. But, in addition to ensuring proper redistribution and representation of their interests and addressing instances of misframing, Fraser suggests that one major political result of

democratizing the process of cognitive frame-setting is that such action yields an opportunity for marginalized populations to participate in authoring the dominant discourses that affect their lives. Fraser contends it is not sufficient for marginalized groups to try to re-frame the ‘what’ of justice and suggests that agency for these populations also demands that they be able to dispute ‘who’ is authoring definitions of justice and ‘how’ those characterizations and discourses arise and are selected. Fraser’s critical theory of framing stresses the importance of involving marginalized populations in questioning national and international discourses and re-framing who has the right to establish those understandings in the first instance.

An NGO’s realization in practice of Fraser’s multi-level framework for opening space for the enactment of agency by marginalized groups, including refugees and IDPs, is by no means automatic. She does not provide a description of a mechanism or mechanisms that can facilitate or catalyze marginalized groups, including displaced groups, to reimagine themselves as governing agents and embark on a reframing process. However, Fraser’s analysis suggests that endogenous NGOs can be useful mechanisms in efforts to facilitate and catalyze the process of attaining justice for refugees and IDPs. That is, Fraser’s work, in addition to that of others cited above, suggests that endogenous NGOs can work to facilitate and catalyze a process of re-imagination of the refugee and IDP as agent by acting as a mechanism:

- To encourage these populations to re-imagine current discourses on ‘protection’ at Fraser’s first level,
- To organize and lobby in bodies that frame the dominant discourse of ‘protection’ at Fraser’s second level, and
- To enact IDP-owned and defined protection strategies at Fraser’s third level.

Fraser’s first level of IDPs reconstituting themselves as governing agents can be fostered when local, endogenous organizations work with displaced populations to address issues of distribution and question dominant discursive systems and structures to identify, question and develop strategies to address existing power imbalances with national and international actors. To assume this responsibility, such NGOs must be embedded in the cultural, religious, economic and political lives of the IDPs they serve to be positioned to assist those populations in understanding

the ‘dominant discourse of protection’ and aid them in developing processes by which they can imagine possibilities outside of that prevailing justice frame.

The second level of IDPs reconstituting themselves as governing agents may involve endogenous NGOs addressing issues of recognition and helping to empower such marginalized communities by providing an avenue through which they can work to conduct the epistemic scale work of lobbying national governments and accessing political mobilizing structures to change the dominant discourse underpinning frames so that they recognize IDPs as legitimate actors and act in accord with their needs. To assist in this process, local NGOs can create alternative spaces and local community entities through which displaced individuals can organize and lobby the government or international organizations for inclusion of their voices in policies and programs affecting them.

Fraser’s proposed third level of IDPs re-constituting themselves as governing agents addresses issues of representation and occurs when endogenous NGOs provide IDPs with the resources and tools they need to enact and realize their own notions of protection and durable solutions in the contexts they confront. By devising and negotiating their own strategies of action and protection, displaced individuals can re-structure dominant discourses in the global governance system by working to re-draw the notion of who has the right to posit and legitimate frames of ‘IDP action’ that have otherwise long been determined by actors at the national and international levels. Local, endogenous NGOs can act as catalysts at this third level of representation by giving displaced populations themselves opportunities to create and enact, through practice, their own, counter-hegemonic discourse of action that involves them as the primary actors in solution creation. IDP development of strategies of protection and durable solutions reinforces and legitimizes a new, bottom-up justice discourse of refugee protection policy-making and implementation. This third level of IDPs re-constituting themselves as agents concerns how discourse practices involve the re-framing work for which Mosse and Lewis (2005) and Ferris (2011) have called.

*Using Fraser's Framework to Exert Agency and to Re-draw the Dominant Discourse on 'Protection'*

An example of an NGO working to empower IDPs to take part in the struggle to address issues of distribution, recognition and representation, as Fraser has defined those terms, is the endogenous civil society organization, the Sarvodaya Shramadana Movement in Sri Lanka. In recent years, Sri Lanka has suffered from multiple catastrophic events, including the 2004 Tsunami, a long-lived conflict between the state and a Tamil minority group, which displaced several hundred thousand people, and several recent large economic development projects. The Sarvodaya Shramadana Movement has worked for more than 50 years to help build better futures for the individuals affected by these events and by other economic, political and social challenges in the nation. The organization does this through operating various national units that support and guide thousands of legally independent village organizations, Shramadana Societies, that work autonomously at the village-level to press address post-conflict and development challenges. The organization and its leader, A.T. Ariyaratne, have won more than 40 national and international awards, including the Gandhi Peace Prize. I worked as a Boren Fellow and intern and researcher at this organization from January 2011-December 2011 and June 2012-July 2012 and traveled all over the country with the NGO's founder and other Sarvodaya workers and volunteers while immersing myself in the organization's day-to-day work. As I did so, I conducted observational research and key-informant interviews to learn more about how the NGO was navigating the nation's complex post-conflict environment as it sought to assist the country's IDPs.

Through this effort I learned that Sarvodaya seeks to join governance, economics and spirituality in a comprehensive development approach grounded in democratic participation at the village level, emphasizing nonviolence and an abiding belief that diverse ethnic and religious groups can build shared consciousness and improve the nation's quality of life together. The organization follows a bottom-up approach to development that encourages individuals to consider themselves agents governing their own fates by urging them to assume responsibility for improving their lives. Sarvodaya is comprised only of Sri Lankan citizens and it works to empower the most vulnerable and marginalized of that population, including and especially, IDPs. The organization's capacity building work is accomplished by means of fourteen units that each carry out programs designed to help IDPs and other marginalized Sri Lankan groups

address their legal, social, economic, spiritual and political needs. Sarvodaya's activities provide examples of how endogenous NGOs may facilitate the expression of displaced persons' agency to attain the reframing of justice discourses necessary to allow them full voice in determining their own futures. As it happens, without so labeling its efforts, Sarvodaya is addressing the three-fold challenge Fraser posed in her framework for securing the possibility of this disadvantaged group (IDPs) to re-imagine itself and for those individuals to become key agents in shaping the policies and practices that govern their lives, and in addressing the issues of distribution, recognition and representation implicit in dominant international discourse concerning what constitutes just outcomes for them.

One of Sarvodaya's key initiatives is 'Deshodaya,' a program offered by the NGO's 'national awakening' unit. This initiative works to address all dimensions of development (spiritual, moral, cultural, social, economic and political) to reveal the pervasive and power-loaded understandings that marginalized individuals simply accept concerning 'development' and 'reconciliation' in post-conflict Sri Lanka. The program seeks to identify how mainstream international and national political actors have framed important concepts, such as what constitutes 'protection' and 'durable solutions,' in ways that help villagers, especially individuals who have been disempowered due to internal displacement, understand the different power dynamics at play in the international arena, how those affect their lives and how they can act in their communities to target and reconceive the dominant discourse(s) that perpetuate(s) their condition. Deshodaya's stated mission is to empower people to assume civic roles and thereby to create a social movement that can work towards positive change and influence public and international organization perceptions and decision-making.

To secure these ends, Sarvodaya saw a need for a more active populace and as a result, the organization has sought to enlist the Sri Lankan people in creating district, divisional and national forums throughout the country, especially in post-conflict areas. The goal of these meetings is to gather IDPs with other Sri Lankans so that they might jointly learn about the realities of the dominant discourses affecting them, while supported and legitimized by government and international leaders as well as national media. Sri Lankans who attend Deshodaya forums are tasked:

- To continue to spread the Deshodaya message of critical and reflexive thinking about power and how it is enacted at the international, national and local levels,
- To create regional, district and village-level Deshodaya forums and groups that will organize to lobby and work with the government and international organizations on action agendas, and
- To generate their own solutions on how regional district, and local groups can promote individual and community-level action that works toward what community members view as ‘peace,’ ‘development,’ ‘post-conflict reconciliation’ and most importantly for the IDP communities in the process of reintegration, ‘protection’ (Sarvodaya Shramadana Partner Coordination Unit, 2012).

These Deshodaya goals mirror Fraser’s three-level process to encourage marginalized group agency and discourse reframing. They suggest that a local, endogenous NGO can act as one mechanism by which to facilitate and encourage such deliberation and advocacy processes.

National Deshodaya forums address Fraser’s first level by reconstituting displaced persons as agents free to reimagine the current discourse on ‘protection’ and how actors embedded in the dominant discursive system could act to redress existing power imbalances. To tackle the issue of distribution, Sarvodaya organizes national assemblies and invites villagers from all over the country, especially IDPs from the north and eastern parts of Sri Lanka who are returning or recently have returned to their homes, to learn about international and national actors who author policies that affect their lives. The Deshodaya forums bring villagers together to discuss how they can avoid being passive actors and instead understand power imbalances and work in proactive ways to counter those forces to improve the quality of life for themselves, their families, their communities and their nation. The main purpose of the gatherings has been to work through Deshodaya to allow Sri Lankans to recognize the negative effects of neoliberal, neorealist and neocolonial maldistribution of social and economic goods and services implicit in the current dominant frame and to adopt a more self-reliant and self-sustainable epistemic self-understanding. A second goal of the gatherings is to ensure that villagers understand Sarvodaya’s desire to serve a catalyzing rather than determinative role, while a third aspiration is to encourage

participants to reflect on their own lives and to identify where they can intervene and advocate for institutional and social change to stimulate, motivate and act with others who are doing the same. The Deshodaya program seeks to animate ordinary people to think about issues that matter to them and to adopt a frame that reflects their personal consideration of themselves as actors in the policies and programs on protection that affect their lives. According to a Deshodaya program report, between the start of the program in early 2010 and May 2011, the initiative, in partnership with other Sarvodaya units, was able to reach 500,000 individuals in 245 villages in Sri Lanka; many of these villages had large numbers of IDP returnees following the end of the government-Tamil conflict (Sarvodaya Shramadana Partner Coordination Unit 2011, p. 24).

While gatherings are not presented as conversations concerning dominant discourses, local villagers, representatives from other civil society and religious organizations, activists, professional experts and academics and government officials who participate in these assemblies come together in fact to discuss just that subject. For example, a 2011 talk by the director of the economic wing of Sarvodaya focused on the NGO's aim to encourage marginalized communities to reimagine, as Fraser argues, the 'what' of the development and reintegration issue, that is, what community development is and could be. He observed that consideration of development needs should not only focus on income generation as suggested by the national government, but also on the right livelihood and subsistence of the population. He argued through various examples that ordinary people can take steps themselves to enhance their economic welfare. For example, people could try to eliminate the middleman in business relationships or work to establish shared trust so that all parties involved in a commercial transaction are viewed as partners and not just as opportunities for income generation.

He described the conditions under which the Sri Lankan people could take advantage of the nation's natural resources while at the same time protecting them, and also how the country could develop a form of collective governance of development programs respectful of both the poor and the environment, instead of imagining that the exploitation of people and the environment by large international companies is the only way to attain economic security. He suggested, too, that the focus of development could shift to local business with a foremost goal not of income generation, but of meeting basic needs and relationship building in order to develop an economic system that reflects Sri Lanka's communal culture. This short analysis of

the director's speech suggests that Deshodaya assemblies provide IDPs an opportunity to analyze their economic situations, among other issues that affect their lives, and thereby directly encourage their sense of possibility and efficacy. These gatherings provide IDPs a space and an opportunity to rethink the 'what' of their post-conflict reality.

Deshodaya's efforts to organize IDPs into regional, district and village-level groups represents its effort to address Fraser's second level of analysis, that of displace individuals reconstituting themselves as agents, organizing and lobbying for recognition in bodies that frame the dominant discourse concerning them. The Sarvodaya 'political awakening' unit provides the displaced persons who participate in the assemblies the resources, education and opportunity to create their own groups at the regional, district and village levels. IDPs who attend Deshodaya forums are taught how to rally participants and legally register their group as its own civil society organization with the relevant government entity. These civil society groups then become the mechanism through which these individuals can come together at the village, district or regional levels as leaders to reimagine not only the 'what' of IDP action, but also the 'who' of such efforts by advocating for their voices to be heard in national and international discussions related to their concerns. In the eastern part of the country, a region heavily affected by the conflict that concluded in May 2009 and largely inhabited by returned IDPs, the lobbying of these local, displaced person-led groups resulted in,

Engagement with Local Authorities on road renovations, providing market facilities and improving community infrastructure ... engagement with police and probation officers to secure child protection, women's rights and gender based violence ... engagement in environmental issues such as sound pollution, polluting industries, visual pollution ... mobilizing communities to stop tuition classes on Sundays to promote religious education ... engagement with public health activities such as dengue and malaria eradication (Sarvodaya Shramadana Partner Coordination Unit 2012, p. 25).

Similarly, in the first year of the Deshodaya groups at the district level, grassroots Deshodaya Forums addressed such topics as villager,

Engagement with District Development Committees to enrich district development plans ... participating in District Development Committee meetings ... engagement with police

and government offices in various issues including child protection, domestic violence, affects of drugs and alcohol, other anti-social behaviors induced by 3-wheel drivers, gangs, promotion of organic farming, solid waste management, etc. (Sarvodaya Shramadana Partner Coordination Unit 2012, p. 26-27).

Through Sarvodaya-sponsored Deshodaya forums led by village leaders, including IDPs, marginalized populations become participants in conversations concerning protection mechanisms as government and international officials addressed those concerns. These national, regional, district and local level actions suggest that Deshodaya is seeking to assist IDPs not only with the issue of distribution, but also with ensuring that they are recognized as legitimate actors by those making decisions that will affect them. However, Sarvodaya Deshodaya societies comprised of displaced persons are not only working to address issues of redistribution and recognition, but are making it clear that their groups often do not have a current avenue through which to lead/author protection mechanisms or even define what steps and strategies constitute such ‘protection’ and/or ‘durable solutions.’ In other words, Deshodaya groups are often working outside of existing political structures and moving beyond recognition to address Fraser’s third issue of representation through creating and leading their own, non-mainstream solution/alternatives agendas. So, in addition to gaining access to decision-making structures and working toward issues of recognition through Deshodaya, IDPs are learning that they, themselves, can actually carry out their ideas of ‘protection’ and ‘durable solutions,’ whether or not those are consonant with existing UNHCR, IASC, national or other actor assumptions and premises.

IDPs are creating their own programs and initiatives and pressing these efforts through Deshodaya to redefine the frame of ‘protection’ and ‘durable solutions’ for Sri Lankans. By creating forums in which the displaced assume responsibility for developing their own solutions for their futures, the Deshodaya groups are not saying that the government and international organizations should not be involved in insuring protection for IDP communities, but instead that displaced Sri Lankans have the right not just to participate in programs that lead to protection, but also to define and lead those initiatives with the help, or participation, of government, international and other civil society organizations. So, in addition to calling into question the ‘who’ defining ‘protection’ as being the UNHCR or the national government alone, the displaced

individuals themselves, through forums organized by Sarvodaya, are calling into question the ‘how’ of protection and durable solutions when their new ideas show how limiting the assumptions underpinning existing discourses can be. The people involved in Deshodaya are, as Gramsci might contend, creating a kind of counter-hegemony that visualizes anew ‘how’ discourses of protection are created and framed. These individuals are working to, “democratize the process of frame-setting” by demonstrating how IDPs can lead in the creation and implementation of new notions of ‘protection’ and ‘durable’ solutions that take into consideration the spiritual, cultural, social, economic and political realities as IDPs view those (Fraser 2010, p. 22). Through the vehicle of Sarvodaya, a share of Sri Lanka’s displaced are turning the issue of ‘IDP protection’ on its head by refusing to accept that only the UN or government entities may author ‘protection’ and ‘durable solution’ strategies and programs. They do so by themselves generating ideas and implementing projects and programs that define and bring to fruition alternative conceptions of these goals.

There are many specific examples of Sarvodaya Deshodaya groups carrying out IDP-defined initiatives and programs concerning ‘protection’ and ‘durable solutions.’ One of these occurred in the eastern district of Trincomalee in which a district Deshodaya organized and persuaded transport authorities to grant additional funds for their system. In this case, insuring adequate public transportation was a very significant protection need of displaced individuals because it allowed them to access employment and thereby job security and independence instead of being dependent on national and international aid programs. The initiative also allowed children the opportunity to access schools in Trincomalee and it gave families the ability to reach urban health care facilities that were often superior to those located in rural areas.

Meanwhile, an example of Deshadoya efforts to address the issue of representation at the village-level occurred in the northernmost area of Sri Lanka in Jaffna after the end of the official end of the conflict. Deshodaya members there banded together and networked with local government officials and international INGOs to make the protection of child IDPs a priority in their community. They organized a campaign to strengthen pre-schools by improving facilities and teacher salaries for these organizations. Similarly, in Puttalam, in the northwestern region of the country, a village-level Deshodaya group included the local government in its campaign to raise local awareness of child protection issues faced by migrating and recently returned displaced

families.

Sarvodaya's Year One report of its Deshodaya Program provided an additional case study which included a comment from a Tamil youth of Trincomalee in the eastern part of the country, whose experience suggests the initiative is encouraging its participants to realize level three of Fraser's framework:

I have been an active participant in many community works in my village. But I never had an opportunity to participate in such important residential training where I learnt many principles, theory, and also ways and means of practicing what I learnt. The 5-day residential workshop provided me the opportunity to share experience with other Sinhalese and Tamil friends. We discussed a lot on what we can do on our return to protect the rights of citizens and the training also provided the basics of how to become leader. On my return I am going to create Shanthi Sena unit in my village and expand my contribution towards Deshodaya (Sarvodaya Shramadana Unit Partner Coordination Unit 2012, p. 18).

A Shanthi Sena is a youth peace-brigade that operates much like a co-ed scout (Venture) troop/club would in America, with peace and intercultural activities as its main focus. So, for this young person, post-conflict protection in his community can be enacted in the form of a multi-cultural youth group engaged in community peace activities. Instead of hoping that the government or an international organization would employ more police officers to make sure that violence does not break out in his village, or in lieu of relying on international humanitarian aid organizations to supply needed peacebuilding programs, this young man took steps to create a Sarvodaya-based youth group that could address protection goals through an increase in positive intercultural relations. In so doing, this youth used Sarvodaya as a vehicle or mechanism by which to achieve all three levels of Fraser's framework for agency. First, he was reimagining current discourse on 'protection.' Secondly, he shared the fruits of that exploration with his community through the creation of an organization that could make IDP voices heard. Finally, this young man took responsibility to create and carry out IDP-owned notions of what might constitute successful protection strategies; in his case, village-scale intercultural communication efforts.

## Conclusions

Fraser has asked the searching question, “How can we integrate struggles against maldistribution, misrecognition, and misrepresentation within a Post-Westphalian frame?” (Fraser 2010, p.21) I suggest that one way in which the processes for which Fraser calls can occur for the displaced in post-conflict scenarios is occurring in Sri Lanka. Deshodaya is actively working with IDPs in that nation not only at a local level to improve their lives and futures, but also to assist those groups in developing the self-awareness and understanding that can lead to their questioning of the validity of existing international definitional frames of what constitutes ‘protection’ and ‘durable solutions.’ Deshadoya’s efforts suggest that instead of focusing on authoring action agendas for displaced communities at the national and international levels, perhaps the UN should focus more concretely on the local frame and work with grassroots-oriented endogenous NGOs and organizations (and governments where possible) to assist the IDPs in creating programs and securing resources and partners to realize their own definitions of what constitutes a durable solution to their life circumstances.

Such a perspectival shift would at once move the UN toward a less positivistic mentality and press the international community to re-think its dominant discourse concerning the internally displaced. As the 2010 IASC report highlighted, the most important factor in IDP action frameworks are those who have been dislocated. But, with the difficult economic climate globally and the dwindling supply of funds from humanitarian organizations that have moved on to support other NGOs in other ‘conflict’ countries, endogenous NGOs such as Sarvodaya that are working with IDPs in post-conflict Sri Lanka are struggling to sustain programs like Deshodaya. International organizations, including, especially, the UN, should therefore increase support for endogenous NGOs so that they may continue to function and play this important role. The challenge of insuring support for such entities as vehicles for the mobilization of IDPs is real, as is the success of one such organization in catalyzing agential possibility among the IDPs it serves.

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## **Chapter 6 - Recognizing and Confronting State Subjectivity in Asylum Adjudications**

### **Abstract**

United States law charges America's asylum officers both to provide humanitarian protection for refugees and simultaneously to secure the nation from external threats. This mandate requires these individuals daily to balance potentially conflicting claims as they seek both to ensure just treatment of claimants, many of whom have fled terrible conditions, and simultaneously to protect the United States from fraud and security threats. This article explores state sovereignty in asylum adjudications and how officers charged with that decision responsibility develop state-centered subjectivity by representing state ethos, logos and pathos. It explores how this orientation may condition such officials to view applicants with fraud and security concerns foremost in mind. The article also examines the efficacy of practical strategies in aesthetic, cognitive, affective and moral imagination that officials can employ to recognize and confront their state subjectivity and more effectively recognize the dignity of each applicant.

**Key Words:** Refugee Protection, Asylum Adjudications, State Subjectivity, Cognitive Imagination, Aesthetic Imagination, Affective Imagination, Moral Imagination

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## Introduction

United States law binds America's asylum officers both to provide humanitarian protection for refugees and simultaneously to secure the nation from external threats. This charge requires these individuals, including the author, who serve in such a capacity for the United States Citizenship and Immigration Services (USCIS), to balance potentially conflicting claims as they seek both to ensure just treatment of claimants, many of whom have fled terrible conditions, and simultaneously to protect the United States from fraud and security threats. Asylum officers determine whether the facts of each applicant's case allow them to be categorized as a refugee under United States Asylum Law.<sup>i</sup>

USCIS has many systems in place designed to ensure that officials correctly classify applicants and perform legally sufficient refugee determinations.<sup>ii</sup> The goal of these is to guarantee that those qualifying for protection under U.S. law are granted protection while those pressing fraudulent claims or who constitute a threat to national security, are not offered that standing. USCIS officials are agents of the government and their adjudication of refugee narratives occurs under the aegis of the regime. In consequence, the processes through which these individuals conceptualize their relationship with the state often remain hidden despite the fact that, "power

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<sup>i</sup> United States asylum law is derived from international accords that include the 1951 Refugee Convention Relating to the Status of Refugees and the 1967 Protocol that extended both the temporal and geographic understanding of 'refugee' among nations (United Nations Refugee Agency, *Convention and Protocol Relating to the Status of Refugees*, Geneva: UNHCR Communication and Public Information Service, 2010: 1-52). The U.S. Immigration and Nationality Act (INA) defines a refugee as an individual who has experienced past persecution or has a well-founded fear of persecution on account of a protected ground of political opinion, race, religion, nationality or membership in a particular social group. The INA also provides the Department of Homeland Security authority to determine whether alien individuals meet this definition.

<sup>ii</sup> Asylum officers complete a six-week residential training and four hours a week of continuing training, concerning how to interpret this U.S. law. Administrators learn how to conduct thorough national security and fraud checks, who can be considered a refugee as well as how to process applications for so-called affirmative and defensive asylum applicants (Immigration and Nationality Act (INA) § 101(a)(42)(A), 8 U.S.C. § 1101(a)(42)(A) (Supp. 2014)). In addition, a supervisor reviews every adjudication decision reached by an asylum official and, in many cases, quality assurance specialists and/or second, third, and fourth reviewers may evaluate a judgment as well. Asylum officers undergo extensive training concerning legal standards of interpretation, psychological understanding of trauma victims and sociological sensitivity to gender and culture.

and politics are inseparable from the process of social construction that creates refugee systems” (Hardy, Phillips and Clegg 2001, p. 541). As such, it is relevant to explore how USCIS refugee officials exercise state power and, in particular, to examine how the influence of political forces may condition asylum determinations. Secondly, it is useful, as a result, to examine different creative practices asylum officers can employ both to recognize and counter this state subjectivity/state power.

### **State Sovereignty in Asylum Adjudication**

A national approach to refugee protection through asylum de facto makes the state invisible in that decision process. That is, the role of the nation in deciding the criteria on which asylum will be predicated is rarely questioned by those involved in insuring refugee protection. Beck has argued that, “Methodological nationalism assumes that nation, state and society are ‘natural’ social and political forms of the modern world. It assumes a ‘natural’ division of humanity into a limited number of nations that organize themselves from within and demarcate themselves externally by drawing boundaries between themselves and other nations” (2012, p. 135). He has contended that this assumption affects the ways in which individuals collect, interpret and generate concepts and has challenged analysts to work outside of this perspective in order to remain mindful that all regime processes are political in character and socially constructed. Viewing the individual asylum officer within the context of his or her position as state agent allows scholars to consider how these officials are enmeshed in regime politics and “regain[s] sovereignty and the ability to shape events through the nation state system” (Beck 2012, p. 137).

In examining the process through which asylum officials regain/gain sovereignty in this sense, Weber’s work concerning ‘simulating sovereignty’ is useful (Weber 2005). Weber has employed Foucault to contend, “... that some foundational truth underwrites a particular organization of knowledge and that truth is not opposed to but is an effect of power” (Foucault 1980 in Weber 2005, p. 33). Weber and Foucault question how, “a search for meaning diverts attention from the production of meaning ... in other words, [it raises the question of whether] interpretive communities [are] effects of discourses of truth and the workings of power” (Foucault 1980 in Weber 2005, p. 34). Foucault posited that individuals enact certain discourses to represent state interests (Foucault 1980 in Weber 2005). So, as officers focus on ‘the facts’ of cases to

determine whether an individual fits the statutory definition of a refugee, their attention is diverted from the state-centered power dynamics that influenced how that understanding was produced in the first instance. Moreover, they may not realize that the classification reflects social assumptions carried over to, and embedded in asylum law.

Weber turned to Baudrillard to explore embedded, simulated constructions of the state (Baudrillard 1995 in Weber 2005). She argued that the referent to which Foucault refers is itself a discursively constructed subject and that the state, the authoritative or represented power, is therefore simulated, because it cannot be a referent of itself. That is, Weber has argued the state and state boundaries constitute ideologies. In the case of United States asylum officers, one may contend, following her, that listening to narratives and deciding who qualifies as a refugee embodies not just a representation of state power, but a process of simulation of the self as state, and the petitioner as an ‘other’ outside the regime.

Legitimation is key to Weber’s theory of simulating sovereignty. She has suggested that individuals normalize their understanding of the state and enact national power by first determining who is outside of its confines (Weber 2005, p. 6). For the refugee this occurs through a discursive process of legitimation through simulation. Weber has argued that a domestic community must be differentiated from ‘other’ groups and that disenfranchised individuals, including refugees, are constantly crossing the boundary of who is and is not considered a member of such social constructs (Weber 2005, p. 6). In this sense, state boundaries, like the distinctions one draws between citizens and non-citizens, can be seen as ideological and constructed, rather than tangible, structures. If one accepts Weber’s view that nation and state boundaries are created via regime arbiters who simulate and legitimate the state, one must also ask how this scenario shapes how asylee narratives are adjudicated.

Weber has observed that, “only by maintaining control over the depiction of its people can the state authoritatively claim to be the agent of its people. Without the ability to make credible its claims to both political and symbolic representation, the state risks forfeiting its presumed ability of representation and ultimately its sovereignty” (Weber 2005, p. 28). It is important to examine the practices through which asylum officers gain and give power to the state when applying Weber’s logic to adjudications. This in turn involves investigating the personal decision practices

of these officials and how they discursively legitimate themselves by allying these with common representations of the state ideal and how that union with the regime affects their evaluations of asylum applications and narratives.

### **The Ethos, Pathos and Logos of ‘Simulating’ the State**

As asylum represents a metaphoric and legal unification with the state, it is important to identify the different avenues through which refugee officials embody and perpetuate the often invisible regime in this decision process. For the same reason, it is helpful to illuminate steps that these officers can take to dignify and respect applicants while they are engaged with the adjudication process. The USCIS officer constructs and simulates the state and the refugee by deciding which individuals attain asylum status and thereby protection, and by making decisions that shape policy implementation and influence law. However, asylees are not the only actors being discursively constructed in the determination process. Instead, the refugee is “produced through a complex process of social construction involving ourselves” (Hardy, Phillips and Clegg 2001, p. 532). To influence systems that define asylum recipients depends on, “having access to formal authority, control over key resources, or the ability to discursively manage legitimacy” (Hardy, Phillips and Clegg 2001, p. 541). Not only are asylum officers defining the status of refugees, those officials are making claims or arguments that solidify their own status while also signaling potential asylees of their symbolic standing as referents of the state.

If one takes an Aristotelian approach to examining how officers claim symbolic standing as state representatives and how these officials are legitimized as government actors, one can analyze the adjudication process in terms of ethos, pathos, and logos-based appeals. In a classical Aristotelian argument, the audience is extremely important. A request may fail if spectators do not accept the legitimacy of the individual making a claim (ethos), if the contention is contrary to the belief system of the audience (pathos), and/or if the onlookers do not accept the reasoning of the person making the assertion (logos). Seen in this light, asylum officers simulate sovereignty through professionalization, or representing state ethos; through morality conditioning, or on behalf of governmental pathos and also through legal interpretations, or exemplifying public logos.

The asylum officer simulates herself as the state and legitimizes herself as regime arbiter by representing the government ethos. In the process of professionalization as state worker, the official creates a boundary between herself and applicants even as she represents herself as an active member of sovereign United States decision-makers and formally classifies the applicant, as a possible refugee, as an individual outside the American regime. Put differently, by professionalizing and following established and purportedly institutionalized and routinized decision criteria, asylum officers ‘become’ the state.

Professionalization of USCIS identity begins even before the officer is offered a position, when she spends time and money preparing herself with a graduate or law degree, fine tunes social skills and organizational ability and learns how to work within a bureaucratic structure. By succeeding in the application process to attain a government post, individuals have already begun conditioning themselves to fit the mold of what they perceive a successful asylum officer could or should be. By obtaining a role as such an official, the person becomes a market success, as revealed by financial compensation, security with stability of government work, benefits and many opportunities for career progression. Officers adopt additional symbolic practices of professionalization to adhere to state ethos as well, such as wearing a badge that signals authority and attaining security clearance as well as occupying a formal office and so on.

In addition to these physical manifestations of professionalization, asylum officials quickly learn how to navigate the government’s sometimes peculiar linguistic environment. For example, they learn the language of the acronym: ‘PSG cases’ (Particular Social Group—a specific category of individuals that can be protected under U.S. Law), ‘RAIO’ (Refugee, Asylum and International Operations—the home of the Asylum Division within United States Citizenship and Immigration Services), and ‘CAT claims’ (Convention Against Torture—referring to a specific type of applicant assertion). Officers also learn other relevant terminology in addition to mastering the governance structure and hierarchy within the field offices and the division as a whole. Professionalization legitimizes the individual as a power-holding government official. These physical and language indicators are simulations of state power that separate potential asylees and officers.

Asylum officers also simulate sovereignty and legitimize themselves as government arbiters by representing regime pathos. In doing this, they adopt a moral stance matching their employer's (the nation's) definition as protector of refugees and of state authority. These decision-makers learn to view themselves as insurers of both refugee protection and, as part of the Department of Homeland Security, Americans' safety. In some cases, this role may even lead officers to define themselves as patriots, demarcating what is moral and immoral in international relations. In one now infamous historical incident, for example, the MS St. Louis, a German ocean liner whose captain was seeking refuge for his 937 Jewish passengers, was turned away from the U.S. in 1939 and sent back to Europe, where more than a quarter of the ship's travelers perished in concentration camps. Today, that choice seems outrageous, but in 1939, officials made the decision on the basis of what they saw as an effort to protect American state sovereignty (Bohmer and Shuman 2008, p. 1).

During training, officers listen to survivors of torture and their counselors and also learn about instances of national security and fraud breaches by unscrupulous (and worse) applicants. Examples of both helpless refugees and United States citizens harmed by terrorists play on officers' compassion as well as hubris and together these experiences work to justify further their official role as protectors. Assuming the role of guardians of national sovereignty and security in turn "provides [officials] further justification of the determination process," and reinforces a fixed notion of what a refugee is and is not (Hardy, Phillips and Clegg 2011, p. 542). This stance can become an unquestioned and self-reinforcing ethos.

Similarly, asylum officers adhere to state pathos by presupposing the U.S. approach to international politics. USCIS asylum officers use government-centered institutional frameworks both to conceptualize and to uphold the United States' cause-based approach to refugee protection. Instead of a cosmopolitan human rights-based approach to survival migrants that defines the threshold of basic fundamental rights as grounds for asylum, the United States upholds a cause-based approach conceptual frame for asylum that remains entrenched in government action and motivation (Betts 2013). This focus steers officers' adjudicative frame toward a stance of prosecutors and government guarantors rather than toward a perspective that seeks first to ensure human rights and basic dignity for all populations. So, for example, instead of seeing a fearful unaccompanied minor asylum applicant from Central America as a child

deserving of basic human rights and potentially able to benefit from relief in the form of asylum, United States law and practice classify this person, using statist rhetoric, as a potential asylee, but also a possible national security threat. Put differently, national security rhetoric on border protection and transgressors effectively criminalizes defensive-filing applicants, which de facto erodes their basic human rights.

Additionally, even the resources asylum officers use as country-condition evidence may reflect the government's political agenda (Bohmer and Shuman 2008, p. 16). Asylum officers use such reports produced by the Department of State and 'western' organizations to help them make legally sufficient decisions, but these analyses and other studies produced by U.S.-funded organizations are guided by American policy and written so as to be friendly to its political and economic interests in addition to the nation's perceived friends. For example, the United States 2013 country report on human rights regarding its United Kingdom ally notes that, "Unsuccessful applicants for asylum and stateless persons are detained pending deportation," without noting that asylum seekers are often held before they are given the opportunity to voice their claim, suggesting a United States Government avoidance of censure of the United Kingdom (United States Department of State 2013, p. 6).

Also, "Persecution that more closely resembles western discrimination against women, such as rape or domestic violence, is less readily regarded as political" (Bohmer and Shuman 2008, p. 6). As such, instead of considering acts of rape, or rape in wartime, as political violence, asylum officers might define this scenario as not having a link to a protected status in their guiding legislation and international agreements. Rape and domestic violence are not grounds for asylum in and of themselves in the United States. They are instead types of harm that could befall a social group that could possibly be categorized as sufficient for asylum. However, the identity of that group must be particular, immutable and socially distinct (BIA 2014). Additionally, in day-to-day adjudication of specific cases, no space or place exists for asylum officials to consider United States political involvement that could have contributed to the creation of refugees in the first place. The law also does not ask whether the conditions confronting potential asylees could be "an inevitable if unintended consequence of the international state system" (Haddad 2008, p. 2).

Asylum officers also simulate themselves as state arbiters and legitimate their roles by representing state logos concerning legal understandings of what qualifies an individual as an asylee. They are guided by requirements, which “ensure[s] that decisions are based on appropriate factors and correct application of the law” (United States Citizenship and Immigration Services 2006, p. 4). USCIS officials translate petition narratives into case facts and concentrate on deciphering whether an applicant’s story fits national definitions as outlined in the Immigration and Nationality Act, the Code of Federal Regulations and relevant case law. These analyses employ country of origin information and material facts to make determinations that simplify complex narratives by allocating their elements into predetermined categories of supposed legal truths. In effect, asylum officers are “fix[ing] immigrant identities within networks of coded writing [to] perform instrumentalized readings of them” (Dawson 2011, p. 61). Schoenholtz, Schrag and Ramji-Nogales have offered several hypotheses concerning why there are wide differences among executive decision-makers in adjudication decisions in the asylum determination process. They have contended that the statutory definitions offered in immigration law are actually difficult to implement and, partly for that reason, officer analyses depend inescapably, and in considerable measure, on individual disposition and judgment (Schoenholtz, Schrag and Ramji-Nogales 2014, Ramji-Nogales, Schoenholtz and Schrag 2011). They have argued that although macro-level policy requirements and legal decisions and mandates do guide and shape the United States Asylum Program, individual decision-makers nonetheless can and do play distinctive, determinative roles in the program’s implementation and therefore, its outcomes (Schoenholtz, Schrag and Ramji-Nogales 2014, Ramji-Nogales, Schoenholtz and Schrag 2011).

### **Recognizing State Subjectivity and Breaking Down Binaries**

The state employs asylum officers and these individuals serve the sovereign’s fraud-prevention and security-assurance roles. Indeed, state power is delegated to them to address those functions. However, a lack of awareness of the processes and implications of this manifestation of state power through the officer’s state simulation may lead to an over-emphasis or an over-broad approach to fraud-prevention and security-prevention. If officials are able to understand their representations of state logos, ethos and pathos, then on an analytic level at least, they can identify the constructs and boundaries that are created by the government and simulated perhaps

subconsciously in their day-to-day work and adjust their frame of understanding regarding identification of fraud and national security concerns. If officers become more aware of their state subjectivity and how it influences their perceptions of threats to national security and to fraud, they can better insure that they are not casting too wide a net, or unnecessarily inflating, the identification of potential perpetrators of these offenses. Instead, they can strive for a more nuanced understanding of what constitutes fraud and national security concerns and what are presuppositions influenced by the United States agenda of population protection.

Dawson has observed that the refugee claims, “process necessarily overlooks the fact that all stories-regardless of whether or not they were designed to tell the truth-are imaginative constructs shaped by the words that are available (or not) to the teller, and by the context in which they are told, heard, or read” (2008, p. 62). Similarly, Powell has suggested that as displaced applicants seeking asylum move across geographical space and time, the identities and realities of their stories and the truth represented in their narratives is rendered more complex thereby (2012, p. 318). As such, navigating the complicated reality of an applicant’s story and claim for asylum may prove difficult as these accounts are constructed within discourses of state power. As asylum officials exercise their authority through simulations of professionalization and state morality and legality, they define refugee identity, perhaps unconsciously, as outside of the regime and a potential threat not only to national sovereignty, but also to the state-centered, state-protector identity officers simulate.

In interpreting refugee applicant stories, “we [asylum officers] ‘think like a state’ (Sharma 2005, p. 9 in Dawson 2008, p. 69). Perhaps we are “... hungry for the ‘coherent wholeness’ that will allow us, in effect, to process his [the applicant’s] claims, and to do so in a manner that demonstrates our altruism as the beneficent gatekeepers of a benign and manifestly multicultural nation” (Dawson 2008, p. 69). Although asylum administrators may view themselves as part of the humanitarian regime, their construction of themselves as state through simulations of professionalization, governmental morality and legality, instead creates additional boundaries and distance between them and their petitioners and makes it more difficult for them to understand and address the tension implicit in their roles as both protectors of human rights and of security and sovereignty.

As Powell has noted, “Naming individuals as [refugee] is a way to mark them as other, and discursively binds them with narrative expectations of displacement ... marking the displaced as other is a way of categorizing fears ... so that the other remains at a distance from ourselves” (2012, p. 318). Since the United States Asylum Division is located within Citizenship and Immigration Services within the United States Department of Homeland Security, assuring that there are no breaches to national security and maintaining the integrity of the asylum program through fraud deterrence are central to officers’ roles as state agents. This point was well made in a 2013 report on assessing applicant credibility in European Union asylum systems,

Societal and political context is concerned with preventing irregular immigration and ensuring that the asylum system is not abused by persons fabricating evidence. Some determining authorities are located in government departments that have the objective to prevent irregular immigration. This may influence the mind-set of decision-makers and make it more challenging to implement an institutional culture in asylum procedures that is adequately human rights and protection-oriented (The United Nations Refugee Agency and The European Fund of the European Commission 2013, p. 39).

Asylum officers’ actions and decisions as adjudicators are tied to their state-centered subjectivity. As a result, they may unconsciously represent state-centered ethos, pathos and logos, which can ‘other’ applicants, perhaps even dehumanize them.

It is imperative that responsible officials be reflective and self-aware so as to avoid falling into “thinking like a state” in binaries that categorize themselves as citizen and gatekeeper and asylum applicants as foreigners, or national security threats (Dawson 2008, p. 64-70). Bhandar and Dawson have observed that, “Because of the extent to which the new normal involves construing migrants as a security threat, any attempt to think critically about citizenship must begin ‘by taking the position that citizenship should be viewed from the position of the immigrant, migrant, refugee’” (Bhandar 2004, p. 275 in Dawson 2008, p. 64). Taking this injunction seriously suggests a holistic interpretation of adjudications that humanizes the individuals seeking refuge and a new construction of the ‘normal’ of asylum officer representation of state ethos, pathos and logos. This involves breaking down nation-centered

dichotomies and fixed categories of identity and truth grounded only in regime-centered, structuralist understandings.

Moving from existing binaries requires that asylum officers employ creative conceptualizations, perhaps in the form of what Stephenson and others have described as imaginaries (Stephenson 2009, p. 417-435). Stephenson has argued that leaders must, “understand the imaginaries or ways in which others are viewing the world,” and that they can do this by employing different “facets of imagination” (Stephenson 2009, p. 424). Stephenson quoted Green, who has observed that practicing imagination, “is to become able to break with what is supposedly fixed and finished, objectively and independently real. It is to see beyond what the imaginer has called normal or ‘common sensible’ and to carve out new orders in experience” (Greene 1995, p. 19 in Stephenson 2009, p. 424). Stephenson identified four facets of imagination—aesthetic, cognitive, affective, and moral—that can be employed to recognize, understand, rethink and reframe asylum officer state-centered subjectivity.

#### *Challenging State Subjectivity - Aesthetic Imagination*

First, the form of imagination Stephenson dubbed ‘aesthetic’ can be employed to “capture in a few words or a brief narrative or symbol a complex reality in order to obtain a connection and shared aspiration with those with whom they are engaged” (Stephenson 2009, p. 426). This type of imagination can help officers avoid the trap of relying solely on state-defined terms in asylum law and focusing foremost on fraud and national security concerns. Employing aesthetic practices offers an opportunity for decision-makers to recognize intricacies and complex symbols and metaphors present in petitioner stories and use those to broaden narrow, engrained representational practices arising from the language and the dominant conceptual framework of state security and protection in international relations (Bleiker 2009). This can help USCIS officials look beyond the state discourse to comprehend fact patterns that cannot be explained within governmental politics, to engage applicant narratives more fully instead of fitting them into pre-defined legal categories. In employing aesthetic imagination, officers consciously recognize key points of meaning or components of the applicant’s story and the multifaceted complexities, or different ways of knowing outside of sanctioned or official public discourse, that narratives may convey.

For example, if an asylum officer were interviewing an applicant who claimed to be a victim of domestic violence and rape, but could not give an accurate account of the number of times he/she had been raped, or why he/she did not leave their spouse, or why the individual had returned to that partner after he/she had previously reported the situation, an officer may come to the conclusion that his or her narrative was not sufficiently detailed and/or that the testimony was contradictory, and might consequently perceive the story as fraudulent as it did not fit easily within the legal confines of what the decision-maker generally comprehends as credible and detailed testimony.

However, if one uses the lens of aesthetic imagination, one can imagine the complex realities and meanings that underlie the concept of rape, instead of classifying it simply as a type of harm that, according to asylum law, can rise to the level of persecution. Rape is not just one harmful act; it is a violation of external and internal freedoms, it involves an imposition of power, an act of shaming, a loss of freedom and a psychological penetration, among other complexities. When an applicant testifies about a rape, officers can conceptualize the harm that the individual has experienced as involving multifaceted realities of power, lack of freedom, shame, etc., and consider that the interplay of these factors may influence the quality or manner in which an applicant testifies. In effect, aesthetic imagination can help USCIS officials comprehend complexities and help them grapple with intricate realities that do not otherwise accord neatly with established canons of asylum law.

In addition to building more nuanced understandings of complex realities, aesthetic imagination can help officers identify meaningful symbols or metaphors in applicant narratives. Asylum officials can analyze artwork, photography, poetry or literature regarding refugee flight in an effort to problematize and make visible symbols of social scientific representations of state politics/power. This may allow decision-makers to identify instances where reality deduction and categorization-type scientific thinking in international relations could overshadow hidden symbols present in asylum applicant realities. For example, if a Congolese woman testified that men in uniforms came to her house and raped her, but she was not able to offer more information, an asylum officer might find identifying the particular motivations behind the harm she experienced challenging and may consider this applicant insufficiently detailed/credible and/or not able to access a protected ground for asylum under law. However, if this same official

had previously analyzed symbolism in a creative work relating to an experience of a Tutsi Congolese woman who was raped by Mai Mai militiamen, he or she might be able to consider that perhaps the woman applying for asylum could have been a representation of purity to the Mai Mai militiamen, and that by raping this woman, they were making a political statement and defaming the applicant's nationality, ethnicity, state, etc. This understanding of the woman and what befell her might offer the officer expanded opportunities for questioning that could generate testimony involving a protected ground for asylum.

### *Challenging State Subjectivity - Cognitive Imagination*

Officers can also employ cognitive imagination in their decision processes, which Stephenson has suggested involves, “[sorting] through complex concerns, [understanding] them, and [suggesting] mechanisms by which they might reasonably be addressed” or “offering alternative conceptions of shared purpose and processes” (Stephenson 2009, p. 427). This form of thinking requires expanding one's own frame to broaden collective, “capacity to understand the basic assumptions and claims that underpin the arguments and worldview of others pressing alternate claims and a companion ability to develop new analytic frames that transcend those” (Stephenson 2009, p. 427).

For example, ‘The REAL ID Act,’ which amended Section 208 of the Immigration and Nationality Act, emphasized that demeanor, candor and responsiveness can be assessed in determining the credibility of a petitioner's claim (REAL ID Act 2005). This heightens the importance of personal interpretation as it suggests that officials can consider physical and verbal cues from interviews to make decisions on cases (Macklin 1998). However, within the context of asylum adjudications, even though officers have the legal right to deny a case based on physical behavior or verbal cues, they can consider self-consciously their understanding of ‘expected’ body language and human reactions to specific situations and be sensitive to the fact that their perceptions do not necessarily translate to the ‘normal’ understandings of these across different populations and countries (Rousseau et al. 2002). In addition, individuals who have suffered trauma may be more likely to be nervous and act in ‘non-normal’ ways during an asylum interview than those who have not undergone such difficulties.

Therefore, although USCIS administrators may note differences in demeanor and candor in relation to fraud and national security considerations, they can also broaden their conception of ‘normal body language’ and consider seemingly unexpected or non-traditional practices. That is, officials could reimagine their understanding and incorporate alternative possibilities so as to see applicant body language during interviews as states along a range of contextually appropriate behaviors, rather than dichotomized alternatives. Thereafter, instead of viewing a fidgeting applicant, or an individual who is not looking an interviewer in the eye and automatically thinking that this person might be a threat to state sovereignty, officials can humanize the asylum-seeker’s behaviors along a spectrum of normal. This opening up of conceptual space diminishes the psychological distance between the would-be asylee and the officer while granting a measure of deference to the petitioner. A similar example of this broadening of ‘normal’ interpretations involves western perspectives of gay identities. If asylum officials are able to conceive of sexual identity along a band of possibilities, then instead of pursuing lines of questioning common to western notions, such as ‘coming out stories,’ that may not be applicable to individuals living in societies that are extremely oppressive to gay individuals, officials can pursue alternate areas of concern without assuming that the lack of a ‘coming out’ story is a clear indication of fraud (Lewis 2010).

### *Challenging State Subjectivity - Affective Imagination*

The third facet of imagination that Stephenson has described, ‘affective imagination,’ involves self-awareness that allows an individual to discipline himself or herself as they relate to other ‘different’ individuals while practicing empathy, or “[perceiving] the needs of those with whom they interact” (Stephenson 2009, p. 428). An officer with a profound level of self-knowledge can begin to understand and confront his/her own biases, how he or she constructs state subjectivities and can thereafter assist other decision-makers to develop such affective awareness and self-knowledge.

To exercise affective imagination, officers must first recognize that the state and the refugee are discursively constructed and then acknowledge how USCIS officials help to create and perpetuate that boundary by constructing themselves as state. Doty has recognized the silent presence of the self in research and practice and contended that there exists, “a power inherent in

this absence, a power that enables [officers] to present their work as authoritative, objective and neutral” (Doty 2010, p. 1048). There is an unobtrusive state subjectivity in the adjudication decision, through the officer’s re-authoring the refugee story assuming the state legal framework, terminology, criteria and logic. Even though asylum decision-makers may pride themselves on their analytical reasoning abilities and their capacity to consider sociological, psychological, legal and other perspectives in their analysis of each case, their (required) self-construction as protectors of state sovereignty suggests that they are neither objective or neutral in their adjudications and that their status determination choices are tied to their subjectivity as public agents. As such, they can recognize their bias as they define themselves and refugees in reference to the state and can practice critical self-reflection to mitigate it. As Hardy, Phillips and Clegg have argued, one cannot just recognize “the situatedness of knowledge” instead, “we need to develop new representational practices ... that reflect on the system” (Hardy, Phillips and Clegg 2011, p. 555). Ideally, this stance could lead to officers recognizing their state-oriented subjectivity, educating their fellow administrators regarding it, and assisting asylum seekers in understanding how officers construct their roles.

In short, using affective imagination can help asylum officials help themselves, but it can also assist other decision-makers in understanding how their determination choices are shaped by state subjectivity. Officers can encourage themselves and their colleagues to take advantage of opportunities for critical reflection and ask questions about the different influences, including the state’s authority, that guide them as they make their decisions. As Stephenson has observed, “... the significance of latent and rarely articulated ideas shape how engaged actors view their world or make sense of their environments. They do so, often unconsciously, on the basis of shared narratives, assumptions and claims. Likely, many would never express those unless brought to realize self-consciously their existence and contour.” (Stephenson 2009, p. 423). Officers can and should undertake the effort needed to make themselves and their colleagues conscious of their subjectivity and state-based dichotomizations and assumptions. Similarly, Gannon has suggested that taking time to ponder one’s partiality through reflective writing, perhaps in the form or spirit of autoethnography, can be useful in revealing the power discourses that influence one’s work: “Autoethnographic writing within a poststructuralist frame leans toward the ancient imperative to care for the self in a constant practice of reflective attention to the past, present, and future moments of subjectification within complex and contradictory discursive arenas”

(Gannon 2006, p. 480). USCIS officers might well benefit from experimenting with just such practices.

In addition to educating themselves and other asylum decision-makers concerning broadening critical and reflective thinking in adjudication paradigms, U.S. refugee and asylum decision-makers can practice empathy in order actively to recognize applicants' perspectives and to acknowledge the fact that petitioners are unlikely to understand how officers create state subjectivity. This implies that asylum administrators must make an effort to educate applicants concerning the constructed character of the determinative criteria they follow. This use of affective imagination involves a certain amount of empathy and it can start with assisting petitioners in understanding officers' logoi, i.e., making a personal effort to ensure 'plain language' explanations of different legal terms that guide asylum decisions, but that refugees may not understand. For example, with certain types of defensive asylum filings, USCIS officers are required to provide a decision to applicants after the interview. If the official does not find the petitioner to have a credible fear of persecution or torture, the officer must inform the individual of their decision. This may sometimes result in applicants protesting that they do not understand why the administrator did not believe them and can create miscommunication. However, at the beginning of the interview, officers can help the applicant appreciate that they are truly listening to their stories and recognize that they may have suffered great trauma, but that what they are specifically adjudicating is whether their claim fits within the confines of state-specific definitions. In this scenario, the claimant can better understand how officers are operating from a state subjectivity and that they are not trying to invalidate an individual's story by deciding not to believe it. Instead, they are constrained by national laws and definitions in their interpretation of the narrative they hear.

Practicing empathy toward applicants can also take the form of education regarding officials' subjectivity construction. This could include making a personal effort to ensure that the petitioner understands the ethos of asylum officers. In effect, USCIS officials can help applicants grasp western morality and how this shapes decision-making concerning their case. For example, when officers ask petitioners many detailed questions related to fraud and national security concerns, these administrators can inform those before them that these are routine questions they ask all applicants from their nations, that they do consider fraud and national security issues, but

that these concerns are just one part of the interview and that they are not singling out the person by making such inquiries. Additionally, administrators can explain that they recognize that structural violence or a complex array of interrelated factors, including economic concerns, could contribute to why the applicant experienced or might encounter harm in his/her country. Nonetheless, they are tasked to examine the applicant's story to label and categorize the past and future perpetrators of injury and their motives to discern petitioner's claims represent protected concerns as specified in United States Asylum Law.

### *Challenging State Subjectivity - Moral Imagination*

Finally, Stephenson has suggested that 'moral imagination' is "inevitably linked to commons-related claims demanding that its practitioner act on behalf of a collectivity beyond self" (Stephenson 2009, p. 429). USCIS officers may enact moral imagination by making a conscious effort to practice cosmopolitan thinking in asylum adjudications and employing techniques that do not "replace the nation state [ideology] but instead integrate it" (Beck 2012, p. 137). Instead of conceiving of themselves as officials of the U.S. Department of Homeland Security, officers could view themselves as wearers of multiple hats with responsibility for keeping the nation secure from external threats, but also as working in partnership with asylum decision-makers around the world to assure that eligible refugees are granted protection and safe haven. That is, officials can avoid viewing petitioners solely within a United States-centered apparatus and instead think of why/how refugees are created in the first place and why America subscribes to international law regarding this population. They can consider how their individual decisions affect an interconnected web of people and legitimize the refugee protection system as a whole. From this perspective, officials can consider applicants not just as individuals from another nation who represent a potential threat to the sovereignty of the United States, but instead as people like themselves who have families, hopes and dreams, who have allegedly undergone trauma, and who may in fact be a future neighbor or friend.

Multivocality may be used as a tool through which to carry out this form of cosmopolitan thinking during adjudications. Within the context of researcher (asylum officer) and research subject (refugee(s)) interaction, "Multivocality can (a) highlight power differences in a research scenario between the researcher and participants, (b) encourage the researcher to consider how

competing aspects of her or his identity shape relationships, and (c) expose underlying research vulnerabilities or tensions” (Mizzi 2010, p. 7). If officers were to employ this approach within the context of asylum adjudications, multivocality could allow considering a case from multiple perspectives, including officials’ personal identities as human beings, and at the same time fellow neighbors or family members and so on, in addition to the state’s stipulations. So, for example, in lieu of an administrator opening a file from a country where there is known to be a high incidence of terrorist activity and automatically supposing that the person before them may be a threat to national security, or instead of picking up case documents from a nation belonging to a visa category that has a high incidence of fraud and assuming that this new application will also be fraudulent, the official can begin review of the next file by asking himself/herself, ‘how can I best ensure protection of this applicant from individuals in their country who may be persecuting him or her, and how can I best ensure protection of this applicant from other applicants in this stack of files, who may want to undermine him/her or the integrity of the refugee program?’ In effect, this orientation integrates the nation state system as a tool through which to dignify, humanize and value this individual applicant, while at the same time recognizing the officer’s need to conduct proper and thorough security checks as a routine part of the asylum adjudication process.

Employment of moral imagination through cosmopolitan thinking and techniques of multivocality can start with something as simple as sharing and drinking water with the applicant, or chatting before the interview about love for family, to create a human-level connection, instead of countenancing only a formal and de facto adversarial relationship between the applicant and the officer. As Doty has contended, officials need to connect to the human beings and not just the objects of the state (Doty 2010, p. 1048). This idea of connectedness, “goes against the grain of traditional empiricism, which assumes that the knower and the known inhabit disconnected worlds” (Jackson 1989 in Ellis 1995, p. 94). Instead, this notion of connectedness requires greater depth of understanding and feeling about those about whom decision-makers write (Behar 1997, p. 165). It involves recognizing one’s own vulnerability and feeling the horror and sadness in the applicant stories and not seeing these individuals as just another case to process. This orientation also demands imagining petitioners not simply as a possible national security or fraud threat, but as a potential U.S. citizen. Similarly, it requires increased engagement with applicants and understanding of the asylum officer as an individual

witness to refugee experiences. It requires official cognizance that all applicants are deserving of compassion. This stance is not simply seeking to see the petitioner's story from the perspective of the asylum seeker, or trying as an officer to 'put yourself in the applicant's shoes,' but actually being willing to be vulnerable to feelings during an exchange with an applicant.

## **Conclusion**

Examining how asylum officials define refugee identities at the micro-level can supplement high-level policy analysis regarding the role and function of the state and of individual state actors in 'local integration' humanitarian protection practices for refugees. Asylum officers are actively involved in creating durable solutions for these individuals because they decide whether applicants can be considered refugees and can receive protection. The refugee officials' understanding of what an asylee is and is not is largely enmeshed with their conception of the state and of the regime's authoritative power to determine who belongs within the sovereign realm and who does not. The USCIS officer simulates this state power through professionalization, or representing national ethos, through morality conditioning, or signifying regime pathos, and also through formal legal interpretations, or exemplifying state logos.

As protection of the sovereign realm is included in the duties of an asylum officer, considering fraud and national security indicators when adjudicating an application for refugee status cannot and should not be set aside. Nonetheless, the conception of 'refugee' is created through a system of legitimation of state and state power. Asylum officers may be conditioned only to recognize their role as according legal recognition from the state in the form of asylum. As a result, de-centering to reflect critically on the role of the government in the categorization and subsequent adjudication of refugees is necessary (Agier 2011). If officials do not consciously recognize, consider and counter regime subjectivities, asylum applicants are likely to be seen primarily as data, as fact patterns and threats to state sovereignty.

As officials listen to individual stories of displacement during the adjudication process, they can succeed in their role of protecting national borders and dignifying refugees through the formal governmental apparatus and at the same time employ forms of imagination to confront their own state-centered subjectivity and bias. Individual officers can and should be trained and encouraged to recognize their partiality through practices of aesthetic imagination, cognitive imagination,

affective imagination and moral imagination. They can extend their focus to envisioning complex realities and symbols in applicant narratives, broadening frames through reflective and critical thinking, practicing empathy and sensitizing other officers and applicants to the contours of state constructed subjectivity. These practices can help officers recognize and uncover the hidden biases these create and help these officials more appropriately identify fraud and national security threats while upholding the United States Government's ideals of human rights and freedom from oppression. Employing these forms of imagination can decrease the distance between interviewers and applicants, increase human-level connections and allow refugees a genuine opportunity to receive a full hearing of their stories.

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## Chapter 7 - Conclusions

Scholars of international relations need soon to discover new avenues for speaking critically about their focus of interest. Blieker has suggested that analysts must pursue creative ways to critique representations that are seemingly invisible, and that they find ways to illuminate the narrow remembering and forgetting of western-authored discourses (2009). This dissertation has sought to do just that for refugee/IDP governance. It has shown how collective and individual practices of critical reflexivity can be used to reimagine the neorealist/neoliberal cognitive framing regarding refugees and displaced individuals. It has also sought to demonstrate that IDPs, refugees and regime arbiters can, even as individuals, promote practices of democratization and steer the refugee regime complex toward promoting more equal participation, institutional revisability and accountability for/to refugees/IDPs.

This work began with an autoethnographic-informed vignette that introduced not only the location and context in which I conducted my first case study concerning Sarvodaya Shramadana in Sri Lanka, but also a depiction of one of my first experiences encountering ‘the west’ in my research. Although my understanding of that construct has evolved to an awareness of how neorealist, neoliberal and even neocolonial discourses have shaped refugee/IDP governance, the thinking described in my account was key in my personal emotional and intellectual evolution. In those minutes I considered for the first time clearly the importance of individual recognition of ‘western’ discourses that may at first appear as natural, and second, the need for those involved in protection and asylum efforts to explore further their own place in international politics.

After setting the stage for the reader in the first chapter, Chapter 2, ‘The Refugee Regime Complex’ introduced governance theory as it pertains to refugees and displaced persons, and offered a short history of the evolution of the concept of refugee and the various institutional actors that continue to play vital roles in authoring protection discourses governing those so designated as well as displaced persons. That chapter drew particularly on Betts, Loescher and Milner (2012), Betts (2013a) and Betts (2013b) and their efforts to understand refugee governance at a micro-political level via the concept of the refugee governance regime.

Chapter 2 also highlighted Kuyper's (2014) recent work to obtain a subtler understanding of regime governance through the concept of regime complexity, which, when extended, yielded a nuanced understanding of micropolitical governance of refugees and IDPs in and among the institutions that govern those populations. Kuyper's analysis also suggested an avenue through which to visualize the refugee/IDP as an agent in his/her own governance. While the work of Betts, Loescher and Milner and Kuyper is surely critical in conceptualizing how various institutions interact to create systems and structures of protection for refugees/IDPs, their efforts do not fully consider the place and role of the nation-state in authoring protection for the displaced and how that may limit refugee/displaced person ability to author discourses of protection. Accordingly, chapter 2 discussed the neorealist/cosmopolitan discord often overlooked in governance of the displaced and offered a new model (Figure 1) that depicted the refugee regime complex as an organic system that is both supported and defined by the nation-state.

Chapter 3 turned to democratic theory to interpret the different practices through which refugees, IDPs and those acting within the refugee regime complex can press to address their needs through integrating new 'nutrients' into the complex that assume the form of democratic values (See Figure 2). This chapter considered the neoliberal/neocolonial/neorealist obstacles to refugee governance democratization and explored the practice of cognitive framing as a tool to understand those challenges (See Figure 3). The chapter also presented critical reflexivity as a strategy with the potential to deliver necessary democratic 'nutrients' to the refugee regime complex via Fraser's (2010) 'Scales of Justice' model and Butler's (2009) 'performativity.' Both Fraser and Butler provide frameworks for refugees/IDPs and refugee complex regime arbiters to understand themselves as agents in redeveloping and redefining refugee/IDP discourses and the protection practices of the refugee regime complex.

Chapter 4 described my constructivist ontology and critical epistemology to examine specifically two spaces of regime complexity: the neoliberal and neorealist norms that constrain actor behavior within those contexts, and the cognitive framing strategies that institutions, individual professionals and refugees/IDPs can employ to democratize governance within them. I employed a paradigmatic case study methodology to identify spaces that provided opportunities to examine

Kuyper's understanding of regime complex democratization and Betts' arguments concerning the refugee regime at the micro-political scale.

Chapter 5 investigated the above questions and practices concerning the potential of IDPs to democratize the refugee regime complex via Fraser's three-step strategy of cognitive frame change initiated by critical reflexivity. I explored these through an analysis of the Sarvodaya Shramadana's Deshodaya program that suggested that IDPs can be critically reflexive in reimagining political space to develop and exert themselves as governing agents by defining, what they themselves deem as effective, post-conflict protection programs. This chapter argued that endogenous NGOs can work as vehicles to encourage the displaced to reimagine themselves as agential actors and help to mobilize IDP-owned and defined protection and durable solutions strategies, which in effect puts these groups in the 'driver' seat of protection governance, thereby democratizing refugee governance considerably.

Chapter 6 explored my own role and practices as an asylum adjudications officer for the Refugee, Asylum and International Operations Division of the U.S. Department of Homeland Security and examined how regime arbiters can employ practices of critical reflexivity to initiate cognitive frame changes and work to democratize the refugee regime complex via Butler's concept of performativity. This chapter explored the roles of state sovereignty in asylum adjudications and how officers charged with those decisions develop state-centered subjectivity by representing state ethos, logos and pathos. The chapter also considered how officers could become aware of the often-invisible state; it argued that asylum officials could make use of strategies linked to aesthetic, cognitive, affective and moral imagination to confront the state in asylum adjudications and more effectively recognize the dignity of each refugee applicant in so doing.

As a whole, my research not only explored the micro-political dynamics of refugee governance, but it also provided a framework for understanding the place of the state within refugee determination and the obstacles that arise from that reality for refugee/IDP and individual regime arbiter roles in authoring protection discourses. This effort has also highlighted a strategy, critical reflexivity, through which academics and practitioners can rethink grand political doctrines regarding refugee governance in international relations. To the extent that more IDPs

begin to behave more like those involved with Sarvodaya Deshodaya, and adjudicators at the Department of Homeland Security act to incorporate critical reflexivity and imagination into their choice-making, refugee governance has the potential to move toward greater democratization. Some may argue that this movement is at a micro-level scale, or that engaging institutions in this democratization work legitimizes the refugee/IDP as an acceptable concept within international governance. However, the two case studies showcased practical examples of how a critically reflexive approach might generate best-practice models that could be adapted by individuals and institutions to put refugees and displaced individuals at the helm of refugee/IDP protection. The use of these strategies and approaches at a macro-level could scale-up micro-level democratization techniques and generate macro-level democratization reform within refugee governance institutions. Most importantly, this inquiry found that individuals do indeed possess the ability to play determinative roles in defining and redefining refugee governance systems, and as a refugee protection practitioner, that finding that gives me hope for the future.

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## Appendix

### Appendix A – Recruitment Email for Sarvodaya Case Study

#### VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY Recruitment Email to be sent to Interview Subjects

**Title of Project:**

Investigating Sarvodaya’s civil society action in post-conflict Sri Lanka

**Investigator(s)** Emily Barry, PhD Student Investigator; Max Stephenson Jr., Investigator and Faculty Advisor

Dear Mr./Ms./Dr. \_\_\_\_\_,

I am a doctoral student in the Governance & Globalization program from Virginia Tech University in Blacksburg, Virginia. I am conducting research on how civil society organizations work to improve quality of life for people living in post-conflict environments. For this particular research endeavor, I am looking to investigate the post-conflict experience of Sri Lanka’s largest civil society organization, Sarvodaya. The reason for conducting the interview is to complement and contextualize a theoretical analysis of the organization’s efforts. This study will result in a paper that discusses Sarvodaya’s current and future approaches to improving the quality of life of the Sri Lankan people in the post-conflict environment. The findings may also be presented at academic conferences or published in relevant academic journals.

Because of your leadership and/or involvement as a staff member at Sarvodaya or as a partner of Sarvodaya, I am contacting you to inquire whether you would be willing to participate in an interview, as a part of this research. I will conduct approximately ten key informant interviews and limited field observation to complement and inform theoretical analysis.

The interview will require no more than 60 minutes and I would be glad to come to your office or a public place of your choosing to conduct it.

I look forward to hearing from you regarding this study. If you are willing to be interviewed and available sometime between (Date- Date), I will follow up with you to schedule an interview date, time, and location. If you should have any questions, please do not hesitate to contact me or my Faculty Advisor, Dr. Max Stephenson. Our contact information is listed below.

Faculty Advisor:  
Dr. Max O. Stephenson, Jr.  
Virginia Tech Professor  
540-231-7340  
mstephen@vt.edu

Investigator:  
Emily Barry

PhD Student  
770456458  
emily.c.barry@gmail.com

IMPORTANT:

If you should have any questions about the protection of human research participants regarding this study, you may contact Dr. David Moore, Chair Virginia Tech Institutional Review Board for the Protection of Human Subjects, telephone: (540) 231-4991; email: moored@vt.edu; address: Research Compliance Office, 2000 Kraft Drive, Suite 2000, Blacksburg, VA 24061.

Thank you for your time and consideration.

Sincerely,

Emily Barry  
Doctoral Candidate, Virginia Tech  
Globalization & Governance Program  
School of Public and International Affairs  
Virginia Tech  
Blacksburg, VA 24061  
Email: [emily.c.barry@gmail.com](mailto:emily.c.barry@gmail.com)  
Phone: 770456458

## Appendix B – Consent Form for Sarvodaya Case Study

### VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

#### Informed Consent for Participants

##### in Research Projects Involving Human Subjects

Title of Project: Investigating Sarvodaya’s civil society action in post-conflict Sri Lanka

Investigator(s) Emily Barry, PhD Student Investigator, Dr. Max Stephenson, Jr., Faculty Advisor and Investigator

#### **Purpose of this Interview:**

You are being asked to participate in an interview regarding your knowledge of the post-conflict experience of Sri Lanka’s largest civil society organization, Sarvodaya. Our aim is to learn more about the issues and challenges that Sarvodaya faces in the Sri Lankan post-conflict environment and the different strategies this organization is now employing and considering in order to improve the quality of life for the Sri Lankan people. The reason for conducting the interview is to complement and contextualize a theoretical analysis of the organization’s efforts. This study will result in a paper that discusses Sarvodaya’s current and future approaches to improving the quality of life of the Sri Lankan people in the post-conflict environment. The findings may also be presented at academic conferences or published in relevant academic journals.

You are being asked to participate in this semi-structured interview as a Sarvodaya leader, staff member or Sarvodaya partner. Overall, interviews will be conducted with approximately 20 Sarvodaya leaders, staff members and partners. Your personal interview will require no more than 60 minutes. The interview will be in English, but if you request a translator I will uphold your request.

#### **Procedures**

You are being asked to agree to a personal interview with Emily Barry, a doctoral student in Virginia Tech’s PhD. Program in Globalization & Governance of the Virginia Tech School of Public and International Affairs. During the interview, Ms. Barry will take notes and audio record the interview that she will later transcribe herself. Most interviews will be conducted in English, but if you desire to conduct the interview in your native language (Sinhala or Tamil), we will do that and then the interviews will be translated and then transcribed by the student investigator. The notes and transcription will be used only for fact checking and for possible unattributed quotation (i.e. only by pseudonym) in Ms. Barry’s paper. The interview audio recordings, transcriptions and notes will be kept in a secured location for a period of three years following Ms. Barry’s completion of her doctorate. Ms. Barry will strive to offer findings in a way that does not reveal your individual identity or link specific observations to you.

Your participation is voluntary and will involve an informal conversation-style interview.

If you have any questions regarding the procedures or the contents of this consent form, please do not hesitate to ask Ms. Barry or Dr. Stephenson. Our contact information is listed below.

### **Risks**

We believe the risk of harm to you from your participation in this study is very low. In any case, risks associated with this study are no greater than those you encounter in your daily life.

### **Benefits**

We cannot guarantee a personal benefit to you for your participation, but we are grateful for your consideration and hope that you may find this a worthwhile opportunity to reflect on your own work with Sarvodaya. If you are interested in the results of this research, Ms. Barry will be happy to provide you with a copy of the paper resulting from this research effort. Her contact information appears below.

### **Confidentiality and Anonymity**

We are seeking your *written consent* to allow the researcher to include your statements in the scholarship that will result from this effort. Interview notes will be accessible only to the interviewer and her advisor. You will have the option of sharing information “on the record” or “off the record” throughout your interview. Ms. Barry will honor your specific requests for confidentiality or “off the record responses” when you ask her to do so. Ms. Barry will use pseudonyms in an attempt to protect your identity in any reference to your insight or observations. However, we cannot guarantee that using pseudonyms will provide complete anonymity, given the nature of the research.

It is possible the Virginia Tech Institutional Review Board (IRB) may view this study’s collected data for auditing purposes. Should it do so, it would undertake its review in confidence. The IRB is responsible for the oversight of the protection of human subjects involved in research. The Board’s contact information appears below.

### **Compensation**

We are unable to provide compensation for your participation.

### **Freedom to Withdraw**

You are free to withdraw from this research at any time. You are also free NOT to answer any questions that you choose.

### **Your Responsibilities and Permission**

I, \_\_\_\_\_, voluntarily agree to participate in this research that investigates Sarvodaya’s experience as a civil society organization in post-conflict Sri Lanka. I am 18-years-old or older.

I have read and understand the purposes of this research and the contents of this Informed

Consent form. I hereby acknowledge the above and give my voluntary consent:

---

Signature

---

Date

**Should I have any questions about this research or its conduct, or questions regarding my rights, I may contact:**

**Faculty Advisor:**

Dr. Max O. Stephenson, Jr.

Virginia Tech Professor

540-231-7340

[mstephen@vt.edu](mailto:mstephen@vt.edu)

**Investigator:**

Emily Barry

Doctoral Student

770-45-6458

[Emily.c.barry@gmail.com](mailto:Emily.c.barry@gmail.com)

**IMPORTANT:**

**If I should have any questions about the protection of human research participants regarding this study, you may contact Dr. David Moore, Chair Virginia Tech Institutional Review Board for the Protection of Human Subjects, telephone: (540) 231-4991; email: [moored@vt.edu](mailto:moored@vt.edu); address: Research Compliance Office, 2000 Kraft Drive, Suite 2000, Blacksburg, VA 24061.**

**THANK YOU FOR YOUR TIME AND PARTICIPATION**

## Appendix C – In-depth Interview Script for Sarvodaya Case Study

Title of Project: Investigating Sarvodaya’s civil society action in post-conflict Sri Lanka

Investigator(s) Emily Barry, PhD Student Investigator, Dr. Max Stephenson, Jr., Faculty Advisor and Investigator

Student Investigator to the participant:

Thank you very much for agreeing to sit with me and answer some of my questions on Sarvodaya in this post-conflict environment. I would like to start this semi-structured interview by thanking you for agreeing to share your perspective, knowledge and experience with me.

I will be using this sound recorder to record this interview so that I can later transcribe it. Your interview will be given a code number and then after I type/transcribe the interview, I will destroy the audio file to protect your identity. Also, if at any time you want to say something “off the record”, please say so and I will turn the audio recorder off until you wish to speak “on the record” again. Do you have any questions or concerns before we start...? (If no) Let’s get started then!

1. First, I am interested in learning about how Sarvodaya is situated in Sri Lanka’s post conflict environment. Sometimes it is easier for me to understand this in a visual way. As we move through these questions, would you be willing to draw a map/diagram that can help me understand the different interactions between Sarvodaya and other post-conflict actors? If you could add to this map/diagram and reference it as we go through the interview, I would greatly appreciate it.
2. It has been about three years since the conflict officially ended in Sri Lanka. I assume there are various political, economic and social issues that the country faces as a result of the new, post-conflict environment. What do you think are some issues and challenges that Sri Lanka is facing today because of the post-conflict environment?
3. I have heard many people mention the issue of “reconciliation”. How do you conceive of “reconciliation” and reconciliation challenges?
4. I am interested in learning about how civil society organizations in Sri Lanka work to address the issues and challenges you mentioned. What do you see as Sarvodaya’s role in post-conflict Sri Lanka? How is this role similar or different from that of other Sri Lankan civil society organizations?
5. What specific programs/approaches does Sarvodaya employ to address the post-conflict challenges/issues you mentioned? Could you describe in detail any of these programs that you are extremely familiar with? What are the overall goals of the programs and do you

think that these programs are reaching these desired goals? What challenges do these programs face?

6. How do you think civil society organizations in Sri Lanka might change in the future? How do you think Sarvodaya programs/approaches might evolve or change in the future?
7. If you could offer advice to leaders of other civil society organizations working in post-conflict environments all over the world, what advice would you give them based on your experience here with Sarvodaya?
8. How do you think research on Sarvodaya's post-conflict efforts could help or enhance Sarvodaya's work?

#### Samples of probes

- Could you say something more about that...?
- What did you mean when you mentioned...?
- Can you give a more detailed description about...?
- Can you tell me more about...?
- Do you remember an occasion when....?
- Could you describe in as much detail as possible...?
- I'm not certain what you mean by...could you give more examples?
- So what I hear you are saying is... is this correct?
- You just told me about... I'd also like to know about...?
- What stands out in your mind about...?

A few main points I have learned from you are XXX, XXX, and XXXXX. Is there anything else you would like to mention on these topics?

I have no further questions. Is there anything else that you would like to bring up or ask about before we finish the interview?

Now we will conclude the interview. Thank you again for your time and assistance!

## Appendix D – IRB Approval for Sarvodaya Case Study

**Office of Research Compliance**  
Institutional Review Board  
2000 Kraft Drive, Suite 2000 (0497)  
Blacksburg, VA 24060  
540/231-4606 Fax 540/231-0959  
email irb@vt.edu  
website <http://www.irb.vt.edu>

### MEMORANDUM

**DATE:** October 25, 2012

**TO:** Emily Barry, Max O Stephenson Jr

**FROM:** Virginia Tech Institutional Review Board (FWA00000572, expires May 31, 2014)

**PROTOCOL TITLE:** Investigating Sarvodaya's civil society action in post-conflict Sri Lanka

**IRB NUMBER:** 11-997

Effective October 24, 2012, the Virginia Tech Institution Review Board (IRB) Chair, David M Moore, approved the Continuing Review request for the above-mentioned research protocol.

This approval provides permission to begin the human subject activities outlined in the IRB-approved protocol and supporting documents. Plans to deviate from the approved protocol and/or supporting documents must be submitted to the IRB as an amendment request and approved by the IRB prior to the implementation of any changes, regardless of how minor, except where necessary to eliminate apparent immediate hazards to the subjects. Report within 5 business days to the IRB any injuries or other unanticipated or adverse events involving risks or harms to human research subjects or others.

All investigators (listed above) are required to comply with the researcher requirements outlined at: <http://www.irb.vt.edu/pages/responsibilities.htm>  
(Please review responsibilities before the commencement of your research.)

### PROTOCOL INFORMATION:

Approved As: **Expedited, under 45 CFR 46.110 category(ies) 6,7**

Protocol Approval Date: **November 22, 2012**

Protocol Expiration Date: **November 21, 2013**

Continuing Review Due Date\*: **November 7, 2013**

\*Date a Continuing Review application is due to the IRB office if human subject activities covered under this protocol, including data analysis, are to continue beyond the Protocol Expiration Date.

### FEDERALLY FUNDED RESEARCH REQUIREMENTS:

Per federal regulations, 45 CFR 46.103(f), the IRB is required to compare all federally funded grant proposals/work statements to the IRB protocol(s) which cover the human research activities included in the proposal / work statement before funds are released. Note that this requirement does not apply to Exempt and Interim IRB protocols, or grants for which VT is not the primary awardee. The table on the following page indicates whether grant proposals are related to this IRB protocol, and which of the listed proposals, if any, have been compared to this IRB protocol, if required.

IRB Number 11-997 page 2 of 2 Virginia Tech Institutional Review Board

**Date\* OSP Number Sponsor Grant Comparison Conducted?**

\* Date this proposal number was compared, assessed as not requiring comparison, or comparison information was revised.

If this IRB protocol is to cover any other grant proposals, please contact the IRB office (irbadmin@vt.edu) immediately.