Abstract

Why do countries open their borders to some refugees while excluding others? Why do countries sometimes “outsource” policies, like approving asylum applications or managing refugee camps, to the United Nations? This selective exercise of sovereignty is puzzling, particularly since regulating migration is often portrayed as the last bastion of state control. Where previous studies had emphasized material resources and humanitarian concerns, I hypothesize that countries’ approaches to refugees are shaped by a combination of international and domestic factors. Internationally, leaders use refugees to reassure allies and exert pressure on rivals. At the same time, policymakers have domestic political incentives to favor refugee groups who share their ethnic identity. When they face conflicting pressures, policymakers delegate to the UN to avoid antagonizing refugee-sending countries or domestic constituencies. I find support for this theory using a mixed-methods research design. With large-N regressions, I examine the percentage of asylum applications accepted, as well as the degree to which countries delegate decisions on these applications. The results establish a correlation between refugee admissions and delegation on the one hand and interstate competition and ethnic affinity on the other. Then, I draw on fieldwork in Egypt, Kenya, and Turkey to examine the causal mechanisms in these three cases. These case studies allow for the comparison of policies toward particular refugee groups across countries. Aside from addressing a puzzling real-world phenomenon, this project adds insights to the literature on political responses to globalization processes, the politics of migration and asylum, the international sources of domestic politics, and delegation to international organizations.
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Abbreviations

ANAP Motherland Party (Anavatan Partisi), Turkey
BUC Blow-Up and Cluster estimator
CBO Cross Border Operation
DRA Department of Refugee Affairs, Kenya
GDP Gross Domestic Product
GTZ German Agency for Technical Cooperation
EPR Ethnic Power Relations dataset
EU European Union
ExCom Executive Committee of the High Commissioner’s Program
ICC International Criminal Court
ICTR International Criminal Tribunal for Rwanda
IDP Internally Displaced Person
IOM International Organization for Migration
JRS Jesuit Refugee Service
KANU Kenya African National Union party
MAR Minorities at Risk dataset
MIRP Ministry for Immigration and Registration of Persons, Kenya
MoU Memorandum of Understanding
NARC National Rainbow Coalition party, Kenya
NEC National Eligibility Committee, Kenya
NEP North Eastern Province, Kenya
NPAA National Program for the Adoption of the EU Acquis
NRS National Refugee Secretariat, Kenya
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<tr>
<th>Acronym</th>
<th>Full Form</th>
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<tr>
<td>OAU</td>
<td>Organization of African Unity</td>
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<tr>
<td>OECD</td>
<td>Organization for Economic Cooperation and Development</td>
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<tr>
<td>PITF</td>
<td>Political Instability Task Force</td>
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<td>PKK</td>
<td>Kurdistan Worker’s Party</td>
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<td>PLO</td>
<td>Palestine Liberation Organization</td>
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<td>PWT</td>
<td>Penn World Table</td>
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<td>QIP</td>
<td>Quick impact projects</td>
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<td>RCK</td>
<td>Refugee Consortium of Kenya</td>
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<td>RP</td>
<td>Welfare Party (Refah Partisi), Turkey</td>
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<td>RPF</td>
<td>Rwandan Patriotic Front</td>
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<tr>
<td>RSD</td>
<td>Refugee status determination</td>
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<td>SHP</td>
<td>Social Democratic People’s Party (Sosyaldemokrat Halk Partisi), Turkey</td>
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<tr>
<td>SPLA</td>
<td>Sudan People’s Liberation Army</td>
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<td>SPLM</td>
<td>Sudan People’s Liberation Movement</td>
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<td>UN</td>
<td>United Nations</td>
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<td>UNHCR</td>
<td>Office of the UN High Commissioner for Refugees</td>
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<td>UNRWA</td>
<td>UN Relief and Works Agency for Palestinian Refugees in the Near East</td>
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<tr>
<td>USCRI</td>
<td>US Committee for Refugees and Immigrants</td>
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To the memory of my father, Elmy
Acknowledgements

I must begin with my dissertation committee – Robert Keohane, Evan Lieberman, Christina Davis, and Amaney Jamal. I could not have asked for more thoughtful guidance, more careful critiques, or steadier support. I distinctly remember first seeing Bob’s name as an undergraduate at the American University in Cairo. I knew I wanted to pursue a PhD, but I never imagined I would ever meet him in person. Being Bob’s advisee over the past years has been an extraordinary privilege, and I could not be more grateful to have such an exceptional mentor.

For their constructive comments and their firm encouragement, I am also indebted to: Anar Ahmadov, Gary Bass, Alexander Betts, Sarah Bush, Stephen Chaudoin, Tom Christensen, Rex Douglass, Sarah El-Kazaz, Alexandra Escobar, Andrea Everett, Luara Ferracioli, Joanna Gowa, Tom Hale, Marina Henke, David Hsu, Kip Kendall, Alex Lanoszka, Alex Ovodenko, Kris Ramsay, Tom Scherer, Anna Schrimpf, Jake Shapiro, Christine Shenouda, Justin Simeone, Liza Steele, Timo Thoms, Jaquilyn Waddell Boie, Meredith Wilf, Keren Yarhi-Milo, and many many others. My new colleagues at the University of California-Santa Cruz have been particularly supportive, especially through the Research Cluster on the Politics of Forced Migration.

Numerous people went out of their way to help with my field research – what follows is a very incomplete list. In Egypt, Lina Attalah, Maysa Ayoub, Sherif Elsayed-Ali, Naseem Hashim, Barbara Harrell-Bond, Greg Hoadley, Amr Ismail, Ray Jureidini, Doaa Mohie, Heba Morayef, Jasmine Moussa, Sara Sadek, Hania Sholkamy, Mai Taha, and the staff at the Center for Migration and Refugee Studies at the American University in Cairo were more than generous with their advice, contacts, and documents. My fieldwork in Kenya would not have been possible without the support of Yara Bayoumy, Raymond Hopkins, Riva Jalipa, Eva Kaye-
Zwiebel, Anna Lindley, James Milner, Olive Munene, Mahiri Mwita, Hélène Thiollet, Rene Vollenbroich, Jennifer Widner, and the staff at the British Institute in Eastern Africa. And for their assistance with my research trip to Turkey, I want to thank Kristen Biehl, Ali Çağlar, Özlen Çelebi, Jennifer Dixon, Ahmet İçduygu, Kemal Kirişci, Mohamed Moussa, Deniz Sert, Bertan Tokuzlu, Şirin Turkay, Başak Ural, Kadir Yıldırım, the staff of the Migration Research Program at Koç University, and the staff at the American Research Institute in Turkey (Ankara and Istanbul research centers). Outstanding Turkish-language research assistance, interpretation, and translation was provided by Pınar Gibbon, Marc Saurina, and Uğur Yıldız.

To fund my dissertation fieldwork, I am fortunate to have received a National Science Foundation Doctoral Dissertation Improvement Grant, a Princeton Institute for International and Regional Studies Dissertation Research Grant, and a Mamdouha S. Bobst Center for Peace and Justice Research Grant. In addition, the Graduate Fellows program at the Princeton Institute for International and Regional Studies provided me with additional time, space, and finances to write my dissertation.

I had many excellent opportunities to present parts of my dissertation and receive valuable feedback: the Annual Conference of the Institute for Middle East Studies at George Washington University (April 2014), the Stanford-Berkeley Immigration Conference (February 2014), the Annual Convention of the International Studies Association (April 2013), the Workshop on the Ethics and Politics of the Global Refugee Regime (March 2013), the Migration Research Program Seminar at Koç University (February 2012), the Annual Meeting of the American Political Science Association (September 2011), the Annual Conference of the Canadian Association for Refugee and Forced Migration Studies (May 2011), the Annual National Conference of the Midwest Political Science Association (March-April 2011), and the Annual
Symposium on Arab World Diasporas and Migrations at the Georgetown University Center for Contemporary Arab Studies (March 2011). I am also grateful to the participants at Princeton University’s International Relations Graduate Research Seminar, the Workshop on Arab Political Development Graduate Student Colloquium, the Center for Migration and Development Works-in-Progress Series, the Program in African Studies’ Indaba, Thingira: Graduate students working on Africa and the African diaspora, the Princeton Institute for International and Regional Studies Graduate Fellows Seminar, and the Neihaus Center for Globalization and Governance “Pizza and Politics” group.

Thank you to the fantastic staff at the Department of Politics: Danette Rivera, Wendy Brill, Carole Frantzen, Emily Lawrence, and others. The inimitable and remarkably resourceful Bobbie Zlotnik assisted with every aspect related to my NSF grant, application, travel planning, reimbursement, paperwork, and so much else. Oscar Torres-Reyna was a great help in guiding my quantitative analysis.

I have dedicated this dissertation to the memory of my father – a PhD was his wish for me. I am grateful beyond words to have my mother, Amina Elhusseiny, and my brother, Ahmed Abdel-Aaty. Most of all, I am thankful for Omar Cheta – his support has made me a better scholar; his love makes me a better person.
Chapter 1: The Asylum Policy Puzzle

In the US, asylum policies favor Cubans over Haitians. Jordanian borders are open to Syrians fleeing violence, but Palestinians are turned back. Rohingya refugees in India complain they are treated worse than other ethnic groups escaping Burma. Almost every country in the world hosts refugees – examples of bias, discrimination, and double standards abound.

In the face of globalized trade and investment, regulating migration is often portrayed as the last bastion of state sovereignty. But these examples show that countries do not always jealously guard their borders. While some forced migrants are shut out, others get a “free pass.” Some countries have even ceded control over asylum admissions and refugee camps to UN agencies. What factors shape this selective exercise of sovereignty? More specifically, why do countries welcome some refugees and treat others poorly? When do governments keep asylum policy firmly in their grip, and when do they willingly hand it over to the UN?

Since most refugees are poor and vulnerable, it is tempting to assume that the assistance they receive is a reflection of countries’ money and “heart.” Instead, I develop a “selective sovereignty” theory in which states’ approaches to refugees are shaped by foreign policy and ethnic politics. Interstate rivalry and affinity with coethnics lead to generous asylum policies, while refugees from allies who lack ethnic ties receive harsh treatment. Policymakers delegate to the UN to avoid politically sensitive decisions that might antagonize refugee-sending countries or domestic constituencies.

I find support for this theory with a mixed-methods research design. First, statistical analysis shows that global asylum admissions and delegation are correlated with international and domestic political competition. Then, a series of case studies on Egypt, Kenya, and Turkey’s
asylum policies displays the causal process by analyzing a broader spectrum of asylum policies in richer detail.

Beyond the politics of migration, the project also contributes to the literature on political responses to globalization, the international sources of domestic politics, and delegation to international organizations. At the same time, it addresses a puzzling real-world phenomenon that is particularly timely in light of the current refugee crisis in Syria, and that impacts the lives of millions of refugees around the world. My results can also inform the activities of UN agencies, NGOs, and concerned states by allowing them to better target their advocacy and assistance.

The Last Bastion of Sovereignty

Dauvergne has made the important argument that “in the face of globalizing forces, migration is increasingly being transformed into the last bastion of sovereignty.”¹ Seeing their control over various policy areas increasingly constrained by globalization, she claims, governments have responded by clamping down on illegal migration. International refugee law became entangled in this reinterpretation of sovereignty, and growing numbers of refugees now face sealed borders worldwide.

However, countries often open their borders to some refugees while excluding others. Moreover, sometimes “outsource” policies, like approving asylum applications or managing refugee camps, to the United Nations. This selective exercise of sovereignty is puzzling, particularly if regulating migration is indeed the last bastion of state control.

¹ Dauvergne 2008, 47.
The Delegation Puzzle

It is very puzzling from this perspective that delegation to the UN Refugee Agency (UNHCR) is a key feature of many countries’ asylum policies. Around the world, the Agency is functioning as a “surrogate state,” registering and documenting refugees, providing food and shelter, administering social services, managing camps the size of small cities, and establishing policing and justice mechanisms.

**Figure 1. UNHCR involvement in refugee status determination, 2011**

Note: Data obtained from the UNHCR publication *Global Trends 2011*.

Particularly striking is the delegation of refugee status determination (RSD) – the process that examines whether an applicant for asylum is indeed a genuine refugee. Far from clamping

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2 Delegation is common in the area of migration policy as well. For example, Guiraudon and Lahav contend that Germany, France, and the Netherlands have circumvented normative constraints and restricted migration by devolving policy upward (to intergovernmental fora), downward (to local authorities), and outward (to non-state actors). Guiraudon and Lahav 2000.

down, a number of countries are effectively allowing an international organization to determine which individuals to include or exclude. In 2011, UNHCR had sole responsibility for RSD in 54 countries. In another 23 countries, UNHCR shared responsibility for RSD with the national government.\footnote{Annex to UNHCR 2012. See also Abuya and Wachira 2006; Alexander 1999; Kagan 2006; Smrkolj 2010; Stainsby 2009.} The Agency is involved in these procedures in countries that continuously invoke state sovereignty (like China) as well as Organization for Economic Cooperation and Development (OECD) members (like Israel). Why have these countries given the United Nations control of asylum procedures on their territory?

\textit{The Differential Treatment Puzzle}

In addition, governments around the world have welcomed some refugee groups while blocking others or treating them poorly. Perhaps the most familiar and well-researched example of this is the so-called “Haitian-Cuban syndrome.” During the Cold War, the US saw fit to extend a warm reception to Cuban refugees but not to Haitians.\footnote{Loescher 1989; Zolberg, Suhrke, and Aguayo 1986; Zucker and Zucker 1987.}

This differential treatment of refugees is not unique to the US, however. For instance, Chimni notes that India gave Tibetan refugees more expansive rights than those it provided to Sri Lankan Tamils and Bangladeshi Chakma refugees.\footnote{Chimni 1994.} And Basok has documented stark differences in the treatment of Salvadoran and Nicaraguan refugees in Costa Rica the 1980s.\footnote{Basok 1990.} Why do governments vary their reception and policies across refugee groups?
Research Questions

Proceeding from the delegation and differential treatment puzzles described above, this project asks two central interrelated questions. First, why do countries receive some refugees warmly while excluding others? And second, when do countries “outsource” policies, like approving asylum applications or managing refugee camps, to the United Nations?

Review of the Literature

Compared to transnational flows of goods and money, flows of people have received far less attention in political science.\(^8\) The study of international migration has long been dominated by sociologists, economists, and historians. Yet global population movements have obvious implications for a host of political issues like border enforcement, national security, and voting behavior. In this section, I survey the literature on migration around four key themes: 1) sovereignty and border control; 2) refugees in international relations; 3) the identity politics of migration; and 4) principal-agent theory. This project investigates the politics of asylum using a novel combination of these four themes.

Sovereignty and Border Control

Control of borders is the \textit{sine qua non} of sovereignty; it is the state’s prerogative to determine who enters and remains on its territory. To use Krasner’s terms, immigration and asylum policy involves three kinds of sovereignty: interdependence sovereignty (the ability to regulate

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\(^8\) Zolberg was among the first to emphasize the political dimensions of migration. Zolberg 1981; Zolberg 1999. For an account of why political scientists long neglected international migration, see Freeman 2005.
transborder flows), domestic sovereignty (the ability to exercise control within borders), and Westphalian sovereignty (the ability to exclude external actors).  

Several theories address countries’ desire and capacity to control immigration. Freeman argues that immigration’s diffuse costs and concentrated benefits often result in client politics in liberal democracies. In contrast, Hollifield has shown that liberal states are constrained by migrants’ rights that have been enshrined in laws and institutions. For other scholars like Sassen, it is transnational networks and the forces of globalization that have diminished the state’s capacity to control its borders. At the same time, the global human rights regime has driven states to grant “postnational” membership rights to migrants, challenging traditional models of citizenship and sovereignty. Forced migrants, in particular, are considered an inevitable result of the international system of sovereign states.

These theories share an important limitation: they predict open or permissive migration policy across the board and therefore cannot explain variation. Most research on immigration and asylum policy has also been limited to a focus on Western countries, despite the fact that some 80% of refugees reside in developing countries.

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9 Krasner 1999.
10 Hollifield 2008.
13 Sassen 1996. There is a large body of scholarship on immigrant transnationalism, see for example Glick Schiller, Basch, and Blanc-Szanton 1992; Portes 2000; Vertovec 1999.
14 Jacobson 1996; Soysal 1994. See also Bosniak 2006; Morris 2002. The use of these international norms by pro-immigrant domestic actors is described by Gurowitz 1999.
15 “As long as there are political borders constructing separate states and creating clear definitions of insiders and outsiders, there will be refugees.” Haddad 2008, 7.
16 See, for example, Adelman 1991; Boswell 2003; Joppke 1997; Loescher and Scanlan 1986; Tazreiter 2004; Zucker and Zucker 1987. Quantitative analyses of refugee admissions have also tended to focus only on Europe or the United States. Holmes and Keith 2010; Holzer, Schneider, and Widmer 2000; Neumayer 2005; Rosenblum and Salehyan 2004; Rottman, Fariss, and Poe 2009; Salehyan and Rosenblum 2008.
More importantly, this literature tends to disregard that, even for a single state, the desire for control and the exercise of sovereignty are not uniform. One strand of the literature on migration, exemplified by Dauvergne, claims that globalization has resulted in the closing down of borders. For other scholars, like Sassen, transnational networks and the forces of globalization have actually diminished the state’s capacity to control its borders. States discriminate between groups of putative migrants, including some and excluding others.\(^{17}\) Moreover, states sometimes deliberately delegate policy functions to other actors.\(^{18}\)

**Refugees in International Relations**

Scholars have examined various aspects of the relationship between migration, foreign policy, and international relations.\(^{19}\) However, the work on *refugees* and international relations has tended to concentrate on security and conflict.\(^{20}\) Some studies have emphasized the onset of war as a trigger for refugee flows.\(^{21}\) Other research, exemplified by Salehyan and Gleditsch, has reversed the causal arrow to contend that refugee flows may actually generate conflict.\(^{22}\) Lischer specifies the conditions for militarization of refugee camps and argues that humanitarian assistance can exacerbate conflict.\(^{23}\) Others have examined the “securitization” (or social

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\(^{17}\) For instance, according to Shanks, debates over whether and whom to exclude have shaped conceptions of sovereignty in the US, see Shanks 2001.

\(^{18}\) For example, Guiraudon and Lahav contend that Germany, France, and the Netherlands have circumvented normative constraints and restricted migration by devolving policy upward (to intergovernmental fora), downward (to local authorities), and outward (to non-state actors). Guiraudon and Lahav 2000.


\(^{20}\) Notable exceptions examine international cooperation and burden-sharing, e.g., Betts 2009b; Thielemann 2003.

\(^{21}\) Weiner 1996; Zolberg, Suhrke, and Aguayo 1989. This intuition about the role of violence and persecution in instigating refugee flows has found some support in quantitative studies: Melander and Oberg 2006; Moore and Shellman 2004; Schmeidl 1997.


\(^{23}\) Lischer 2005. See also Stedman and Tanner 2003.
construction as a security issue) of asylum, particularly after 9/11.\(^{24}\) Although this literature has shed light on the links between refugee flows and security, it has not examined the implications of international security for asylum policymaking in the host state.

Meanwhile, the strategic use of refugees to achieve foreign policy goals has received little attention. For instance, Greenhill examines sending states’ use of refugee flows as an instrument of coercion.\(^ {25}\) However, this work does not shed light on the other side of the coin: treatment of refugees, not by the sending state, but by the host state. Here, the “Haitian-Cuban syndrome” identified by Zolberg, Suhrke, and Aguayo is most relevant.\(^ {26}\) During the 1980s, the US was willing to define Cuban asylum-seekers as refugees since they were coming from an unfriendly communist country. However, similar treatment was not extended to Haitian asylum-seekers. Whether the effects of this “syndrome” are generalizable beyond the US (or, indeed, the Cold War) has not been established.

**Identity Politics of Migration**

The third theme deals with identity politics and challenges to the state/nation unit. The literature has examined the interaction between migration, citizenship, and conceptions of national identity.\(^ {27}\) It has also analyzed the sources of hostile public attitudes and racial conflict, and their connection to anti-immigrant policies.\(^ {28}\) Finally, scholars have looked at when immigrants will be incorporated or mobilize as ethnic minorities, rather than as members of a


\(^{25}\) Greenhill 2010.

\(^{26}\) Zolberg, Suhrke, and Aguayo 1989, 273. See also Hamlin 2012; Loescher and Scanlan 1986; Teitelbaum 1984.


multicultural society. The literature on refugee politics is less developed in this respect. Some studies have noted the role of social receptiveness in general, or examined relations with local host communities. However, the role of ethnic identity in shaping asylum policies has not received much attention.

**Principal-Agent Theory**

The final theme centers around the delegation of asylum policies. For our purposes, delegation can be defined as a conditional grant of authority from a state (the principal) to an international organization (the agent), that empowers the latter to act or make decisions on behalf of the former. In particular, I focus on situations where governments delegate decision-making on asylum applications to UNHCR. An individual may assert that she is a refugee, but her claim must be evaluated to determine whether she has well-founded fear of persecution on the basis of race, religion, nationality, social group membership, or political opinion. Around the world, many governments have transferred responsibility for this RSD process to UNHCR staff, usually codifying this delegation in a Cooperation Agreement or Memorandum of Understanding. Even though scholars have examined the Agency as an autonomous actor, the decision to delegate to it has not been systematically explored.

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31 Hawkins et al. 2006a, 7.
33 Smrkolj 2010, 1785.
Of the potential explanations offered by principal-agent theory for delegation to international organizations, three may appear to apply to the delegation of RSD to UNHCR: specialization gains, managing collaboration, and ensuring lock-in of policy bias.\textsuperscript{35} I argue that, while some of these characterizations may describe RSD delegation better than others, none are complete or entirely persuasive.

One possibility is that states view UNHCR as a “specialized agent,” with the requisite expertise or resources to conduct RSD. Since RSD is a repetitive task that requires specific knowledge, there are gains to be reaped from specialization.\textsuperscript{36} This account is complicated by the fact that the Agency’s involvement in these processes is not explicitly provided for in the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, or the UNHCR Statute. UNHCR has interpreted its refugee protection mandate to allow it to decide on individual asylum applications, but it officially calls for the development of national asylum systems.\textsuperscript{37} At the same time, UNHCR has been critiqued for not complying with the procedural fairness standards it advocates for governments.\textsuperscript{38} Moreover, it is not clear why some governments have switched delegation “on” and “off” over the years, at times using their own RSD process or UNHCR’s. Several countries even have parallel RSD procedures, whereby some asylum-seekers are processed by the government and others by UNHCR. Indeed, having developed bureaucracies that deal with tourism, immigration, and other people flows, governments should be able to create the mechanisms necessary to process asylum-seekers as well.

\textsuperscript{35} Hawkins et al. 2006a, 13.
\textsuperscript{36} Ibid., 13-14.
\textsuperscript{37} See, for example, UNHCR 1977.
\textsuperscript{38} One such critique can be found in Alexander 1999.
Another scenario involves UNHCR functioning as a “collaboration agent” that can prevent the free rider problem by providing public goods itself.\(^{39}\) Scholarship on international cooperation in the global refugee regime has described refugee protection as a public good and sought to examine the roots of collective action failure and burden-sharing.\(^{40}\) Still, if UNHCR is providing a public good by taking on RSD, then it should be puzzling that some countries delegate and others do not. In other words, delegation itself would become subject to the free rider problem. In general, delegation imposes agency costs on the principal (undesired independent action by the agent) and risks agency slack or slippage (shifts in policy away from the principal’s and towards the agent’s preferred outcome).\(^{41}\) In addition, countries that delegate RSD to UNHCR are likely to see some positive number of asylum applications accepted. Each country should therefore face incentives to reject all asylum applications and free ride on other countries who have delegated RSD.

Finally, UNHCR could be acting as a “policy-biased agent” that helps domestic coalitions lock in their desired policy preferences through delegation.\(^{42}\) Under this reasoning, a political party with a preference for some minimum level of asylum admissions may delegate RSD in order to prevent future governments from blocking admissions. A government may also delegate in response to lobbying from powerful domestic interest groups who favor the lock-in of asylum admissions (such as employers in migrant-dependent industries or ethnic relations of those

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\(^{39}\) Hawkins et al. 2006a, 16. Alternatively, collaboration agents can monitor a public good’s provision by individual states. UNHCR certainly provides information about the situation of asylum-seekers and refugees around the world. However, undertaking RSD itself is distinct from UNHCR’s monitoring of RSD practices by individual states. Hawkins et al. also suggest that delegation can help solve coordination problems. Ibid., 15.

\(^{40}\) Betts 2009b; Suhrke 1998; Thielemann 2003.

\(^{41}\) Hawkins et al. 2006a, 8-9.

\(^{42}\) Ibid., 19-20; Moravcsik 2000.
asylum-seekers). In order for this argument to work, however, mandates must be difficult to undo. This is decidedly not the case for RSD delegated to UNHCR. Governments have revoked the Agency’s RSD authority altogether on numerous occasions, indirectly made it difficult for asylum-seekers to file applications (for example, by stationing police officers outside the Agency’s offices), and overturned specific asylum recognition decisions (by, for instance, deporting refugees recognized by UNHCR). At the same time, UNHCR may not necessarily be more likely to grant asylum. For many refugee groups, acceptance rates at UNHCR offices are higher than those of some governments and lower than others.

The other possibilities suggested by principal-agent theory are difficult to relate to RSD delegation. In this case, UNHCR is not acting to set the agenda and enable collective decision-making among principals. Nor is it arbitrating or resolving disputes between states. Lastly, in conducting RSD, UNHCR cannot be said to be enforcing policies to help principals overcome a credible commitment problem. In short, the propositions provided by principal-agent theory do not convincingly explain the decision to delegate RSD to UNHCR.

As the following section explains, I draw together the four strands of literature described above to examine the relationship between asylum policymaking on the one hand, and international and domestic interests and pressures on the other. The relationship between refugee-sending and receiving countries is central, but domestic ethnic politics also play a large role in the policymaker’s calculus. Together, these two factors determine whether a country will shift the burden for refugees to other actors.

43 Freeman has emphasized immigration’s diffuse costs and concentrated benefits to argue that it often results in client politics in liberal democracies. Freeman 1995.
44 See Kagan 2006, 20, fn. 75.
45 Hawkins et al. 2006a, 16.
46 Ibid., 17.
47 Ibid., 18.
Theory in Brief

Refugees undoubtedly entangle international relations and domestic politics. On the one hand, refugees are citizens of one country who cross international borders to seek the protection of another state. Their rights are enshrined in international law, and their plight often attracts international attention. On the other hand, refugees feature in domestic debates about identity and nationalism, and sometimes figure prominently in politicians’ campaign rhetoric. Refugee flows can put strains on the economy and infrastructure and foment domestic resentment or political instability. Though refugees are clearly at the intersection of domestic and international politics, research that combines both levels of analysis has been rare.48

I combine international and domestic mechanisms to explain the variation in states’ asylum policies, the measures used to regulate the entry, exit, and conditions of residence of foreign asylum-seekers and refugees. Policymakers can use refugees to reassure international allies and exert pressure on rivals. At the same time, they have domestic political incentives to favor refugee groups who share their ethnic identity. But when they face conflicting international and domestic pressures, they delegate to the UN.

At the international level, political relations between the refugee-sending and receiving countries shape the sort of reception refugees receive. Adopting a generous asylum policy can encourage citizens of the sending country to flee, while a restrictive policy may dissuade them, with consequences for the sending government’s stability. Moreover, the flight of citizens can be used as evidence that people are “voting with their feet,” which imposes reputational costs on the sending country in the eyes of the world as well as its own people. Asylum policies can also

48 Although see Rosenblum 2004.
enable refugees to engage in activities that oppose the sending government, like supplying an insurgency or engaging in cross-border guerilla activities.

Domestically, policymakers are concerned with political competition between ethnic groups. To maintain their hold on power, leaders accommodate their constituency’s desires by welcoming ethnic kin and treating others poorly. Generous asylum policies towards ethnic kin can also increase the size of the leader’s constituency, while restrictive policies towards others can ensure that his constituency’s relative size is maintained. Finally, asylum policies can help foster in-group favoritism and encourage ethnic mobilization. For these reasons, interstate rivalry and affinity with coethnics lead to generous refugee policies, while refugees from allies who lack ethnic ties receive harsh treatment. When they face conflicting incentives and pressures at the international and domestic levels, policymakers delegate to the UN to avoid antagonizing refugee-sending countries or domestic constituencies.

Alternative explanations for state responses to refugees have tended to emphasize resources and humanitarianism. Sheltering and assisting refugees entails material costs, and they may compete with locals for jobs and social services. Accordingly, the argument goes, poorer states lack the ability to meet these resource demands and will be more likely to shun refugees. Delegation becomes desirable because it shifts the economic burden to international actors and channels resources and technical assistance into the host country.

Another alternative explanation allows that states may behave humanely, whether because they have internalized human rights norms or because they are concerned about their image and reputation. If so, it might be expected that refugees fleeing more pervasive danger will be more warmly received. Delegation to UNHCR, according to this account, ensures that international human rights standards are met.
**Method in Brief**

To test the selective sovereignty theory against these alternative explanations, this project follows a mixed-methods research design that combines quantitative and qualitative approaches. The statistical and case study components complement each other, and in combination provide greater confidence in the findings.

First, quantitative analysis looks at a single component of asylum policy, entry. In this analysis, I examine the percentage of asylum applications accepted, as well as the degree to which countries delegate decisions on these applications. The results establish a correlation between refugee admissions and delegation on the one hand and interstate competition and ethnic affinity on the other.

Second, I trace the causal mechanisms in three qualitative case studies of asylum policymaking in Egypt, Kenya, and Turkey. Here, I draw on four months of fieldwork and close to fifty interviews with policymakers, researchers, and representatives of relevant international organizations and NGOs.

**Significance**

This project contributes to the literature on political responses to globalization processes. While most research has dealt with globalized trade and finance, this study deals with transnational movements of people. In doing so, it also adds to the growing literature on the politics of migration and asylum. Like increased mobility of goods and capital, global migration

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also has consequences for sovereignty and the nation-state. I argue that, in response to refugee flows, countries are selective in their exercise of sovereignty. Foreign policy and ethnic politics determine whether states will jealously guard their sovereignty or cede it to refugee assistance organizations.

The project is also relevant to research on the international sources of domestic politics. Though refugees are clearly at the intersection of domestic and international politics, research that combines both levels of analysis has been rare. I demonstrate that asylum policies are shaped by interstate relations as well as transnational ethnic affinities. At the same time, I show that policies regulating refugee access and treatment can be a foreign policy tool.

In addition, this study contributes to the literature on delegation to international organizations. Existing principal-agent explanations have connected delegation to specialization gains, managing coordination and collaboration, agenda-setting for collective decision-making, dispute arbitration, enforcement and credibility, or ensuring lock-in of policy bias. However, it is not obvious that delegating asylum policy functions to UNHCR fits any of these accounts squarely. Rather, states appear to be delegating primarily to shift responsibility for potentially controversial decisions.

Finally, the results can inform the activities of UN agencies and NGOs by allowing them to target their advocacy and assistance to particular refugee groups. The theory can also help concerned states and the international community forecast when exerting pressure will bear fruit, and when other tools (such as resettlement) must be used instead. There were over 15 million

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51 Although see Rosenblum 2004.
52 On the effects of transnational ethnic affinities, see for example, Cederman, Girardin, and Gleditsch 2009; Davis and Moore 1997; Saideman 2002.
53 Bradley and Kelley 2008b; Hawkins et al. 2006b.
54 Hawkins et al. 2006a, 13-20. See also Bradley and Kelley 2008a.
refugees by the end of 2011, of which more than 7 million were stuck in protracted situations.\footnote{UNHCR 2012.}

Refugee crises in Mali, Somalia, Sudan, and Syria were ongoing at the time of writing. Exploring when and why the rights of these vulnerable populations are respected or abused has enormous normative and policy importance.

**Plan**

The remainder of this dissertation proceeds as follows. Chapter 2 defines the central dependent variable, asylum policy, and lays out the selective sovereignty theory and rival explanations in detail. Chapter 3 then describes the mixed-methods research design and the data used to test the theory. It explains the operationalization of the dependent and explanatory variables used in the quantitative analysis, as well as the case selection rationale and data collection techniques used in the qualitative analysis. Next, Chapter 4 presents the statistical results and reports the robustness tests performed. It is divided into two-parts: an analysis of the proportion of asylum applications accepted by states, and an examination of delegation in the processing these applications. The following three chapters present qualitative case studies of asylum policymaking in Egypt, Kenya, and Turkey. Chapter 5 traces Egypt’s transfer of responsibility for refugees to UNHCR, then compares government policies towards Palestinian, Sudanese, Iraqi, Somali, Eritrean, and Ethiopian refugees. Chapter 6 considers the evolution of Kenya’s encampment policies and UNHCR’s role in managing refugees, then explores the experience of Somali, Sudanese, Ethiopian, Ugandan, and Rwandan refugees. Chapter 7 studies the relationship between Turkey and UNHCR before surveying the treatment accorded to Bulgarian, Iraqi, Iranian, Eastern Bloc, Chechen, and Bosnian/Kosovar refugees. Finally,
Chapter 8 concludes by highlighting cross-case comparisons and outlining avenues of future research.
Chapter 2: Selective Sovereignty

In this chapter, I combine international and domestic mechanisms to explain the variation in states’ asylum policies. Policymakers can use refugees to reassure international allies and exert pressure on rivals. At the same time, they have domestic political incentives to favor refugee groups who share their ethnic identity. But when they face conflicting international and domestic pressures, they delegate to the UN. This chapter defines the dependent variable, details the selective sovereignty theory, and describes alternative explanations.

Asylum Policy

The central dependent variable, “asylum policy,” is defined as a set of measures adopted by a national government to regulate the entry, exit, and conditions of residence of foreign asylum-seekers and refugees. This definition includes both laws or regulations and their implementation. Asylum policy varies within any single country, both over time and across refugee groups.

A refugee is a person who seeks refuge outside her country of origin or nationality due to a well-founded fear of persecution on the basis of race, religion, nationality, social group membership, or political opinion. Alternatively, the refugee may have fled her country due to foreign intervention, interstate war, internal turbulence, or other events seriously disturbing the public order.56

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An “asylum-seeker” is an individual who asserts that he is a refugee, but whose claim has not yet been definitively evaluated. The process that examines whether an individual who seeks asylum is indeed a refugee is called RSD.

These definitions distinguish refugees from voluntary migrants and internally displaced persons (IDPs). Whereas forced migration is conceptualized as flight from persecution or conflict, voluntary migration is assumed to arise from economic motives. Refugee status also requires that an international border be crossed, thereby excluding individuals who flee their homes but remain within the territory of their country.

I use the terms “sending country” and “country of origin” interchangeably to mean the country of the refugee’s nationality. Meanwhile, “receiving country,” “host country,” or “country of refuge” mean the country where the refugee seeks refuge.

<table>
<thead>
<tr>
<th>TABLE 1, Indicators of a state’s asylum policy</th>
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<tbody>
<tr>
<td><strong>1. Legal Framework</strong></td>
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<tr>
<td>International Treaties</td>
</tr>
<tr>
<td>Has the country ratified the 1951 Refugee Convention or its 1967 Protocol?</td>
</tr>
<tr>
<td>National Legislation</td>
</tr>
<tr>
<td>Is there national legislation in force that regulates refugee affairs?</td>
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<tr>
<td><strong>2. Admission and Status</strong></td>
</tr>
<tr>
<td>Entry</td>
</tr>
<tr>
<td>Does the government grant entry to asylum-seekers appearing at the border?</td>
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<tr>
<td>Screening</td>
</tr>
<tr>
<td>Do asylum-seekers have access to status determination procedures?</td>
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<tr>
<td><strong>3. Protection and Security</strong></td>
</tr>
<tr>
<td>Movement</td>
</tr>
<tr>
<td>Are refugees restricted to camps or segregated settlements, or can they choose to self-settle?</td>
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<tr>
<td>Physical Safety</td>
</tr>
<tr>
<td>Are refugees subject to arbitrary detention and/or do they experience physical harm inflicted by agents of the host country?</td>
</tr>
<tr>
<td>Refoulement</td>
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<tr>
<td>Does the government expel or return (refouler) refugees to their country of origin against their will?</td>
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<tr>
<td><strong>4. Basic Needs</strong></td>
</tr>
<tr>
<td>Services</td>
</tr>
<tr>
<td>Do refugees have access to public health services and primary and secondary education?</td>
</tr>
<tr>
<td>Employment</td>
</tr>
<tr>
<td>Are refugees permitted to legally seek wage-earning employment or practice professions?</td>
</tr>
<tr>
<td><strong>5. Durable Solutions</strong></td>
</tr>
<tr>
<td>Integration</td>
</tr>
<tr>
<td>Do long-time refugees have the option of local integration in the host country?</td>
</tr>
</tbody>
</table>

57 In practice, of course, elements of coercion and volition are often implicated in both forced and voluntary migration. Betts 2009a, 4-5.
To identify and compare countries’ asylum policies, Table 1 presents a list of indicators, divided across five broad categories. These indicators were drawn from UNHCR’s Global Strategic Priorities for 2010-2011.58 The Global Strategic Priorities represent the key areas of concern for UNHCR. They are thus a reasonable yardstick to assess the gap between international standards and a given country’s law and practices.59

As Table 1 makes clear, asylum policy is understood to encompass more than just the decision to grant entry to asylum-seekers. Countries select whether to engage in screening asylum-seekers. They select the sorts of rights (restrictions) that are granted (imposed) on refugees. Countries also choose how they will handle repatriation or integration. For a single country, even seemingly general, national-level policies can vary over time and by refugee group. For example, a state may ratify the Refugee Convention but restrict its coverage to certain groups by refusing to designate others as asylum-seekers or refugees.

Delegation to UNHCR is another key feature of many countries’ asylum policies. In 2011, UNHCR had sole responsibility for RSD – the process that examines whether an applicant for asylum is indeed a refugee – in 58 countries.60 A number of countries have the Agency operating refugee camps the size of small cities. Around the world, UNHCR functions as a “surrogate state,” registering refugees, administering social services, managing camps, and establishing policing and justice mechanisms.61

58 UNHCR 2009b; UNHCR 2011b.
59 For a similar effort to derive policy decisions from UN recommendations, see Jacobsen 1996.
60 Annex to UNHCR 2012. See also Abuya and Wachira 2006; Alexander 1999; Kagan 2006; Smrkolj 2010; Stainsby 2009.
The Selective Sovereignty Theory

To explain the variation in asylum policy, I combine foreign policy and ethnic identity in a two-part theory summarized in Table 2. Policymakers will adopt generous policies when refugees are fleeing a hostile state and share the policymaker’s ethnic identity. They will adopt restrictive policies when refugees are fleeing a friendly state and do not share the policymaker’s ethnic identity. When there are conflicting pressures from the international and domestic games, the policymaker will adopt intermediate asylum policies. Delegation of asylum policy functions is most likely at these intermediate categories.

**Table 2. Predictions of selective sovereignty theory**

<table>
<thead>
<tr>
<th>Co-Ethnic Affinity with Refugee Group</th>
<th>Sending Country Relations</th>
<th>Friendly</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hostile</td>
<td>Generous Asylum Policy</td>
<td>Intermediate Asylum Policy (Delegation)</td>
</tr>
<tr>
<td>No Ethnic Tie</td>
<td>Intermediate Asylum Policy (Delegation)</td>
<td>Restrictive Asylum Policy</td>
</tr>
</tbody>
</table>

Both parts of the theory rely on the idea of competitive relations. Internationally, strategic competition between rivals motivates generous asylum policies. Domestically, competition between ethnic groups will result in generous or restrictive asylum policies depending on whether refugees are ethnic kin of the group in power. In deciding how to treat refugees, the policymaker is concerned with political survival at each level. At the same time, both sets of mechanisms have to do with the identity of refugees: nationality at the international level and ethnicity at the domestic level.
Refugees, Foreign Policy, and Ethnic Identity

The first part of the theory deals with foreign policy, and more specifically international political competition between the sending and receiving countries. The intuition derives from the observation that the decision to grant formal refugee status to individuals usually implies condemnation of their sending government. Granting refugee status is an acknowledgement that individuals have a legitimate fear of persecution, thus implicitly reproaching their country of origin for engaging in (or failing to prevent) said persecution. Conversely, when the receiving country supports the sending country it might mistreat refugees who are political dissidents, militant opponents, or class enemies of the sending government.

There are many historical examples of this dynamic. In January 1990, there was a debate over whether Chinese students should be allowed to remain in the US after graduation because they feared persecution in China. President George H. W. Bush argued in favor of extending their visas, while many congressional representatives wanted to extend formal asylum status in order to condemn China. In another famous case, Iranian revolutionaries saw the US decision to permit the Shah of Iran to enter the US for medical reasons as a form of asylum; this may have been one of the reasons behind the decision to take American hostages.\(^{62}\)

A policymaker’s choice of asylum policy is shaped by three interrelated factors that lead them to treat refugees from rivals generously, while cracking down on refugees from allies. First, a receiving country’s asylum policy can undermine or bolster the sending government. Adopting a generous asylum policy can encourage citizens of the sending country to flee, while a restrictive policy may dissuade them, with consequences for the sending government’s stability.

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In fact, the East German case demonstrates that a mass exodus can even stimulate regime collapse. 63

Second, asylum policies can serve to embarrass or commend the sending country. The flight of citizens can be used as evidence that people are “voting with their feet” in an ideological or other conflict. This can serve to discredit an unfriendly sending country in the eyes of the world as well as its own people. The receiving country will not want to impose these reputational (or public relations) costs on friendly countries, however. There are many examples of this dynamic from the Cold War. For example, a 1953 National Security document states that it is US policy to “encourage defection of all USSR nationals,” because defection “inflicts a psychological blow to Communism” and “counters Communist propaganda in the Free World.” 64 Most recently, the Lebanese government has refused to recognize those fleeing friendly Syria as refugees, calling them “those fleeing the unrest.” According to Syrian activists, some asylum-seekers entering Lebanon through the Bekaa valley have even been arrested by the Lebanese army. 65 For its part, the Syrian government has prevented individuals from crossing its border into Jordan and laid landmines along escape routes into Lebanon and Turkey. 66

Third, asylum policies can be used to promote external activities opposing the sending government. Host countries can allow or deny refugees the ability to speak out against their country of origin, send money back home in support of the opposition, or engage in cross-border

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64 qtd. in Zolberg, Sührke, and Aguayo 1986, 155. In fact, from 1952 to 1980 American law defined a refugee as a person fleeing “from a Communist-dominated country or area, or from any country within the general area of the Middle East.” Immigration and Nationality Act, Section 203(a)(7) qtd. in Teitelbaum 1984, 430. Teitelbaum also cites as an example of this argument a 1982 memo from the Central American Refugee Center in Washington: “…granting political asylum to Salvadorans communicates world-wide that the government of El Salvador violates the human rights of its citizens. Since the US aids and supports the government of El Salvador, it does not want to communicate this message…” qtd. in ibid., 439.  
guerilla activities. For instance, the failed Bay of Pigs invasion in 1961 was launched using Cuban exiles.

The second part of the theory deals with ethnic identity and domestic political competition between ethnic groups. Consider a stylized example in which there are two or more ethnic groups in the receiving country. One group is in power while the others are excluded from power. Any of these groups may constitute the majority, or they may be balanced numerically. The central decision-maker is assumed to belong to the ethnic group in power. He wants to retain political power, but the regime type of the receiving country may be democratic or not.

Here, the policymaker will have three incentives to extend favorable treatment to ethnic kin and unfavorable treatment to ethnic others. First, the policymaker has a better chance of maintaining his hold on power if he accommodates his constituency’s desires. Domestic publics generally sympathize with refugees who share with them a common identity, while they might regard ethnic others as a threat. For example, current support for the predominantly Sunni Syrian asylum-seekers in Lebanon is divided along sectarian lines. Lebanese Sunnis have rallied to assist the asylum-seekers, as has Lebanese Prime Minister Sa’ad al-Hariri’s Future Movement. In contrast, the Maronite Christian patriarch recently declared that Syria’s regime was the closest to democracy in the Arab world.

Second, the policymaker prefers to increase or at least preserve the relative size of his constituency to ensure his political survival. Generous asylum policies towards ethnic kin can increase the size of the leader’s constituency, while restrictive policies towards others can ensure that the constituency’s relative size is maintained. In a democracy, this is particularly the case if refugees have the possibility of acquiring voting rights. Even without voting, refugees can form

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67 Weiner 1993, 10, 105.
a bloc that could be mobilized, for example, in situations of ethnic conflict. In short, the leader can use asylum policies to ensure that the domestic ethnic balance changes only in favor of his support coalition.

And third, asylum policies can help foster in-group favoritism. Building on instrumentalist accounts of ethnic conflict, leaders may use refugees as part of their efforts to encourage ethnic mobilization. To remain in power, leaders may foster in-group bias (the tendency to favor one’s own group) amongst their constituents. Supporting ethnic kin (and cracking down on ethnic others) fosters in-group cohesion and favoritism. These tendencies can then help maintain domestic ethnically-based political coalitions.

Although most of the discussion above was framed in terms of admission policies, the same logic should hold for the treatment of refugees after they have been admitted (see Table 1 above). Decision-theoretic models have viewed refugees as utility maximizers who choose the destination from which they will derive the highest net benefit. As such, the type of treatment refugees expect to receive in a host country (in terms of access to the labor market, guarantees of their physical safety, the possibility of naturalization, and so on) could influence whether they choose that country as their destination. At the international level, generous refugee treatment might therefore encourage more individuals to “vote with their feet,” providing more opportunities to undermine, embarrass, or support the opposition to a rival regime. Conversely, restrictive refugee treatment would discourage further refugee flows from allies. At the domestic level, admission as well as post-admission treatment will be shaped by leaders’ need to accommodate their constituencies’ desires, as well as the incentive to foster in-group bias. In

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69 On instrumentalist theories of ethnic conflict, see Barth 1969; Bates 1983; Fearon and Laitin 1996; Hardin 1995; Hardin 2010; Waters 1990.
70 On in-group bias, see Tajfel 1981; Tajfel and Turner 1986.
71 Moore and Shellman 2007; Neumayer 2004; Riddle and Buckley 1998.
addition, generous treatment of co-ethnics could encourage more co-ethnics to seek refuge in a particular host country, thereby shifting the domestic ethnic balance in the leader’s favor. On the contrary, restrictive treatment of ethnic others could discourage further non-kin flows, thereby keeping the ethnic balance favorable to the leader.

*The Decision to Delegate*

I argue that when domestic and international pressures push in opposite directions, policymakers delegate asylum functions in order to insulate themselves from these conflicting pressures. Policymakers are delegating not to get their favored policy, but to have someone else take responsibility for politically-sensitive decisions. Although delegation can make refugee rights violations more visible, the Agency is fairly easy to sanction and may self-censor as well. Delegating particular policy functions removes them from the policymaker’s toolkit, but he retains control of a range of other measures and knows that UNHCR’s own limitations preclude it from enacting major changes.

Importantly, UNHCR appears insulated from domestic and international pressures. The Agency is unaccountable to domestic constituents and shielded from lobbying by domestic interest groups. At the same time, UNHCR’s independent staff give its activities the appearance of neutrality.

Still, once UNHCR is involved on the ground, it can gather information and threaten the host government with bad publicity for rights violations. More importantly, with UNHCR responsible for RSD or camp management, the policymaker loses the ability to use these policy instruments in order to undermine, embarrass, or otherwise oppose a hostile government (or bolster, commend, or support a friendly government). In addition, the policymaker can no longer
use refugee recognition in order to accommodate, enlarge/maintain, or manipulate his constituency.

However, it is fairly easy for a policymaker to sanction UNHCR. He can refuse to honor its refugee status decisions, end its RSD or camp management functions, or simply prevent asylum-seekers from reaching its offices. For example, in 2003, Malaysian police started arresting Indonesians outside UNHCR’s office before they could make appointments. In addition, UNHCR’s desire to continue operating in a receiving country’s territory may make it sensitive to that country’s preferences. This will limit the kinds of criticisms the organization will raise. At the same time, UNHCR is perpetually understaffed and underfunded. Logistically, this limits the number of applications the organization can process and the number of refugees it can assist. Since UNHCR must also try to protect the individuals it recognizes as refugees, it may have incentives to recognize fewer refugees. And delegating RSD or camp management to UNHCR still leaves the policymaker in control of the other policy components listed in Table 1 above. The policymaker (or his agents) still control borders and can engage in arbitrary detention of refugees, or deny them access to social and economic rights. Most importantly, the policymaker retains control of naturalization and *refoulement* decisions. Moreover, delegating a policy function does not mean the policymaker relinquishes control for all groups of incoming refugees; he can determine which particular groups or nationalities will go through a delegated RSD process for example.

To sum up, when domestic and international incentives align, the policymaker has few reasons to delegate to the UN. However, when there are competing domestic and international incentives, 

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72 Hathaway 2005.
73 It is difficult to find direct evidence of this, however, evaluation reports have found large discrepancies between Middle Eastern countries in UNHCR RSD procedures. Loescher 2001, 326.
pressures, the benefits of delegating far outweigh the costs. By delegating, the policymaker avoids paying political costs for controversial decisions since UNHCR appears neutral to domestic and international audiences. At the same time, UNHCR can only have limited influence on other policies and can only assist limited numbers of refugees. Finally, even while delegating RSD or camp management, the policymaker retains control of other policy instruments that can ensure that his constituency’s size is not altered significantly.

**Hypotheses and Observable Implications**

Three central hypotheses derive from the selective sovereignty theory. The first hypothesis deals with the effect of sending country relations. All else equal, I expect a receiving country to adopt more generous asylum policies when it is engaged in hostile political competition with the sending country. Conversely, a receiving country will adopt more restrictive asylum policies when it is a friend of the sending country.

The second hypothesis captures the effect of affinity with the refugee group. In particular, a receiving country is expected to adopt more generous asylum policies when the refugee group shares the ethnic identity of its government or dominant group. On the other hand, a receiving countries should adopt more restrictive asylum policies when there is no ethnic tie.

The combined effect of sending country relations and affinity with the refugee group is additive, as indicated in. Accordingly, a receiving country will adopt the most generous policies when refugees are fleeing a hostile state and are co-ethnics of the policymaker. They will adopt the most restrictive policies when refugees are fleeing a friendly state and do not share the policymaker’s ethnic identity.
The third hypothesis predicts when governments will delegate the formulation or implementation of asylum policies to third-party actors, such as UNHCR officials. In line with discussion above, policymakers should delegate when domestic and international incentives point in opposite directions. Delegation should occur in response to co-ethnic refugees who are escaping a friendly sending country, or refugees who are ethnic others fleeing a hostile sending country.

The theory also yields a number of observable implications. For a snapshot of a case at a single point in time we should observe differences in policy across refugee groups. Holding time constant, this variation in policy across refugee groups should be explained by relations with the sending country and ethnic affinity. Looking at a single case over time we should expect major shifts in asylum policy to coincide with breakpoints or discontinuities in either or both relations with the sending country and ethnic affinity. Although we may not expect the ethnic identity of a refugee group to shift over short periods of time, changes in the receiving country’s leadership may alter the relevant ethnic identity. To go beyond correlation and establish that the hypothesized mechanism is operating, policymakers should cite domestic constituencies and relations with sending countries in order to justify their asylum policies. This is most likely to occur in private documents and internal communications and conversations, but may also appear in public statements, memoirs, and published accounts of events.

For some refugee groups, the national policymaker will face conflicting pressures from the international and domestic levels. In these situations, we should observe divergence between the demands of domestic actors (legislators, political parties, domestic agencies, and interest groups representing the ethnic group in power) on one hand and diplomats and the foreign policy bureaucracy on the other. One possibility is that the refugees share an affinity with the ethnic
group in power but come from a friendly sending country. Here, domestic actors should demand generous asylum policies, while the foreign policy bureaucracy demands restrictive policies. The other alternative is that the refugees are ethnic others, but they are fleeing a hostile sending country. Here, domestic actors should demand restrictive asylum policies, while the foreign policy bureaucracy demands generous policies. Finally, policymakers will be most likely to delegate to UNHCR when they face conflicting pressures from the international and domestic levels.

Overall, the theory does not require restrictive scope conditions. I expect that where ethnic cleavages are not politically salient, the leader will not face domestic pressures, and the logic of international competition will apply alone. Alternatively, policymakers can focus solely on domestic mechanisms if there is state failure in the sending country. Since state failure precludes the possibility of strategic relations between the failed state and countries that are receiving its refugees, the international mechanisms become unimportant. In either of these situations, conflicting domestic and international pressures will not arise and therefore delegation should be unlikely.

Alternative Explanations

Although there has been little theorizing on host states’ asylum policies, two main factors are often advanced to explain state responses to refugees: resources and humanitarianism. Hosting refugees entails material costs and can therefore be more demanding during economic

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75 A failed state is one in which a weak or ineffective central government is unable to project power and exert unrivalled authority on its territory. Zartman 1995.

76 Most research on this topic has been descriptive rather than theoretical, as with Basok 1990; Ferris 1985; Milner 2009; Veney 2007. For an exception that applies a single theoretical framework to permanent residence visas, labor visas, non-permanent visas, and asylum, see Freeman 2006. A list of factors that might shape countries’ responses to mass influxes can be found in Jacobsen 1996.
downturns. As a result, public opinion on asylum policy may be shaped by economic concerns. Refugees increase competition for jobs and social services like housing, education, and health. In developed countries, the welfare state may have to provide for them. And in developing countries, refugees’ use of firewood, consumption of water, and grazing of livestock can result in ecological strain. Host countries are often vocal about these concerns, citing them to justify actions like border closures and refugee encampment.

According to this explanation, economic capacity should determine a state’s ability to deal with the resource demands imposed by refugee inflows. Countries that have low economic absorption capacity should regard refugee inflows as economically and socially destabilizing. Moreover, they should delegate asylum functions because delegation brings resources and technical assistance to the receiving country, effectively shifting the economic burden to the international organization and the international community. This can ease some of the pressure on the host country’s own resources.

Alternatively, states may fashion their policies to reflect “principled beliefs” that align with international human rights norms. Though largely absent from the literature on the politics of human rights, refugees often flee their countries due to human rights violations. Moreover, displaced individuals are entitled to certain universal rights and freedoms in the country that

77 Some research on individual attitudes towards immigration points to the importance of labor market competition and/or the fiscal burden on public services. Dolmas and Huffman 2004; Espenshade and Hempstead 1996; Facchini and Mayda 2009; Hanson, Scheve, and Slaughter 2007; Mayda 2006; Scheve and Slaughter 2001. Still, several studies cast doubt on these economic self-interest arguments: Citrin et al. 1997; Hainmueller and Hiscox 2010.
80 Weiner 1993, 10.
receives them. Indeed, refugee law is considered part of the international human rights regime. States may conform with norms like non-refoulement (which forbids returning a refugee to a country where she might face persecution) out of genuine altruism and empathy or because they seek international legitimacy and national esteem. This account can also be linked to solidarist and cosmopolitan conceptions of international society, which stress Kant’s principle of universal hospitality.

If humanitarianism influences asylum policies, then countries ought to be more generous to refugee groups who are fleeing more pervasive persecution or danger (e.g., widespread human rights violations, deadly violence, or large-scale natural disaster). In addition, countries should delegate asylum policies to UNHCR in order to ensure international humanitarian standards are met, particularly if their own resources are insufficient. The following chapter describes the research strategy used in order to test the selective sovereignty theory against these competing explanations.

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82 The emerging “responsibility to protect” doctrine may be relevant to refugee protection as well. Barbour and Gorlick 2008; Martin 2010; Rimmer 2010.
83 Finnemore and Sikkink 1998.
84 Benhabib 2004; Hurrell 2011.
Chapter 3: Research Design and Data

Chapter 2 detailed the selective sovereignty theory and rival accounts. This chapter identifies the research methods used to test these explanations against each other. This dissertation follows a mixed-methods research design that combines quantitative and qualitative approaches. First, statistical analysis explores general patterns in countries’ decisions to admit refugees and delegate asylum functions. Then, three case studies examine the policymaking process in Egypt, Kenya, and Turkey.

The statistical analysis of a global dataset allows for an examination of trends across a large sample of countries and years. It demonstrates that admission and delegation are correlated with sending country relations and ethnic affinity, and indicates that the selective sovereignty theory may be generalizable. The three case studies go beyond admission to investigate a wider range of asylum policies, relying on interviews and archival research. By undertaking an in-depth examination of asylum policymaking in three countries, they display the causal processes that link asylum policy on the one hand, and sending country relations and ethnic affinity on the other.

Combining these different data collection and methodological techniques allows for a more rigorous investigation of the selective sovereignty theory and increases confidence in the findings. The following section specifies the data used to operationalize the dependent and independent variables used in the quantitative analysis. Then, the case selection rationale and the techniques used for data collection for the qualitative case studies are described.
Quantitative Analysis

The quantitative analysis looks at a single component of asylum policy, entry, because it is the only policy component for which sufficient data exists to enable quantitative analysis. At the same time, granting entry to asylum-seekers is often the most visible and highly publicized aspect of countries’ asylum policies.

In this analysis, I examine why countries accept or reject asylum applications, and when they delegate decisionmaking on these applications. Specifically, I investigate admission decisions undertaken at the level of the individual asylum-seeker and exclude situations where members of a large-scale influx are collectively accorded *prima facie* refugee status. Governments vary in their capacity to control their borders, and many receiving countries have porous and inadequately policed borders. Unlike *prima facie* refugee status (and, perhaps, the total number of asylum applications lodged), individual asylum decisions should not depend on the government’s ability to police the border or ease of access for refugees.

Operationalization: Admission and Rejection

For this part of the analysis, the dependent variable is the receiving country’s “recognition rate” for asylum-seekers from the sending country. The recognition rate is usually interpreted to reflect the proportion of asylum applications approved in any one year. More precisely, UNHCR calculates the recognition rate as the number of decisions recognizing asylum claims in any one year, relative to the number of claims decided upon.

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85 Weiner 1993, 5, 22. Although Veney argues that “even in poor countries the state is more than able to exercise sovereignty by deciding who to let in, who to keep out, how to treat those who are let in, and who to kick out when they are no longer wanted.” Veney 2007, 65.

86 UNHCR 2010.
The “UNHCR Statistical Online Population Database” reports two types of recognition rates, refugee recognition rates and total recognition rates. The latter includes individuals who have been accorded complementary protection status. Receiving states may recognize an individual as a 1951 Convention refugee or grant them complementary protection status. The latter is generally used for individuals who, though not eligible for Convention refugee status, may still have sound reasons for not wishing to return to their home country. The two statuses usually entail different rights and entitlements for the asylum-seeker, with complementary protection often considered a subsidiary or temporary form of protection. The analysis covers only refugee recognition rates. Figure 2 shows the distribution of the dependent variable.

**Figure 2. Histogram and kernel density for asylum recognition rate**

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Note: This graph includes 19,134 directed dyad-year observations. The Epanechnikov function was used to produce the kernel density estimate.

As a proxy for relations between sending and receiving countries, I use data from Erik Gartzke’s Affinity of Nations Index. In particular, I use the measure “s2un4608i,” which is

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UNHCR.
based on two category votes data (1="yes" and 2="no") and includes interpolation for missing
values. Based on votes in the UN General Assembly, the index ranges from -1 (for least
similar interests) to 1 (for most similar interests). Using this proxy assumes that UN voting is
closely correlated with underlying foreign policy interests and political ties between countries.
This is a fairly reasonable assumption, even if UN votes are symbolic.

An ideal ethnic affinity variable would capture the ethnic composition of refugee flows
between countries. However, UNHCR does not collect information on the ethnicity of refugees
and secondary sources are insufficient to code this variable for directed dyads over time.
Instead, a proxy was coded to capture whether, for each directed dyad-year, an ethnic group is in
power in the receiving country but excluded from power in the sending country. The Ethnic
Power Relations (EPR) dataset identifies access to power for politically relevant ethnic groups in
each country, but it does not identify transnational ethnic linkages. The Minorities at Risk
(MAR) dataset uses consistent codes for communal groups living in multiple countries, but only
includes at-risk groups. In combination with secondary sources, two datasets were used to
code a proxy that takes the value 0 (no ethnic tie) or 1 (co-ethnic). Use of this proxy assumes
that most refugees are members of a minority community in their country of origin. Descriptive
statistics and a list of control variables are included in the following chapter.

**Operationalization: Delegation**

To test the selective sovereignty theory’s expectations for delegation, the dependent variable
is an ordinal, or rank-ordered, variable measuring the degree of delegation. This variable

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88 Gartzke 2010.
89 A similar argument is made by, among others, Alesina and Dollar 2000.
90 Cederman, Min, and Wimmer 2009.
91 Minorities at Risk Project 2009.
indicates whether refugee status determination was conducted solely by the government (RSD=1), jointly with UNHCR (RSD=2), or solely by UNHCR (RSD=3). Once again, this data was compiled from the “UNHCR Statistical Online Population Database.”

Figure 3 shows the distribution of asylum recognition rates over time. Though delegation appears to be sharply declining over time, this is largely an artifact of the data. While the number of delegating countries remains roughly the same, the sample increases over time to include more non-delegating countries. This is probably due to improvements in UNHCR data collection for countries where it is not involved in RSD.

**Figure 3. Delegation of refugee status determination over time**

Note: This graph includes 325 country-year observations.

A single variable is needed to account for a receiving country’s relations with all sending countries in each year, but a simple average would be misleading. Accordingly, for each receiving country in each year, I take the average Affinity of Nations Index with all sending

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92 UNHCR.
93 This figure was generated with the STATA user-written command “tabplot.”
countries, weighted by the number of applications made from each sending country. The resulting weighted average ranges from -1 (for least similar interests) to 1 (for most similar interests). This manipulation presumes that, when faced with refugee flows from many countries, a policymaker may choose to delegate or not depending on the proportion of friendly-origin vs. rival-origin refugees.

Also needed is a variable that accounts for the affinity of all refugee groups received by a country in a given year. Once again, the average of the Refugee Group Affinity proxy was taken, weighted by the number of applications from each sending country. The resulting variable is no longer binary, but rather ranges from 0 (no ethnic affinity) to 1 (all co-ethnic).

**Qualitative Analysis**

The qualitative analysis portion of the project involves three case studies of asylum policymaking in Egypt, Kenya, and Turkey. Each case study involves an examination of policies towards several major refugee groups over a roughly fifty-year period. For Egypt, the analysis covers Palestinian, Sudanese, Iraqi, Somali, Eritrean, and Ethiopian refugees; for Kenya, Somali, Sudanese, Ethiopian, Ugandan, and Rwandan refugees; and for Turkey, Bulgarian, Iraqi, Iranian, Eastern Bloc, Chechen, and Bosnian/Kosovar refugees. Accordingly, the three cases actually contain a large number of observations.

**Case Selection**

The cases were selected to maximize the variation on several important factors, including size of refugee population, adoption of refugee camps, application of relevant international treaties, domestic legislation, and relations with UNHCR. In terms of size of refugee population, Kenya is one of the major refugee-hosting countries worldwide; Turkey has largely been able to
repatriate or resettle refugees arriving in mass influxes; and Egypt has received far fewer refugees in comparative terms. While Kenya has adopted a strict refugee encampment policy, Turkey relocates refugees to designated “satellite cities” and Egypt permits them to live where they choose. All three countries have signed the 1951 Refugee Convention, but Turkey maintains a “geographical limitation” that restricts refugee status to Europeans. Egypt lacks any domestic legislation pertaining to refugees, Turkey passed its Asylum Regulation in 1994, and Kenya adopted a Refugee Act in 2006. Finally, whereas Kenya has completely turned over refugee status determination and camp management to UNHCR, both Egypt and Turkey keep some refugee groups outside the Agency’s purview.

With respect to the central explanatory variables posited by the selective sovereignty theory, the three countries have different ethnic groups in power, as well as different patterns of relations with their respective sending countries. The three cases also vary on a set of domestic conditions that might be expected to affect asylum policies, like regime type, intrastate violence, economic conditions, and public attitudes. Egypt is autocratic throughout the period under study, compared to Turkey and Kenya which underwent democratization processes in the 1980s and 1990s respectively. Turkey and Kenya have experienced large-scale ethnic violence, while Egypt has not. The World Bank and the UN have classified Turkey (an OECD member) as an upper-middle-income economy, Egypt as a lower-middle-income economy, and Kenya as a low-income economy. And while refugees are a major public opinion issue in Kenya, probably due to the country’s large refugee population, this is not the case in Turkey and Egypt. With these considerable differences across the three cases, findings that are consistent with the selective sovereignty theory in all three would indicate that the results are likely generalizable and not driven by idiosyncratic case-specific attributes.
As shown in Table 3, these cases also allow for the comparison of policies toward refugee groups across countries. A single refugee group in two countries can have the same labor skills and may be fleeing the same conditions in their home country. If a single refugee group is treated differently by each host country, then it is likely that the results are not being driven by some group-specific characteristic. In effect, refugee group characteristics are being held constant in these cross-case comparisons. The selective sovereignty theory predicts that the treatment received by that refugee group should match each host country’s ethnic affinity and sending country relations.

<table>
<thead>
<tr>
<th>Host Country</th>
<th>Refugee Group</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Sudanese</td>
</tr>
<tr>
<td>Egypt</td>
<td>x</td>
</tr>
<tr>
<td>Kenya</td>
<td>x</td>
</tr>
<tr>
<td>Turkey</td>
<td></td>
</tr>
</tbody>
</table>

**Table 3. Shared refugee groups in Egypt, Kenya, and Turkey**

Data Collection

Data collection involved fieldwork in Cairo, Egypt; Nairobi, Kenya; and Ankara and Istanbul, Turkey. Between 2010 and 2012, I conducted a series of semi-structured interviews with policymakers, researchers, and representatives of relevant international organizations and NGOs. Interviews with policymakers and researchers attempted to discern what constitutes official policy. In addition, representatives of relevant international organizations and NGOs often experience state policy first hand in the course of their work, and studying their experiences through interviews is useful. Interviews involved questions on the individual’s background and his/her organization’s work; the conditions of refugees with which the individual/organization works; the country’s official stance on refugees, legislation, and implementation; and the respondent’s assessment of the sources of asylum policy.
I also gathered primary and secondary sources from the Grey Files Special Collection at the Center for Migration and Refugee Studies at the American University in Cairo, the grey literature collection at the Refugee Studies Centre at the University of Oxford, and the combined libraries of the British Institute in Eastern Africa and the French Institute for Research in Africa. These materials included legislation, government press releases, human rights reports, and statistical surveys.

Finally, the proceedings of the Kenyan and Turkish parliaments were examined to create an archive of content related to foreign asylum-seekers and refugees. For Kenya, I used the online archive of the Kenya National Assembly Official Record (Hansard) to locate every instance between 1966 and 2010 in which the keyword “refugee” or “asylum” were used.\(^{94}\) I also searched for the Swahili verb root -kimbi- (to run or escape), to capture instances where references were being made to refugees (m-/wa-kimbizi), asylum (kimbilio), and asylum-seeking (-kimbilia). For Turkey, a research assistant searched the records of the Grand National Assembly for every usage of the keywords iltica (refuge), mülteci (refugee), and sığınma (asylum) between 1951 and 2010.\(^{95}\) For each country, an archive of annotated screenshots of the parliamentary record was created.

**Measurement**

To test the selective sovereignty theory in each case study, the first step is identifying the presence or absence of regime affinity with refugee groups, as well as the character of relations with sending countries. To identify the ethnic identity of refugee groups as well as that of the

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\(^{94}\) The online Parliament Hansard Archive can be found at: [http://books.google.co.ke/books/about/Kenya_National_Assembly_Official_Record.html?id=pvwVH2fQKWQC](http://books.google.co.ke/books/about/Kenya_National_Assembly_Official_Record.html?id=pvwVH2fQKWQC)

\(^{95}\) The search engine is located at: [http://www.tbmm.gov.tr/develop/owa/td_v2.sorgu_ekrani](http://www.tbmm.gov.tr/develop/owa/td_v2.sorgu_ekrani)
regime, the MAR and EPR datasets were used in combination with secondary sources. In cases where refugees from a single country of origin represent a number of different ethnic identities, the identity of the majority of refugees was used. Relations with a sending country were characterized as friendly or hostile depending on whether there were disputes, material support for opposition groups, alliances, trade agreements, or high-level visits in a given year. For cases in which there is occupation by a third party, that third country was considered the sending country. Although it may or may not be the case that refugees are fleeing the occupier, signals sent by the host country are likely to be directed at the occupier rather than the occupied state. Failed state situations were treated as “missing observations” for the sending country relations variable.

This project measures variation in asylum policy through the use of national legislation, official documentation, or public statements. However, some countries host refugee populations, but have not made explicit their asylum policy in these ways. Implementation gaps are likely to exist here, as they do in other policy areas. To solve these potential difficulties, policy will also be inferred from observed state practice. To ensure that observed practice actually reflects state policy (rather than ad-hoc or individual-level decisions), only practice that seems to stem from senior-level decision-making and that persists over time or is repeated over several different instances will be used to measure policy. For example, chartering airplanes to deport refugees is probably not possible without a decision from the top. At the same time, a police officer may not recognize a refugee card, or fail to respect the rights to protection it entails, though this may not match or represent national-level policy. Finally, in measuring asylum policy it is important to

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96 Cederman, Min, and Wimmer 2009; Minorities at Risk Project 2009.
distinguish rules governing refugees from background conditions or measures that impact all inhabitants of a given state.
Chapter 4: Refugee Status Worldwide

This chapter tests the selective sovereignty theory using a global dataset. I first examine when countries are likely to grant or withhold refugee status. Then, I analyze why countries delegate these decisions on refugee status. The results lend support to the selective sovereignty theory and are robust to a variety of alternative operationalizations.

Admission and Rejection

Data, Descriptive Statistics, and Specification

For this part of the analysis, the unit of observation is the directed dyad-year (an example of a directed dyad-year is Rwanda-to-Tanzania in 1994). As described in Chapter 3, the dependent variable is the receiving country’s “recognition rate,” which reflects the proportion of asylum applications approved from the sending country in any one year. The analysis here is restricted only to those directed dyad-years in which there was some positive number of applications and the receiving country’s government (not UNHCR) was responsible for refugee status determination.

As a proxy for relations between sending and receiving countries, I use Gartzke’s Affinity of Nations Index, which ranges from -1 (for least similar interests) to 1 (for most similar interests). If the selective sovereignty theory is correct, then higher recognition rates should be associated with lower values of this variable. I also use a proxy for ethnic affinity that takes the value 0 (no ethnic tie) or 1 (co-ethnic). If the selective sovereignty theory is correct, then higher recognition rates should be associated with lower values of this variable.

97 The EPR dataset identifies access to power for politically relevant ethnic groups in each country, but it does not identify transnational ethnic linkages. The MAR dataset uses consistent codes for communal groups living in
recognition rates should be associated with higher values of this variable. The operationalization of these two central explanatory variables is described in more detail in Chapter 3.

The resources alternative explanation, expects that economic capacity will determine receptivity to refugees. To capture this logic, \( \ln GDP \ per \ capita \) denotes the natural log of real GDP per capita in 2005 constant prices, as obtained from the Penn World Table (PWT).\(^{98}\)

The humanitarianism alternative explanation suggests that conditions in the sending country, or the potential causes of refugee flows, may affect the asylum policy of the receiving country. The natural log of real GDP per capita in the sending country was taken from the PWT.\(^{99}\) In addition, the Political Terror Scale reflects government human rights violations.\(^{100}\) Information on domestic violence or war was collected from the Major Episodes of Political Violence dataset.\(^{101}\) To indicate whether the receiving country was involved in interstate war in any given year, I use the COW Inter-State War Dataset v4.0.\(^{102}\) In addition, the scaled annual number of deaths from genocide/politicide was taken from the Political Instability Task Force (PITF) State Failure Problem Set.\(^{103}\)

Finally, I control for distance between sending and receiving countries by taking the natural log of kilometers between their capitals, from the CEPII Distances dataset.\(^{104}\)

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\(^{98}\) Heston, Summers, and Aten 2009.
\(^{99}\) Ibid.
\(^{100}\) In years in which both the Amnesty International and US State Department derived-ratings were present, their simple average was taken. Where one of the two ratings was missing, the other was used instead. Gibney, Cornett, and Wood 2010.
\(^{101}\) Marshall 1999.
\(^{102}\) Sarkees and Wayman 2010.
\(^{103}\) Marshall, Gurr, and Harff 2010.
\(^{104}\) CEPII.
After collecting all data, EUGene v. 3.204 was used to generate the full dataset which spans the years 1996-2005 and includes 19,134 observations for 4,246 directed dyads. Table 4 provides descriptive statistics. Brief variable descriptions are provided in Appendix I.

**TABLE 4. Descriptive statistics (Admission and rejection)**

<table>
<thead>
<tr>
<th>Variable</th>
<th>Mean</th>
<th>Std Dev</th>
<th>Min</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asylum Recognition Rate</td>
<td>0.209</td>
<td>0.318</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Sending Country Relations</td>
<td>0.607</td>
<td>0.385</td>
<td>-1</td>
<td>1</td>
</tr>
<tr>
<td>Affinity with Refugee Group</td>
<td>0.022</td>
<td>0.147</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>ln GDP per capita</td>
<td>9.857</td>
<td>0.856</td>
<td>6.198</td>
<td>10.862</td>
</tr>
<tr>
<td>Origin’s ln GDP per capita</td>
<td>8.108</td>
<td>1.085</td>
<td>5.098</td>
<td>11.197</td>
</tr>
<tr>
<td>Origin’s Political Terror</td>
<td>3.131</td>
<td>1.051</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>Origin’s Domestic Violence/War</td>
<td>0.294</td>
<td>0.456</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Origin’s Interstate War</td>
<td>0.019</td>
<td>0.137</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Origin’s Genocide/Politicide</td>
<td>0.082</td>
<td>0.525</td>
<td>0</td>
<td>4.5</td>
</tr>
<tr>
<td>ln Distance</td>
<td>8.343</td>
<td>0.846</td>
<td>2.349</td>
<td>9.866</td>
</tr>
</tbody>
</table>

Since the dependent variable is a proportion, the appropriate estimation technique is a fractional logit regression. Cross-sectional dependence and serial correlation are not likely to be a problem, because the data covers a large number of directed dyads over a small number of time periods \((N>T)\). Still, models with cluster-robust standard errors are reported below to control for autocorrelation and heteroskedasticity.

**Results**

Table 5 reports the results from fractional logit regressions. The dependent variable is the asylum recognition rate and the unit of analysis is the directed dyad-year. Model 1 presents the baseline model while Model 2 includes year dummies. Model 3 includes destination fixed-effects and Model 4 combines destination fixed-effects with year dummies. The selective

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105 Bennett and Stam 2000.
106 Papke and Wooldridge 1996.
107 Unconditional logit fixed-effects estimates can be biased and inconsistent due to the incidental parameters problem. Lancaster 2000; Neyman and Scott 1948. To deal with this issue, I include time-averages of the nine
sovereignty theory is primarily concerned with explaining within-country variation, so the
models with country fixed-effects (Models 3 and 4) will make for the best test. For each model,
coefficient estimates and cluster-robust standard errors are reported.

**Table 5. Fractional logit regression for asylum recognition rates**

<table>
<thead>
<tr>
<th></th>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
<th>(4)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DV: Asylum Recognition Rate</strong></td>
<td>Baseline Model</td>
<td>Year FEs</td>
<td>Destination FEs</td>
<td>Year &amp; Destination FEs</td>
</tr>
<tr>
<td>Sending Country Relations</td>
<td>-0.685***</td>
<td>-0.691***</td>
<td>-0.335***</td>
<td>-0.327***</td>
</tr>
<tr>
<td></td>
<td>(0.060)</td>
<td>(0.061)</td>
<td>(0.104)</td>
<td>(0.107)</td>
</tr>
<tr>
<td>Refugee Group Affinity</td>
<td>0.506***</td>
<td>0.496***</td>
<td>0.388**</td>
<td>0.390**</td>
</tr>
<tr>
<td></td>
<td>(0.135)</td>
<td>(0.133)</td>
<td>(0.158)</td>
<td>(0.156)</td>
</tr>
<tr>
<td>In GDP per capita</td>
<td>-0.654***</td>
<td>-0.648***</td>
<td>-1.536***</td>
<td>-1.306***</td>
</tr>
<tr>
<td></td>
<td>(0.030)</td>
<td>(0.031)</td>
<td>(0.201)</td>
<td>(0.313)</td>
</tr>
<tr>
<td>Origin’s ln GDP per capita</td>
<td>-0.090***</td>
<td>-0.087***</td>
<td>-0.137***</td>
<td>-0.136***</td>
</tr>
<tr>
<td></td>
<td>(0.026)</td>
<td>(0.027)</td>
<td>(0.027)</td>
<td>(0.027)</td>
</tr>
<tr>
<td>Origin’s Political Terror</td>
<td>0.166***</td>
<td>0.173***</td>
<td>0.266***</td>
<td>0.270***</td>
</tr>
<tr>
<td></td>
<td>(0.029)</td>
<td>(0.029)</td>
<td>(0.029)</td>
<td>(0.029)</td>
</tr>
<tr>
<td>Origin’s Domestic Violence/War</td>
<td>-0.166***</td>
<td>-0.198***</td>
<td>-0.233***</td>
<td>-0.247***</td>
</tr>
<tr>
<td></td>
<td>(0.058)</td>
<td>(0.059)</td>
<td>(0.057)</td>
<td>(0.057)</td>
</tr>
<tr>
<td>Origin’s Interstate War</td>
<td>0.070</td>
<td>0.076</td>
<td>0.119</td>
<td>0.152</td>
</tr>
<tr>
<td></td>
<td>(0.120)</td>
<td>(0.121)</td>
<td>(0.120)</td>
<td>(0.121)</td>
</tr>
<tr>
<td>Origin’s Genocide/Politicide</td>
<td>0.028</td>
<td>0.029</td>
<td>0.032</td>
<td>0.033</td>
</tr>
<tr>
<td></td>
<td>(0.040)</td>
<td>(0.040)</td>
<td>(0.038)</td>
<td>(0.038)</td>
</tr>
<tr>
<td>ln Distance</td>
<td>0.351***</td>
<td>0.356***</td>
<td>0.053</td>
<td>0.055</td>
</tr>
<tr>
<td></td>
<td>(0.037)</td>
<td>(0.037)</td>
<td>(0.042)</td>
<td>(0.042)</td>
</tr>
<tr>
<td>Constant</td>
<td>2.723***</td>
<td>3.180***</td>
<td>6.745***</td>
<td>7.173***</td>
</tr>
<tr>
<td></td>
<td>(0.448)</td>
<td>(0.462)</td>
<td>(1.806)</td>
<td>(1.803)</td>
</tr>
<tr>
<td>N</td>
<td>19134</td>
<td>19134</td>
<td>19134</td>
<td>19134</td>
</tr>
<tr>
<td>Log-Likelihood</td>
<td>-7967.756</td>
<td>-7949.889</td>
<td>-7700.778</td>
<td>-7686.309</td>
</tr>
<tr>
<td>χ² (df)</td>
<td>764.332 (9)</td>
<td>823.999 (18)</td>
<td>1146.598 (18)</td>
<td>1197.159 (27)</td>
</tr>
<tr>
<td>Significance Probability of Model</td>
<td>&lt;0.000</td>
<td>&lt;0.000</td>
<td>&lt;0.000</td>
<td>&lt;0.000</td>
</tr>
<tr>
<td>Corr(Y, Ŷ)</td>
<td>0.336</td>
<td>0.341</td>
<td>0.406</td>
<td>0.409</td>
</tr>
</tbody>
</table>

*Note*: Models 2 and 4 include year dummies, but coefficients are not reported. Robust standard errors, clustered on the directed dyad, are in parentheses. *p<.10, **p<.05, *** p<.01.

As expected, the coefficient on *Sending Country Relations* is negative and statistically
significant, while *Refugee Group Affinity* is positive and statistically significant, even when
controlling for the alternative explanations. For easier interpretation, Figure 4 plots average
marginal effects for Model 1. A one-point improvement in *Sending Country Relations* decreases
independent variables for each destination country rather than using destination dummies. Papke and Wooldridge 2008.
the asylum recognition rate by 10.5% on average. Meanwhile, a shift from no ethnic tie to co-ethnicity raises the asylum recognition rate by 7.8% on average.

**FIGURE 4.** Average marginal effects from fractional logit regressions of asylum recognition rates

![Graph showing marginal effects](image)

*Note:* Error bars represent 95% confidence intervals. Year dummies are included in Models 2 and 4, but marginal effects are not plotted. Models 3 and 4 include destination fixed-effects.

While the receiving country’s *ln GDP per capita* is significant, it has a negative sign. This indicates that wealthier countries are less likely to grant entry to refugees, contrary to the resources alternative hypothesis. The results lend some support to the humanitarianism explanation, but the effects associated with it are smaller than those for sending country relations and refugee group affinity. A one-point increase in *Origin’s ln GDP per capita* decreases the asylum recognition rate by about 1.4% on average. *Origin’s Political Terror* also has a marginal effect around 2.6%. These two results indicate that as conditions in the sending country worsen,
receiving countries will accept more refugees. In contrast, the coefficient on *Origin’s Domestic Violence/War* is negative. Perhaps refugees fleeing civil war are less welcome on average due to the diffusion of conflict effects they are thought to have.

Figure 5 plots the average predicted asylum recognition rate for different values of the two key independent variables *Sending Country Relations* and *Affinity with Refugee Group*. According to the selective sovereignty theory, co-ethnics from a hostile country will be treated most generously, while refugees who lack an ethnic tie and come from a friendly country will face the most restrictive treatment. Model 1 predicts that the former group will have a 53% asylum recognition rate on average, while the latter will only receive a 16.8% recognition rate. The difference between these two categories is greater than 35%.

**FIGURE 5. Average predicted asylum recognition rate**

*Note:* Model 1 was used to predict average asylum recognition rates. Shaded areas represent 95% delta method confidence intervals.
In short, the results lend support to the selective sovereignty theory. The material resources alternative explanation receives little support, while there is mixed support for the humanitarianism argument.

Robustness Checks

Interpolating missing values for the dependent variable adds 1,916 observations but otherwise does not change the results significantly. Restricting the analysis to a minimum number of applications submitted during the year (10 or 100) did not alter the results. Transforming the dependent variable into a four-level ordinal variable and running an ordered logit regression also yielded the same results. Findings are also robust to adding an Origin Regime Type variable, whether this is the Revised Combined Polity score from the Polity IV Project or the sum of Freedom House’s political rights and civil liberties indices.\(^{108}\)

The results reported above are also robust to a number of different operationalizations of the independent variables. Regressions were run with summed civil and ethnic violence and war magnitude scores from the Major Episodes of Political Violence dataset as well as intra-state war from the COW Intra-State War Dataset v4.0.\(^{109}\) For interstate war, the intensity level and cumulative intensity of war was taken from the UCDP/PRIO Armed Conflict Dataset v.4-2011.\(^{110}\) Scaled deaths from genocide/politicide was also replaced with incidence of genocide/politicide from the PITF State Failure dataset. In all cases, results remained largely the same.

\(^{109}\) Sarkees 2000; Sarkees and Wayman 2010.  
\(^{110}\) Gleditsch et al. 2002.
Delegation

Data, Descriptive Statistics, and Specification

To test the selective sovereignty theory’s expectations for delegation, the unit of observation is the receiving country-year. The dependent variable measures whether refugee status determination was conducted solely by the government (RSD=1), jointly with UNHCR (RSD=2), or solely by UNHCR (RSD=3).

To capture a receiving country’s relations with all sending countries in each year, I take the average Affinity of Nations Index with all sending countries, weighted by the number of applications made from each sending country. The resulting weighted average ranges from -1 (for least similar interests) to 1 (for most similar interests). If the hypothesized relationship posited above is correct, then higher recognition rates should be associated with lower values of this variable. Similarly, the affinity of all refugee groups received by a country in a given year is captured by taking the average of the Refugee Group Affinity proxy, weighted by the number of applications from each sending country. The resulting variable ranges from 0 (no ethnic affinity) to 1 (all co-ethnic). Once again, see Chapter 3 for a description of how the dependent and key explanatory variables were operationalized. Since the selective sovereignty theory postulates that relations with sending country and ethnic affinity have an interactive (rather than additive) effect on delegation, an interaction variable is included in the regression.

A number of control variables are included in the regression, such as the lagged asylum recognition rate. I also control for whether the receiving country is a member of UNCHR’s Executive Committee (ExCom). Countries that sit on this committee may find delegation more acceptable since they have some control over UNHCR’s policies. A control variable coding
whether the receiving country has acceded to the 1951 Convention and its 1967 Protocol is included as well.

Both the resources and humanitarianism alternative explanations expect that countries will be more likely to delegate as the burden of processing applications becomes heavier. Delegation frees up the receiving country’s resources and ensures that applications will be processed according to international standards. To capture this dynamic, several variables are included in the regression. The natural log of the lagged refugee stock in the destination country was computed using UNCHR’s Statistical Online Population database, as was the number of countries from which asylum applications were received in the previous year. I also include the receiving country’s ln GDP per capita and the lagged number of asylum applications received per capita.

<table>
<thead>
<tr>
<th>Variable</th>
<th>Mean</th>
<th>Std Dev</th>
<th>Min</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Refugee Status Determination</td>
<td>0.742</td>
<td>0.907</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Sending Country Relations, (s_t)</td>
<td>0.885</td>
<td>0.202</td>
<td>-0.732</td>
<td>1</td>
</tr>
<tr>
<td>Refugee Group Affinity, (w_t)</td>
<td>0.118</td>
<td>0.243</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Asylum Recognition Rate, (t_{t-1})</td>
<td>0.482</td>
<td>0.355</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>ExCom Member</td>
<td>0.277</td>
<td>0.448</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Refugee Treaty</td>
<td>0.942</td>
<td>0.235</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>ln Refugee Stock, (n_{t-1})</td>
<td>8.069</td>
<td>2.716</td>
<td>0</td>
<td>13.241</td>
</tr>
<tr>
<td>Number of Origin Countries, (s_{t-1})</td>
<td>12.489</td>
<td>11.793</td>
<td>1</td>
<td>64</td>
</tr>
<tr>
<td>ln GDP per capita</td>
<td>8.356</td>
<td>0.989</td>
<td>6.028</td>
<td>10.302</td>
</tr>
<tr>
<td>Applications per capita, (t_{t-1})</td>
<td>0.215</td>
<td>0.771</td>
<td>0.000</td>
<td>6.558</td>
</tr>
</tbody>
</table>

*Note: All variables have 325 country-year observations, except ln GDP per capita which has only 316 observations.*

Since the dependent variable is ordinal, an ordinal logit regression is used.\(^{111}\) Fixed-effects are included because the selective sovereignty theory deals with changes in policy within a given country. These are implemented using a “Blow-Up and Cluster” (BUC) estimator, which

\(^{111}\) A likelihood ratio test (with the STATA user-written command “omodel”) and a Brant test support the proportional odds assumption.
discards countries that have no variation over time on the dependent variable. The resulting dataset spans the years 1997-2005 and includes 49 countries. Table 6 provides descriptive statistics.

Results

Table 7. Fixed-effects ordered logit regression for refugee status determination

<table>
<thead>
<tr>
<th>DV: Refugee status determination</th>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sending Country Relations&lt;sub&gt;i,t&lt;/sub&gt;</td>
<td>-4.503**</td>
<td>-4.907**</td>
<td>-3.996*</td>
</tr>
<tr>
<td></td>
<td>(2.125)</td>
<td>(2.326)</td>
<td>(2.413)</td>
</tr>
<tr>
<td>Refugee Group Affinity&lt;sub&gt;i,t&lt;/sub&gt;</td>
<td>-17.836**</td>
<td>-18.111**</td>
<td>-15.222*</td>
</tr>
<tr>
<td></td>
<td>(7.616)</td>
<td>(7.590)</td>
<td>(8.686)</td>
</tr>
<tr>
<td>Relations&lt;sub&gt;i,t&lt;/sub&gt; × Affinity&lt;sub&gt;i,t&lt;/sub&gt;</td>
<td>19.449**</td>
<td>19.765**</td>
<td>17.299*</td>
</tr>
<tr>
<td></td>
<td>(8.590)</td>
<td>(8.603)</td>
<td>(9.375)</td>
</tr>
<tr>
<td>Asylum Recognition Rate&lt;sub&gt;i,t&lt;/sub&gt;</td>
<td>0.537</td>
<td>0.511</td>
<td>0.637</td>
</tr>
<tr>
<td></td>
<td>(0.590)</td>
<td>(0.575)</td>
<td>(0.584)</td>
</tr>
<tr>
<td>ExCom Member</td>
<td>-0.352</td>
<td>-0.270</td>
<td>-1.816*</td>
</tr>
<tr>
<td></td>
<td>(0.986)</td>
<td>(1.010)</td>
<td>(0.944)</td>
</tr>
<tr>
<td>Refugee Treaty</td>
<td>-0.431</td>
<td>-0.538</td>
<td>-0.234</td>
</tr>
<tr>
<td></td>
<td>(1.563)</td>
<td>(1.665)</td>
<td>(1.908)</td>
</tr>
<tr>
<td>In Refugee Stock&lt;sub&gt;i,t&lt;/sub&gt;</td>
<td>—</td>
<td>0.004</td>
<td>0.107</td>
</tr>
<tr>
<td></td>
<td>—</td>
<td>(0.147)</td>
<td>(0.173)</td>
</tr>
<tr>
<td>Number of Origin Countries&lt;sub&gt;i,t&lt;/sub&gt;</td>
<td>—</td>
<td>-0.025</td>
<td>-0.003</td>
</tr>
<tr>
<td></td>
<td>—</td>
<td>(0.029)</td>
<td>(0.030)</td>
</tr>
<tr>
<td>In GDP per capita</td>
<td>—</td>
<td>—</td>
<td>-1.206</td>
</tr>
<tr>
<td></td>
<td>—</td>
<td>—</td>
<td>(2.548)</td>
</tr>
<tr>
<td>Applications per capita&lt;sub&gt;i,t&lt;/sub&gt;</td>
<td>—</td>
<td>—</td>
<td>-0.694**</td>
</tr>
<tr>
<td></td>
<td>—</td>
<td>—</td>
<td>(0.273)</td>
</tr>
</tbody>
</table>

\[ N: 607 \quad 607 \quad 587 \]

\[ Log-Likelihood: -148.392 \quad -147.845 \quad -132.391 \]

\[ \chi^2 (df): 69.056 (14) \quad 70.063 (16) \quad 91.788 (18) \]

\[ Significance Probability of Model: <0.000 \quad <0.000 \quad <0.000 \]

\[ Pseudo-R2: 0.329 \quad 0.331 \quad 0.380 \]

Note: All models include year dummies, but coefficients are not reported. Standard errors, clustered on country, are in parentheses. *p<.10, **p<.05, *** p<.01.

112 Simply including country dummies in a nonlinear regression would lead to inconsistent estimates due to the incidental parameters problem. For a dependent variable with \( K \) categories, the “Blow-Up and Cluster” estimator makes \( K-1 \) of copies each observation, dichotomizes every copy at a different cutoff point, and then estimates a conditional maximum likelihood logit using the entire sample with errors clustered at the country level. Baetschmann, Staub, and Winkelmann 2011. A recent analysis found that this estimator outperformed other proposed alternatives in terms of consistency and efficiency. Geishecker and Riedl 2012. To implement this estimator in STATA, I use the user-written command “bucologit” from Dickerson, Hole, and Munford 2012.
Table 7 reports the results from fixed-effects ordered logit regressions. The dependent variable is delegation of refugee status determination and the unit of analysis is the country-year. For each model presented, coefficient estimates and cluster-robust standard errors are reported.

Unfortunately, marginal effects and predicted probabilities cannot be calculated with BUC estimation. Instead, the signs and magnitudes of coefficients should be compared within each regression.

TABLE 8. Effect of independent variables on the probability of delegation

<table>
<thead>
<tr>
<th>Increase in Sending Country Relations, (w)</th>
<th>Co-Ethnic Refugee Group</th>
<th>No Ethnic Tie with Refugee Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>(\uparrow) Prob(delegation)</td>
<td>(\downarrow) Prob(delegation)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Increase in Refugee Group Affinity, (w)</th>
<th>Hostile Sending Country</th>
<th>Friendly Sending Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>(\downarrow) Prob(delegation)</td>
<td>(\uparrow) Prob(delegation)</td>
<td></td>
</tr>
</tbody>
</table>

The results are consistent with the predictions of the selective sovereignty theory. The coefficients for the two central independent variables – relations with the sending country and ethnic affinity with the refugee group – and their interaction are significant. Recall that the variable \(Sending Country Relations\) equals one when relations are friendliest and negative one when relations are most hostile; \(Refugee Group Affinity\) equals one when refugees are co-ethnics and zero when there is no ethnic tie. Using these numbers in Model 1, we see that an improvement in \(Sending Country Relations\) decreases the probability of delegation when the refugees do not share an ethnic tie. When refugees are co-ethnics, an improvement in \(Sending Country Relations\) has a positive effect on the probability of delegation. When \(Sending Country Relations\) are friendly, a move from no ethnic tie to co-ethnicity has a positive effect on the probability of delegation. But when \(Sending Country Relations\) are hostile, a move from no ethnic tie to co-ethnicity has a negative effect on the probability of delegation. Table 8
summarizes these effects. In short, delegation is most likely when policymakers face competing incentives at the international and domestic levels.

It is worth noting that the coefficients on most of the other variables are insignificant. In Model 3, membership in UNHCR’s ExCom and the lagged number of applications per capita are significant. However, the signs on both of these variables are negative. These results indicate that governments are less likely to delegate when they are members of ExCom or receive a larger number of applications. This casts doubt on the resources and humanitarianism alternative explanations.
Chapter 5: “Politics Overtakes Policy” in Egypt

The previous chapter showed that asylum admissions and delegation are correlated with sending country relations and ethnic affinity. In this chapter, an in-depth case study of Egypt expands the analysis to a broader range of asylum policies and traces the changes in these over time. The case study examines Egypt’s policy responses towards its six largest refugee groups (Palestinian, Sudanese, Iraqi, Somali, Eritrean, and Ethiopian) between 1948 and 2010.

The Egyptian case is interesting for several reasons. Despite the fact that Arab countries collectively host around half of all refugees, the asylum policy literature has tended to focus on developed countries’ asylum decisions. Egypt, in particular, hosts one of the world’s five largest urban refugee populations and was recently chair of UNHCR’s ExCom.113 Egyptian asylum policy is often described as having been traditionally generous, but becoming more restrictive in recent years.114 In 2009, the US Committee for Refugees and Immigrants (USCRI) included the country on its list of the worst places for refugees, highlighting that Egyptian border guards had shot some 33 Africans trying to cross into Israel.115

The conventional wisdom about Egypt’s asylum policy is that there is, in fact, no policy. This idea was echoed by many researchers and NGO personnel I interviewed. One expert wondered: “Does Egypt have or care to have a refugee policy?” He doubted there was an underlying pattern to the government’s responses to refugees, suggesting that the “government may not think about refugees very much … it couldn’t care less.”116 Another researcher

113 Sperl 2001, 1.
114 UNHCR 2009a.
115 USCRI 2009.
described the country’s asylum policy as “inconsistent” and “ad-hoc.” Indeed, Egypt does not have domestic refugee legislation or a single, clearly-articulated official asylum policy.

However, this chapter will demonstrate that, contrary to the conventional wisdom, there are clear patterns in Egypt’s responses to refugees. The fluctuation in policies over time and their variation by refugee group lends some plausibility to the selective sovereignty theory described above. In the words of one researcher, when it comes to refugees in Egypt, “politics has overtaken policy.”

Major Refugee Groups

![Figure 6. Egypt’s refugee populations by country of origin, 2002-2010](image-url)

*Note:* Data obtained from the UNHCR Statistical Online Population Database. Figures for Palestinian refugees are government estimates. All other figures only include individuals registered by UNHCR.

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117 Ray Jureidini (Director, Center for Migration and Refugee Studies). Personal interview by author. American University in Cairo, Cairo, Egypt, June 15, 2010.

118 Hania Sholkamy (Assistant Professor, Social Research Center). Personal interview by author. American University in Cairo, New Cairo, Egypt, June 20, 2010.
Figure 6 presents UNHCR estimates for refugees in Egypt from 2002 to 2010.\footnote{119} The country hosts refugees from 38 countries, with the largest refugee populations originating from the Palestinian territories, Sudan, Iraq, and Somalia (with a growing number of Eritreans and Ethiopians). The analysis below focuses on these six largest refugee groups.

Obviously, the displacement of each group of refugees followed a different temporal pattern. The first significant flow of Palestinian refugees occurred with the 1948 declaration of the state of Israel and the Arab-Israeli war that ensued. Sudanese refugees followed in the mid-1950s, displaced by First Sudanese Civil War. Then, the Ethiopian Red Terror, beginning in 1977, generated a wave of Ethiopian refugees. And while Eritreans have long been part of the refugee flows from Ethiopia, they can only be said to be fleeing “Eritrea” after that country gained its independence from Ethiopia in the early 1990s. Starting in 1991, the Somali civil war also sparked a movement of Somali refugees into Egypt. Many years later, large numbers of Iraqi refugees began arriving in Egypt, fleeing the wave of violence sparked by the 2006 al-Askari Mosque bombing. In the absence of any major repatriation, resettlement, or secondary movement trends, the majority of refugees arriving in Egypt tended to stay in the country.

For these reasons, the analysis below begins in a different year for each refugee group, reflecting the time period when that group had a significant numerical presence in the country. For all groups, the analysis goes up to 2010, the last year for which data was collected. Thus, I examine policies towards Palestinians during the period 1948-2010, Sudanese during 1956-2010, etc.

\footnote{119} Of course, the size of refugee populations is difficult to know with certainty. Some asylum-seekers never register with UNHCR, while others have been rejected by the Agency but remain in the country. For example, while only 6,644 Iraqi asylum-seekers and refugees were registered with UNHCR in Egypt in 2009, the US Committee for Refugees and Immigrants (USCRI) estimated that there were nearly 20,000 to 50,000. USCRI 2009. Prior to 2002, UNHCR did not report figures for the sizeable Palestinian refugee population that has resided in Egypt for decades. Kagan, 433.

Across these time periods, there does not appear to be any variation in the major refugee groups’ settlement patterns. There are no refugee camps in Egypt. The majority of refugees reside in the capital, Cairo, and the second largest city, Alexandria. Of course, refugees of a single nationality may still converge on certain suburbs or neighborhoods, as with Sudanese refugees in Ain Shams, Arba wa Nus, Maadi, Nasr City, and 6th of October.

**Ethnic Affinity, Sending Country Relations, and Expected Findings**

If the selective sovereignty theory is correct, we should expect variation in Egyptian policy across refugee groups to be explained by relations with the sending country and ethnic affinity. Moreover, over time we should expect major shifts in asylum policy to coincide with breakpoints or discontinuities in relations with the sending country. If variation in asylum policy across refugee groups and over time occurs in the absence of variation in the receiving country’s economic performance or humanitarian concerns, then the selective sovereignty theory is strengthened vis-à-vis these alternative explanations.

**TABLE 9. Ethnic affinity and sending country relations for Egypt’s major refugee groups, 1948-2010**

<table>
<thead>
<tr>
<th>Refugee Group</th>
<th>Ethnic Affinity</th>
<th>Sending Country Relations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Hostile</td>
</tr>
<tr>
<td><em>Palestinian</em></td>
<td>Co-ethnic</td>
<td>1948-1977</td>
</tr>
<tr>
<td><em>Iraqi</em></td>
<td>Co-ethnic</td>
<td>—</td>
</tr>
<tr>
<td><em>Somali</em></td>
<td>No ethnic tie</td>
<td>—</td>
</tr>
<tr>
<td><em>Eritrean</em></td>
<td>No ethnic tie</td>
<td>—</td>
</tr>
</tbody>
</table>
The first step is identifying the presence or absence of ethnic affinity with the refugee groups, as well as the character of sending country relations. Table 9 presents this information for Egypt’s six largest refugee groups: Palestinian, Sudanese, Iraqi, Somali, Eritrean, and Ethiopian refugees. This coding is discussed below, and further details are provided in Appendix II.

The dominant ethnic identity for Egypt is taken to be “Arab Muslim.” For the refugee groups, the majority ethnicity is “Arab Muslim” for Palestinians, “Southerners and Darfur Black Muslims” for Sudanese, “Arab Sunni” for Iraqis, “Darood, Hawiye, Issaq, Dir and Rahenweyn” for Somalis, “Black Muslim and Christian” for Eritreans, and “Black Muslim and Christian” for Ethiopians. Thus, Palestinian and Iraqi refugees share an ethnic affinity with Egyptians, but there is no ethnic tie for the other refugee groups.

Somalia is a failed state throughout the period under consideration, so it is difficult to speak meaningfully of Egyptian relations with a Somali government. Accordingly, Somalia is treated as a missing observation for sending country relations. For the other refugee groups, I identify the time periods in which sending country relations can be characterized as friendly or hostile.

In the case of Palestinian refugees, relations between Egypt and Israel were decidedly hostile in the first three decades, and were marked by major wars in 1948, 1956, 1967, and 1973. Egyptian-Israeli relations were transformed, however, with the signing of the Camp David Accords. With Sudan, there was a dispute over the Halaib border region immediately following Sudanese independence. Relations quickly improved, however, and remained friendly until Sudanese President, and close Egyptian ally, Jaafar Nimeiry was overthrown. Egyptian hostility towards successive Sudanese presidents was manifested in the support it provided to opposition parties and rebel movements. It was only in the late 1990s that bilateral relations were normalized. In contrast, there were no shifts between hostility and friendship for Iraqi refugees.
The US was effectively occupying Iraq throughout 2006-2010, and Egypt was an American client and strategic ally. Similarly, relations between Egypt and Eritrea have been warm ever since the latter secured its independence. In fact, Egyptian backing for Eritrean separatists was one source of hostility between Egypt and Ethiopia in the late 1970s. Disputes over Nile diversion projects, and Egypt’s support for Somalia’s irredentist ambitions, damaged relations between Egypt and Ethiopia further. Even though the two countries managed to smooth matters over in the 1980s, relations soured once again when Egypt sided with Eritrea in the Eritrean-Ethiopian border war of 1998-2000. Almost immediately after the war, however, Egypt and Ethiopia were able to salvage their bilateral relationship through a series of high-level official visits.

With the brief discussion above and as detailed in Appendix II, it is worth noting that there is no evidence that sending country relations are endogenous to refugee policies. That is, there is no evidence that the refugee flows themselves or the treatment of refugees by Egypt is responsible for the patterns of hostility or friendship between sending and receiving country. In every case, sending country relations appear to be exogenous to refugee policies and patterns.

Based on Table 9, the predictions of the selective sovereignty theory can be stated. As shown in Table 10, a shift in asylum policy from generous to intermediate is expected for Palestinian refugees in 1978 while Sudanese refugees should experience several shifts between intermediate and restrictive asylum policies. For Iraqi refugees, there are no expected shifts in asylum policy since affinity and sending country relations remain constant. However, Iraqi refugees are expected to experience an intermediate asylum policy relative to other refugee groups. Because Somali refugees are fleeing a failed state, only the domestic ethnic mechanism is expected to apply. Finally, the government should attempt to shift the burden to UN agencies
for Palestinian refugees starting in the late 1970s, for Sudanese refugees starting in the mid-1980s, and for Iraqi refugees throughout their presence in the country.

**Table 10. Predicted asylum policies for Egypt**

<table>
<thead>
<tr>
<th>Sending Country Relations</th>
<th>Co-Ethnic</th>
<th>No Ethnic Tie</th>
</tr>
</thead>
</table>

As Table 9 and Table 10 make clear, this single case study contains ample variation on the two central variables posited by the selective sovereignty theory. A comparison of asylum policies across refugee groups and over time tests whether generosity, restrictiveness, and delegation are explained by ethnic affinity and sending country relations. At any single point in time, Egypt’s economic performance and humanitarian concerns are effectively being held “constant” across refugee groups. Moreover, a single refugee group’s labor skills as well as the conditions they have fled may remain unchanged, though ethnic affinity and sending country relations will vary over time.

Below, I will examine the general contours of Egypt’s asylum policy and the government’s relationship with UNHCR and the UN Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA). Then, policies towards the six largest refugee groups (Palestinians, Sudanese, Iraqis, Somalis, Eritreans, and Ethiopians) will be detailed before a summary of
findings is presented. In general, the results lend some support to the selective sovereignty theory though they do not fully match the predictions described above.

“Responsibility Shift”

Egypt was on the drafting committee for the 1951 Convention Relating to the Status of Refugees, and UNHCR established its office in the country following the signing of a 1954 Memorandum of Understanding (MoU) with the Egyptian government. Still, Egypt only ratified the Refugee Convention in 1981, along with its 1967 Protocol, and the 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa. The Egyptian government entered reservations to five articles in the Refugee Convention, relating to personal status (art. 12(1)), rationing (art. 20), public education (art. 22(1)), public relief (art. 23), and labor legislation and social security (art. 24). Although Egypt has signed the 1994 Arab Convention on Regulating Status of Refugees in the Arab Countries, this treaty has not come into force. The country joined the membership of UNHCR’s ExCom in 2004, recently becoming its chair for 2010-2011.

As mentioned above, Egypt has no national refugee legislation or domestic procedures for asylum in effect. Article 53 of the Egyptian Constitution states that: “Egypt is obliged to grant the right of political asylum to any foreigner who has been persecuted for his defense of the interests of people, or of human rights, peace, or justice. The extradition of political refugees shall be prohibited.” In practice, this category of “political refugee” (granted asylum by the Office of the President) seems reserved for high-profile cases such as Shah Mohammad Reza

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Pahlavi of Iran, President Jaafar Nimeiry of Sudan, or Queen Fatima el-Sharif of Libya. Still, Article 151 of the Constitution states that international treaties ratified by Egypt and published in the Official Gazette have the force of law and in all cases supersede domestic law. The government’s official position has been that, since ratified international instruments are directly enforceable in national courts, additional domestic legislation is unnecessary. Rather than being codified in domestic implementing legislation, policies on health, education, and employment for refugees have often been promulgated in the form of ministerial decrees.

In 1984, Presidential Decree No. 188 stipulated the creation of a permanent committee within the Ministry of Foreign Affairs to conduct RSD. The committee would include representatives from the Ministries of Foreign Affairs, Justice, and the Interior as well as the Office of the President. However, this committee did not materialize.

The government bodies dealing directly with refugee issues are the Department of Refugee Affairs within the Ministry of Foreign Affairs and the Ministry of Interior. The former mainly issues letters to obtain residence permits and works to secure the release of detained asylum-seekers and refugees. The latter is responsible for issuing residence permits for asylum-seekers and refugees. These permits are for temporary residence pending resettlement or repatriation; naturalization of refugees is not permitted. As mentioned above, there are no refugee camps in the country, and the majority of refugees reside in Cairo and Alexandria. UNHCR lobbies both bodies when asylum-seekers and refugees are detained, but the Department of Refugee Affairs

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122 Zaiotti 2006, 336, fn. 11.
123 UNHCR 2004.
125 Ministry of Interior Decree No. 8180 of 1996 states that registered refugees are eligible for three-year temporary residence permits. However, in practice, most refugees are given one-year residency permits. In principle, these permits are renewable as long as UNHCR registration cards are valid. Badawy and Khalil 2005, 25; Hilal and Samy 2008a, 8.
Affairs is the main target of advocacy work by UNHCR, NGOs, and refugee communities. Notably, Egypt has refused to receive funds specifically allocated for refugees.\textsuperscript{126}

In what Kagan has termed a “responsibility shift,” UNHCR performs a number of “quasi-government functions” in Egypt.\textsuperscript{127} For all asylum-seekers and refugees excepting Palestinians, RSD is conducted by UNHCR under the terms of the 1954 MoU.\textsuperscript{128} In addition, UNHCR is at the center of a network that offers refugees services ranging from medical assistance and legal aid to educational programs and job placement. A number of implementing partners (including faith-based institutions and community-based organizations) coordinate their activities with UNHCR.\textsuperscript{129}

In contrast to UNHCR, UNRWA does not operate in Egypt. After UNRWA was formed in 1950, it operated in the Gaza Strip but not in Egypt proper. It is unclear why this was the case, though it may be due to the fact that the vast majority of Palestinians had indeed been concentrated in camps in the Gaza Strip. The number of Palestinians who went as far as the Suez Canal or further into Egypt in 1948 only numbered about ten thousand.\textsuperscript{130} The Egyptian government did not request assistance from the UN Relief for Palestine Refugees at the time, so that when UNRWA took over from its predecessor in 1950, Egypt was not in its predefined area of relief work. According to official accounts from the UN, insufficient resources prevented UNRWA from subsequently extending its services to Palestinians in Egypt.\textsuperscript{131}

\textsuperscript{126} Al-Sharmani 2008, 10; Grabska 2006, 19; Hilal and Samy 2008b, 47.
\textsuperscript{127} Kagan 2011. See also Slaughter and Crisp 2008.
\textsuperscript{128} For an analysis of the MoU’s provisions, see Badawy 2010b.
\textsuperscript{129} Grabska 2006, 28-32; Samy 2009.
\textsuperscript{130} UNRWA 1955.
\textsuperscript{131} Bartholomeusz 2009. El-Abed asserts that the Egyptian government deliberately eschewed UNRWA assistance in 1950, in order to discourage Palestinians from remaining in Egypt proper. However, she does not present evidence to substantiate this claim. El-Abed 2009, 36.
Although a few Palestinian refugees are registered with UNHCR, the vast majority are experiencing a “protection gap.” Curiously, UNHCR only began including estimates of Palestinians in its refugee and asylum-seeker statistics in 2002.\textsuperscript{132} Palestinians who apply for residence permits are processed separately by the Ministry of Interior rather than UNHCR.\textsuperscript{133} Residence permits for Palestinians must be renewed every three or five years, depending on their arrival date. Residency is contingent upon providing a reason for remaining in Egypt, such as education, licensed work, or marriage to an Egyptian, and a fee is charged.\textsuperscript{134}

The Egyptian government has declared, at ExCom and elsewhere, its intention to take responsibility for the process of conferring refugee status, or RSD. Still, despite numerous discussions with UNHCR over this issue, this turnover of responsibility has been delayed.\textsuperscript{135} This reluctance to take control of RSD is puzzling in light of the relatively small number of refugees in Egypt. Indeed, in an interview, a Foreign Ministry official indicated that setting up a national asylum system for “40,000 [non-Palestinian refugees] is not a resource problem,” but that RSD conducted by UNHCR “ensure[s] objectivity and integrity.”\textsuperscript{136} Some observers have attributed the Egyptian government’s reluctance to conduct RSD itself to the large number of Sudanese in the country. By recognizing Sudanese refugees, the Egyptian government would be indirectly criticizing the Sudanese government and admitting that government’s role in atrocities in Sudan.\textsuperscript{137}

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\textsuperscript{132} UNHCR.  \\
\textsuperscript{133} UNRWA runs a small office in Cairo which is mainly responsible for liaising with the Arab League.  \\
\textsuperscript{134} El-Abed 2009, 80.  \\
\textsuperscript{135} Grabska 2006, 25. As far back as 2001, UNHCR was reportedly providing Egyptian authorities with technical assistance in preparation for an eventual handover of responsibility for RSD. USCRI 2002.  \\
\textsuperscript{136} Official, Ministry of Foreign Affairs. Personal interview by author. Ministry of Foreign Affairs, Cairo, Egypt, September 4, 2010.  \\
\textsuperscript{137} Grabska 2008, 76. \\

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To sum up, the main division in the delegation of Egypt’s asylum policy is between Palestinians and all other refugees. UNRWA does not operate in the country and Palestinians are excluded from UNHCR’s mandate. Meanwhile, asylum-seekers from Sudan, Iraq, Somalia, and other countries are processed and assisted by UNHCR.

“Politics Overtakes Policy”

This section describes how the Egyptian government’s asylum policies have developed over time. The discussion deals with each refugee group in turn: Palestinians, Sudanese, Iraqis, Somalis, Eritreans, and Ethiopians. A summary of findings and comparison across groups is provided at the end.

Palestinians

In 1948, Egypt’s King Farouk dealt with the influx of Palestinians (probably ranging from 11,000 to 13,000) by establishing the Higher Committee of Palestinian Immigrant Affairs and creating three camps, Abbasiyya, Qantara Sharq, and Azarita. Over the next couple of years, the government informed the UN Conciliation Commission for Palestine that “… Egypt is too crowded with its own people and cannot receive the refugees on its territories.” Thousands were sent to the Maghazi camp in the Gaza Strip, which had been placed under Egyptian administration by the 1949 armistice agreement. Refugees were openly encouraged to leave for other countries, with the government paying their fare in some cases. Palestinians who wished to

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138 Although Palestinian refugees have been described as a “special” or “unique” case in some of the refugee studies literature, I use the same analytical approach for Palestinians and all other refugee groups described in this chapter. For a discussion of unique aspects of the Palestinian refugee case, see Dumper 2006. For an argument against Palestinian “exceptionalism” in scholarship on asylum policy, see Kagan.

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leave the camps and remain in Egypt were required to have financial means and an Egyptian guarantor to obtain a residence permit.\textsuperscript{139}

The border between Egypt and Gaza was closely monitored and controlled. There was no question of granting any of these refugees citizenship, although the government did flirt with international projects to settle some of them in the Sinai Peninsula. Within Egypt proper, the Higher Committee was transformed into an aid agency with strict eligibility criteria for assistance. For those Palestinians without a residency card recording refugee status, there was no access to government assistance or services. Moreover, even Palestinians with residency permits were not permitted to work.\textsuperscript{140}

After the Free Officers overthrew the Egyptian monarchy, President Gamal Abdel-Nasser approved a budget to create work opportunities in Gaza and gradually eased restrictions on employment and ownership for Palestinian refugees residing in Egypt. In 1956, Egypt ratified the Casablanca Protocol on the Treatment of Palestinians.\textsuperscript{141} In 1962, Law 66 gave Palestinians the same employment options as Egyptian nationals, inaugurating what is often called the “Golden Era” for Palestinians in Egypt. Education, health, and other services were made available to Palestinians. These liberalizing policies and the wave of refugees created by the 1967 war resulted in a significant influx of Palestinians into Egypt. According to government estimates, by 1969 there were 33,000 Palestinians in Egypt.\textsuperscript{142}

The next turning point for the Palestinian population in Egypt came under President Anwar Sadat. Egypt’s relations with the Palestine Liberation Organization (PLO) had seriously begun to sour with Sadat’s 1977 trip to Jerusalem to address the Israeli Knesset. Following the

\textsuperscript{139} El-Abed 2009, 17-19.
\textsuperscript{140} Ibid., 36-37, 39-40.
\textsuperscript{141} League of Arab States Sept. 11, 1965.
\textsuperscript{142} El-Abed 2009, 20, 28, 40-45.
assassination of Egyptian culture minister Yusif al-Sibai by the Abu Nidal faction in 1978, there was a flurry of arrests, surveillance, and detentions of Palestinians. Sadat proceeded to dismantle Nasser’s legislation that favored the Palestinians, tightening restrictions on employment and education. Law 48 of 1978 made the employment of foreigners in the public sector subject to reciprocity with other countries, effectively barring stateless Palestinians. The same year, the Ministry of Education decreed that Palestinian children be transferred from public to private schools, excepting children of employees of the PLO, the Administration Office of the Governor of Gaza, public sector employees, and retirees. Soon Palestinians were required to pay university fees in foreign currency, and were not permitted to enroll at certain faculties such as medicine, engineering, and political science.\textsuperscript{143}

Palestinians next flowed into Egypt under President Mubarak. After Israel’s invasion of Lebanon in 1982, some members of the PLO apparatus relocated to Egypt. A larger influx occurred during the 1990-1991 Gulf War. Some Palestinians fleeing the Iraqi invasion or expelled from Kuwait after the war held valid Egyptian residence permits and were permitted to enter the country. However, tens of thousands of others who held Egyptian travel documents were turned back. Palestinians (including registered students and long-time residents) were detained at the airport and deported, especially to Sudan. In 1995, Libyan leader Muammar Qadhafi expelled more than 1,000 Palestinian holders of Egyptian travel documents to the Egyptian-Libyan border. Although the Egyptian government granted transit visas to some, most were denied entry or passage and remained stranded at the Salloum border camp until Qadhafi agreed to let them back into Libya two years later.\textsuperscript{144}

\textsuperscript{143} Ibid., 46, 48-49, 91, 105-08.
\textsuperscript{144} Ibid., 29, 51, 86; USCRI 1997; USCRI 1998.
Mubarak largely continued or extended Sadat’s restrictive policies, with minor improvements. In 1992, a ministerial decision required that foreigners, including Palestinians, not exceed 10% of the student body at public universities. At the same time, children of employees of the PLO and public sector employees as well as children who had been born in Egypt and completed all their basic education there found their university fees reduced by 90%. In 1982, Law 25 introduced a quota for foreigners in the private sector. Still in 2003, Decree 136 exempted Palestinians and Sudanese from paying the full fee to issue a work permit.145

In July of 2004, a new law was passed which granted Egyptian women the same rights as Egyptian men with regard to conferring nationality on their children. Given that an estimated third of all Egyptian women married to non-nationals are married to Palestinians, this law was considered a major development. However, the law applied automatically only to persons born after its activation. For individuals born to an Egyptian mother before the law was enacted, there was a one-year grace period to apply to the Interior Ministry for citizenship. In practice, Palestinian applicants appear to have been turned away especially when the child of the mixed marriage was over 16.146

This reluctance to naturalize children of mixed Egyptian-Palestinian marriages falls under a broader Egyptian refusal to grant citizenship to Palestinian refugees. In fact, it may be that the presence of Palestinian refugees in Egypt is an obstacle to the adoption of integration policies towards refugees from other countries, who should not be seen to benefit from more favorable terms than the Palestinians.147

146 El-Abed 2009, 52-54.
147 Al-Sharmani 2008; Sperl 2001, 11-12, 6.
Egypt closed the Rafah border crossing in 2007 after the Hamas takeover of Gaza and until after the Israeli flotilla raid in 2010. During this time, Palestinians that left Egypt with valid travel documents were not allowed to reenter without a visa, which Egyptian consulates abroad summarily denied. Following a break in the Gaza-Egypt border wall in 2008, Egyptian authorities attempted to force over 1,000 Palestinians in the Sinai back into Gaza.

**Sudanese**

Sudanese asylum-seekers and refugees flowed into Egypt in several waves corresponding with the first civil war (1955-1972), the second civil war (1983-2005), and the Darfur conflict (2003-present). Most Sudanese are concentrated in five neighborhoods in and around Cairo: Ain Shams, Arba wa Nus, Maadi, Nasr City, and 6th of October.148

Until 1995, Sudanese migrants, asylum-seekers, and refugees in Egypt enjoyed a status close to nationals due to bilateral agreements between Egypt and Sudan. For instance, the 1976 Nile Valley (Wadi El-Nil) Treaty provided for reciprocal treatment, including unrestricted entry for Sudanese as well as unfettered access to employment, education, healthcare, and ownership of property. It was not necessary for refugees to seek asylum in order to obtain these benefits. In 1992, Decree No. 24 by the Minister of Education allowed Sudanese children to enroll in Egyptian public schools, though with extensive and often difficult to meet documentation requirements.149

148 Zohry and Harrell-Bond 2003, 55.
Restrictions on Sudanese were already being tightened by the late 1980s, however.\textsuperscript{150}

Following the 1995 assassination attempt on Mubarak’s life in Ethiopia, allegedly supported by the Sudanese government, the Nile Valley Agreement was revoked, and the border with Sudan closed. Visa and residence permit requirements were imposed on all Sudanese attempting to enter the country, while those resident in Egypt were subject to increased security checks. Suddenly, all Sudanese (including asylum-seekers and refugees) were not allowed to work without a permit. This remains the case, though, as mentioned above Sudanese were exempt from paying the full work permit fee in 2003. Despite the restrictions on the entry of regular Sudanese migrants, it is worth noting that Sudanese refugees were welcomed during the dispute between Mubarak and Sudanese President Omar al-Bashir in the late 1990s.\textsuperscript{151}

In other words, the mid-1990s were a turning point only in that the government began distinguishing between Sudanese refugees and migrants. Prior to 1995, and especially before the late 1980s, Sudanese migrants in general had a privileged position. While this group undoubtedly included bonafide refugees, the latter were not identified or recognized as such by the Egyptian government. In other words, Egypt did not have an “asylum policy” for Sudanese before 1995. Asylum-seekers and refugees were able to blend into the larger Sudanese flow and enjoy the same access to employment, education, healthcare, and ownership of property. When the government began differentiating between migrants and refugees, it restricted the latter while welcoming the former. Even as migrants faced stricter border control, refugees continued to be welcomed into the country.

\textsuperscript{151} Hilal and Samy 2008b, 35; Sperl 2001, 20.
The situation for refugees arriving in 2002/2003 from Darfur took a different turn. Soon after the outbreak of the conflict in Darfur, Darfurian refugees reported being chased in the streets of Cairo by Sudanese security men and asked to provide information about Darfurian activists in Egypt.152

In 2004, a seemingly important and positive development took place. The signing of the “Four Freedoms Agreement” provided for reciprocal rights for Egyptian and Sudanese nationals regarding work, freedom of movement, residence, and property ownership. Under the agreement, Sudanese migrants (including asylum-seekers and refugees, by default) would not be required to obtain entry visas, residence permits, or work permits. However, this agreement has not been implemented in practice.153

Also in 2004, UNHCR suspended RSD procedures for Sudanese following the signing of several peace agreements to end the second Sudanese civil war.154 In that year, a Sudanese refugee demonstration was initiated in front of the UNHCR office by an Egyptian NGO. Rioting ensued and a confrontation between refugees and the Egyptian police ended with the detention of twenty-two protesters who were eventually released. In September 2005, about two thousand Sudanese asylum-seekers and refugees engaged in a sit-in at Mustapha Mahmoud Square near the offices of UNHCR to protest its suspension of RSD procedures as well as their conditions to Cairo. Members of Kifaya, the Egyptian opposition movement, participated in this protest. In December, thousands of security personnel forcibly removed the protestors to various holding centers in and around Cairo. About 30 refugees and asylum-seekers, including women and

152 Hilal and Samy 2008b, 35.
154 Hilal and Samy 2008a, 7. Because RSD for this group remains suspended, there is a large and growing number of Sudanese asylum-seekers in Egypt who cannot get refugee status. As of September 2011, there were 14,292 Sudanese asylum-seekers registered with UNHCR. UNHCR 2011a.
children, were killed in the removal.\textsuperscript{155} The government maintained that the deaths were due to a stampede by protestors, and an investigation into the incident was suspended by the Public Prosecutor.\textsuperscript{156} Subsequently UNHCR offices were moved outside Cairo to 6\textsuperscript{th} of October City.

Most recently, attempts by significant numbers of migrants, asylum-seekers, and refugees (mostly Eritreans and Sudanese) to enter Israel illegally through Egypt’s Sinai desert have raised concerns on the part of both governments. In late June 2007, Egyptian President Hosni Mubarak met with Israeli Prime Minister Ehud Olmert in Sharm el-Sheikh. Following the meeting, Olmert said he had reached an “understanding” with Mubarak on “ways to deal with infiltration into Israel via the Egyptian border.” Days later, Egypt’s new shoot-to-stop policy was inaugurated and claimed its first victim. The Egyptian government has publicly justified its policies by claiming that organized Sinai-based criminal smuggling networks pose a threat to national security.\textsuperscript{157} The UN High Commissioner for Human Rights said she knew of “no other country where so many unarmed migrants and asylum-seekers appear to have been deliberately killed this way by government forces.”\textsuperscript{158} Meanwhile, the Sudanese Consul in Cairo cast doubt on the numbers and identity of those attempting to cross the border into Israel. He alleged Israel was inflating the numbers to cast itself as an attractive “safe haven” for Arabs and Africans, adding that non-Sudanese “infiltrators” were claiming to be Darfurian to get refugee status.\textsuperscript{159}

Sudanese asylum-seekers and refugees attempting to cross the border into Israel were detained and transported to Cairo, interrogated, beaten and tortured, and then returned to Sudan.

\textsuperscript{155} Al-Sharmani 2008, 19; Azzam 2006; U.S. Department of State 2006.
\textsuperscript{156} USCRI 2007.
\textsuperscript{157} Amnesty International 2008; Anteby-Yemini 2008; Human Rights Watch 2008, 31-32. In a press release, the Ministry of Foreign Affairs claimed that “the number of deaths in these incidents did not exceed 2 percent in 2008 and 4 percent in 2009 of the total number of migrants attempting to cross.” Egyptian Ministry of Foreign Affairs 2010.
\textsuperscript{158} UN Radio, Mar. 2, 2010.
\textsuperscript{159} Al-Masry Al-Youm, Mar. 24, 2010. For the Eritrean embassy’s response, see Al-Masry Al-Youm, Mar. 24, 2010.
In 2007, following the deportation of 48 Sudanese refugees by Israel to Egypt, Egypt then returned at least 20 of these to Sudan. These deportations are especially serious given that the Sudanese government has banned its citizens from travelling to Israel and reportedly punishes offenders with torture, life imprisonment, or the death penalty. In April 2008, authorities returned 49 Sudanese including 11 recognized refugees and asylum-seekers accused of participating in gang violence before their hearing.\textsuperscript{160} It is worth noting that these developments coincided with Egypt’s support for President Bashir in the face of his indictment by the International Criminal Court (ICC).

Along with other sub-Saharan asylum-seekers and refugees, Sudanese have faced racism and discrimination by Egyptian police as well as by locals. They report being verbally harassed and sometimes attacked by street thugs.\textsuperscript{161} Occasionally, Egyptian police launch raids to round up anyone who looks “black,” including registered asylum-seekers and recognized refugees. These detainees often experience beatings and are held until UNHCR intervenes for their release.\textsuperscript{162}

\textit{Iraqis}

The outflow of Iraqis that had begun with the 2003 US invasion rose sharply with the upsurge in violence marked by the 2006 al-Askari Mosque bombing. Like other countries in the region, Egypt initially welcomed the refugees many of whom were considered wealthy. Most Iraqis were thus initially able to enter Egypt with one-month tourist, student, or investment visas obtained from travel agencies in Iraq. They were expected to register with the Ministry of

\textsuperscript{160} Human Rights Watch 2008; U.S. Department of State 2009.
\textsuperscript{161} Azzam 2006, 15-16.
\textsuperscript{162} See, for example, Human Rights Watch 2003.
Interior within ten days of their arrival. Refugees could then register with UNHCR and receive prima facie asylum-seeker status.\footnote{Fargues et al. 2008, 27; New York Times, May 13, 2007; Sadek 2010, 49; Yoshikawa 2007.}

In late 2006, that is within months, a more restrictive visa policy was introduced. Egypt began requiring that Iraqis report to an Egyptian consulate for a visa interview, effectively obliging them to first go to Syria or Jordan before arriving in Egypt. Visas already issued also became more difficult to renew. In 2008, Iraqis arriving by air from Jordan and Syria were deported back to these countries. The following year, at least four Iraqis arriving at Cairo International Airport were denied admission. Some government officials invoked security concerns, including fear of Shiite proselytizing, to justify these decisions.\footnote{Badawy 2009, 3; Fargues et al. 2008, 16; Hilal and Samy 2008b, 43; Roman 2009, 4; New York Times, May 13, 2007; USCRI 2009.} Others claimed that Egypt was discouraging the flight of Sunnis from Iraq in order to prevent the latter from becoming a Shiite state.\footnote{Refugees International 2007a.}

The vast majority of Iraqis currently in Egypt are from Baghdad and are Sunni Muslims; 6\textsuperscript{th} of October City hosts the largest concentration of Iraqis. Unlike other refugee groups in Egypt, Iraqis have not been permitted to form their own associations or community-based organizations. There is no law stating this prohibition, but Iraqis have consistently failed to secure registration for their associations on security grounds.\footnote{Al-Ahram Weekly, Apr. 10-16, 2008; Fargues et al. 2008, 27, 37; Sadek 2010, 51.} Members of the community were reportedly under “intense security surveillance.”\footnote{Badawy 2009, 6.}
Iraqi refugees do not appear to have been deported or detained by the Egyptian authorities. However, without access to public services or the formal labor market, Iraqis in Egypt are facing the continuous depletion of the economic resources with which they travelled to Egypt.\textsuperscript{168}

Unlike Sudanese and Palestinian refugees, Iraqi children are not allowed to attend Egyptian public schools to receive primary and secondary education.\textsuperscript{169} Even though the Minister of Education had issued a decree in 2000 allowing all refugee children access to free public primary education, this decree imposed difficult documentation requirements, such as a birth certificate, an original school certificate from the country of origin, and a letter from the embassy of the country of origin. In practice, implementation of this decree has been hindered because officials within the Ministry of Education as well as at the governorate and school level were either unaware or had inconsistent interpretations of it.\textsuperscript{170}

With respect to employment, Iraqis join other refugees in being treated as would any other foreigner in the country. According to Law No. 137 of 1981, foreigners (including refugees) are required to obtain a work permit from the Ministry of Manpower. Obtaining a work permit is in many cases difficult, if not impossible.\textsuperscript{171} Foreigners may not compete with the local workforce, and therefore must have special expertise and qualifications in addition to being barred from certain professions, such as tourism, exports, and customs-related jobs. The employer must also pay a work permit fee amounting to £1,000 (or US$174). In a small improvement, refugee residence permits were modified in 2003 to remove the phrase “not permitted to work.”\textsuperscript{172}

\textsuperscript{168} Fargues et al. 2008, 73; Hilal and Samy 2008b, 45.
\textsuperscript{169} Badawy 2009, 6; Refugees International 2007b; Zohry and Harrell-Bond 2003, 51. See also Zohry 2003.
\textsuperscript{170} Grabska 2008, 78. According to Badawy, since the decree was not published in the Official Gazette, it was not binding on school administrations. Badawy 2009, 7.
\textsuperscript{171} As a result, many refugees have been forced to rely on the informal sector. See, for example, Jureidini 2009.
\textsuperscript{172} Grabska 2006, 21.
Somalis

The onset of the Somali Civil War in 1991 resulted in a large movement of Somalis to Egypt. Some Somali refugees and asylum-seekers travelled directly to Egypt via Kenya or the Gulf region, while others are secondary movers who spent some years in other host societies (e.g., Libya, Saudi Arabia, Kenya, or Yemen) before moving on to Egypt.\(^{173}\)

In order to enter Egypt by air, land, or sea, all Somalis were required to display a visa and passport. Although most refugees travelled with Somali passports purchased in an unofficial Mogadishu office, Egyptian authorities nonetheless recognized these documents. This is especially remarkable given that most countries reject Somali passports as valid travel documents.\(^{174}\) Today, Somali refugees are concentrated in two districts of Cairo, Ard El-Liwa and Nasr City.

Although Somali asylum-seekers had enjoyed *prima facie* recognition until 1999, in subsequent years their recognition rates fell prompting demonstrations against UNHCR, until it revised its policy in 2003.\(^{175}\) Around the same time, however, Egypt stopped granting entry visas to Somali applicants.\(^{176}\) Still, Somali refugees appear to enjoy more supportive treatment from the authorities, with few cases of security harassment or deportation.\(^{177}\)

Eritreans and Ethiopians

Ethiopian refugees began flowing into Egypt in 1977-1989 to escape Mengistu’s “Red Terror” and again in 1991-1992 when the Mengistu regime fell.\(^{178}\) The border conflict between

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173 Al-Sharmani 2003, 7.
175 Al-Sharmani 2008, 4; Grabska 2008, 84.
176 Al-Sharmani 2003, 10.
177 Sperl 2001, 22.
Ethiopia and Eritrea (1998-2000) also led refugees from both countries to flee to Egypt. When UNHCR in Sudan invoked the cessation clause revoking refugee status in 2000, Eritrean refugees who lived there and feared forced return also travelled to Egypt.  

There is very limited information on the treatment of these (smaller) refugee groups. In 2008 and 2009, the government did detain a number of Eritrean and Ethiopian asylum-seekers and refugees for illegal entry, denying UNHCR access to them. Nearly 1,200 Eritreans were detained in 2008 then collectively deported after breaching Egypt’s southern border.  

**Summary and Comparisons**

In the face of the first significant wave of Palestinians in 1948, Egypt restricted entry and monitored the border with Gaza closely. Some of those Palestinians who were able to enter Egyptian territory could avail themselves of government assistance, but there was no access to the labor market. The year 1962 marked the beginning of the “Golden Era” for Palestinians in Egypt, who could now access social services as well as seek employment. Moreover, Palestinians fleeing the 1967 war were able to cross the border into Egypt. In the late 1970s, the favorable legislation was reversed and Palestinians found themselves excluded from public schools or work in the public sector. Palestinians were turned back or stranded at the border in subsequent years. This trend continued through the late 2000s, when Egypt closed the Rafah border crossing.

Until 1995, bilateral treaties between Egypt and Sudan meant that the Sudanese at large (whether migrants or refugees) could enter the country freely, access social services, and participate in the formal labor market. The Egyptian government did not set out to treat

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179 Zohry and Harrell-Bond 2003, 57-58.
Sudanese refugees in particular generously, and refugees did not need to identify themselves as such since they could take advantage of the substantial privileges accorded to any Sudanese national in Egypt. In the mid-1990s, restrictions were imposed on the entry of migrants, but refugees were still admitted. In terms of asylum policies directed at Sudanese refugees *qua* refugees, a shift occurred in 1998/1999. At that point, the government began cracking down on Sudanese refugees, who continued to face detentions and deportations in subsequent years.

Iraqi refugees entering Egypt in 2006 were initially able to take advantage of relaxed visa policies, but these were quickly tightened within months. These refugees are also denied access to public services and the formal labor market. In addition, the government has prohibited the formation of Iraqi community-based organizations.

Somali refugees have generally been granted admission to Egypt, despite the fact that most countries do not recognize Somali passports. In contrast with other sub-Saharan refugees, the detention and deportation of Somalis has been fairly rare.

There is less information on the treatment of Eritreans and Ethiopians. These refugee populations are relatively small (fewer than 1,700 were registered with UNHCR in 2010), and as a result have received less attention from researchers.\(^\text{181}\) It may also be that the government has not found it essential to develop policies targeting them, though there have been detentions and deportations in recent years.

Table 11 presents the change in policy indicators for Palestinian and Sudanese refugees. As described above, these are the only two refugee groups for which there was a shift in asylum policy. For Palestinians, two shifts can be discerned: 1962 and 1977. For Sudanese refugees, a shift occurred in 1999. As described above, Egypt did not have a Sudanese asylum policy prior

\(^{181}\) UNHCR.
to 1995, since that was the year it began differentiating between Sudanese migrants and refugees. But whereas 1995 represented a shift for Sudanese migrants (with new restrictions imposed), it cannot be said to be a shift for Sudanese refugees (for whom there was no prior policy with which to compare treatment, and who continued to be admitted in any case).

As shown in Table 11, several policy indicators saw no change at all. For example, all refugees in Egypt have enjoyed freedom of movement and residence. So this indicator has not changed for any refugee groups over time. However, looking at other indicators does indicate periods of significant improvement or deterioration. For example, the year 1962 saw a significant expansion in Palestinians’ ability to cross the border, access social services, and enter the labor market. In contrast, the year 1978 marked the beginning of strict border control, detentions and deportations, and barred access to public services and employment. For Sudanese refugees, the late 1990s saw a significant downward shift with mass arrests and expulsions.

<table>
<thead>
<tr>
<th>TABLE 11. Observed changes in asylum policy indicators for Palestinian and Sudanese refugees in Egypt</th>
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<tbody>
<tr>
<td><strong>Palestinians</strong></td>
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<tr>
<td><strong>1. Legal Framework</strong></td>
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<tr>
<td>International Treaties</td>
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<tr>
<td>National Legislation</td>
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<tr>
<td><strong>2. Admission and Status</strong></td>
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<tr>
<td>Entry</td>
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<tr>
<td>Screening</td>
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<td><strong>3. Protection and Security</strong></td>
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<td>Movement</td>
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<tr>
<td>Physical Safety</td>
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<td>Refoulement</td>
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<td><strong>4. Basic Needs</strong></td>
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<tr>
<td>Services</td>
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<tr>
<td>Employment</td>
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<tr>
<td><strong>5. Durable Solutions</strong></td>
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<tr>
<td>Integration</td>
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</tbody>
</table>

*Note:* Change in policy indicators is measured relative to the period immediately prior. The symbol “↑” indicates an improvement in a given policy indicator, while “↓” indicates a deterioration. Where there is insufficient information, a “?” is used. And if there has been no change, cells contain “(no change).”
Besides tracking changes or continuities in the treatment of each refugee group (i.e., within-group comparison), comparisons of relative treatment should be made between them as well (i.e., across-group comparison). I limit this comparison to Palestinian, Sudanese, Iraqi, and Somali refugees, about whom we have detailed information. It is clear that the Palestinian “Golden Era” (1962-1977) saw by far the most generous asylum policy in Egypt’s history. In contrast, the treatment of Sudanese refugees in the most recent period (1999-2010) is the most restrictive, characterized as it is by extensive detention and deportation issues. All other refugee groups and time periods can be placed in the “intermediate” category, since they had fewer rights than the Palestinians in their “Golden Era,” but were not treated as harshly as the Sudanese are today. Thus, under the intermediate heading come Palestinians before 1962 and after 1977, Sudanese before 1999, Iraqis between 2006 and 2010, and Somalis between 1999 and 2010. Table 12 summarizes these “rankings” of observed asylum policies between refugee groups and across time periods.

**Table 12. Observed asylum policy for refugee groups in Egypt**

<table>
<thead>
<tr>
<th>Asylum Policy</th>
<th>Refugee Group</th>
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<tbody>
<tr>
<td>Generous</td>
<td>Palestinians (1962-1977)</td>
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<tr>
<td></td>
<td>Sudanese (1956-1998)</td>
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<tr>
<td></td>
<td>Iraqis (2006-2010)</td>
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<td></td>
<td>Somalis (1991-2010)</td>
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<tr>
<td>Restrictive</td>
<td>Sudanese (1999-2010)</td>
</tr>
</tbody>
</table>
Assessing the Selective Sovereignty Theory

There are clear differences in treatment across refugee groups and over time, as demonstrated in the analysis above. This theme was emphasized by several interviewees as well. For example, NGO personnel noted that Sudanese refugees had traditionally been treated well, but recent refugees from Darfur have had a different experience. In short, a “monolithic description” of refugee experiences would be inaccurate; we “need to look at nationality … Palestinian, Iraqi, or African.”

Why have different refugee groups had divergent experiences with the government in Egypt? Unfortunately, we cannot draw on direct evidence from within the policy-making process to answer this question or to reveal the precise mechanisms at work. There are no government documents (unclassified or declassified) that would enable process-tracing. Moreover, research in Egypt is made challenging by the security apparatus, particularly when the research touches on “sensitive issues” like the condition of Palestinians. Government officials tend to be inaccessible to researchers and unwilling to share detailed information about the policy-making process.

However, the description of the group-specific asylum policies above lends some support to the selective sovereignty theory. Prior to 1978/1979, Palestinians had almost unrestricted access to education, employment, and health services. No other refugee group in Egypt has experienced

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182 As described in Chapter 3, I conducted a series of semi-structured interviews in Cairo, Egypt in 2010. I sought to speak with the most important policymakers, organizations, and researchers involved with refugee issues. I was able to meet with individuals from the Ministry of Foreign Affairs, UNHCR, the International Organization for Migration, the Center for Migration and Refugee Studies at the American University in Cairo, and a number of refugee-related NGOs among others.

183 Gasser Abdel-Razek (Country Director, Africa and Middle East Refugee Assistance-Egypt). Personal interview by author. AMERA-Egypt Office, Cairo, Egypt, June 7, 2010.

as generous an asylum policy as did the Palestinians during this “Golden Era.” Once Egypt’s relations with Israel changed, however, most of these privileges were taken away. Still, suppression of Palestinians is limited by Egyptians’ “affinity or solidarity” with these refugees.\(^{185}\)

For Sudanese, the mid-1990s were a turning point only in that the government began distinguishing between refugees and migrants. Even as migrants faced stricter border control, refugees continued to be welcomed into the country. Still, they did not enjoy the kind of access to the labor market that Palestinians had during their “generous phase.” After 1998/1999, deportations and detentions began and the 2005 Mustapha Mahmoud incident demonstrated the lengths to which the Egyptian government was willing to go. These threats to physical safety faced by the Sudanese surpass those faced by Palestinian refugees today. As mentioned above, Darfurian refugees report being chased in the streets by Sudanese security, probably with tacit Egyptian government approval. In fact, “Egypt coordinates with Sudan” with respect to Sudanese refugees.\(^{186}\)

Despite the fact that they are relatively wealthy and highly-skilled, Iraqi refugees have not received the sort of welcome that Palestinians did in the pre-Camp David period. They are prohibited from forming community-based organizations, and do not have access to the formal labor market or to public education.\(^{187}\) However, Iraqis appear to be relatively better off than Sudanese today in that they do not face significant refoulement or physical safety issues. Unlike

\(^{185}\) Ibid.
\(^{187}\) In addition, the establishment of the Iraqi Information Office by St. Andrew’s Refugee Services had been difficult due to government opposition of Iraqis congregating. Fiona Cameron, (Assistant Director, St. Andrew’s Refugee Services Children’s Education Programme). Personal interview by author. St. Andrew’s Church, Cairo, Egypt. August 25, 2010.
refugees from sub-Saharan Africa, “racism” is not an issue with Iraqis, so the government is “more lenient” with them.\footnote{\textsuperscript{188}}

For Eritrean and Ethiopian refugees, there is less evidence. However, we do know that in recent years they have suffered extensively from detentions and deportations. The Eritrean government in particular has been supportive of Egypt’s border shootings policy, saying “we cannot say that Eritreans are being treated badly by the Egyptian authorities, because international law prohibits smuggling.”\footnote{\textsuperscript{189}} One NGO interviewee reported that there have been cases of Ethiopian refugees claiming they were Eritrean and vice versa.\footnote{\textsuperscript{190}}

It is difficult to determine whether domestic ethnic concerns have shaped asylum policies towards Somali refugees, particularly because their numbers are relatively small. Comparing Somali and Sudanese refugees can still be informative, however, because both groups are ethnic “others” in Egypt. Here, it is worth noting that Sudanese refugees have had a more negative experience with detention and deportation in recent years. This may point to the added effect – for Sudanese refugees – of friendly relations between Egypt and Sudan starting in the late 1990s.

There are also findings related to the Egyptian government’s relationship with UNHCR. First, there is little evidence that UNHCR has a significant impact on policy. The Egyptian government engages in detention and deportation of asylum-seekers and refugees, and continues to exclude Palestinians from UNHCR protection. In effect, the government is ensuring that UNHCR’s scope of activity remains narrow. For one expert, an indication that UNHCR does “not have much effect on policy” is that its statements are not widely reported in the Egyptian

\footnote{\textsuperscript{188} Sara Sadek (Outreach Coordinator, Center for Migration and Refugee Studies). Personal interview by author. American University in Cairo, Cairo, Egypt, June 9, 2010.  
\textsuperscript{190} Ahmed Badawy, (Chairman, Egyptian Foundation for Refugee Rights). Personal interview by author. EFRR Office, Cairo, Egypt, August 3, 2010a.}
press. Second, the organization may sometimes engage in self-censorship in order to maintain the government’s cooperation. For example, UNHCR avoids publicly calling for local integration of refugees, which the Egyptian government has categorically refused. UNHCR often refrains from condemning deportations, because it “calculates that there is no way to reverse deportation decisions.” As mentioned above, observers note that the Egyptian government continues to delegate RSD to UNHCR because it does not want to antagonize the Sudanese government. Even then, however, UNHCR’s “funds dictate how many [refugees] they can recognize.”

### Table 13. Predicted and observed breakpoints in Egypt’s asylum policy

<table>
<thead>
<tr>
<th>Refugee Group</th>
<th>Breakpoints in Asylum Policy</th>
<th>Predicted</th>
<th>Observed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Palestinians</td>
<td></td>
<td>1978</td>
<td>1978</td>
</tr>
<tr>
<td>Iraqis</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Sudanese</td>
<td>1958</td>
<td>1985</td>
<td>1999</td>
</tr>
<tr>
<td>Somalis</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>

*Note: Years where predictions and observations match are in bold.*

Drawing on Table 11 and Table 12, we can summarize the timing of shifts in policy as shown in Table 13. Table 14 clarifies the direction of these shifts and the trends in delegation. In Table 13 and Table 14 cells in bold indicate that observed patterns match my theoretical predictions. The selective sovereignty theory performs fairly well, though not perfectly. Two predicted

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breakpoints do not take place (1958 and 1985 for Sudanese refugees), and there are breakpoints that occur but are unexpected (1962 for Palestinians). Across the different time periods, generosity and restrictiveness largely match with theoretical predictions, with two exceptions (Palestinians in 1948-1961 and Sudanese in 1958-1984). One main anomaly has to do with delegation, which does not vary over time for any of the refugee groups. Clarifying the prevalence of this delegation pattern and its causes will require the examination of additional cases.

**Table 14. Predicted and observed asylum policy and delegation for refugee groups in Egypt**

<table>
<thead>
<tr>
<th>Refugee Group</th>
<th>Years</th>
<th>Asylum Policy</th>
<th>Delegation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Predicted</td>
<td>Observed</td>
<td>Predicted</td>
</tr>
<tr>
<td>Palestinians</td>
<td>1948-1961</td>
<td>Generous</td>
<td>Intermediate</td>
</tr>
<tr>
<td></td>
<td>1962-1977</td>
<td>Generous</td>
<td>Generous</td>
</tr>
<tr>
<td></td>
<td>1978-2010</td>
<td>Intermediate</td>
<td>Intermediate</td>
</tr>
<tr>
<td>Iraqis</td>
<td>2006-2010</td>
<td>Intermediate</td>
<td>Intermediate</td>
</tr>
<tr>
<td>Sudanese</td>
<td>1956-1957</td>
<td>Intermediate</td>
<td>Intermediate</td>
</tr>
<tr>
<td></td>
<td>1958-1984</td>
<td>Restrictive</td>
<td>Intermediate</td>
</tr>
<tr>
<td></td>
<td>1985-1998</td>
<td>Intermediate</td>
<td>Intermediate</td>
</tr>
<tr>
<td></td>
<td>1999-2010</td>
<td>Restrictive</td>
<td>Restrictive</td>
</tr>
</tbody>
</table>

*Note: Cells where predictions and observations match are in bold.*

Overall, shifts in policy do not seem to match changes in economic performance or humanitarian concerns. Between 1948 and 2010, Egypt’s real GDP per capita grew from about US$800 in 1950 to over US$4,800 in 2010.\(^{194}\) Increases in GDP per capita were fairly steady, although average growth rose after the open door economic policy was declared in 1974.\(^{195}\) However, we do not observe a shift (sudden or gradual) to more generous policies in the mid-1970s. Moreover, the country has not attempted to attract international assistance in return for

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\(^{194}\) GDP per capita is reported at 2005 constant prices. Heston, Summers, and Aten 2012.

\(^{195}\) World Bank 2009.
shouldering the refugee burden. As mentioned above, the country’s asylum policies did not seem to especially favor the most highly-skilled refugees (Iraqis). There is also no evidence that policies were shaped by humanitarian concerns or were shaped by the cause of refugee flows or the conditions of refugees.

**Conclusion**

The analysis above challenges the “no policy” conventional wisdom described at the beginning of this chapter. It is true that Egypt has not made explicit its asylum policy through national legislation, official documentation, or public statements. However, several practices clearly stem from senior-level decision-making and persist over time or are repeated over several different instances. For example, chartering airplanes to deport refugees is probably not possible without a decision from the top. In addition, the policies governing refugees are clearly distinguishable from background conditions or measures that would equally impact Egyptian citizens.

Charting Egypt’s asylum policies shows that there is significant variation across refugee groups and over time. The selective sovereignty theory is largely able to predict generosity and restrictiveness, indicating that group-specific asylum policies might be shaped by each refugee group’s ethnic identity and Egypt’s relations with their sending country. Still, there are some anomalies, most importantly with regards to delegation patterns. At the same time, hypotheses commonly invoked in the literature on refugee flows (stressing, for example, the host country’s

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196 Barbara Harrell-Bond (Founder, Center for Migration and Refugee Studies). Personal interview by author. American University in Cairo, Cairo, Egypt, June 16, 2010.
economic absorption capacity and humanitarianism) appear insufficient to explain the variation in Egypt’s asylum policies.

The events of the “Arab Spring” in Egypt and across the Middle East have had important implications for refugees. In Egypt, the widespread demonstrations that forced Mubarak to step down left asylum-seekers and refugees especially vulnerable. Facing shortages of food and violent attacks, and with UNHCR offices closed, over two thousand Iraqis took advantage of free evacuation flights offered by the Iraqi government between January 25 and February 10.197 Shortly afterwards, Egypt opened its border to large numbers fleeing Libya, prompting UNHCR’s chief spokesperson to commend the country’s “humanitarian spirit.”198 However, even as the UN High Commissioner for Refugees was declaring a “new beginning for refugee protection in Egypt,” Palestinian families arriving from Libya found themselves turned back even if they had valid travel documents or sought transit to Gaza.199 While these developments are certainly significant, it is too early to fully analyze the impact of the Arab Spring and other recent events (such as the independence of South Sudan or the drought in East Africa) on Egypt’s asylum policies.

198 UNHCR News Stories, Feb. 25, 2011d.
Chapter 6: Containment and Abdication in Kenya

As shown in the previous chapter, the selective sovereignty theory was able to predict much of the variation in Egypt’s asylum policies across refugee groups and over time. This chapter provides another in-depth case study, examining Kenya’s policies towards Somali, Sudanese, Ethiopian, Ugandan, and Rwandan refugees between 1964 and 2010.

In 2011, Kenya hosted one of the world’s largest refugee populations, with over half a million refugees and more than 320 refugees for every US$1 in GDP per capita. The Dadaab refugee camp complex, which houses Somali refugees in Kenya’s North Eastern Province (NEP), is the largest in the world. Accordingly, there have been a number of published works on refugees in Kenya.

Most studies on refugees in Kenya begin with the assertion that the country had a liberal asylum regime throughout the 1960s, 1970s, and 1980s. Ethiopian, Rwandan, Sudanese, and Ugandan refugees could move freely, access social services, and even integrate if they so chose. These accounts then note that there was a sharp reversal in the early 1990s, with a sudden influx of hundreds of thousands of Somali refugees. The government suspended its status determination procedures, adopted an unofficial “encampment” policy, and handed all refugee affairs to UNHCR. Observers have suggested many reasons for this shift, including the magnitude of the refugee flow, the drying up of international aid, Kenya’s democratization process, and the economic pressures of structural adjustment.

In contrast, I show that the selective sovereignty theory offers a better (though limited) account of Kenya’s responses to refugee groups, before, during, and after the Somali refugee

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200 UNHCR 2012.
crisis in the early 1990s. Similar to the Egyptian case, the variation in Kenya’s asylum policies over time and by refugee group is to some degree consistent with the selective sovereignty theory.

**Major Refugee Groups**

*Figure 7. Kenya’s refugee populations by country of origin, 1990-2010*

Note: Data obtained from the UNHCR Statistical Online Population Database. All figures only include individuals registered by UNHCR.

Figure 7 shows trends in some of the major refugee groups in Kenya over time. Though Kenya has received refugees since its independence in 1963, these were generally few in number and only exceeded 10,000 in 1987. In the early 1990s, with increasing flows of Somalis and Sudanese, Kenya’s refugee population jumped from about 14,000 in 1990 to over 400,000 in 1992. At the end of 2011, Kenya hosted 566,500 refugees from 28 countries, making it the fifth
largest refugee-hosting country in the world.\textsuperscript{201} The analysis below focuses on the five largest refugee groups: Somalis, Sudanese, Ethiopians, Ugandans, and Rwandans.

For each refugee group, the analysis covers the period of time for which it was present in significant numbers in Kenya: Somalis (1991-2010), Sudanese (1991-2010), Ethiopians (1964-2010), Ugandans (1966-2010), and Rwandans (1994-2010). The armed rebellion in Somalia generated a flow of refugees into Kenya starting in 1988, but it was only around the fall of Siad Barre in 1991 that hundreds of thousands began crossing the border. Also in 1991, some 23,000 Sudanese refugees first arrived in Kenya. In contrast, the Ethiopian and Ugandan presence in Kenya has a longer history. The first flow of Ethiopian refugees occurred in the 1960s with the separatist conflict in Eritrea. Soon thereafter, the 1966 constitutional crisis in Uganda and Milton Obote’s assumption of absolute power led to a wave of Ugandan refugees. Finally, the year 1994 saw an inflow of refugees fleeing the Rwandan genocide.

The majority of refugees have tended to stay in Kenya rather than relocate to a third country or return home. Although Kenya has been the target of the largest refugee resettlement program out of Africa, at its peak this only amounted to 5,000 refugees on average per year.\textsuperscript{202} Repatriation programs for Somali refugees, though in some cases returning tens of thousands, have also had a small effect compared to the sheer size of that refugee population.

Unlike Egypt, Kenya came to adopt an encampment policy with regards to refugees on its territory. Before the early 1990s, there were no camps and refugees often self-settled in urban areas. Asylum-seekers whose applications were being processed had the option of residing at the Thika Reception Center. However, starting in 1991, camps were established for Somalis and Ethiopians in the NEP (Liboi, Mandera, Banissa, El-Wak), and Coast Province (Utange, Marafa,

\textsuperscript{201} UNHCR; UNHCR 2012.  
\textsuperscript{202} Milner 2009, 39.
St. Annes, Hatimy, Jomvu). Ifo also opened in 1991, followed by Dagahaley and Hagadera in 1992 (together, the three comprise the Dadaab complex). Kakuma, located in Turkana district, was set up in 1992 to receive unaccompanied minors from Sudan. Figure 8 shows the geographic location of refugee camps in Kenya, along with the settlement patterns of the country’s main ethnic groups.

**Figure 8. Ethnic geography and refugee camp locations in Kenya**

*Note:* Data on settlement patterns of politically-relevant ethnic groups obtained from the GeoEPR Dataset. Approximate camp locations are from Pérouse de Montclos 1998a, 158; Pérouse de Montclos 1999, 29; Veney 2007, 112.

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Within a few years, the Kenyan government initiated a series of camp closures. By 1998, all urban camps had been closed and remaining refugees had been relocated to Kakuma or Dadaab. This process of camp consolidation is analyzed in greater detail below.

**Ethnic Affinity, Sending Country Relations, and Expected Findings**

Once again, the presence or absence of ethnic affinity with the refugee groups, as well as the character of sending country relations must be determined. Table 15 presents this information for Kenya’s five largest refugee groups: Somali, Sudanese, Ethiopian, Ugandan, and Rwandan. The coding for each refugee groups will be described briefly below, but more detail can be found in Appendix II.

**Table 15. Ethnic affinity and sending country relations for Kenya’s major refugee groups, 1964-2010**

<table>
<thead>
<tr>
<th>Refugee Group</th>
<th>Ethnic Affinity</th>
<th>Sending Country Relations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Hostile</td>
</tr>
<tr>
<td>Somali</td>
<td>No ethnic tie</td>
<td>—</td>
</tr>
<tr>
<td>Sudanese</td>
<td>No ethnic tie</td>
<td>—</td>
</tr>
<tr>
<td>Ethiopian</td>
<td>No ethnic tie</td>
<td>—</td>
</tr>
<tr>
<td>Rwandan</td>
<td>No ethnic tie</td>
<td>1994-1996</td>
</tr>
</tbody>
</table>

None of the refugee groups share an ethnic affinity with the Kenyan ruling elite. Drawing on the EPR dataset, the Kenyan regime’s dominant ethnicity is taken to be “Kikuyu” for the periods 1964-1978 and 2003-2010, and “Kalenjin” for the period 1979-2002. This coding lines up with

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204 Kagwanja and Juma 2008, 224; Veney 2007, 97, 100, 09.
the respective time in office of Kikuyu presidents Jomo Kenyatta and Mwai Kibaki, and Kalenjin president Daniel arap Moi. For the refugee groups, the majority ethnicity is “Somali and Somali Bantu” for refugees from Somalia, “Dinka and Nuer” for Sudanese refugees, “Oromo and Amhara” for Ethiopians, and “Hutu” from Rwandans. There is no information on the ethnicity of Ugandan refugees in Kenya, though it is certain they are not Kikuyu or Kalenjin.

Sending country relations are coded as missing for Somalia and Sudan. Somalia’s renunciation of its irredentist project in Kenya had enabled the two countries to build friendly ties over time. However, the fall of the Barre regime and the outbreak of civil war in Somalia meant that there was no sending government for Kenya to be concerned with starting 1991. Similarly, Kenya was officially neutral during the Sudanese civil war and remained ambivalent afterwards, so sending country relations with the Sudan cannot be described as hostile or friendly. Accordingly, for refugees from Somalia and Sudan, I expect the domestic mechanism described in Chapter 2 to take precedence.

Kenya had very different relationships with Ethiopia, Uganda, and Rwanda. Bilateral relations with Ethiopia have long been friendly, with multiple treaties and pacts signed. In contrast, relations with Uganda fluctuated several times between 1966 and 2010. Initially warm ties were manifested in both countries joining the East African Community, but relations deteriorated as Uganda laid claim to large swaths of Kenyan territory in 1976 and the East African Community fell apart. Obote’s return to power in 1980 allowed for a rapprochement, but relations soured again after he was deposed in 1985. Soon after assuming power, Ugandan president Yoweri Museveni claimed that Kenya was harboring rebels and there were border clashes between the two countries. Moi and Museveni reconciled in 1990, however, and continued cordial relations allowed the East African Community to be eventually revived.
Finally, Kenya’s warm relations with Rwandan President Juvénal Habyarimana translated into hostility for the Rwandan Patriotic Front (RPF) when the latter seized power in 1994. Only in 1997 was there a rapprochement between the two governments.

As with the Egypt case, there is little evidence that sending country relations are endogenous to refugee policies. In other words, refugee flows from Somalia, Sudan, Ethiopia, Uganda, and Rwanda do not appear to have shaped relations between Kenya and these sending countries. At the same time, patterns of hostility or friendship with these countries have not been shaped by Kenya’s reaction to refugee flows. Thus, in this case study, sending country relations seem exogenous to refugee policies.

**TABLE 16. Predicted asylum policies for Kenya**

<table>
<thead>
<tr>
<th>Sending Country Relations</th>
<th>Hostile</th>
<th>Friendly</th>
</tr>
</thead>
<tbody>
<tr>
<td>Co-Ethnic</td>
<td>Generous</td>
<td>Intermediate/Delegation</td>
</tr>
<tr>
<td>No Ethnic Tie</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Drawing on Table 15, the expectations of the selective sovereignty theory can be stated. As shown in Table 16, a shift in asylum policy from intermediate to restrictive is expected for Rwandan refugees in 1997 while Ugandan refugees should experience several shifts between intermediate and restrictive asylum policies. For Ethiopian refugees, there are no expected shifts in asylum policy since affinity and sending country relations remain constant. However, Ethiopian refugees are expected to experience a restrictive asylum policy relative to other
refugee groups. Because Somali refugees are fleeing a failed state starting in 1991 and Kenya is neutral towards the Sudan, only the domestic ethnic mechanism is expected to apply for Somali and Sudanese refugees. Finally, the government should attempt to shift the burden to UN agencies for Ugandan refugees in the mid-1970s and again in the mid-1980s and for Rwandan refugees until the mid-1990s.

While this case study contains variation on sending country relations, there is no variation on the ethnic affinity variable. None of the refugee groups (Somali, Sudanese, Ethiopian, Ugandan, and Rwandan) share an ethnic kinship with the Kenyan ruling elite. The selective sovereignty theory predicts that, for these ethnic others, policymakers face domestic incentives to adopt restrictive policies in order to accommodate their constituents’ desires, preserve their constituency’s relative size, and encourage ethnic mobilization. These mechanisms should be especially visible for Somali and Sudanese refugees, for whom sending country relations are coded as missing. For all other refugee groups, hostile sending country relations are expected to moderate the restrictiveness of policies and lead to delegation to UN agencies.

Below, I will examine the general contours of Kenya’s asylum policy and the government’s relationship with UNHCR. Then, policies towards the five largest refugee groups (Somali, Sudanese, Ethiopian, Ugandan, and Rwandan) will be detailed before a summary of findings is presented. In general, the results lend some support to the selective sovereignty theory though they do not fully match the predictions described above.

**Overview of Policies**

Kenya has ratified the 1951 Refugee Convention, its 1967 Protocol, and the 1969 OAU Convention. It is also party to human rights treaties like the International Covenant on Civil and
Political Rights, the International Covenant on Economic, Social, and Cultural Rights, and the African Charter on Human and Peoples’ Rights. The problem, as Hyndman and Nylund note, “is not the lack of applicable refugee law on an international level. Rather, it is the deficiency in the implementation of the international treaties … on a domestic level.” Indeed, until 2006 (when a Refugee Act was passed), Kenya lacked national legislation governing refugees. Instead, they were regulated by general provisions on immigration and non-citizens, like the Immigration Act (cap. 172) and the Aliens Restrictions Act (cap. 173).

Despite the apparent lack of domestic legislation, Kenyan government officials assert that refugee affairs are carefully regulated. As the Deputy Secretary of the Ministry of Home Affairs, Heritage, and Sports, explains: the lack of a “written refugee policy per se … does not mean that refugee issues are not coordinated. The ad hoc policy on refugee affairs adopted by the Government is managed by an elaborate administrative mechanism.”

**Transfer of Responsibility to UNHCR**

Prior to 1990/1991, refugee affairs were handled by the National Refugee Secretariat (NRS), which was based at the Ministry of Home Affairs and National Heritage. An Eligibility Committee – which included representatives of the Ministry of Home Affairs, Office of the Vice-President, and the Immigration Department – conducted status determination, with UNHCR in an advisory role. Decisions were subject to final clearance by the Special Branch, an

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205 Hyndman and Nylund 1998, 29.
206 International Commission of Jurists (Kenya Section) 1998, 16.
207 Lomongin 2001, 1.
arm of Kenya’s security apparatus. During this time, foreign aid agencies were largely uninvolved in refugee affairs.²⁰⁸

But when some 400,000 Somali refugees arrived along with about 7,000 “walking boys” from Sudan, the Eligibility Committee stopped functioning.²⁰⁹ By 1991, UNHCR had set up an office in Nairobi, called “Wood Avenue,” where status determination interviews were administered by the Jesuit Refugee Service (JRS). This office issued protection letters, an A4 sheet with the individual’s name and photo that identified him or her as a refugee recognized by UNHCR, and directed refugees to live in a particular camp.²¹⁰ According to a JRS publication, through 1992, refugees were interviewed at a rate of 100 to 250 per day.²¹¹

Some observers have implied that shifting RSD to an overburdened UNHCR stemmed from an aim to slow down asylum claims. Indeed, this system proved fairly slow, with asylum-seekers facing delays of up to two years for a decision on their application.²¹²

The delegation of refugee affairs to UNHCR came along with granting refugee status on a group basis, offering these *prima facie* refugees temporary protection, and requiring them to reside in camps. As described above, individual RSD became untenable with the mass influx of refugees in the early 1990s. Rather than submit individual applications, asylum-seekers from

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²⁰⁹ African Rights 1993, 3; Milner 2009, 84; Veney 2007, 93. Lomongin explains that the committee did not have the “human resources” to conduct the volume of interviews necessary, and therefore dissolved itself. Lomongin 2001, 4.
²¹⁰ A small number of individuals were permitted to reside in Nairobi for medical or educational reasons. O'Neill, Rutinwa, and Verdirame 2000, 154; Verdirame 1999, 59. The protection letter was later replaced by a Mandate Refugee Certificate, to be renewed every two years. With the promulgation of the Refugee Act, the number of potential documents has multiplied. Refugees are supposed to be issued an Asylum Seeker Certificate, then a Refugee Identification Pass and a Movement Pass if they are permitted to leave the camp. This proliferation of documents has created confusion and opportunities for corruption on the part of police authorities. Campbell, Crisp, and Kiragu 2011, 16; Lindley 2011, 32; Pavanello, Elhawary, and Pantuliano 2010, 17.
²¹¹ JRS 1993.
Somalia and Sudan (and for a time Ethiopia) were considered on a group (i.e., *prima facie*) basis. Getting *prima facie* status has proven fairly easy for Somali asylum-seekers, provided they can demonstrate that they come from Mogadishu and south-central parts of the country. Only those suspected of involvement in violence undergo individual RSD.\(^{213}\)

As a matter of official policy, the suspension of governmental status determination procedures made Kenya a “transit country.” Refugees are hosted on a temporary basis; they can reside in a camp and receive UNHCR assistance until they are repatriated back home or resettled to another country. For recognized refugees, getting Kenyan citizenship is almost impossible. Although the constitution allows for the naturalization of long-standing residents who can speak Kiswahili and are economically self-reliant, it also requires that individuals have entered Kenya legally. Offering citizenship to refugees remains out of the question, not only because of their sheer number, but because the majority of them are from Somalia.\(^{214}\)

With the end of the “emergency phase” of the refugee crisis in 1997, UNHCR came under pressure to reduce spending in Kenya. It reportedly responded by rejecting cases and thereby keeping recognition rates low. The Agency tried to persuade the government to take over RSD again, only to be told that “refugees are UNHCR’s problem.”\(^{215}\)

It is worth noting that the Kenyan government never officially conceded that it would recognize UNHCR’s RSD decisions. Thus, after the US embassy bombing in August 1998, the Minister of Home Affairs announced that UNHCR had no authority to grant refugee status and its protection letters would not be recognized by the government. Refugees who complied with a


\(^{215}\) Verdirame 1999, 57; Verdirame and Harrell-Bond 2005, 34-35.
directive to turn over their papers to the Immigration Department were issued with a “Notice to Prohibited Immigrant,” which instructed them to leave Kenya within fourteen days.\(^{216}\)

In September 1998, the government revived its own RSD procedures by establishing a National Eligibility Committee (NEC) with UNHCR’s assistance.\(^{217}\) The NEC only met sporadically, however, and by 2000 the Refugee Consortium of Kenya (RCK) was once again calling status determination “the preserve of UNHCR.”\(^{218}\) As late as 2004, a senior government official said that the state bureaucracy saw refugees as “the UNHCR’s responsibility, not ours.”\(^{219}\)

Throughout this period, the government retained the NRS. This was upgraded into a department starting in 2003, and in 2005 was placed under the Ministry for Immigration and Registration of Persons (MIRP) which works under the Office of the President. These units had small staffs and focused largely on liaising between UNHCR and other parts of the Kenyan government, like the Department of Immigration, the Police Department, the National Registration Bureau, the Intelligence Service, and the Kenyan Human Rights Commission.\(^{220}\)

UNHCR is frequently criticized by refugees and NGOs for emphasizing “soft diplomacy” with the Kenyan government in the face of border closures, refoulement, and refugee camp conditions. Observers note that UNHCR prioritizes continued engagement with the government because it relies on it for continued access, and therefore cannot hold it truly accountable. UNHCR has also refrained from issuing legal challenges when security forces have abused

\(^{217}\) Verdirame and Harrell-Bond 2005, 83.
\(^{218}\) qtd. in ibid., 36.
\(^{219}\) qtd. in Milner 2009, 88.
refugees.\textsuperscript{221} According to an interviewee at an international NGO, the Agency does not push for improvements in the asylum system because it is concerned that “the entire house of cards could come crashing down.”\textsuperscript{222} At the same time, the Agency has been criticized for keeping its distance from refugees themselves, meeting with community representatives only after intercession by NGOs.\textsuperscript{223} This may be the reason why the government and UNHCR reportedly enjoyed an “excellent” relationship in 2005.\textsuperscript{224}

\textit{Encampment and Camp Consolidation}

As mentioned above, refugees were able to self-settle anywhere they chose before the early 1990s. With the mass influx in the early 1990s, however, the population of the Thika Reception Center had grown to 8,000, though it had been originally set up for 350 asylum-seekers. President Moi requested UNHCR’s assistance and starting 1991 camps were established.\textsuperscript{225}

UNHCR became responsible for managing camp operations, and substantial donor funds began to pour in. NGOs, as implementing partners, were subcontracted to provide social, health, and community services in the camps. The scope of UNHCR activities included constructing and repairing infrastructure like roads, boreholes, and medical and educational facilities. The Agency was also responsible for distributing supplies to refugees including plastic sheeting, blankets, firewood, and soap. This meant that UNHCR funds were overstretched, and reductions translated into overburdened infrastructure and fewer relief items for refugees.\textsuperscript{226}

\textsuperscript{221} African Rights 1993, 4; Lawyers Committee for Human Rights 1995, 69; Lindley 2011, 22.
\textsuperscript{223} RCK 2003, 18.
\textsuperscript{224} UNHCR 2005, 10.
\textsuperscript{225} Campbell, Crisp, and Kiragu 2011, 5; Veney 2007, 95, 97-98; Verdirame and Harrell-Bond 2005, 31. UNHCR reportedly insisted that the management of this reception center be turned over to an NGO sub-contracted by UNHCR because the government was too corrupt. Ibid., 32.
\textsuperscript{226} Hyndman and Nylund 1998, 28; Lindley 2011, 20; Milner 2009, 87; Veney 2007, 154, 57, 67; Verdirame 1999, 57.
It is unclear whether the encampment option was first advocated by UNHCR or the Kenyan government, or whether it was seen as desirable for both actors. If these flows were seen as temporary, then border camps would make it possible to provide quick assistance while safeguarding Kenya’s security and making eventual repatriation easier. Verdirame and Harrell-Bond claim that the government had been reluctant, and that UNHCR had a central role in the eventual decision to adopt an encampment policy, since the Agency saw urban refugee populations as an undesirable phenomenon. Other accounts suggest that UNHCR sees encampment in the face of mass influxes as an acceptable compromise that both mollifies host governments and enables the Agency to assist refugees. It may also be that the Kenyan government hoped to attract more international aid by adopting was considered a “conventional” encampment policy.

At the same time, the government seems to have adopted a remarkably “hands-off” approach. Inside the camps, the state is largely absent: “Here, the government is spoken of in the past tense.” The Refugee Directorate does not have representatives in the camps, and district officers are uninvolved in refugee affairs. In Dadaab and Kakuma, there are refugee patrols and guards although the police are nominally responsible for security. Occasionally, government officials and members of parliament will complain that visits to the camps had to be negotiated with UNHCR. In some instances, the Agency has even reached deals with local populations (without government involvement) to acquire land for camps.

227 Campbell, Crisp, and Kiragu 2011, 5.
229 Jamal 2000, 8; Veney 2007, 94; Verdirame 1999, 57.
In some important respects, however, the Kenyan government was fully in control of encampment. UNHCR activities could not take place without the government’s permission and support – for example, the government provided the land for the construction of camps. Crucially, the government decided where camps would be located and which camps would remain open or be closed.232

Indeed, within a few years, the Kenyan government began closing a number of refugee camps in NEP, Coast, and Central Province. Liboi was closed in 1994 and its mainly Somali and Ethiopian inhabitants moved to Dadaab. The Thika Reception Center was closed the followed year, and residents transferred to border camps. By 1998, all urban camps had been closed.233

Table 17 provides the opening and closing dates of refugee camps in Kenya.234

<table>
<thead>
<tr>
<th>TABLE 17. Establishment and Closure Dates for Refugee Camps in Kenya, by Province</th>
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<tbody>
<tr>
<td>Coast</td>
</tr>
<tr>
<td>Majengo: 8/1991-12/1993</td>
</tr>
<tr>
<td>Marafa: 1993-12/1995</td>
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<tr>
<td>Eastern</td>
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<tr>
<td>Rift Valley</td>
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<tr>
<td>Kakuma: 7/1992-</td>
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<tr>
<td>Central</td>
</tr>
<tr>
<td>Thika: 198?-3/1995</td>
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<tr>
<td>North Eastern</td>
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<tr>
<td>Habaswein: 1991-1995</td>
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<tr>
<td>Ifo: 9/1991-</td>
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<tr>
<td>Hagadera: 6/1992-</td>
</tr>
<tr>
<td>Dagahaley: 8/1992-</td>
</tr>
</tbody>
</table>

Note: Refugee camps that remain open are in bold. Data is from Pérouse de Montclos 1999, 29.

One reason behind closing Mandera camp, which was only two kilometers from Somalia and Ethiopia, may have been concerns about proximity to the border. Pérouse de Montclos casts the

233 Kagwanja and Juma 2008, 224; Veney 2007, 97-98, 100, 09, 72.
234 There is some disagreement over the exact camp closure dates, see Ndege, Kagwanja, and Odiyo 2002, 2; Pérouse de Montclos 1999, 29; Veney 2007, 112.
government as anxious to close frontier camps, tightening food rations and refusing to construct sanitary facilities in order to pressure their inhabitants. In his account, the government’s hostility to the Somali fundamentalists who controlled Mandera led them to close that camp and return some 1,000 refugees to Somalia in July 1993. Other reasons for consolidating refugees may have involved streamlining international assistance, and the ability to contain refugees effectively.

In Coast Province, Veney argues that camps were closed for three essentially economic reasons. Camps like Utange were open, meaning that refugees could exit and locals could enter. As a result, businesspeople from the local community soon experienced competition from Somali traders. At the same time, the government contended that refugees instigated crime in nearby Mombasa, which hurt the tourist industry. Finally, the local community at large came to resent the international assistance that refugees received. It is worth noting, however, that tensions and violence between locals and refugees in Kakuma did not prompt a similar response by the Kenyan government.

This economic reasoning does not seem to apply as well to the closure of Marafa camp. While Utange hosted refugees from urban backgrounds (professionals, government employees,

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236 Veney 2007, 123. Gallagher and Martin claim that the government was reluctant to relocate refugees from the camp. According to their account, UNHCR was concerned about the suitability of the site, in an area with scant water and vegetation, and worried that providing services to the camp’s population would draw in locals and nomads from Somalia and Ethiopia. As a result, UNHCR opted to provide minimal assistance to the camp’s residents that would allow them to survive but not draw in others. Gallagher and Martin 1992, 17, 23.
237 Kagwanja 2002, 102; Veney 2007, 84, 129-30. According to this account, the local business community came to resent what they saw as unfair competition, since business within the camps was not taxed. Somali refugees, mainly traders and businesspeople, had established restaurants, guesthouses, tailoring shops and various other businesses, and the camps housed thriving markets stocking a variety of goods. Since these camps were open, locals could enter the camps to shop and take advantage of “tax-exempt” services. As a result, local businesspeople began to call for the closure of these camps. At the same time, the government complained that visits by camp refugees to Mombasa threatened the tourist industry there. Since the coastal refugee camps were open, refugees could and often did visit Mombasa for business or pleasure. According to the government, this refugee presence drove away European tourists. Finally, violent clashes erupted between local hosts and refugees, reportedly because locals resented the assistance received by refugees. Ibid., 84, 98, 110, 30; Verdirame 1999, 68-69.
military personnel, and students), Marafa was populated by rural and largely uneducated refugees (peasants, farmers, and pastoralists). As a result, though Marafa was an open camp 20 miles from Malindi, refugees rarely travelled to that popular tourist destination or to Mombasa. They did not compete, or come much into contact, with members of the local community. As such, they did not present an economic or security threat, and there was no increase in crime or proliferation of weapons. Instead, members of the local community might have benefitted from resources like the camp’s water pump. However, Marafa camp still fell under the government’s centralization and consolidation scheme.238

In effect, the government had decided to contain refugees on the periphery of the state. While some refugees were resettled in Western countries, the majority were given the option of repatriation or relocation to Kakuma or Dadaab.239 Refugees were required to reside close to the border in either Dadaab in the NEP or Kakuma in the northwest. Both camps are located in remote, sparsely populated, and underdeveloped areas of the country that have long been neglected by the central government. In fact, the rise in crime and insecurity that came with situating the camps in these districts may have further increased their estrangement from the rest of the country. Both Dadaab and Kakuma provide refugees with very limited livelihood opportunities, partly because they are in an arid climate. Far from the informal economies of urban areas, refugees are made entirely dependent on rations.240

Under the Aliens Restrictions Act, the government may punish refugees found outside areas specifically designated as transit centers and refugee camps. Crackdowns in urban centers and

239 Kagwanja and Juma 2008, 224; Veney 2007, 97, 100. For some refugees, repatriation was reportedly involuntary. Pérouse de Montclos 1998a, 159. Of course, some refugees were able to remain in and around Mombasa, or to move elsewhere in the country. Veney 2007, 98.
stricter enforcement of encampment became particularly acute after the US embassy bombing in 1998 and the Mombasa bombings in 2002. Although the government has never officially gazetted these areas, it is still said to have adopted an “encampment policy” for refugees arriving starting in 1991. In both Dadaab and Kakuma, refugees may only move between the camp and neighboring town; further travel requires a movement pass.\textsuperscript{241} In addition, most of the humanitarian assistance is concentrated in the camps. A 2010 study reported that, together, Dadaab or Kakuma hosted 88% of Kenya’s refugees.\textsuperscript{242}

UNHCR went along with these camp closures and refugee transfers, for example screening refugees at Thika to determine which should be allowed to remain. When the government decided to close the coastal camps in 1994, UNHCR organized the relocation of refugees to Dadaab and Kakuma.\textsuperscript{243} From the Agency’s perspective, it may have been preferable to have refugees relocated rather than refouled. The Agency could also reason that refugees would receive some protection in the camps. Veney says that the UNHCR “made it appear” as though the closures were due to voluntary repatriation rather than forced relocation.\textsuperscript{244} Verdirame and Harrell-Bond claim that the closure of the coastal camps and the transfer of refugees helped UNHCR deal with pressures to reduce its expenditures once the “emergency phase” had ended in 1996-1997. For instance, UNHCR could now close its Mombasa offices. Along with repatriation of refugees, rejection of asylum claims, and pushing refugees outside of its umbrella, the closure of these camps allowed UNHCR to partially disengage and reduce its activities.\textsuperscript{245}

\textsuperscript{242} Pavanello, Elhawary, and Pantuliano 2010, 13.
\textsuperscript{243} Veney 2007, 173; Verdirame 1999, 69.
\textsuperscript{244} Veney 2007, 173.
\textsuperscript{245} Verdirame and Harrell-Bond 2005, 34-35.
Through the 1990s and into the early 2000s, UNHCR went along with the government’s encampment policy. Refugees who reached the Agency’s Branch Office in Nairobi were told to head to Dadaab or Kakuma. Few refugees were given authorization to reside in Nairobi, with assistance provided only to the most vulnerable. One reason for this neglect of urban refugees was, according to a UNHCR report, because “for many years, the operation was hampered by chronic under-funding and under-staffing.” Only in 2005 did the Agency launch an urban refugee program, the Nairobi Initiative.\(^{246}\)

Notwithstanding the encampment policy, refugees are increasingly residing in Nairobi, Mombasa, Kisumu, Kisii, and Nakuru for a variety of reasons, including security concerns and the lack of livelihood opportunities.\(^{247}\) At the end of 2010, UNHCR reports that registered refugees and asylum-seekers in Nairobi numbered 23,429 Somalis, 12,974 Ethiopians, 5,477 Congolese, 1,531 Rwandans, and 1,515 Eritreans.\(^{248}\) Not wanting to reside in camps, large numbers of asylum-seekers and refugees do not register with UNHCR however. It is estimated that there are more than sixty- to one hundred-thousand refugees in Nairobi. There may be between 10,000 and 100,000 Somalis alone.\(^{249}\)

These refugees now have access to social services in Nairobi through UNHCR’s Nairobi Initiative. Starting in 2007, UNHCR partnered with the City Council’s Health Department and German Agency for Technical Cooperation (GTZ) to provide primary healthcare to refugees.

With regards to education, UNHCR has been able to build on the fact that primary education was

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\(^{246}\) Campbell, Crisp, and Kiragu 2011, 8; Lindley 2011, 38-39.


\(^{248}\) The majority of Somalis reside in Eastleigh district as do most Ethiopians, who are primarily Oromos and Amhara. Ibid., 13.

\(^{249}\) Lindley 2011, 38, fn. 107; Pérouse de Montclos 1998b, 12; Wagacha and Guiney 2008, 94. Without formal permission to remain in Nairobi, many refugees return temporarily to camps during UNHCR’s population counts so that they will remain included on ration cards. During these times, buses line the streets of Eastleigh to take refugees to camps and bring them back afterward. Campbell 2006, 400.
made free in 2003. Working with GTZ and the Education Department, the Agency has encouraged and assisted primary schools to admit refugees.\textsuperscript{250} Entry into the formal labor market is restricted, however. The government does not issue work permits to refugees recognized since the 1990s.\textsuperscript{251}

In principle, the Kenyan government still requires refugees to reside in camps, a position espoused most intensely by officials who deal with national security.\textsuperscript{252} There are occasionally large-scale police roundups in the capital, a pattern which preceded the adoption of the encampment policy. Amongst other things, these roundups allow the police to collect bribes from refugees.\textsuperscript{253}

\textsuperscript{250} Refugees holding a Mandate Refugee Certificate pay a one-time Ksh20 (US$0.28) healthcare registration fee. They may then be referred to a public hospital (and their expenses covered) if they require secondary treatment. Refugees who head directly to a hospital may have to pay the foreigners’ rate, up to four times higher than the rate for Kenyans. Prior to this, refugees needed to head to the UNHCR Branch Office to see a nurse and be referred to an implementing partner’s clinic. Campbell, Crisp, and Kiragu 2011, 28-29; Pavanello, Elhawary, and Pantuliano 2010, 25; Wagacha and Guiney 2008, 97. Some primary schools have been more welcoming to refugee children than others, and some schools ask for an “admission fee,” essentially a bribe to the headmaster. Somali and Ethiopian refugee families who cannot afford to pay the costs of a desk, uniform, and supplies, have sent their children to madrasas with a religious curriculum. Sudanese refugees tend to send their children to city council, private, or informal schools. Refugee schools, which teach the curriculum and language of the country of origin and are favored by Congolese and other French-speaking refugees, are not recognized by the Ministry of Education. Campbell, Crisp, and Kiragu 2011, 29-30; Pavanello, Elhawary, and Pantuliano 2010, 24-25; Wagacha and Guiney 2008, 98. In 2008, UNHCR and Windle Trust were able to persuade some public universities, like the University of Nairobi, to waive the 25\% additional tuition that foreign nationals must pay. Pavanello, Elhawary, and Pantuliano 2010, 32.

\textsuperscript{251} Wagacha and Guiney 2008, 97. Still, some refugees are able to undertake petty trade or work in small and medium-sized businesses. Somali refugees, in particular, use social networks in Eastleigh to find work and accommodation. Connections to the camps are maintained, as refugees in Nairobi send money and clothes to the camps in exchange for grain, cooking oil, and other items. Somali entrepreneurs have set up a transport system between Nairobi and the camps. As a result, plastic sheeting with the UNHCR logo can be found on sale in Nairobi. Pavanello, Elhawary, and Pantuliano 2010, 14, 23.

\textsuperscript{252} Meanwhile, after it was established in 2006, the Department of Refugee Affairs (DRA) seems to have accepted the existence of an urban refugee population. Thus, in practice, refugees in Nairobi do not face compulsory relocation to the camps. Campbell, Crisp, and Kiragu 2011, 7. In fact, DRA initiated a “Rapid Results Initiative” in 2010 and began to provide documentation to refugees who had registered with UNHCR. Still, only 35\% of refugees had been registered within the target 90-day period, with interviewed refugees reporting they were suspicious of the government’s motivation. Ibid., 16.

\textsuperscript{253} In September 1986 and again in March 1987, a campaign to expel illegal aliens saw ID checks and the search of public transport. Landlords were threatened with prosecution if they did not evict refugees. Registered refugees (mostly Ugandans) were arrested in Nairobi and the other towns of Kisumu, Busia, and Kitali in western Kenya and some summarily deported. Africa Watch 1991, 354-55. During and after the crackdown in July and August 1997, bribes to avoid arrest went from Ksh200-300 to the thousands. Still, even in the absence of large-scale roundups,
Semi-regular raids in urban areas have sought to keep refugees out of Nairobi and in the camps. In July 1997, there was a major police operation after President Moi made a statement claiming that “foreign spies and criminals masquerading as refugees had invaded Nairobi.” Within forty-eight hours, the police began to sweep up refugees and other foreigners in Nairobi, Eldoret, and Mombasa. Foreigners were subjected to arbitrary arrest and detention, and a dozen individuals were accused of participating in the Rwandan genocide. The Department of Immigration claimed that UNHCR had given too many refugees permission to remain in Nairobi. Analysts have described these events as part of a “diversionary strategy,” whereby the government sought to divert attention away from opposition calls for constitutional reform and political change. According to Verdirame and Harrell-Bond, UNHCR’s response was to forcibly transport refugees to the camps with a police escort, but it was “keen to do this out of the public eye.”

These roundups often followed major security threats. For example, following the 1998 US embassy bombing, the Office of the President again issued orders for another large-scale roundup in September 1998. The following year, another 600 people, mainly Somalis and Ethiopians, were arrested in Eastleigh. Another series of police raids and arrests followed attacks on an Israeli-owned Mombasa hotel and airplane in 2002. After the US embassy was

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254 Hyndman and Nylund 1998, 41; Milner 2009, 90.
255 qtd. in Verdirame 1999, 71.
256 Ibid., 72-75.
257 Verdirame and Harrell-Bond 2005, 303.
temporarily closed due to terrorist threats, another 100 Somalis were arrested in Eastleigh in June 2003.²⁵⁸ Official statements directing refugees to return to the camps are posted publicly in Eastleigh. In 2004, Vice President and Minister of Home Affairs, Moody Awori, made the government’s policy clear: “[refugees] that will be found to be in the city and other urban places without authorization will be treated like any other illegal aliens.”²⁵⁹

The 2006 Refugees Act

As described above, Kenya had no national legislation governing refugees for most of the period under study. It was only after the election of Mwai Kibaki, and possibly to draw back international donors, that a new refugee bill was introduced in 2003 and passed in 2006.²⁶⁰

National refugee legislation had been drafted in 1990 in what was, according to one interviewee, a response to the Ugandan influx.²⁶¹ In 1992, the Under-Secretary from the Refugee Secretariat in the Office of the President, had said that it would soon be brought before parliament.²⁶² This did not occur, however, perhaps because policymakers wanted to maintain flexibility in dealing with refugees.²⁶³

With the adoption of the Refugee Act in 2006, the country finally had a national legal framework governing asylum-seekers, refugees, and status determination. The 2006 Refugee Act defines statutory and prima facie refugees and outlines criteria for disqualification and

²⁵⁹ qtd. in Campbell 2006, 401.
²⁶⁰ Milner 2009, 89.
²⁶¹ NGO worker. Personal interview by author. Nairobi, Kenya, May 4, 2012. The 1990 Refugees Bill called for a appointment of a Refugees coordinator who would be “responsible for the physical protection of refugees in Kenya.” This official would chair a Committee on Refugee Status, which in turn would receive and consider applications for refugee status. The draft bill emphasized non-refoulement, but also allowed for applications to be “rejected on security grounds.” Finally, a National Council on Refugees would “coordinate efforts necessary for welfare of refugees.” Kenya 1990.
²⁶² Sakataka 1992, 1.
²⁶³ Milner 2009, 89; Mogire 2009, 20; Verdirame 1999, 56. Hyndman and Nylund say that the bill was considered “too controversial and far-reaching” to be acceptable to the government. Hyndman and Nylund 1998, 29.
cessation of refugee status. It also establishes a Department of Refugee Affairs (DRA), to be “responsible for all administrative matters concerning refugees in Kenya” and to “coordinate activities and programs relating to refugees.” As head of this department, the Commissioner of Refugee Affairs is tasked with formulating policy, coordinating refugee protection and assistance measures, managing refugee camps and facilities, registering refugees and issuing them documents, and promoting durable solutions.\(^\text{264}\)

The 2006 Refugee Act set up a new RSD process. Asylum-seekers have 30 days after entering the country to apply to the Commissioner, and are subsequently interviewed. Recognized refugees are issued an identity card or pass and may remain (along with their families) in Kenya. If the refugee status application is denied, asylum-seekers can appeal the decision in front of a Refugee Appeal Board then, if unsuccessful, to the High Court. If these appeals are rejected, they have 90 days to leave the country.

Although the 2006 Refugee Act signals a shift in responsibility for refugee affairs, it remains to be fully implemented. A set of accompanying regulations was issued in 2009, and the DRA only took over refugee registration in March 2011.\(^\text{265}\)

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\(^{264}\) A Refugee Affairs Committee assists the Commissioner, and is composed of representatives from: the Ministry of State for Provincial Administration and Internal Security, the Ministry of State for Immigration and Registration of Persons, the Ministry of Foreign Affairs, the Ministry of Local Government, the office of the Attorney-General, the Ministry of Health, the Ministry of Finance, the Department of Immigration Services, the Police, the National Security Intelligence Service, the National Registration Bureau, the host community, and civil society. Kenya 2007.

\(^{265}\) Kenya 2009; Lindley 2011, 21. Most recently, the passing of a new constitution in 2010 has prompted the drafting of a new Refugees Bill. Ibid. Along with foreign donors, UNHCR is supporting DRA’s capacity building as the department progressively expands its responsibilities. Campbell, Crisp, and Kiragu 2011, 6; Pavanello, Elhawary, and Pantuliano 2010, 15-16. At the same time, UNHCR has expressed doubts about DRA’s competence, which has been interpreted as a reluctance to hand over responsibilities. Within DRA, there is dissatisfaction with the level and type of financial support from UNHCR. Campbell, Crisp, and Kiragu 2011, 17; Lindley 2011, 22. In fact, an official government publication acknowledges that the DRA lacks sufficient staff, operational equipment, and even adequate office space. Kenyan Ministry of State for Immigration and Registration of Persons 2009, 42. The DRA is forced to rely on volunteers for tasks like interpretation. NGO worker. Personal interview by author. Nairobi, Kenya, May 4, 2012.
The 2006 Refugee Act does not attempt to reverse Kenya’s encampment policy, instead outlining a procedure for appointing Refugee Camp Officers. At the same time, it does not designate these areas nor does it specify which groups of refugees should reside in camps.\textsuperscript{266} The reluctance to designate in writing the exact location of refugee camps has been attributed to parliamentarians not wanting to anger constituents, but wanting to keep the jobs that come with camps.\textsuperscript{267}

Although the 2006 Act was based on the 1990 bill, comparing the two refugee acts is instructive. Whereas the earlier draft required asylum-seekers to apply for refugee status within seven days of their arrival in Kenya, the 2006 Act allows them up to 30 days. Moreover, the later Act outlines a process for appealing decisions in the courts, something that was missing from the prior draft. The adoption of the Act followed significant lobbying by UNHCR and NGOs, and the former reportedly played a significant role in drafting the legislation, so it is possible that these improvements arose from advocacy by UNHCR and civil society organizations.\textsuperscript{268} At the same time, the Act does not mention any role for UNHCR, which – under the 1990 bill – would have had a representative in the National Council for Refugees. Notably, both documents allow for the rejection or withdrawal of refugee status if individuals are deemed a threat to national security or public order.

If we look at the parliamentary debate around the Refugees Act 2006, a clear pattern emerges. As far as I can tell, this debate took place on November 20 and 25 in 2003 on a draft bill, and then in November 14 and 15 2006 on an amended bill. The statements do not follow

\textsuperscript{266} Milner 2009, 89; Pavanella, Elhawary, and Pantuliano 2010, 15.
\textsuperscript{267} NGO worker. Personal interview by author. Nairobi, Kenya, May 10, 2012. Indeed, members of parliament in areas affected by camps (Kakuma and Dadaab) have sometimes spoken out against refugees. UNHCR 2005, 10, fn. 5.
\textsuperscript{268} Campbell, Crisp, and Kiragu 2011, 6; Pavanella, Elhawary, and Pantuliano 2010, 15-16.
party lines, nor are all parliamentarians whose districts already host refugees similar compared to all those who do not. Rather, as shown below, there is a difference in tone depending on the ethnic majority of each electoral district.

Ekwee Ethuro (NARC-Turkana County) complains that host communities were not consulted when the government appropriated land for refugee camps and asks “Why can we not establish refugee camps in Thika, Tetu or other nice places in the Central Province?” Refugees are receiving food and water, with local communities “looking across the fence.” Comparing the local Somali and Turkana communities, he stresses “At least, the Somali have an entire province whereas we only have one district, and these refugees could easily overrun us.” Though he supports the adoption of legislation to manage refugees, he opposes the draft provisions in this bill.\footnote{Kenya 2003, 3995-4000.}

Compare this statement with those of parliamentarians from Somali-majority Garissa County. Aden Sugow (KANU-Garissa County) also acknowledged that hosting refugees entailed problems with insecurity, economic disparities, and environmental degradation. However, he felt that freedom of movement would solve many of these problems. The bill would help refugees as well as host communities, and would enhance Kenya’s image “as a very hospitable state.”\footnote{Ibid., 4043-45.} Mohamed Yussuf Haji (KANU-Garissa County) emphasized “the plight of refugees,” saying that “[t]hey need sympathy,” even as he recognized that local communities do not benefit from hosting refugees. He also defended Somali refugees in Eastleigh, noting that remittances were contributing to the Kenyan economy and that they employ Kenyans. Kenya could benefit from allowing refugees to get legitimate employment. He supported the bill, saying it was “unfortunate” that the government had “almost abdicated its responsibility” to
UNHCR, such that he had to get permission to visit Kakuma camp, even as Provincial Commissioner for Rift Valley Province.\textsuperscript{271}

This debate suggests that legislators are demanding generous (or restrictive) policies depending on whether their constituencies share (or lack) an ethnic affinity with the refugee group they host. In Garissa County, the majority of voters are Kenyan Somalis who share an ethnic affinity with Somali refugees. Accordingly, parliamentarians representing that district seem generally supportive of refugees. Meanwhile, in Turkana County, the majority of voters are Turkana who regard Sudanese refugees as ethnic others.

**Policies by Group**

The common narrative about Kenya’s refugee policies is that the country moved abruptly from hospitality to hostility in 1991 in response to massive refugee influxes from Somalia, Sudan, and Ethiopia. According to this account, the country had long been welcoming towards the relatively small number of refugees who fled to it. Kenya’s attitude was essentially laissez-faire, in that there was no national refugee legislation but refugees faced few obstacles to local integration. These were permitted to access social services, enter the labor market, open businesses, and to reside wherever they wished. However, the mass influxes of the early 1990s brought with them political, economic, social, and environmental problems. Refugees were detained and forcibly deported. High-level officials began to link refugees with crime, terrorism, and arms trafficking.\textsuperscript{272}

\textsuperscript{271} Kenya 2006, 3705-07.
\textsuperscript{272} Milner 2009, 86; Mogire 2009, 16-17; Veney 2007, 93-94; Verdirame 1999, 57.
One version of this account asserts that the government was more accommodating towards the first wave of refugees in Nairobi and Mombasa, because these were largely urban businesspeople, intellectuals, and professionals. While following waves of refugees (poorer and rural) were restricted to camps, the authorities had seen fit to close their eyes and reap the economic benefits of allowing educated and skilled refugees to participate in the urban economy.\textsuperscript{273}

Some authors also distinguish between two “classes” of refugees. On the one hand, there are refugees who had been recognized by the government before 1991, called convention refugees. On the other, are mandate refugees whether they have undergone individual RSD or recognized on a \textit{prima facie} basis after 1991. There are a number of differences in treatment between pre-1991 and post-1991 refugees. In contrast with convention refugees, mandate refugees may reside wherever they wish and some have even been naturalized.\textsuperscript{274}

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\textsuperscript{273} At the same time, wealthier refugees were better able to cope with urban life, faced less extortion and harassment, and were able to pay bribes if they needed to escape detention or possible deportation. Kagwanja 1998, 53; Pérouse de Montclos 1998b, 9; Veney 2007, 132-33. Pérouse de Montclos calls asylum-seekers in Nairobi “elite refugees,” at least from the educational if not necessarily the material perspective. Pérouse de Montclos 1998b, 10.

\textsuperscript{274} Moret, Baglioni, and Efionayi-Mäder 2006, 38; RCK 2012, 20; UNHCR 2005, 8; Verdirame and Harrell-Bond 2005, 216. Convention refugees are also able to obtain Convention travel documents from the Department of Immigration at no charge. UNHCR 2005, 8, 31-32; Verdirame and Harrell-Bond 2005, 35, 181. Another contrast is that although all refugees are technically eligible for renewable Class M work permits under the Immigration Act (and the 2006 Refugee Act), these have proven difficult to acquire for mandate refugees. At the same time, pre-1991 refugees were able to renew their permits. Campbell, Crisp, and Kiragu 2011, 35; Lindley 2011, 37; Pavanello, Elhawary, and Pantuliano 2010, 17, 21; Verdirame and Harrell-Bond 2005, 216. Some mandate, or post-1991, refugees have circumvented these limitations by purchasing Kenyan ID cards from corrupt officials. Occasionally, parliamentarians have offered refugees national ID cards in return for votes. The drawback for these individuals is that they cannot pursue resettlement. Lindley 2011, 36. Others have opted for an Alien Card issued by MIRP, which offers no special protections for refugees, but allows them to apply for a Class M work permit. Pavanello, Elhawary, and Pantuliano 2010, 17. Still others, particularly in urban centers, have not registered and have no official documents at all. Lindley 2011, 36. Asylum-seekers may be dissuaded from registering for a variety of reasons, including because they fear they will be rejected and deported, or because they recognize the RSD process takes a long time. Pavanello, Elhawary, and Pantuliano 2010, 17. Notably, convention refugees are required to register with the National Registration Bureau, a database to which UNHCR does not have access. Meanwhile, the government has not registered mandate refugees systematically or regularly, seeing fit to conduct one-off registration exercises in the camps. RCK 2012, 20-21; UNHCR 2005, 18. In 2005, UNHCR reported that about 12,500 refugees had been recognized by the government but only 2,500 remained in Kenya. Ibid., 8.
What these accounts mask, however, is the disparity in treatment across refugee groups, whether or not they are educated and whether they arrived before or after 1991. This section describes the treatment received by each group in turn: Somalis, Sudanese, Ethiopians, Ugandans, and Rwandans. A summary of findings and comparison across groups will then be provided before the selective sovereignty theory is assessed.

Somalis

Somali refugees are often described as a case apart. One interviewee underscored that policies take on a different character when Somalis are involved. They are the reason the approach towards refugees has become securitized; border control with Uganda and Sudan is less strict than with Somalia. NGO personnel who work regularly with refugees emphasize the unfavorable treatment that Somalis receive, compared with other refugee groups. The “legal framework may not reflect differences in treatment, but in reality there are” differences between Somalis and other refugees. For example, “no one cares” if there are Congolese refugees in Nairobi, and “no one would actively harass [them if they did not have] papers, any more than they would a Kenyan.” In contrast, “Kenya has never liked Somalis.” Another interviewee underscored that south Sudanese without documentation face very few problems, in contrast to Somalis who bear the brunt of police harassment. According to Pérouse de Montclos, the treatment reserved for these refugees is the most severe.

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278 Pérouse de Montclos 1998a, 155.
From 1988 and up until the fall of the Barre regime, Kenya attempted to prevent the flow of Somali refugees. The government maintained a large presence at the border and off the coast, forcibly pushing back thousands of refugees. Refugees who had established makeshift camps in the NEP were forced across the border, and thousands of refugees remained in no-man’s land. In April and July 1989, some 5,000 Somalis who were suspected of supporting Somali Patriotic Movement guerillas were arrested. In November, a group of 3,000 refugees who had initially been offered sanctuary were forced across the border by the military at gunpoint after high-level Somali officials visited Nairobi and the border area. Sixty of these were delivered to Somali authorities, and eighteen were executed immediately.\(^{279}\) In January 1991, Somali refugees were not allowed to disembark, even as boats capsized. Africa Watch describes incidents where refugees were arrested, interrogated, beaten, starved, or handed to Somali forces.\(^{280}\) Kenya reportedly agreed to repatriate these refugees in exchange for policing rights extending to Dobley in Somalia and the ability to inspect Somali military hardware. Meanwhile, humanitarian agencies were barred from assisting the refugees. During this time, only former government and military officials allied with Barre were granted entry. They flew into the country and booked themselves into Nairobi hotels.\(^{281}\)

Once the Barre regime fell in early 1991, however, President Moi opened the borders although the number of refugees seeking entry had risen substantially by this point. The move won praise from the donor community, and foreign aid flowed into Kenya.\(^{282}\)

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\(^{281}\) Ibid., 343, 50, 52; Kagwanja and Juma 2008, 219-20; Pérouse de Montclos 1998a, 157; Veney 2007, 95.

\(^{282}\) Milner 2009, 84, 86, 104. There were still cases of forced repatriation, however. In July 1993, police forces refouled 1,400 Somalis at Kiunga. Pérouse de Montclos 1998a, 157. In 2000, 400 refugees were deported. In 2001, between 6,000 and 10,000 Somali refugees were expelled from Mandera. Mogire 2009, 22.
That Kenya initially prevented Somali refugees from entering is very likely connected to Moi’s good relations with Barre. According to Human Rights Watch, the two governments had a long-standing agreement to cooperate against opposition factions in the border zone. Forces who attempted to use Kenyan territory to launch guerrilla attacks in southern Somalia were repelled. Back in 1989, the Kenyan chief of defense staff (himself Somali) had assured the Barre government that Ogadeni refugees (from the ethnically Somali region of Ethiopia) would not be permitted to remain in Kenya. Only after the Barre regime collapsed did Moi bend to international pressure and open the border. Even then, Kenya allowed its territory to be used to supply arms and other matériel to the ex-dictator’s militias.²⁸³

Along with foreign policy, Kenya’s discriminatory policies towards ethnic Somalis in general were also important. In 1991, Africa Watch claimed that “refugees at the border were vetted according to their ethnic group, rather than on the basis that they were civilians at risk.”²⁸⁴ As Hyndman puts it: “The Government of Kenya has not hidden its disdain for Somali refugees living in Kenya, nor for its own Kenyan nationals of Somali ethnicity.”²⁸⁵ In 1993, Africa Watch described Kenyan Somalis as “second-class citizens,” who face routine and institutionalized abuse and discrimination by the government and the public. They are frequently blamed for gun-running, cattle-rustling, and poaching. In official statements, the word “Somali” is often used synonymously with “shifta,” meaning bandit.²⁸⁶ Pérouse de Montclos argues that Somali refugees receive the worst treatment, not due to a genuine fear of secession, but because the

²⁸⁴ Africa Watch 1991, 349.
²⁸⁵ Hyndman 1997, 161.
²⁸⁶ African Rights 1993, 8; Milner 2009, 104.
political and economic marginalization of Kenyan Somalis prevents them from influencing ruling elites in Nairobi.\textsuperscript{287}

The NEP, where ethnic Somalis are concentrated, has witnessed significant government repression since Kenyan independence in 1963. Between 1963 and 1967, Kenyan Somalis, with support from the Somali government, waged a guerilla campaign referred to as the “\textit{shifta wars}.” Following Barre’s invasion of the Ogaden in Ethiopia in 1977, the NEP saw massive human rights abuses, including massacres in Garissa (1980), Modogashe (1982), Pokot (1984), and Wajir (1984 and 1987).\textsuperscript{288} The Minister of Internal Security, Godfrey Kariuki quipped “the only good Somali is a dead one.”\textsuperscript{289} Under a state of emergency which lasted until 1991, Kenyan authorities could restrict travel into and out of the province, detain suspects without charge or trial, and set up special courts.\textsuperscript{290}

The Kenyan government has long engaged in the surveillance and expulsion of Somalis and Kenyan Somalis. The government began screening all ethnic Somalis in November 1989, ostensibly to prevent Somalis from infiltrating Kenya. The following month, 500 ethnic Somalis (of which some were Kenyan Somalis) without proper identification were sent to Mogadishu.\textsuperscript{291} Hundreds of Kenyan Somalis were judged to have “fraudulent” papers and expelled. Even

\textsuperscript{287} Pérouse de Montclos 1998a, 168.
\textsuperscript{289} qtd. in Africa Watch 1991, 273.
\textsuperscript{290} This was in many ways a continuation of the underdevelopment and repression of the area under British colonialism. Hyndman 1997, 165-66; Lawyers Committee for Human Rights 1995, 65; Milner 2009, 101-03; Otunnu 1992, 25; Tóth 2011, 179.
\textsuperscript{291} Human Rights Watch 1990, 1; Hyndman 1997, 164, 66; Lawyers Committee for Human Rights 1995, 65; Otunnu 1992, 25. These screenings put anyone whose physical appearance suggested they might be ethnically Somali at risk of arbitrary arrest. Though it had been announced that the initial screening would last three weeks, screenings have become institutionalized. Human Rights Watch 1990, 1; Hyndman 1997, 166; Lawyers Committee for Human Rights 1995, 65; Otunnu 1992, 25.
Kenyan Somalis “found to have sympathy with Somalia” were to be deported.\textsuperscript{292} On June 16, 1991, hundreds of ethnic Somalis were rounded up for screening, and some 3,500 Kenyan Somalis were deported that year. In fact, the influx of Somali refugees may have been used to justify screening Kenyan Somalis.\textsuperscript{293}

As the conflict in Somalia intensified, hundreds of thousands of refugees escaped to Kenya. The more affluent refugees went straight to the capital or were able to pay for sea passage or Kenyan ID papers. Refugees who arrived by boat in Mombasa were settled in Utange, Marafa, and other coastal camps. Other refugees came to the country over land, many spending time in Liboi or Mandera before being relocated to Dadaab. Others settled with relatives in places like Garissa.\textsuperscript{294}

In December 1992, newly-elected President Moi announced that refugees would be sent back to Somalia immediately. In response, UNHCR launched the Cross Border Operation (CBO) a massive rehabilitation and resettlement program Somalia. The CBO aimed to enable Somali refugees in Kenya to return, as well as dissuade further flows, by rehabilitating parts of Southern Somalia and creating a “preventive zone.” By 1993, some 30,000 Somali refugees had returned from Kenya. That said, some refugees (having received the repatriation package) subsequently returned to camps in Kenya. At the same time, new arrivals from Somalia dramatically

\textsuperscript{293} Hyndman and Nylund 1998, 40; Otunnu 1992, 25; Veney 2007, 10. This type of screening was subsequently repeated. In 1993, ethnic Somalis who were unable to provide proof of Kenyan citizenship such as a birth certificate, identity papers, a party membership card, or a passport, risked deportation (and some individuals with paperwork were deported nonetheless). Ibid., 96, 170. Kenyan Somalis above the age of 18 were forced to carry color-coded pink identity cards, to prove they were in the country legally. Without these cards, citizens could not access state services or take advantage of education, financial transactions, or travel. Human Rights Watch 1990, 1; Human Rights Watch 2012, 15; Lawyers Committee for Human Rights 1995, 65; Veney 2007, 9.
decreased in 1993 and 1994 though it is unclear whether this is due to the preventive zone or de-
escalation of violence in the area.295

Observers point to the securitization of both Kenyan Somalis and Somali refugees in Kenya. In parliament, the Minister for Home Affairs and National Heritage Francis Lotodo had this to say in April 1996: “we did not know how to handle refugees and that is why we had put them near the urban areas like Mombasa and Marafa, but when we realized that they were a security threat, we had to take them away.”296

Kenya invoked security concerns on several occasions in order to close its border with Somalia. In 1999, after President Moi gave a speech linking refugees with crime and the spread of illicit arms, the border was closed. In 2001, the border was closed again. More recently, in early 2007, the border was closed after Ethiopia pushed the Union of Islamic Courts out of south-central Somalia. The Minister for Foreign Affairs justified another border closure by noting that Kenya was unable to distinguish genuine refugees from Islamist fighters.297 Still, according to Amnesty International, the government ignored offers to provide added capacity to screen asylum-seekers from Somalia.298

295 Hyndman 2003, 177; Hyndman and Nylund 1998, 27; Kirkby et al. 1997, 182-85; Lindley 2011, 24-29. UNHCR headquarters in Geneva established the Special Emergency Fund for the Horn of Africa and appealed for funds: US$13 million for the CBO and US$5.5 million for repatriation. It established four outposts in Southern Somalia, a few hundred kilometers inland along the Juba River, and hired over twenty NGO partners. Sector-specific “Quick impact projects” (QIPs), at US$50,000 and three-to-six months per project, would rehabilitate and reconstruct local towns and villages that had suffered during the war. By 1993, there were a total of 320 QIPs. Hyndman 2003, 177; Hyndman and Nylund 1998, 24, 26-27; Kirkby et al. 1997, 182-85; Lindley 2011, 24-29.
297 Burns 2010, 8; Milner 2009, 96. The Liboi transit center, located 15 kilometers from the border and run by UNHCR, was subsequently closed. Human Rights Watch 2009a, 14. Police arrested and detained, or sought bribes Somalis entering the country through the still porous border, probably with encouragement from Nairobi. They are charged in court in Garissa with unlawful entry or unlawful presence. Security forces have forcibly returned newly arrived refugees, or otherwise pressured them to leave. Amnesty International 2007, 2; Human Rights Watch 2010, 5; Lindley 2011, 30-31. Between five and seven thousand Somalis were trucked to the border and left on the Somali side. Amnesty International 2007, 1; Mogire 2009, 21.
298 Amnesty International 2007, 9. In an “unspoken compromise” that avoids embarrassing the government, UNHCR registers new arrivals who manage to make their way to Dadaab. Human Rights Watch 2009a, 14.
Connections have been drawn between terrorist organizations (such as al-Ittihad al-Islamiya) and Dadaab refugee camp. Kenyan Somalis and Somali refugees alike experienced stepped up repression and were targeted by counter-terrorism legislation and a new counter-terrorism unit established in February 2003. Kenyan government officials have also expressed concerns that refugees have contributed to small arms proliferation.299

That the Kenyan government has linked Somalis with insecurity is inextricable from ethnic politics. Similar flows of non-Somali refugees would not, and indeed have not, sparked comparable references to insecurity on the part of the Kenyan government. For Milner, this association between Somalis and insecurity has more to do with historical factors than with actual evidence linking the two. In particular, he argues that memories, like those of the shifta wars, have resulted in a perception that all Somalis (whether Kenyan citizens or refugees) are security threats.300

There is, moreover, another dimension to the ethnicity dynamic. Whereas Kenyatta had been a member of the Kikuyu, Kenya’s largest ethnic group, Moi was a Kalenjin. When a coup was attempted against Moi by the Kenyan Air Force while he was out of the country in August 1982, he came to see himself on a “political island” surrounded by Kenyatta’s Kikuyu supporters. He sought to ensure the rise of his ethnic group and adopted a range of repressive measures, which included campaigns in the NEP.301

**Somalis in Dadaab.** As mentioned above, the government initially established camps for Somalis (sometimes called “Africa’s first boat people”) surrounding Mombasa and nearby

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299 Kagwanja and Juma 2008, 224-25; Milner 2009, 97-98. Although rebel fighters may have brought their guns with them to Kenya, the government shifted blame to far larger refugee population. Veney 2007, 95.

300 Milner 2009, 85, 96. Similarly, Otunnu has argued that the long history of conflict between Kenya and Somalia is to blame for the government’s unstated policy of “refugee deterrence.” Otunnu 1992, 21, 25.

301 Hyndman 1997, 165-66; Milner 2009, 103.
Malindi, at Utange, Marafa, St. Annes, Hatimy, Jomvu, and Swaleh Nguru. Many were forced into these camps in Coast Province, while others were able to self-settle. Though Somali shared with some members of the local community an adherence to Islam, they lacked the cultural and economic ties to the Mijikenda.\textsuperscript{302} As described above, these coastal camps were closed in the 1990s and their populations transferred elsewhere.

In NEP, three camps were established for Somalis in Dadaab (Ifo in 1991, and Hagadera and Dagahaley in 1992). These camps are located less than 100 kilometers from the border with Somalia, and their location in the NEP is telling. The NEP borders Somalia and has a significant Kenyan Somali population. At the same time, it is a marginalized province in which the central government has invested little in economic development and growth. As described above, the NEP also has a history of violence and repression dating back from colonial times. Today, the Dadaab complex resembles a city, its population exceeding that of many urban centers in Kenya.\textsuperscript{303}

Somalis who had settled elsewhere were relocated to Dadaab in the 1990s. In 1992, UNHCR and Kenyan officials reportedly withheld assistance to two camps in the northeast to force Somali refugees residing there to move to Dadaab.\textsuperscript{304} Within Dadaab, moreover, budgetary restrictions have often limited food rations resulting in rising malnutrition rates. One MSF evaluation wondered whether there was a deliberate strategy to “starve the refugee back to

\textsuperscript{302} Kagwanja and Juma 2008, 224; Veney 2007, 97, 110; Verdirame 1999, 68-69. As described above, the coastal camps were peri-urban and Mombasa and Malindi are far removed from the border towns in the Rift Valley and NEP. At the same time, these two cities have experienced rapid population growth compared with the underpopulated Turkana and Garissa districts. Veney 2007, 113-14, 28.

\textsuperscript{303} Lindley 2011, 20, 41.

\textsuperscript{304} Wagacha and Guiney 2008, 92.
Somalia.” Overcrowding has been a persistent problem at Dadaab, but expansions have been halting.

Once in Dadaab, it is very difficult for refugees to leave. Movement passes authorize travelling for certain reasons like pursuing higher education or medical treatment, conducting trade or business, resettlement, or fleeing a security threat in the camp. There are significant delays in processing applications, and they can be declined arbitrarily. In 2009, only about 2% of Dadaab residents (6,000) were issued passes.

Somali refugees share the language, religion, and ethnicity of Kenyan Somalis in the NEP. Both also shared a common nomadic pastoralist background, which made for significant cultural and economic links. For these reasons, and particularly with a large influx of refugees, it was difficult to distinguish Somali refugees from Kenyan Somalis. The history of Somali irredentism in the region, however, meant that the Kenyan government treated both groups with resentment.

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305 qtd.in Verdirame and Harrell-Bond 2005, 249.
306 Between 2007 and 2009, UNHCR negotiated with local communities and their elected representatives for new land to establish a fourth camp. After negotiations stalled in Lagdera constituency, the Agency identified land in Fafi constituency. It was only in early February 2009, that the Agency announced that the prime minister had committed to providing land in that district. Human Rights Watch 2009a, 28-29. In March 2010, the government agreed to provide more land for the expansion of Ifo camp. Burns 2010, 9. In the meantime, Somalis have been relocated from Dadaab to Kakuma. Lindley 2011, 33.
307 With the high military presence in the area, individuals travelling along the Dadaab-Nairobi route without a valid movement pass can face police harassment and pay up to 200-1000Ksh ($2.80-14) per person per roadblock to bus drivers and conductors. Travel from Kakuma to Nairobi is comparatively easier. Lindley 2011, 37; Pavanello, Elhawary, and Pantuliano 2010, 23.
308 Veney 2007, 109. Some Kenyans registered as refugees and headed to the camps in order to benefit from medical and education services, as well as food rations. Pérouse de Montclos 2008, 197; Veney 2007, 117-18. Accordingly, UNHCR and its partners withheld assistance to refugees until they had been pre-screened and registered. UNHCR 2005, 16. Over time, an identity gap between refugees and the local host community became evident. Somali refugees were increasingly seen as a privileged group because they received assistance, and Kenyan Somalis (and their elected representatives) complained about environmental degradation and being shut out of employment opportunities in the camp. Kagwanja and Juma 2008, 224; Lindley 2011, 40-41. Competition for shelter, food and water, and police protection was made worse by drought conditions and cross border instability. Veney 2007, 96-97. For these reasons, UNHCR and its partners began implementing economic development projects and providing services in the local community, like the Local Assistance Project managed by CARE Kenya. A 2010 survey has estimated the economic benefits of the Dadaab camps at US$14 million per year. Lindley 2011,
Security operations in Dadaab and surrounding areas have subjected Somali refugees and Kenyan Somalis alike to substantial violence and abuse. In August 1992, following the killing of four policemen south of Dadaab, there was a major security operation in the area. The military apparently conducted a pogrom, killing hundreds of refugees, whose bodies were found around Dadaab four days after the army left. In 1993, Kenyan security forces intervened in Mandera and El-Wak, causing some 2,000 deaths. Outside the camps, Kenyan Somalis have experienced violent raids as well. For instance, in October 2008 a police-military operation in Mandera sought to disarm rival Somali militias; hundreds of local residents were beaten, tortured, and raped by security agents. No investigation was launched, despite promises from the Minister of State for Internal Security. Two years later, in October 2010, two Somali chiefs were tortured because they were suspected of harboring Ethiopian rebels.309

Chronic insecurity in and around camps in the NEP became brazen starting 1993, and the area was rife with robberies, killing, and rapes for most of the 1990s. The government declined to improve security in and around the camps, citing insufficient funds even after the refugee crisis had stabilized. Instead, UNHCR took it upon itself to construct fences and provide Kenyan security personnel with vehicles and communications equipment.310

The camp’s location has made the spillover of violence from Somalia into Kenya a real possibility. Armed groups have reportedly launched cross border attacks and then retreated to

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41: Milner 2009, 94; Veney 2007, 172. Some observers have suggested that Kenyan officials emphasize the burdens of hosting refugees in order to extract greater aid from international donors. Milner 2009, 95.
309 Human Rights Watch 2012, 16; Wagacha and Guiney 2008, 93. A public inquest to examine the August 1992 operation started in 1994, though no prosecution seems to have followed. Verdirame and Harrell-Bond 2005, 132. Though as Pérouse de Montclos notes, we must allow for the possibility that these infractions arose from liberties taken by security forces on the ground rather than instructions from Nairobi. Pérouse de Montclos 1998a, 157.
310 Veney 2007, 96, 171-72. Following the 1998 US embassy bombings, Kenya became concerned about links between insecurity and international terrorism. It was feared that radical Islamist organizations were using the camps as recruiting and training grounds. Kagwanja and Juma 2008, 222. Subsequent efforts to improve policing, ease access to justice, and reduce tensions with the local community reduced violent crime ten-fold between 1998 and 2003. Lindley 2011, 33.
evade capture. There are reports that al-Shabaab has engaged in recruitment in Dadaab. And for its part, the Kenyan government seems to be engaging in recruitment as well.\textsuperscript{311} Human Rights Watch has reported that individuals claiming to act on behalf of Somalia’s Transnational Federal Government have publicly recruited teenage refugees in Dadaab camp and the nearby towns of Dadaab and Garissa. Although high-level officials have denied these recruitment drives, government vehicles and guards are directly involved. When angry community members delivered recruiters to police in Hagadera camp, they were released within 24 hours. One recruiter reported: “I was told that the Kenyan government was aware of this and I did not have any problem with the police … Our biggest problem was the parents of the recruits, not the police.”\textsuperscript{312}

**Somalis in Eastleigh.** Outside the camps, Somali refugees are concentrated in the Eastleigh neighborhood of Nairobi. This low-income, densely-populated neighborhood is referred to as “Little Mogadishu.” Indeed, it is the only ethnic stronghold where the neighborhood’s identity is identical to that of its refugees. However, because they are relatively prosperous, and share a connection with Kenyan Somalis, Somali refugees in Nairobi are popularly perceived to be economic immigrants rather than bona fide refugees.\textsuperscript{313} Eastleigh is aptly described by Lindley as “a place of deprivation, failing infrastructure, and frequent crime, as well as vibrant informal trade and impressive entrepreneurial wealth.”\textsuperscript{314} During a trip to the Eastleigh suburb for a scheduled interview, I was forced to turn back when I encountered a large protest by Somali traders complaining about insecurity.\textsuperscript{315}

\textsuperscript{311} Amnesty International 2010; Burns 2010, 12; Milner 2009, 89; Pavanello, Elhawary, and Pantuliano 2010, 14.
\textsuperscript{312} Amnesty International 2010; Human Rights Watch 2009b.
\textsuperscript{313} Pérouse de Montclos 1998b, 12, 21-22.
\textsuperscript{314} Lindley 2011, 38.
\textsuperscript{315} See news coverage of this protest here: http://allafrica.com/stories/201205090091.html
In the 1990s, Eastleigh was transformed by Somalis from a residential area into a commercial center with a booming informal economy. The area hosts a number of retail malls, import-export businesses, real-estate agencies, hotels and lodges, cafes and restaurants, and money transfer and exchange services.  

As mentioned above, the Kenyan government has launched frequent raids to round up refugees in urban areas and enforce the encampment policy. In May 1989, police raids were conducted around Nairobi. Somalis were reportedly targeted based on their physical appearance, and individuals who could neither speak Swahili nor prove their Kenyan citizenship were deported. During the weekend of 15 August 1992, police in Nairobi and Mombasa arrested anyone with “Somali features” who did not have a Kenyan ID card. In December 1995, Somalis were transported to Thika where their families could come retrieve them.

In Eastleigh, Somalis may be more likely to be targeted because officers count on individuals being able to raise money from a supportive social network. Many officers may not recognize that some refugees are permitted to reside outside camps, and may suspect criminal or terrorist

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316 In the process, the competition pushed out Asian retailers. Retailers and smaller shops stock everything from electronics to clothing and fruit and vegetables. “Garissa Lodge,” a former guesthouse where many Somalis stayed that is today a shopping mall named “Little Dubai,” is considered a famous cornerstone of this transformation. Recently, the tax authorities have become increasingly interested in this wildly successful business area, though residents have refused to pay taxes without local improvements. Even though urban refugees are often viewed by locals as economic competitors who have caused an increase in prices, there is anecdotal evidence that the transformation of Eastleigh has created employment and raised wages. Almost every business employs at least one Kenyan, even if cleaner or watchmen, so that they can mediate with the police. Campbell 2006, 402-03; Lindley 2011, 41; Pavanello, Elhawary, and Pantuliano 2010, 23; Veney 2007, 131.

317 Interestingly, Ethiopians, erroneously arrested because they resembled Somalis, were immediately released. Pérouse de Montclos 1998b, 22.

318 African Rights 1993, 7. Some 4,000 were arrested. Pérouse de Montclos 1998b, 23.

319 There followed a period of calm, because the police reached an agreement with merchants at the Eastleigh Garissa Lodge, whereby the latter would regularly pay “dues” at the Pangani police station. Pérouse de Montclos 1998b, 23.
links, particularly with Somalis. Officers not based in Eastleigh sometimes come there specifically to extort money, especially on Fridays.\textsuperscript{320}

\textit{Sudanese}

In 1991, some 23,000 Sudanese refugees arrived in Kenya, of whom around 7,000 were unaccompanied minors. Known as “walking boys” or “lost boys,” they had been forced back to Sudan from Ethiopia with the fall of Mengistu and then had walked into Kenya. In response, Kakuma camp was founded in July 1992. Over time, the camp has grown: Kakuma II was set up in 1998 to absorb Somalis from closed coastal camps, and Kakuma III was established in 1999 as Sudanese refugees continued to arrive. Today, the Kakuma complex hosts refugees from nine countries and eighteen ethnic groups; roughly two-thirds are Sudanese, with Somalis and Ethiopians forming large groups as well.\textsuperscript{321}

The Kakuma camps are located in Turkana district of the Rift Valley Province in the northwest. This remote district is officially recognized as the poorest in Kenya. The high temperatures make agriculture difficult in the area, and famines and droughts are common. Turkana district is both economically and politically marginalized, as are the Turkana ethnic minority who inhabit it. Remarkably, the refugee population stood at 83,000 compared to 10,000 locals in 2003. Unlike Somalis in Dadaab, the Sudanese refugees in Kakuma do not share the ethnicity of their Turkana hosts.\textsuperscript{322}

\textsuperscript{320} Campbell, Crisp, and Kiragu 2011, 17. Along with Somalis, Ethiopians and Sudanese also felt that their physical appearance put them at greater risk. In comparison, refugees from the Great Lakes have witnessed a decline in police harassment with the end of the Moi regime in 2003. Pavanello, Elhawary, and Pantuliano 2010, 17-18.
\textsuperscript{321} Aukot 2003, 74; Jamal 2000, 37; Veney 2007, 100; Verdirame 1999, 62.
\textsuperscript{322} Aukot 2003, 74; Pérouse de Montclos 2008, 201. The first Sudanese to be housed in Kakuma camp were Dinka, followed by Nuer. The Ethiopians in Kakuma are mainly Oromos from the south. The Somalis, including Bantu, followed after the coastal camps were closed in 1997 and 1998 and NEP camps were consolidated. Veney 2007, 122. The Turkana, who as aforementioned are considered one of Kenya’s most marginalized ethnic groups, did not take kindly to competition for their meager land, water, and firewood. Refugees were not permitted to keep cattle, a
As with Dadaab, the Kenyan government is visibly absent from Kakuma. Although there is a governmental District Officer in Kakuma town, he has limited involvement with the camp. In order to sign travel passes, he must rely on UNHCR for transportation. Meanwhile, Kenyan police are not usually involved in camp security, unless specifically requested by UNHCR. An NGO sub-contracted by UNHCR, the Lutheran World Federation, is responsible for security, and has hired Kenyans and refugees to patrol the camp. Security issues are referred, depending on their gravity, to UNHCR or a refugee leaders’ “court.”

The Kenyan government had long been accommodating towards the Sudan People's Liberation Army (SPLA), and ambivalent towards the Sudanese government in Khartoum. Relations between Kenya and Sudan were tense because the latter had an explicit goal of exporting radical Islam to neighboring countries. In addition, the two countries were engaged in a territorial dispute over the Elemi triangle on the border between them. Meanwhile, the SPLA was allowed to have an office in Nairobi in the 1990s. The government supported humanitarian organizations associated with the Sudan People’s Liberation Movement (SPLM), as well as Operation Lifeline Sudan, which the Sudanese government claimed was part of SPLA’s supply chain. In Lokichokio, the Immigration Department gave three-month permits to reside in Nairobi to individuals connected to the Southern Sudan Relief Agency, a relief and logistics arm for SPLA.

Kenya’s ambivalence towards the Sudanese government, combined with the location of Kakuma camp only 75 kilometers from the Sudanese border, meant decreased security for the ban reportedly imposed by the local community rather than the Kenyan government. Tensions soon spilled over with the eruption of violence. Pavanello, Elhawary, and Pantuliano 2010, 14; Veney 2007, 100, 09, 23-24; Verdirame 1999, 62.

As in Dadaab, police are willing to allow refugee movement in exchange for bribes. Verdirame and Harrell-Bond 2005, 180.

Mogire 2011, 43, 60; Verdirame and Harrell-Bond 2005, 97, 276.
refugees residing there. When Kenya became one of the major destinations for refugees from southern Sudan in 1991, these included SPLA fighters. Amongst Dinka refugees in particular, SPLA officers sometimes became self-appointed leaders. Human Rights Watch report that they were told that “in some parts of Kakuma the chairmen are appointed by [Sudanese rebel leader John] Garang.”

The SPLA engaged in forcible recruitment in Kakuma camp. SPLA commanders entered the camp and met with community leaders, who were required to produce a certain number of recruits. In 1996, an SPLA mobilization team enlisted 500 refugees from the camp. According to Reuer, 5,000 Sudanese were taken from the camp in 1997, their bodies linked to the camp by their clothing. In 2000-2001, only 3,800 minors remained in Kakuma and thousands of others were believed to have been sent to the warfront. More recently, Sudanese refugees have reported that there is an SPLA training camp close to Kakuma for new recruits from the camp. The SPLA used some of the refugee settlements for “R&R,” and installed their families there. In northern Kenya, there was at least one camp where SPLA soldiers received food and logistical support from the Kenyan government. The SPLA also diverted food aid to rebels in southern Sudan.

Meanwhile, refugees who had fled the SPLA (rather than the Sudanese government) were not secure in Kenya. Refugees fleeing SPLA-held areas were unable to enter the country, blocked by Home Guards and security forces at the border. At Lokichokio, SPLA security officers monitored cross-border traffic and refugees who flee their notice are taken to them. Refugees

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325 Burns 2010, 7; Mogire 2011, 60; Veney 2007, 123.
326 Human Rights Watch 2002, 128. Verdirame and Harrell-Bond take UNHCR to task for treated these individuals as the only legitimate voice of the Dinka community, and sometimes declining to intervene when tensions arose. Verdirame and Harrell-Bond 2005, 261.
were threatened, harassed, and even abducted, and former SPLA members risked reprisals by the organization.\footnote{Africa Watch 1991, 347; Verdirame and Harrell-Bond 2005, 175, 77.}

A Sudanese lawyer and former SPLA officer explained: “Sudanese refugees are honestly in a better position than other refugees. Kenya is sympathetic to our cause, and the treatment they reserve for us is not the same [as for other refugees],” though he was probably referring to SPLA commanders rather than the Sudanese refugees confined to harsh Kakuma.\footnote{Verdirame and Harrell-Bond 2005, 97.} For these reasons, the government may have been willing to overlook the group’s recruitment and other activities in the Kakuma camps. Notably, the camp has reportedly also been infiltrated by Ethiopian security forces, but the government has not responded to these interventions with a reprisal as with al-Shabaab in Dadaab.\footnote{Burns 2010, 8; Human Rights Watch 2002, 128; Mogire 2011, 43.}

**Ethiopians**

There have long been Ethiopian refugees in Kenya, particularly in urban areas. The first wave came as a result of the conflict over Eritrean secession in the 1960s, followed by a second wave of students, intellectuals, businessmen, and former government officials after the overthrow of Emperor Haile Selassie in 1974. A third wave was caused by the “Red Terror” in 1977 and 1978. However, it was the fall of the Mengistu regime in May 1991, accompanied by drought and famine the following year, which sent a considerable number of refugees into Kenya. In 1992, the number of Ethiopian refugees had reached 40,000 but that declined to just 5,000 a mere four years later. Ethiopians were housed mainly in Walda camp until it was closed, but now mostly reside in Ifo.\footnote{Hyndman and Nylund 1998, 24; Kagwanja 1998, 55; Ndege, Kagwanja, and Odiyo 2002, 6.}
Although there is less information on the treatment of Ethiopian refugees, they have reported being harassed by agents of the Ethiopian government operating in Kenya. Ethiopian refugees in Nairobi reportedly fear abduction and forcible repatriation, or being injured and killed, by Ethiopian intelligence officials active in Eastleigh. Indeed, the RCK reports that Ethiopians are the group of refugees most often seeking advice on security threats originating from their home governments.\textsuperscript{332} Ethiopian agents are widely known to operate in Nairobi, and Human Rights Watch quotes an NGO worker as saying that the “Ethiopian government is active in Nairobi.”\textsuperscript{333} Refugees claiming to have been tailed have given NGOs license plate numbers, subsequently traced to the Ethiopian embassy. In 1992, Ethiopian security agents engaged in a widely-reported politically-motivated killing in Nairobi.\textsuperscript{334}

\textit{Ugandans}

There have been several waves of Ugandan refugees into Kenya, mostly settling in urban areas. These started with the 1966 constitutional crisis and Obote’s assumption of absolute power, followed by his overthrow by Idi Amin in 1971, the fall of Amin in 1979, the second rise of Obote in 1980, his overthrow in a 1985 coup, and the war bringing Yoweri Museveni to power. The largest flows were in the 1960s and 1970s, and were mostly composed of teachers, doctors, and other skilled and educated urban professionals.\textsuperscript{335}

Observers have often assumed that these refugees faced a hospitable reception because of their skills and the contribution they made to Kenya’s economy and development. Indeed, many

\textsuperscript{332} Pavanello, Elhawary, and Pantuliano 2010, 19.
\textsuperscript{333} Human Rights Watch 2002, 39.
\textsuperscript{334} Ibid., 40.
\textsuperscript{335} Campbell, Crisp, and Kiragu 2011, 5; Ndege, Kagwanja, and Odiyo 2002, 4.
were quickly absorbed into the public sector. Ugandan refugees, unlike those other nationalities, may have been able to take advantage of the East African Community.336

Contrary to this widespread claim, this group faced repressive policies that coincided with friendly relations between Kenya and Uganda. After the coup the brought Amin to power in 1971, Kenya made it difficult for Ugandans to set up resistance organizations. On some occasions, Kenya expelled refugees to Uganda who were subsequently executed by Amin. In 1973, three political refugees were handed over to the Amin regime and were instantly executed.337

Tensions between the two governments surfaced in the 1970s, however, when Uganda claimed part of Kenyan territory, authorized military incursions across the border, and supported a Popular Front for the Liberation of Palestine plot to shoot down an El Al airplane in Nairobi. Amin was also close with Somalia, who had irredentist claims on Kenyan territory. Now Ugandans were able to discretely set up several resistance organizations, including the Ugandan Liberation Movement, the Nairobi Discussion Group, and the Ugandan Nationalist Organization.338

With another shift in bilateral relations, Kenya cooperated with Obote, returning politically-active exiles to Uganda between 1980 and 1985. In September 1982, the government announced that Ugandans required a work permit. Refugees who tried to obtain refugee status from

336 Lomongin 2001, 2; Pérouse de Montclos 1998b, 28. For examples of this sort of argument, see, Milner 2009, 86; Veney 2007, 8.
337 Mogire 2011, 58. When Idi Amin attended President Kenyatta’s burial in 1978, Ugandan refugees were rounded up and detained. Ndege, Kagwanja, and Odiyo 2002, 17.
338 Mogire 2011, 58.
UNHCR were deported. Although some of these crackdowns have been attributed to economic conditions, they actually preceded the adoption of economic liberalization policies.

Relations soured once again, however, when Museveni’s government was accused by Moi of trying to destabilize Kenya by supporting dissidents and rebels, as well as permitting armed incursions. Beginning in 1985, Ugandan exiles received encouragement, and sometimes outright sponsorship, from the Kenyan government. Occasional roundups continued to occur, however.

And finally, after the Rwandan Patriotic Front invaded Rwanda from Uganda, President Moi issued a November 1990 directive ordering all Ugandan and Rwandan refugees to leave the country. Police sweeps followed in major towns including Nairobi, Nakuru, and Eldoret.

Rwandans

Kenya had had good relations with President Habyarimana and was unsympathetic towards the RPF government that seized power in July 1994. In 1996, the Kenyan government accused the Rwandan embassy of organizing an assassination attempt on former RPF minister, Seth

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340 Starting in 1986, there were several deportations of registered refugees. Africa Watch cites Ugandan refugees’ claims that Kenya no longer admits Ugandan asylum-seekers, and regularly expels those refugees registered with UNHCR. Africa Watch 1991, 347-48. Throughout the 1980s, Ugandan refugees were rounded up and deported. In September 1986, 600 refugees were arrested in Kisumu and at least 87 deported. African Rights 1993, 4. In 1987, a massive round of deportations (of Ugandans and Rwandans) followed a statement by Moi that “Kenya was for Kenyans.” Verdirame and Harrell-Bond 2005, 32. In November 1988, some 2,000 teachers were placed on special trains to take them to Busia, a border town in western Kenya. Pérouse de Montclos 1998b, 28. Teachers with valid work permits had these withdrawn and they were forced to leave. Ndege, Kagwanja, and Odiyo 2002, 17. Some of the directives from the Office of the President came as a surprise to the Ministry of Education, which employed Ugandan teachers and faced a staff shortage as a result. International Commission of Jurists (Kenya Section) 1998, 50.
341 Refugees were detained and deported regardless of whether they were in the country legally. Police also destroyed refugees’ residence documents and then charged them with illegal residence. The number of refugees deported is not known, but at least one thousand refugees reached the Ugandan border in a specially-assigned train. Africa Watch 1991, 355, 57; Veney 2007, 96, 101.
Sendashonga, who had defected to Kenya. Diplomatic ties between the two countries were severed.\textsuperscript{342}

As a result, refugees from Rwanda, mainly Hutus, were well-treated by the Kenyan government, despite accusations that they included \textit{génocidaires}. The Kenyan president refused to cooperate with the International Criminal Tribunal for Rwanda (ICTR), stressing that he would not turn over any Rwandan on Kenyan territory.\textsuperscript{343}

A particularly telling incident has to do with a group of 105 Rwandans from the Tingi camp in eastern Zaire. These refugees arrived in Wilson airport in Nairobi at the end of February 1997. UNHCR refused to recognize the group \textit{en masse} because they suspected some of the adults could be \textit{génocidaires}, and claimed that the group was unwilling to cooperate with their representatives. The refugees insisted on coming under the protection of the Kenyan government, rather than UNHCR. After four weeks, and upon the request of the Kenyan government, the refugees were transferred to Kakuma.\textsuperscript{344}

There was a dramatic shift in 1997 following a rapprochement between the two countries. In July, Rwandan Vice-President Paul Kagame visited Nairobi and insisted that Kenya turn over suspected \textit{génocidaires}. That same month, “Operation Alien” was kicked off, ostensibly to round up illegal aliens and foreign criminals. Refugees from all countries experienced arbitrary arrest and detention, but Hutu refugees were primary targets, including recognized Rwandans and Burundians authorized to reside in Nairobi. Seven Rwandans were arrested and transferred

\textsuperscript{342} O'Neill, Rutinwa, and Verdirame 2000, 154-55; Verdirame and Harrell-Bond 2005, 126.
\textsuperscript{343} O'Neill, Rutinwa, and Verdirame 2000, 154-55; Verdirame and Harrell-Bond 2005, 126, 275.
to the ICTR. In July 1997, Kenya also stopped admitting asylum-seekers travelling with old passports (the Rwandan government had changed its passports in 1995/1996).  

Summary and Comparisons

Starting in 1988, Somali refugees who attempted to enter Kenya encountered closed borders, pushbacks, and expulsions. Meanwhile, officials loyal to Barre did not face barriers to entry. Unrelenting pressure from foreign donors notwithstanding, Kenya only opened the border with the fall of the Barre regime in 1991, even though refugee numbers had swelled by that point. The Dadaab refugee complex was established for Somali refugees, where they continue to face confinement and harsh conditions. Somali refugees and Kenyan Somalis alike were subjected to discriminatory and repressive policies, including screenings, expulsions, and violence, particularly in the NEP. In addition, the Kenyan government has cited security concerns to justify repeated border closures and continued encampment.

After the arrival of thousands of Sudanese refugees in 1991, Kakuma refugee camp was established to house them. SPLA fighters also fled to Kenya, and received support from the Kenyan government. SPLA commanders became active in Kakuma, sometimes taking leadership positions or engaging in forcible recruitment within the camp.

There is not much information on the treatment of Ethiopians in Kenya. However, this refugee group reportedly faced harassment by agents by the Ethiopian government, likely with the tacit approval of the Kenyan government. Ethiopian refugees have sought help to avoid abduction and forcible repatriation by their home government.

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Ugandan refugees, meanwhile, experienced several shifts in treatment. In the early 1970s, they faced expulsions and were unable to set up organizations to resist Amin’s government. But in the mid-1970s, amid tensions between Kenya and Uganda, the Kenyan government permitted the establishment of resistance organizations, so long as these were discrete. With Obote’s assumption of power in 1980, relations between the two countries shifted again and Kenya once again began deporting politically-active exiles. For the first time, Ugandans were required to acquire a permit in order to work in Kenya. But after Museveni came to power and bilateral relations soured once again, and the Kenyan government actively sponsored Ugandan exiles. In a final shift, in 1990, Ugandans were the target of police sweeps and were ordered to leave the country.

Finally, Rwandan refugees witnessed a dramatic shift in 1997. Prior to that year, Rwandan refugees were well-treated, despite allegations that these included génocidaires. Following a rapprochement between the Kenyan and Rwandan governments in 1997, however, there was a police sweep targeting Rwandans. Kenya reversed its earlier position and agreed to transfer some of the Rwandans who had been rounded up to the ICTR.

Table 18 presents the change in policy indicators for Ugandan and Rwandan refugees. As discussion above shows, only these two refugee groups witnessed a shift in asylum policy. For the former, the exact year of some of these shifts is difficult to pinpoint with certainty, but they do seem to coincide with changes in sending country relations, i.e., 1976, 1981, 1986, and 1990. For Rwandan refugees, a shift occurred in 1997. As in the Egyptian case, several policy indicators saw no change at all. In contrast, the National Legislation indicator witnessed a simultaneous improvement for all refugee groups with the adoption of the Refugee Act in 2006. As described above, this new legislation has yet to be implemented.
### Table 18. Observed changes in asylum policy indicators for Somali, Ugandan, and Rwandan refugees in Kenya

<table>
<thead>
<tr>
<th></th>
<th>Ugandans</th>
<th>Rwandans</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Legal Framework</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>International Treaties</td>
<td>(no change)</td>
<td>(no change)</td>
</tr>
<tr>
<td>National Legislation</td>
<td>(no change)</td>
<td></td>
</tr>
<tr>
<td><strong>2. Admission and Status</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Screening</td>
<td>(no change)</td>
<td></td>
</tr>
<tr>
<td><strong>3. Protection and Security</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Movement</td>
<td>(no change)</td>
<td></td>
</tr>
<tr>
<td>Physical Safety</td>
<td>?</td>
<td>?</td>
</tr>
<tr>
<td>Refoulement</td>
<td>↑</td>
<td>↓</td>
</tr>
<tr>
<td><strong>4. Basic Needs</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Services</td>
<td>(no change)</td>
<td></td>
</tr>
<tr>
<td>Employment</td>
<td>(no change)</td>
<td></td>
</tr>
<tr>
<td><strong>5. Durable Solutions</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Integration</td>
<td>(no change)</td>
<td></td>
</tr>
</tbody>
</table>

*Note:* Change in policy indicators is measured relative to the period immediately prior. The symbol “↑” indicates an improvement in a given policy indicator, while “↓” indicates a deterioration. Where there is insufficient information, a “?” is used. And if there has been no change, cells contain “(no change).”

The absence of information on many indicators makes it difficult to identify periods of significant improvement or deterioration. However, there are some indicative shifts. For example, the expulsion of Ugandan refugees witnessed several ebbs and flows at key junctures. Similarly, Rwandan refugees faced increased threats of detention and deportation starting in 1997.

In addition to identifying shifts in the treatment of each refugee group, we can also compare their treatment relative to each other. Here, I limit the comparison to Somali, Sudanese, Ugandan, and Rwandan refugees, about whom we have detailed information. During the second half of the 1970s, Ugandan refugees experienced the most generous treatment by the Kenyan government. They enjoyed freedom of movement, as well as access to social services and the labor market. During other time periods, however, they were subjected to expulsions. In contrast, the most restrictive treatment was faced by Somalis, Sudanese, and Rwandans (after...
These groups were all restricted to camps, in addition to facing frequent roundups and deportations. Table 19 summarizes these “rankings” of observed asylum policies between refugee groups and across time periods.

<table>
<thead>
<tr>
<th>Asylum Policy</th>
<th>Refugee Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generous</td>
<td>Ugandans (1976-1980)</td>
</tr>
<tr>
<td></td>
<td>Rwandans (1994-1996)</td>
</tr>
<tr>
<td>Restrictive</td>
<td>Somalis (1991-2010)</td>
</tr>
<tr>
<td></td>
<td>Sudanese (1991-2010)</td>
</tr>
<tr>
<td></td>
<td>Rwandans (1997-2010)</td>
</tr>
</tbody>
</table>

**Assessing the Selective Sovereignty Theory**

As in the Egypt case, it was challenging to collect process-tracing evidence on Kenya’s asylum policy-making. I travelled to Kenya for fieldwork in May 2012. Kenyan forces were involved in military operations inside Somalia, al-Shabaab had launched violent attacks within Kenyan territory, and reprisals by the Kenyan government targeted Somali refugees and Kenyan Somalis in the NEP. Meanwhile, Somalis continued entering Kenya to flee ongoing violence and drought conditions. In this highly-charged environment, interviews were difficult to obtain and interviewees were wary of sharing detailed information.

Still, this case study adds important nuance that cannot be captured with the statistical analysis in Chapter 4. As shown above, the key independent variables from the selective sovereignty theory, sending country relations and ethnic affinity, can be measured and tracked more accurately without relying on proxies. For the dependent variable, the case study has examined, not just admission, but a range of asylum policies such as the adoption of legislation,
encampment, and large-scale deportations. This case study is also valuable because it can assess the selective sovereignty theory vis-à-vis alternative explanations that have been posited specifically in relation to the Kenyan case, such as the influence of international donors. Finally, the case study contains evidence of some of the causal mechanisms suggested by the selective sovereignty theory, which could not be tested using a panel dataset.

The description of group-specific asylum policies above lends some support to the selective sovereignty theory. Up until the fall of the Barre regime, and despite significant donor pressure, Somali refugees were subject to border closures and deportations. Only when Barre was forced from power did Kenya open its border, even though the numbers of refugees seeking entry were now considerably larger. As ethnic “others,” Somali refugees and Kenyan Somalis alike have been the target of substantial government discrimination and violence. Settlements of Somali refugees which posed no discernible economic or security threat (like Marafa) were closed, and they were encamped in harsh conditions at the Dadaab complex in the marginalized NEP. Though the Kenyan government has frequently cited security concerns with regard to Somali refugees, these are inextricable from the exclusionary politics directed at Kenyan Somalis. Government policies remained consistent, moreover, even as the numbers of Somali refugees stabilized or declined.

Kenya’s relations with the SPLA have been important in shaping the experience of Sudanese refugees. The Kenyan government overlooked the SPLA’s forcible recruitment of Sudanese refugees, in addition to providing the group with support. Unlike with Somalis, it is difficult to establish the role of domestic ethnic concerns with regards to Sudanese refugees. However, it is worth noting that Sudanese refugees have been confined to Kakuma camp in the poor and marginalized Turkana district.
Although there is less information on Ethiopian refugees in Kenya, it seems likely that bilateral relations between the two countries have played a role. In particular, agents of the Ethiopian government have reportedly harassed Ethiopian refugees in Kenya, engaging in abductions. As with the SPLA, it is likely that the Kenyan government was aware of these activities, but content to turn a blind eye.

Meanwhile, Kenyan support for resistance activities on the part of Ugandan refugees fluctuated several times. Ugandan refugees were unable to form resistance organizations in the early 1970s, when relations between Kenya and Uganda were cordial. But when relations between the two countries soured in the mid-1970s, resistance activities were permitted. Then, as bilateral relations thawed in 1980, Kenya started deporting politically-active refugees. When Kenya’s relationship with Uganda shifted yet again in the mid-1980s, Ugandan exiles received active sponsorship from the Kenyan government.

Finally, the treatment of Rwandan refugees shifted abruptly following a rapprochement between the Kenyan and Rwandan governments. Prior to 1997, Kenya welcomed Rwandan refugees and resisted pressures to turn over suspected génocidaires to the ICTR. As relations between the two governments changed, Rwandan refugees were targeted by police sweeps and seven were transferred to the ICTR.

UNHCR’s role in refugee affairs in Kenya is also relevant, of course. The Kenyan government scrapped its own RSD mechanisms in 1991, and turned over refugee recognition along with camp management to UNHCR. Overburdened as it was, and especially as funds began drying up, the Agency may have deliberately kept its recognition rates low and encouraged the rapid repatriation of refugees. When the government decided to close and consolidate camps, UNHCR went along with this scheme and helped relocate refugees, perhaps
because this helped partially reduce its own burden. In general, UNHCR has been criticized for prioritizing good relations with the Kenyan government over condemning abuses or advocating for refugees. In fact, UNHCR would not be able to operate in Kenya without the government’s consent and support. Far from being weak or powerless, the Kenyan government decided where camps would be located and which ones would remain open. Moreover, the large screening exercises in the NEP demonstrate that the Kenyan government can employ significant resources and capacity.346 Notably, the Kenyan government has at times described refugees as UNHCR’s responsibility, and at other times disregarded the Agency’s status determinations.

| Table 20. Predicted and observed breakpoints in Kenya’s asylum policy |
|-------------------------|-------------------|
| Refugee Group          | Breakpoints in Asylum Policy |
|                        | Predicted | Observed |
| Somalis                | 1991      | 1991     |
| Sudanese               | None      | None     |
| Ugandans               | 1976      | 1976     |
|                        | 1981      | 1981     |
|                        | 1986      |           |
|                        | 1990      |           |
| Rwandans               | 1997      | 1997     |

*Note:* Years where predictions and observations match are in bold.

Drawing on Table 18 and Table 19, we can summarize the timing of shifts in policy as shown in Table 20. Table 21 clarifies the direction of these shifts and the trends in delegation. In Table 20 and Table 21 cells in bold indicate that observed patterns match my theoretical predictions.

346 As Veney puts it: “The screening of Kenyan-Somalis demonstrated how Kenyan sovereignty trumped the UNHCR’s mandate.” Veney 2007, 171.
The selective sovereignty theory has a mixed performance. Two predicted breakpoints do not take place (1986 and 1990 for Ugandan refugees), though there are no breakpoints that occur but are unexpected. Across the different time periods, generosity and restrictiveness only match with theoretical predictions sometimes. Still, the discussion above does point to the relevance of sending country relations and ethnic affinity in shaping group-specific asylum policies.

**Table 21. Predicted and observed asylum policy and delegation for refugee groups in Kenya**

<table>
<thead>
<tr>
<th>Refugee Group</th>
<th>Years</th>
<th>Asylum Policy</th>
<th>Delegation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Predicted</td>
<td>Observed</td>
<td>Predicted</td>
</tr>
<tr>
<td>Somalis</td>
<td>1991</td>
<td>Restrictive</td>
<td>Restrictive</td>
</tr>
<tr>
<td></td>
<td>1966-1975</td>
<td>Restrictive</td>
<td>Intermediate</td>
</tr>
<tr>
<td></td>
<td>1976-1980</td>
<td>Intermediate</td>
<td>Generous</td>
</tr>
<tr>
<td></td>
<td>1981-1985</td>
<td>Restrictive</td>
<td>Intermediate</td>
</tr>
<tr>
<td></td>
<td>1986-1989</td>
<td>Intermediate</td>
<td>Intermediate</td>
</tr>
<tr>
<td></td>
<td>1990-2010</td>
<td>Restrictive</td>
<td>Intermediate</td>
</tr>
<tr>
<td>Ugandans</td>
<td>1994-1996</td>
<td>Intermediate</td>
<td>Intermediate</td>
</tr>
<tr>
<td></td>
<td>1997-2010</td>
<td>Restrictive</td>
<td>Restrictive</td>
</tr>
</tbody>
</table>

*Note: Cells where predictions and observations match are in bold.*

Moreover, shifts in policy do not seem to match changes in economic performance or humanitarian concerns. Throughout the period under study, Kenya’s real GDP per capita remained fairly steady, growing from about US$1,150 in 1966 to over US$1,250 in 2010.\(^{347}\) The treatment of refugees did not become more restrictive across the board with the adoption of economic liberalization and structural adjustment policies in the 1980s and 1990s. Nor did they become more restrictive across the board as the size of the refugee “burden” grew. Though Kenya is heavily reliant on international assistance, most pressure from donors has focused on democratization and domestic human rights abuses, rather than refugee policy.\(^{348}\) As mentioned above, the government also saw fit to crack down on the most highly-skilled refugees

\(^{347}\) GDP per capita is reported at 2005 constant prices. Heston, Summers, and Aten 2012.

\(^{348}\) According to Milner, however, some Kenyan officials are concerned about how the refugee question could affect Kenya’s relationship with donor countries. Milner 2009, 106-07.
In the literature on refugees in Kenya, two other explanations are often cited: democratization and security concerns. Though Kenya held its first multiparty elections in 1992, this does not coincide with a major observed shift for any of the refugee groups. Refugee policies have not become uniformly more restrictive (or, indeed, uniformly more generous) as publics gained power at the polls. In any case, insofar as ethnic mobilization around the issue of refugees was part of the electoral strategy of elites, this would be consistent with the selective sovereignty theory. With respect to security concerns, these are frequently cited by the Kenyan government, especially in reference to Somali refugees. However, as I argue above, these security concerns are tied up with domestic ethnic politics in Kenya. Though not anticipated by the selective sovereignty theory, it seems likely that Somali refugees in particular are singled out because they share an affinity with an excluded minority in Kenya.

**Conclusion**

The analysis above demonstrates that the common account of refugees in Kenya, which emphasizes a shift in the early 1990s, masks important differences in the treatment of different refugee groups. In addition, existing explanations that attempt to account for the evolution of Kenya’s refugee policies are insufficient. Factors like the magnitude of refugee flows, the role of international donors, democratization, and structural adjustment, cannot explain the variation in policies across refugee groups or over time.

Though its performance is mixed, the selective sovereignty theory helps explain some of the shifts in Kenya’s asylum policies with regards to specific refugee groups. There is, moreover,
some evidence that ethnic identity and sending country relations may have figured into Kenyan policymakers’ calculations. At the same time, humanitarianism and economic absorption capacity cannot explain the observed patterns in policies.
Chapter 7: “Selective Protection” in Turkey

The previous chapters presented in-depth case studies of asylum policies in Egypt and Kenya. This chapter conducts a similar analysis of Turkey’s policy responses towards six refugee groups (Bulgarians, Iraqis, Iranians, Eastern Bloc refugees, Chechens, and Bosnians/Kosovars) between 1970 and 2010.

Turkey was one of the drafters and original signatories of the Refugee Convention in 1951. Today, it is one of a handful of countries that maintain the “geographical limitation,” restricting asylum to European refugees. Accordingly, many studies have emphasized the “selective protection” provided to European compared to non-European refugees in Turkey. This chapter demonstrates that the European/non-European dichotomy is too blunt and can be misleading; the selective sovereignty theory helps explain important differences within each category.

Major Refugee Groups

This chapter covers six major refugee groups, each of which was present in Turkey for a different set of years. Hundreds of thousands of Bulgarian Turks crossed the border in 1989 to flee Bulgaria’s assimilation campaign. Many repatriated after the regime change in Bulgaria the following year, and the remainder were naturalized. With Iraqi refugees, there were two major influxes. The first influx involved Kurds fleeing Saddam Hussein’s al-Anfal campaign in northern Iraq in 1988. The second influx was also comprised of Kurds, this time fleeing Saddam’s suppression of the Kurdish rebellion in 1991. The majority of these Iraqi refugees were repatriated in 1991 with the creation of a “safe haven” in northern Iraq, while others were resettled. Although refugees from Iraq have continued to seek refuge in Turkey, their numbers
have been far smaller than those involved in 1988 and 1991. In contrast, there has been an almost steady stream into Turkey beginning with the 1979 Iranian revolution. I use the general term “Eastern Bloc” refugees to refer to individuals who fled Eastern Europe and the Soviet Union, beginning in 1970 and until the end of the Cold War, though few of these remained in Turkey permanently. After the end of the Cold War, refugees fleeing the Second Chechen War entered Turkey in 1999. Finally, Bosnian and Kosovar refugees arrived (and departed) in large waves. The Bosnian War in 1992 sparked the inflow of Bosnian refugees into Turkey, and they were repatriated after the Dayton Accords were signed in 1995. Similarly, Kosovar refugees began flowing into Turkey in 1998, and the majority returned after the end of the Kosovo War the following year.

Accordingly, the analysis below reflects the respective time period in which each refugee group was present in significant numbers in Turkey. Thus, I deal with policies towards Bulgarians during 1989-1990, Iraqis during 1988-1991, Iranians during 1979-2010, Eastern Bloc refugees during 1970-1990, Chechens during 1999-2010, and Bosnians/Kosovars during 1992-1995 and 1998-1999. Though Iranians and Chechens still reside in Turkey, the analysis stops in 2010, the last year for which data was collected.

With regards to settlement patterns, Turkey has at times established temporary camps to deal with sudden and large-scale refugee influxes, such as the inflow of Iraqi Kurds in 1988. Under regulations passed in 1994, other asylum-seekers are required to reside in a “satellite city” designated by the Turkish government.349 Of course, some refugees have also opted to live

“illegally” in large urban centers like Istanbul. Figure 9 shows the geographic location of these satellite cities in Turkey, along with the settlement patterns of the country’s main ethnic minority, the Kurds.

**Figure 9. Ethnic geography and “satellite city” locations in Turkey, 2009**

*Note: Data on settlement patterns of Kurds (shaded) obtained from the GeoEPR Dataset. Satellite cities are marked with the symbol ■. Other cities and towns are marked with the symbol ●.*

**Ethnic Affinity, Sending Country Relations, and Expected Findings**

As in the previous two case studies, an important first step is identifying the presence or absence of ethnic affinity and sending country relations. Table 22 presents this information for Turkey’s six largest refugee groups: Bulgarians, Iranians, Iraqis, Bosnians/Kosovars, Eastern Bloc refugees, and Chechens. Though discussed briefly below, further details on this coding can be found in Appendix II.

In Turkey, the dominant ethnic identity is “Turkish.” For the refugee groups, the majority ethnicity is “Bulgarian Turks & Pomaks” for Bulgarians, “Kurds” for Iraqis, “Persians and Kurds” for Iranians, “Chechens” for Chechens, and “Bosniaks/Muslims and Albanians” for Bosnians/Kosovars. The ethnicity for Eastern Bloc refugees is unknown, though they do not seem to have been ethnic Turks. Thus, only the refugees from Bulgaria shared an ethnic affinity with Turkey. All other refugee groups lacked an ethnic tie.
Turkey’s relations with Bulgaria were hostile in 1989-1990. Not only were the two countries on opposite sides during the Cold War, but Bulgaria had directed significant discrimination and assimilation programs at its ethnic Turkish minority. While the relationship between Turkey and Iraq had been cordial, the 1990-1991 Gulf War shifted relations to the worse. With Iran, meanwhile, Turkey managed to maintain a cooperative relationship between 1979 and 2010. This relationship featured significant trade and economic cooperation, despite ideological differences and the occasional diplomatic crisis. During the Cold War, Turkey was a NATO member and clearly opposed the Eastern Bloc. During the 2000s, however, Turkey and Russia enjoyed a warm relationship. Finally, the Bosnian War in 1992-1995 and the Kosovo War in 1998-1999 soured Turkey’s relations with the Federal Republic of Yugoslavia.

In this case study, in contrast with the Egypt and Kenya cases, there are several instances where Turkey’s relations with sending countries were shaped by events that also produced a refugee flow. For example, Bulgaria’s treatment of its ethnic Turkish minority both soured relations with Turkey and sparked the flow of Bulgarian Turk refugees. Similarly, the 1990-1991 Gulf War, the Bosnian War, and the Kosovo War generated refugee flows into Turkey, and concurrently triggered a shift in Turkish relations with Iraq and Yugoslavia. However, it is
important to note that in none of these cases did sending country relations change because of the refugee flow itself or because of Turkey’s response to that flow. In other words, it is true that Bulgaria’s assimilation policies resulted in hostile bilateral relations as well as a flow of refugees into Turkey. But, this hostility cannot be attributed to the flow of refugees from Bulgaria nor to the quality of their reception by Turkey. In short, sending country relations remain exogenous to refugee policies.

Based on Table 22, the predictions of the selective sovereignty theory can be stated. As shown in Table 23, a shift in asylum policy from restrictive to intermediate is expected for Iraqi refugees in 1990. For all other refugees, there are no expected shifts in asylum policy since ethnic affinity and sending country relations remain constant. However, Bulgarian refugees are expected to experience the most generous asylum policy relative to other refugee groups. Finally, the government should attempt to delegate to UN agencies for Iraqis in 1990-1991, Bosnians in 1992-1995, Kosovars in 1998-1999, and Eastern Bloc refugees in 1970-1990.

**TABLE 23. Predicted asylum policies for Turkey**

<table>
<thead>
<tr>
<th>Sending Country</th>
<th>Co-Ethnic</th>
<th>No Ethnic Tie</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hostile</td>
<td>Generous</td>
<td>Intermediate/Delegation</td>
</tr>
<tr>
<td>Friendly</td>
<td>Intermediate/Delegation</td>
<td>Restrictive</td>
</tr>
<tr>
<td>(Irn 1979-2010)</td>
<td>(Ch 1999-2010)</td>
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</tbody>
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Below, I will begin by presenting a general overview of Turkey’s asylum policies as well as UNHCR’s role in the country. Then, policies towards the six largest refugee groups (Bulgarians,
Iraqis, Iranians, Eastern Bloc refugees, Chechens, and Bosnians/Kosovars) will be detailed before a summary and comparison of findings is presented. A systematic assessment of the selective sovereignty theory shows that the results lend some support though they do not fully match the predictions described above.

“Informal” Delegation

Turkey has engaged in what has been termed “informal” delegation to UNHCR. This pattern is linked to two general features of the country’s asylum policies. The first involves an adherence to the “geographical limitation” of the 1951 Refugee Convention. The second is related to status determination for asylum-seekers which, since 1994, has operated on two “parallel tracks.” This section describes these two features in turn.

Geographical Limitation

Like Egypt, Turkey was one of the twenty-six countries that drafted the 1951 Refugee Convention. Indeed, Turkey was probably one of the countries that pushed for the inclusion of geographical and temporal limitations to the Convention. Accordingly, under Article 1B, states may restrict their obligations only to individuals who fled events in Europe prior to 1951. When it signed the 1967 Protocol, Turkey lifted the temporal limitation but maintained the geographical limitation. According to Turkey’s 2001 National Program for the Adoption of the European Union Acquis (NPAA), the decision to retain this limitation “is based mainly on

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350 Kirişci suggests that Turkish officials may have been reacting to the Palestinian and Indian/Pakistani refugee crises that took place in the 1940s. Kirişci 2001, 71, 74.
351 Tolay suggests that Turkey thereby signaled its allegiance in the Cold War, by emphasizing that only the Eastern Bloc could generate refugees. Tolay 2012, 126.
security considerations and the proximity of Turkey to a number of countries marked by instability.”\footnote{352
Turkish Ministry for EU Affairs 2001, 446. Several other countries that initially took advantage of the geographical limitation have since lifted it. At the time of writing, only Congo, Madagascar and Monaco along with Turkey maintain the geographical limitation.}

As a matter of law, Turkey espouses a distinct usage of the terms refugee (mülteci), asylum-seeker (sığınmacı), and immigrant (göçmen). Depending on their country of origin and ethno-religious identity, individuals may be considered Convention refugees, non-Convention refugees (called asylum-seekers), or national refugees (called immigrants).\footnote{353
Latif 2002, 21-22.}

The government only extends \textit{de jure} refugee status to Europeans. This designation was most commonly applied to individuals from Eastern Europe and the Soviet Union during the Cold War. Even though Turkey granted this status to those fleeing communism, it was understood that they would be resettled elsewhere and not remain in the country permanently.\footnote{354
Kirişci 2001, 75.}

Meanwhile, non-Europeans may be recognized as asylum-seekers and permitted to reside in Turkey temporarily, pending resettlement. In practice, the majority of these individuals have come from the Middle East, particularly Iran and Iraq. UNHCR handles status determination and resettlement for this group.\footnote{355
Latif 2002, 21-22.}

Finally, under the 1934 Law on Settlement (No. 2510), only individuals of “Turkish descent and culture” may immigrate to Turkey, settle permanently, and obtain the country’s citizenship. A Council of Ministers determines which individuals or communities qualify under this law. It has been applied to Turkish-speaking communities mostly from the Balkans, as well as
Albanians, Bosnians, Circassians, Bulgarian Pomaks, and Tatars. Smaller numbers of Kazakhs, Kyrgyz, Turkmens, Uzbeks, and Uyghurs have also benefitted from its provisions.\textsuperscript{356}

**Parallel Tracks**

UNHCR has operated a branch office in Turkey since 1960. Until the mid-to-late 1980s, the Agency was focused on conducting refugee status determination and processing resettlement for refugees from the Soviet Union and Eastern Europe. During this period, Turkey lacked domestic legislation relating to refugees and asylum-seekers. Instead, provisions from laws like the 1935 Law on Settlement, the 1950 Passport Law, the 1950 Law on the Residence and Movement of Aliens, and the 1964 Citizenship Law were applied.\textsuperscript{357}

The working relationship between UNHCR and Turkey began to come under strain, however, when the country experienced several mass influxes between 1988 and 1991. Under an informal arrangement, UNHCR extended its status determination and protection to non-European asylum-seekers, who had begun arriving in large numbers chiefly from Iran and Iraq. However, after Kurdish asylum-seekers had been repatriated to the safe zone in northern Iraq, the government began deporting newly-arrived asylum-seekers from the area regardless of whether they had secured recognition from UNHCR.\textsuperscript{358}

With the adoption of an Asylum Regulation in 1994, the division of responsibilities between the government and the Agency shifted.\textsuperscript{359} Turkey still maintained the geographical limitation, and UNHCR would continue to be responsible for non-European asylum-seekers. However, the
Ministry of Interior would conduct first-instance status determination interviews. The Turkish authorities first decide whether an individual is a “genuine” asylum-seeker, then UNHCR determines whether they qualify for protection and attempts to find a resettlement possibility for them. In effect, the regulation established two parallel status determination procedures, one domestic and one conducted by UNHCR.\(^{360}\)

More specifically, the Regulation instructs asylum-seekers to register with the Turkish police within five days of their arrival. Local police conduct an eligibility interview, but do not themselves make a status determination. Instead, they forward the interview documents (reportedly, with written opinions included) to the Ministry of Interior.\(^{361}\)

Officials at the Ministry of Interior make a decision after, the Regulation stipulates, consulting with the Ministry of Foreign Affairs and other relevant government bodies. In some cases, authorities have been known to solicit UNHCR’s opinion. Applicants who are rejected by the Turkish government are instructed to leave the country within 15 days, else they become subject to arrest and deportation.\(^{362}\)

Once the government recognizes an asylum-seeker’s eligibility, they are directed to apply to UNHCR and issued a renewable six-month residence permit. In the meantime, asylum-seekers are instructed to relocate to a designated “satellite city.” At their assigned city, they must register with the police regularly (in some places, daily) in order to verify their continued presence. Vulnerable asylum-seekers and those who fear threats to their security (such as high-profile politicians and former military personnel) may be sent to the Yozgat Refugee

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361 Asylum-seekers who approach UNHCR are issued a “blue logo letter” by the Agency and referred to the police station. If they had entered the country without valid identification or without an entry visa, asylum-seekers must register at the border town closest to their entry point. The five-day deadline was upheld strictly. Asylum-seekers who failed to register within five days of their arrival were subject to deportation, regardless of the merit of their claim for asylum. Frantz 2003, 16-18; Frlick 1997, 9, 12; Kirişci 2001, 80; Latif 2002, 24-25.
362 Frantz 2003, 35-36; Frlick 1997, 9, 16.
Guesthouse, a heavily-guarded government facility located 150 miles from Ankara. The Regulation accords recognized asylum-seekers the right to work and to education. However, they must leave the country if they are unable to secure resettlement within “reasonable time.”

If an asylum-seeker is recognized by the UNHCR, meanwhile, the Agency issues them with a “letter of concern” and their case is processed for resettlement. The Agency informs the Ministry of Interior so that the asylum-seeker can extend their residence permit. UNHCR also informs the Ministry if asylum-seekers have been rejected (and their appeals have been unsuccessful). In addition to conducting status determination and managing resettlement for non-European asylum-seekers, UNHCR also provides legal and social counseling, financial aid, and material assistance to asylum-seekers and refugees.

Besides setting up these “parallel tracks” for status determination, the Regulation also deals with mass influxes. In essence, the Regulation stipulates that large-scale population movements be stopped at the border. Authorities are expected to take any “necessary and effective measures” to ensure that asylum-seekers are prevented from crossing into the country.

There is little information on the genesis of this Asylum Regulation, but it seems to have come as a surprise to the UNHCR. The document appears to have been put together by Ministry of Interior officials in consultation with the Foreign Ministry. There was little or no consultation with other government agencies, UNHCR, refugee-related NGOs, or legal experts. This was

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363 The restriction that the satellite city system puts on asylum-seekers’ freedom of movement is in line with Article 17 of the 1950 Law on the Residence and Movement of Aliens. Frantz 2003, 18, 29, 33-36; Frelick 1997, 9, 11, 16, 25; Kaya 2009, 5.
confirmed by an interviewee at UNHCR, who explained that the Agency had been “shocked,” but decided to pursue persuasion and diplomacy instead of confrontation.\footnote{UNHCR Turkey official. Personal interview by author. Istanbul, Turkey, February 10, 2012.}

After the Regulation came into force, Turkey’s treatment of asylum-seekers and refugees received severe criticism from western governments as well as human rights groups. Amnesty International reported that the government “increasingly refuses to cooperate with the UNHCR.”\footnote{Amnesty International 1994, 1.} Perhaps the lowest point came in March 1997, when the Ministry of Interior issued deportation orders for over 600 people including asylum-seekers who had been recognized by UNHCR, or who were awaiting the Agency’s determination on their applications. It was also announced that anyone who was illegally present in Turkey would be denied an exit permit. However, the government suspended the deportation order following a domestic and international outcry.\footnote{Kirişci calls this a “symbolic turning point” for relations between the government and UNHCR, which witnessed a dramatic improvement thereafter. Kirişci 2001, 72, 82.}

Starting in 1997, deportations became less frequent and the government and UNHCR began to develop closer cooperative relations once again. According to Kirişci, government officials recognized that partnering with UNHCR would alleviate international criticism, while bringing about better implementation of the Regulation. A UNHCR-funded publicity campaign was launched to inform potential asylum-seekers about the Regulation. The Ministry of Interior instructed officials in border towns to direct asylum-seekers to UNHCR, and the Agency was permitted to open offices in border towns like Ağrı and Van. At the same time, two administrative courts ruled to overturn deportation orders for two Iranian asylum-seekers who had failed to meet the five-day limit for filing with the authorities.\footnote{When the Ministry of Interior appealed one of the decisions at the Council of State, the latter upheld the lower court’s decision. Ibid., 72-73, 83-85, 87.}
In May 1997, UNHCR, the Interior Ministry, and the Foreign Ministry met to discuss the status of over three-thousand asylum-seekers who had entered the country illegally before the Asylum Regulation came into force. Although they had received or were awaiting recognition from UNHCR, they were technically in violation of the Regulation and feared deportation. By August, a “one time solution” had been reached which allowed recognized asylum-seekers to exit to their resettlement countries and gave UNHCR several months to reach a determination on remaining cases. By 1998, Turkish officials were attending seminars and conferences organized by UNHCR. And in January 1999, the government amended the Asylum regulation to increase the five-day limit to ten days. The following year, the government and the Agency signed a three-year training and technical cooperation agreement.371

The government also began to rely on UNHCR in its own status determination decisions, suggesting a pattern of “informal” delegation. If the government and UNHCR do not reach the same determination independently, informal consultations resolve the differences. Government officials are willing to go along with positive UNHCR decisions, so long as the asylum-seekers have registered with the police and are ultimately resettled.372 Conversely, a Foreign Ministry official explains, “If they [UNHCR] do not accept the claim, we accept their judgment.”373 As mentioned above, the Agency routinely communicates its decisions on asylum applicants to the government. Zieck points out that UNHCR has even adjusted its eligibility criteria to match the government’s, applying the narrow refugee definition from the 1951 Convention, rather than the more expansive one that appears in the Agency’s documentation.374

372 Kirişci 2001, 86.
373 qtd. in Frelick 1997, 19.
374 Zieck 2010, 610. The Convention definition hinges on persecution, while the expanded definition allows for indiscriminate threats due to generalized violence.
The government has requested that UNHCR not process “extra-procedural” cases, or applicants who have not registered with the Turkish authorities. When the Agency does recognize extra-procedurals, the Ministry of Interior may deny them exit permits when they attempt to leave for resettlement in a third country. In some cases, the International Organization for Migration (IOM) has circumvented these restrictions by taking Iranian and Iraqi asylum-seekers to the border for an “exit/entry.” Though it is sometimes aware that individuals have followed this procedure, Turkish officials have been willing to turn a blind eye and issue exit permits nonetheless.\textsuperscript{375}

The Turkish government’s continued willingness to host asylum-seekers is premised on the assumption that their residence will be temporary, pending resettlement by UNHCR. That UNHCR arranges resettlement for asylum-seekers is key. According to the head of the Foreigners Department at the Ministry of Interior, “When a refugee is not granted a visa to travel to a third country, this is the point where we feel our problem. If resettlement is guaranteed, then asylum-seekers present no problem.”\textsuperscript{376} Another Ministry of Interior official described extending rights to asylum-seekers until they are resettled as “a big concession.”\textsuperscript{377}

Several NGO personnel I interviewed faulted UNHCR for prioritizing good relations with the Turkish government over advocating for refugee protection. One interviewee described UNHCR as “very docile” because it “likes to think the process is fragile and their support is critical.” Although he thought the Agency should be “vocally critical,” he conceded that “when tested, the government is willing to put UNHCR in its place.”\textsuperscript{378} These views were echoed by others. An

\textsuperscript{375} Frantz 2003, 17, 39-40; Latif 2002, 23.
\textsuperscript{376} qtd. in Frellick 1997, 11.
\textsuperscript{378} NGO worker. Personal interview by author. Istanbul, Turkey, February 2, 2012.
NGO worker noted that UNHCR is “reluctant” to be “more active and fight with public authorities” because they “do not want to damage relations.” Another agreed that “UNHCR is too concerned with keeping good relations with the state to properly protect refugees.”

“Selective Protection”

As mentioned at the beginning of this chapter, most accounts of Turkish asylum policies have emphasized the European/non-European dichotomy. This dichotomy arises from the geographical limitation ad is institutionalized in the parallel tracks system. In this section, I will examine policies towards six refugee groups in turn: Bulgarians, Iraqis, Iranians, Eastern Bloc refugees, Chechens, and Bosnians/Kosovars. The analysis reveals that the European/non-European distinction is too simplistic. Rather, the variation across refugee groups seems to be linked to ethnic affinity and sending country relations.

*Bulgarians*

Although individuals of Turkish origin are referred to as immigrants (göçmen) under the 1934 Law on Settlement, several scholars have also used the term “national refugee” to refer to them. Indeed, the majority of those benefitting from this law have either been expelled from their home countries or felt compelled to escape. As described above, this law permits individuals of “Turkish descent and culture” to immigrate to Turkey. It has been applied to Turkish-speakers from the Balkans, Caucasus, and Central Asia, but its provisions have also

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381 See, for example, Kirişci 1996b, 387.
been extended to communities not usually considered to be ethnic Turks (including Albanians, Bosnians, Circassians, Georgians, Pomaks, and Tatars).\(^{382}\)

The Settlement Law designates two types of immigrants: “independent” immigrants (serbest göçmen) and “settled” immigrants (iskanlı göçmen). The former do not need support from the government, and once their application is complete they may enter Turkey and settle wherever they wish. The latter are sponsored and assisted by the state and may be provided with land, cattle, and equipment, though they are usually required to settle in a specific area. Although the practice of state-sponsored immigration was terminated in 1970, exceptions were made for three groups: Turkic-speaking Afghan refugees from Pakistan in 1982; Meskhetian (or Ahıska) Turks from Uzbekistan in 1992/1993; and Bulgarian Turks in 1989.\(^{383}\)

In the mid-1980s, 5,200 Afghans were resettled from UNHCR camps in Northern Pakistan to Turkey. A specific law (Law 2641) was passed to admit and settle this group in March 1982. Three months later, the refugees were placed on flights to Turkey. They were settled in villages in the Eastern Anatolia Region of Turkey, and were provided with financial and material assistance, including housing.\(^{384}\) In similar fashion, about 500 Meskhetian Turkish families were resettled from Uzbekistan in 1992 and 1993. Once again, a special law (Law 3835) was passed by the Turkish parliament in July 1992 to authorize the government to sponsor the group’s resettlement. They too were settled in Eastern Anatolia in government-provided housing.\(^{385}\)

By far the largest group to benefit from state-sponsored immigration were the 310,000 Bulgarian Turks who escaped Todor Zhivkov’s assimilation campaign in the summer of 1989. Turkey initially attempted to negotiate an orderly migration with the Bulgarian government, but

\(^{382}\) Ibid., 387-88.
\(^{383}\) Ibid., 388.
\(^{385}\) Kirişci 1996b, 390, 99-400.
when these attempts failed it quickly opened its borders and suspended the immigrant visa requirement in June. New legal provisions allowed Bulgarian Turks to be rapidly recognized as immigrants, rather than refugees. As a result, they could take advantage of a far wider range of privileges than those available to Convention refugees, including government-funded housing and employment projects as well as the ability to apply for Turkish citizenship. The refugees were permitted to convert their Bulgarian currency into Turkish liras, and import their cars without paying customs duties. While about 170,000 refugees repatriated after the regime change in Bulgaria in 1990, the others remained in Turkey.  

In explaining this warm reception, scholars have often emphasized domestic political considerations exclusively. Indeed, refugees accepted under the Law on Settlement can quickly become voting citizens. From the perspective of the government, therefore, treating them generously could be seen as a political investment.  

However, with the end of the Zhivkov government and the collapse of Communism, it became difficult for Bulgarian Turks to immigrate to Turkey. In 1991 and again in 1994, Bulgarian Turks were deported on the grounds that they were no longer persecuted. Despite the presence of well-organized pressure groups representing Bulgarian Turks in Turkey, and their representatives in the Turkish parliament, the government simply stopped issuing immigrant visas to Bulgarian Turks. As of September 1992, applicants may be accepted if they are “independent” immigrants hoping to reunify with family members who entered Turkey in 1989.

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It is worth noting that there was a substantial improvement in relations between Bulgaria and Turkey with the end of the Cold War.\footnote{Kirişci 1991a, 516; Kirişci 1991b, 554; Kirişci 1996b, 389.}

Though not formally part of the analysis, it is instructive to compare the reception given to Bulgarian Turks with that of Gagauz Turks. In contrast to the initial welcome extended to Bulgarian Turks, Gagauz Turks (who are Orthodox Christians) were rebuffed by Turkish officials when they made a number of attempts to flee to Turkey from Moldavia in 1990. As Kirişci points out, Turkish immigration and refugee policies have favored those of Turkish origin so long as they are also of Sunni-Hanafi background.\footnote{Kirişci 1991a, 521-22; Kirişci 1996b, 390, 99; Kirişci 2000, 14.}

\textit{Iraqis}

Turkey experienced three major influxes from Iraq. In 1988, tens of thousands of Kurds fled after the end of the Iran-Iraq war. Following Iraq’s invasion of Kuwait in 1990, there was a flow of foreign workers and their families into Turkey. And with the end of the Gulf War in 1991 and Iraqi forces crushing the Kurdish uprising in northern Iraq, hundreds of thousands sought refuge in Turkey. While the majority of refugees in 1988 and 1991 were Kurds, other asylum-seekers from Iraq have included religious and ethnic communities like Turkmens, Shia Arabs, and Christians. In addition, former military personnel, draft evaders, and deserters have also sought asylum in Turkey.\footnote{Latif 2002, 9, 18-19.}

When Saddam launched an assault in northern Iraq in August 1988, some 50,000 Kurds who feared a repeat of the Halabja massacre began streaming across the border into Turkey. The Turkish Minister of Defense was initially opposed to admitting them, a position possibly linked to the fact that Kurdistan Worker’s Party (PKK) activities were on the rise at the time.
Nonetheless, the Prime Minister quickly announced that Turkey would open its borders and “temporary shelter centers” were established in Diyarbakır-Yenikent, Mardin-Kızıltepe, and Muş-Yenikent.\textsuperscript{391}

Although they were received with much publicity and at great expense, Turkish officials preferred to refer to these asylum-seekers as “temporary guests” or “peshmergas” (Kurdish fighters). Attempts to provide them with international assistance were largely rejected by the Turkish authorities. They were restricted to three closely-monitored camps, with the expectation that their presence in Turkey would only be temporary. Although Western countries were unreceptive to their resettlement in the following years, the majority were repatriated with Operation Provide Comfort and the creation of a “safe haven” in northern Iraq.\textsuperscript{392}

During this time, the Kurdish refugee issue was debated in the Turkish parliament. In 1988, Cumhur Keskin (SHP-Hakkâri) decried conditions in the refugee camps and asserted that journalists were not permitted to write about them. Although the Kurds wanted refugee status, Turkish officials refused to receive their applications.\textsuperscript{393} Two years later, the same representative emphasized that the Kurds still had no clear status. They were neither “refugees” nor “immigrants,” and they did not receive the same treatment as other foreigners.\textsuperscript{394} Mustafa Hilmi Özen (ANAP-Istanbul) countered that Turkey had no legal obligations to the Kurds, and in any case UNHCR had expressed its approval of the shelters established for them.\textsuperscript{395}

After Iraq invaded Kuwait in August 1990, foreign workers fled both countries. Some 63,000 people entered Turkey, the majority of whom were Pakistanis and Bangladeshis, before

\textsuperscript{391} Kaynak 1992, 24, 53; Latif 2002, 9-10.  
\textsuperscript{392} Kirişci 1991a, 517; Kirişci 2000, 12; Latif 2002, 10-11.  
\textsuperscript{393} Turkey 1992, 93-94.  
\textsuperscript{394} Amnesty International 2009, 147-48.  
\textsuperscript{395} Ibid., 150-51.
being sent to their respective countries. Iraqi soldiers and civilians also began escaping to Turkey, particularly with the launch of Operation Desert Storm in January 1991. Between 2 August 1990 and 2 April 1991, almost 7,500 Iraqis were admitted, including about 1,800 military personnel. After processing in Hakkari, Şırnak, Van, and Mardin, they were housed in the Turkish Coal Enterprises’ plants at Kangal-Sivas, the Tatvan Guesthouse, and the Agriculture School hostel at Kayseri-Kuşçu.  

With hundreds of thousands of Kurds attempting to escape the Iraqi military’s crackdown in April 1991, the Turkish National Security Council decided to seal the country’s borders. A letter was sent to the UN Security Council describing the situation as a threat to international peace and security. The government had decided not to repeat what it saw as its “mistake” in 1988, and may have been concerned about PKK infiltration. However, the Turkish military found it impossible to enforce the border closure and some 460,000 asylum-seekers had poured in by mid-April.  

Turkish President Turgut Özal called for the creation of a security zone on the Iraqi side of the border, where asylum-seekers could reside. May 3 saw the beginning of an extraordinarily rapid repatriation of these asylum-seekers to the safe haven north of the 36th parallel. By the end of May, the fewer than 14,000 who remained in Turkey were taken to Şırnak-Silopi pilgrimage accommodations. On 29 October 1991, only 4,000 asylum-seekers who had entered in April 1991 were still in Turkey. The total number of Iraqis from all influxes who remained in Turkey stood at around 25,000. The majority of those who did not want to be repatriated have since been resettled in third countries. 

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396 Kaynak 1992, 27, 46, 68; Latif 2002, 11-12.
entered Turkey as part of the mass influx from northern Iraq in 1991, they were permitted to reside in a special camp away from the border (and from the predominantly Kurdish refugees). Many were provided with residence permits.399

Though not formally part of my analysis, it is worth noting that the Turkish government proved unwilling to admit Iraqi asylum-seekers in subsequent years. Ministry of Interior officials said that there could be no genuine asylum-seekers because northern Iraq had been made safe by Operation Provide Comfort. In 1994, Amnesty International reported that authorities had systematically arrested and deported over 300 Iraqis, including asylum-seekers recognized by UNHCR who had been accepted for resettlement by third countries. In addition, hundreds of Iraqis who had been accepted for resettlement had trouble securing exit permits from the government.400 In preparation for the 2003 Iraq War, Turkey planned refugee camps within Iraqi territory, but its fears of another mass influx proved unfounded.401

In short, the treatment of Iraqi refugees is strikingly different from that of Bulgarian Turks. While the Turkish government adopted a range of measures to ensure the easy and quick integration of hundreds of thousands of Bulgarian Turks in 1989, its response to the mass influxes of Kurdish refugees in 1988 and 1991 was to repatriate them as quickly as possible.

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400 Amnesty International 1994, 12-13; Kirişci 2001, 77. Around the same time that the Asylum Regulation was adopted, a “one time solution” was announced for those Iraqis who had entered Turkey since 1991 and did not want to repatriate. As long as they headed to Silopi camp before Christmas Day 1994, Iraqi asylum-seekers who had been recognized by UNHCR would be permitted to remain in Turkey until resettlement options were found for them. Most of the 334 Iraqis who went to Sipoli in response were resettled. In the following months, Turkish authorities refused to accept Iraqi asylum applications at the only entry point in Şırnak province. Frelick 1997, 17-18.
401 The average annual number of Iraqi asylum applications before 2003 had been about 1,500. In 2003, only 181 Iraqis applied for asylum, followed by 1,041 in 2004, 764 in 2005, 555 in 2006. Some 3,757 “illegal” Iraqis were apprehended in 2003, followed by about 6,500 in each of the following three years, compared to some 20,926 in 2002. This decline was attributed to Turkey having closed the border with Iraq. However, there was an increase in 2007 with 2,306 asylum applications and 9,384 illegal Iraqis apprehended. Kaya 2009, 1-2.
Remarkably, Iranians from northern Iraq (who are largely Kurdish) as well as Iraqis from Iran are consistently considered “irregular” migrants by the Turkish authorities.  

Iranians

Following the 1979 revolution, Iranians began fleeing to Turkey to escape Ayatollah Khomeini’s regime. The majority of these were members of the elite who had been allied with the Shah, or supporters of leftist opposition groups like the Mojahedin-e-Khalq and the Tudeh Party. As Iranian security forces and Kurdish guerilla groups battled, there were flows of Kurds as well. These included members of the Democratic Party of Iranian Kurdistan, the communist Komala party, and the Worker-Communist Party of Iran. Smaller groups of religious and ethnic minorities included Armenians, Assyrians, Azeris, Baha’is, Jews, and Zoroastrians.

Anxious not to offend the Iranian government, Turkish officials allowed them to enter the country but systematically discouraged them from applying for asylum. Instead of extending asylum-seeker status to these individuals, they permitted Iranians to enter the country without a visa and reside there temporarily as tourists. Iranians who entered illegally, or without valid passports, were sentenced to symbolic fines in court then released. The majority moved on to third countries relying on their own means, with only a small proportion applying to UNHCR. Although there are no official statistics on how many Iranians benefitted from this arrangement, a Turkish parliamentarian put the number at 1.5 million between 1980 and 1991.

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402 On a related note, comparing the government’s acceptance rates for individual Iraqi and Iranian asylum seekers (who were not part of a mass influx) indicates that it seemed to favor the latter, at least for the two years following the implementation of the Asylum Regulation. Frantz 2003, 25-26; Kirişçi 1991a, 517; Kirişçi 1996a, 307; Kirişçi 2000, 4, 13.


Subsequent flows of Iranians faced somewhat riskier circumstances. Beginning in 1992, the Iranian and Turkish governments signed a series of agreements to cooperate for improved border security and the prevention of terrorist activities. A September 1992 protocol established a “Common Security Committee” and pledged measures to prevent illegal crossings and enforce extradition agreements. An October 1993 protocol provided for regular meetings of the Common Security Committee. In December, Turkish police arrested and deported fifty Iranians, including four Iranian opposition activists who had sought asylum. The following month, Turkish police expelled two Iranian asylum-seekers and received four members of the PKK from Iran, in an apparent *quid pro quo*. Another agreement was signed in June 1994, after which the Turkish Interior Minister reportedly said: “No element acting against the Islamic Republic of Iran will be allowed to remain on Turkish territory.”\(^{405}\) The Iranian Interior Minister responded, “Tehran is well aware of Turkey’s problems and regards Turkey’s foes as its own.”\(^{406}\) After an April 1996 agreement reportedly called for the reciprocal exchange of opposition activists, refoulements of Iranian asylum-seekers jumped. Although the Turkish government refused to confirm or deny the signing of this agreement, Iranian officials were less circumspect. Other agreements were said to be in the works, and the Iranian government had reportedly requested the return of 600 dissidents from Turkey.\(^ {407}\)

There are indications that agents of the Iranian government have been active in pursuing politically-active asylum-seekers and exiles on Turkish territory. In 1988, a car with Iranian diplomatic license plates crossing from Turkey into Iran was found to have a kidnapped Iranian dissident in its trunk. In June 1992, a member of the Mojahedin-e-Khalq was abducted in

\(^{405}\) qtd. in Amnesty International 1997, 9.
\(^{406}\) qtd. in Frellick 1997, 24.
Istanbul and later found dead. In December of that year, a member of an Iranian monarchist group was abducted in Istanbul. The Kurdish Democratic Party of Iran saw two of its members killed in August 1993, and a third shot dead in January 1994. A member of the Paris-based National Council of Resistance of Iran, who was visiting Istanbul to assist Iranian asylum-seekers, was assassinated in February 1996.  

Iranian applicants for asylum have reported that Turkish police use status determination interviews in order to gather information about other Iranians in Turkey. Police officers have reportedly joked with some of these individuals that “[Iranian President, Akbar Hashemi] Rafsanjani is expecting them.” In some cases, Turkish police officers have escorted Iranian asylum-seekers recognized by UNHCR to the Iranian embassy for interrogation.  

**Eastern Bloc and post-Cold War Refugees**

During the Cold War, those fleeing Eastern Europe and the Soviet Union were recognized by Turkey as *de jure* refugees under the 1951 Convention. These refugee flows were never large, and it was fairly easy to secure resettlement for them elsewhere in the West. International agencies, like the International Catholic Migration Commission and UNHCR, generally met the costs of hosting and resettling these refugees. According to the Turkish government, 8,143 individuals were granted Convention refugee status between 1970 and 1991. Few of these remained in Turkey permanently, however. Notably, treating this group of refugees favorably fit squarely with the Turkey’s anti-communist foreign policy orientation.  

With the end of the Cold War, the flow of refugees from Eastern Europe dwindled. At the same time, however, Turkey’s policies towards refugees from this region had shifted. The

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former Soviet republics fell under the 1951 Convention’s conception of Europe, so Turkey could not invoke the geographical limitation to exclude asylum-seekers from these post-Soviet states. Still, Turkey declined to grant refugee status to Azerbaijanis, Uzbekistanis, and Chechens.411

Turley’s desire not to offend Azerbaijan, Uzbekistan, and Russia likely underlies this practice. Citizens of these countries are generally able to enter the country easily with the proper travel documents, but are not granted refugee status. Between 1994 and 1996, 14 individuals from Uzbekistan, 6 from Bulgaria, 4 from Yugoslav successor states, 2 from Russia, and 2 from Ukraine had applied for asylum under the Asylum Regulation. Other than the applications from the former Yugoslavia (which had been accepted), all the other cases had either been rejected or were still being processed in March 1996.412

Instead of granting them refugee status, Turkey has either allowed them to remain in the country unofficially or permitted them to immigrate as ethnic Turks under the Settlement Law. As mentioned above, Meskhetian Turks from Uzbekistan were able to immigrate under the Law on Settlement, thereby relieving the Turkish government from having to decide on claims for asylum. Some 15,000 entered the country using old Soviet passports and were able to overstay their visas with no consequence.413

In February 2000, a hundred Chechens appeared at the Turkish-Georgian border. The Turkish government insisted that they remain in Georgia and pledged to provide them with humanitarian assistance. In 2003, there were about two thousand Chechens living in Istanbul without residence permits. UNHCR had been forbidden from making contact with or assisting

413 Turkey’s relations with Uzbekistan have been excellent, but they nonetheless came under strain when the former admitted a prominent Uzbek opposition leader. Only after that leader was encouraged to move on to Germany were tensions eased. Kirişci 1996a, 296-97; Kirişci 2001, 75-76.
them, as were NGOs. The Turkish government may have wanted to avoid the repetition of previous charges by Russia that it was harboring Chechen rebels.414

As mentioned above, the Chechens ought to be considered “European” under the 1951 Convention, since Russia is a member of the Council of Europe. Despite this, they have been denied access to status determination procedures. According to Amnesty International, of the one thousand Chechens in Turkey in 2009, not one had been recognized as a refugee. Rather, officials at the Istanbul Directorate of Security had refused to receive their asylum applications. Instead, the Ministry of Interior designated them as “guests” who may receive resident permits and remain in the country temporarily. The community has faced detentions at times “when their presence was politically sensitive,” such as during a 2004 visit by President Vladimir Putin to Turkey.415

Several interviewees stressed the influence of bilateral Turkey-Russia relations on the treatment of Chechens in Turkey. One NGO worker explained that Turkey “does not want to process [asylum applications from] Chechens” because of concerns about its relationship with Russia.416 An expert at the Ministry of Interior’s Migration and Asylum Bureau also emphasized that, despite Russia’s membership of the Council of Europe, Chechens were not granted refugee status due to “political reasons” linked to “Turkey-Russia relations.”417

414 Kirişçi claims that public opinion supported their admission. Frantz 2003, 24; Kirişçi 1996a, 296; Kirişçi 2001, 75.
415 Turkey 1988, 14.
Bosnians and Kosovars

Starting in March and April 1992, over 20,000 Bosnian Muslims fled to Turkey. Turkish officials declined to grant them refugee status under the 1951 Refugee Convention. Although the 1934 Settlement Law might have technically covered them, it was not applied either. Despite pressure from Bosnian immigrant associations, the government considered them “guests” and gave them only temporary protection.418

Under an agreement between Turkey and Yugoslavia, citizens of the latter could receive visa waivers for stays of up to two months. As a result, Bosnians were able to enter Turkey as tourists using their Yugoslav passports. Their stay was automatically extended for up to six months, and they could obtain renewable residence permits. Starting in November 1992, Bosnians were able to use Turkish hospitals and schools. However, they could not obtain work permits. Many stayed with family members in Istanbul, while others were housed in refugee camps. These were officially run by the Turkish government, although the Anatolian Development Foundation (a Turkish NGO and UNHCR implementing partner) was actively involved in managing them. Only 3,000 formally applied for asylum and the vast majority were repatriated after Dayton Agreement was signed at the end of 1995.419

When about 18,000 Kosovars entered Turkey in late 1998 and 1999, they too were labeled “guests” rather than refugees. They were admitted as tourists and issued with six-month residence permits. The majority lived in urban centers, with others staying at Kırklareli camp (formally, Gazi Osman Paşa Immigrant Guesthouse). This camp, at which Bosnians had also resided, was managed by the Turkish Red Crescent and received UNHCR-funded relief via the Anatolian Development Foundation. Similar provisions applied to a group of Albanians

relocated from Macedonia, as part of the Humanitarian Evacuation Program. Like the Bosnians, the vast majority of Kosovars were repatriated, or else resettled.  

*Summary and Comparisons*

When hundreds of thousands of ethnic Turks fled Bulgaria in 1989, Turkey responded by opening its border to them. Legislation was passed to designate them as “immigrants” under the 1934 Law on Settlement. Accordingly, they received state sponsorship and assistance, including access to government-funded housing and employment. In addition, they were able to apply for Turkish citizenship. While many of these refugees returned to Bulgaria after its regime change the following year, about half remained in Turkey.

Meanwhile, Turkey sought to encamp and repatriate the mass influx of Kurds from Iraq in 1988 and 1991. In 1988, the government restricted Iraqi Kurds to camps in southeastern Turkey. In lieu of granting them refugee status, they were designated as “temporary guests.” In 1991, the country was unable to enforce a border closure policy in the face of an inflow of hundreds of thousands. The government successfully advocated for the creation of a “security zone” in northern Iraq, and with Operation Provide Comfort, was able to repatriate the vast majority of Kurds who had fled in both waves.

Iranians were initially able to enter Turkey and reside there temporarily until they could move on, but were discouraged from applying for asylum. As security cooperation between Iran and Turkey increased, arrests and deportations did as well. Iranian asylum-seekers have also found themselves escorted to the Iranian embassy by the Turkish police. Agents of the Iranian government appear to be active on Turkish territory, abducting and killing dissidents.

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During the Cold War, a small number of refugees fled to Turkey from Eastern Europe and the Soviet Union. These were granted refugee status under the 1951 Convention, and international organizations met the costs associated with hosting them. The majority of these refugees were resettled, and few remained in Turkey permanently.

In contrast, Turkey has refused to grant refugee status to Chechens in the post-Cold War era. In some cases, the country has refused admission to Chechens appearing at the border. Otherwise, the government has refused to accept their asylum applications. Instead, they have been designated as “guests” who may remain in the country temporarily. UNHCR and NGOs are forbidden from assisting Chechens, who have also occasionally experienced detention.

Like the Chechens, Bosnian and Kosovar refugees were also designated as “guests.” However, they faced no difficulty entering the country in 1992 and 1998, respectively. They were permitted to reside in urban areas and could access Turkish schools and hospitals. The majority of these refugees returned home, or were resettled elsewhere.

<table>
<thead>
<tr>
<th>Asylum Policy</th>
<th>Refugee Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generous</td>
<td>Bulgarians (1989-1990)</td>
</tr>
<tr>
<td></td>
<td>Iranians (1979-2010)</td>
</tr>
<tr>
<td></td>
<td>Chechens (1999-2010)</td>
</tr>
</tbody>
</table>

As described above, none of the refugee groups experienced a major shift in asylum policy. However, it is still important to compare their treatment relative to each other. These “rankings” of observed asylum policies are summarized in Table 24. Bulgarian refugees clearly experienced the most generous policies. Iraqis, Iranians, and Chechens received the most restrictive
treatment. Turkey initially attempted to stop Iraqis from entering the country and repatriated them at the earliest opportunity. Iranians experienced detentions and deportations, and were pursued by agents of their home government in Turkey. And Chechens were denied refugee status and could not receive assistance from UNHCR or NGOs. I place Eastern Bloc refugees and Bosnians/Kosovars in the intermediate category. Eastern Bloc refugees received refugee status, but the government had no interest in integrating them as it did the Bulgarian Turks. Bosnians and Kosovars, though not given refugee status, were able to enter the country and access social services until they repatriated.

**Assessing the Selective Sovereignty Theory**

This case study demonstrates clear differences in treatment across refugee groups. This observation has not escaped the attention of domestic political actors in Turkey. In a parliamentary debate in 1992, Şevket Kazan (RP-Kocaeli) noted that the government’s policy towards refugees from Iraq and Iran had been different from its policy towards refugees from Bulgaria. While many Bulgarians were granted citizenship and remained in Turkey, the vast majority of Iraqis had been repatriated.421

As in the previous case studies, I was unable to collect evidence from policymaking deliberations with which to test causal mechanisms or engage in process-tracing. However, the discussion above reveals evidence that lends plausibility to the selective sovereignty theory.

It is worth nothing that several of the refugee flows described above happened within a fairly short timeframe. Bulgarian refugees arrived in Turkey in 1989, Iraqis in 1988 and 1991, and Bosnians in 1992. Even within the span of a few years, the government varied its treatment of

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421 Turkey 1990, 76.
these refugee groups considerably. Bulgarian refugees received by far the most generous
treatment. Not only were they fleeing a hostile regime, but they were ethnic Turks who could
quickly become voting citizens. The government’s response to Iraqi refugees, though the size of
that flow was comparable, was markedly different. Turkish policymakers were not predisposed
to grant Iraqi Kurds a warm welcome, particularly in light of security concerns involving
Turkey’s own Kurdish minority. Thus, as in the Kenya case, it is possible that this group of
refugees were singled out because they share an affinity with an excluded minority in Turkey.
At any rate, and in contrast to the assistance and privileges granted to Bulgarian refugees, Iraqi
refugees were restricted to camps and quickly repatriated. Only a year later, tens of thousands of
Bosnian refugees were able to enter Turkey and access social services. Bosnians were fleeing an
unfriendly regime, but were not considered “ethnic kin.” Subsequent flows of Kosovar refugees
received similar treatment.

Meanwhile, Turkey’s relationship with Iran appears to have directly shaped the experience of
Iranian refugees in Turkey. Security cooperation between the two countries seems to have
involved the reciprocal exchange of dissidents. Iranian agents have also reportedly targeted
dissidents inside Turkish territory.

Similarly, Turkey’s allegiances during and after the Cold War likely influenced its response
to Eastern Bloc and Chechen refugees. Individuals fleeing Eastern Europe and the Soviet Union
during the Cold War were granted refugee status. This position was in line with Turkey’s
alignment with NATO and the West. After the end of the Cold War and as relations with Russia
became cordial, Chechens were refused refugee status. As detailed above, interviewees from
NGOs as well as from within the Turkish government have attributed this pattern to Turkey’s
desire to avoid antagonizing Russia.
With regards to UNHCR, the Turkish government has been selective on when and where it will be involved in refugee affairs. For example, the Agency was in charge of status determination and resettlement for Eastern Bloc refugees as well as Iranian asylum-seekers. However, the government distanced UNHCR from the large inflows of Iraqi Kurds as well as the Chechens. Moreover, the government sometimes maintained a good relationship with UNHCR, and at other times ignored its determinations by deporting recognized refugees. As mentioned above, though the 1994 Asylum Regulation created a “parallel track” system of government and UNHCR status determination procedures, the government often informally coordinates its decisions with the Agency. Finally, there is evidence that UNHCR has been careful to avoid overt criticism and even narrowed its eligibility criteria, in order to maintain good relations with the government.

### Table 25. Predicted and observed breakpoints in Turkey’s asylum policy

<table>
<thead>
<tr>
<th>Refugee Group</th>
<th>Breakpoints in Asylum Policy</th>
<th>Predicted</th>
<th>Observed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulgarians</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Iraqis</td>
<td>1990</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Iranians</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Eastern Bloc</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Chechens</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Bosnians/Kosovars</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>

*Note: Years where predictions and observations match are in bold.*

Drawing on the discussion above, Table 25 shows that there were no observed shifts in policy. Meanwhile, Table 26 clarifies the relative treatment of refugees and trends in delegation. In Table 25 and Table 26, cells in bold indicate that observed patterns match my theoretical predictions. There was only one predicted breakpoint (Iraqis in 1990), and that did not take place. However, there are no breakpoints that occur but are unexpected. Across the different
time periods, generosity and restrictiveness largely match with theoretical predictions, with only one exception (Iraqis in 1990-1991). My predictions for delegation do not fare as well, however.

**Table 26. Predicted and observed asylum policy and delegation for refugee groups in Turkey**

<table>
<thead>
<tr>
<th>Refugee Group</th>
<th>Years</th>
<th>Asylum Policy</th>
<th>Delegation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Predicted</td>
<td>Observed</td>
<td>Predicted</td>
</tr>
<tr>
<td>Bulgarians</td>
<td>1989-1990</td>
<td>Generous</td>
<td>No</td>
</tr>
<tr>
<td>Iraqis</td>
<td>1988-1989</td>
<td>Restrictive</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>1990-1991</td>
<td>Restrictive</td>
<td>Yes</td>
</tr>
<tr>
<td>Iranians</td>
<td>1979-2010</td>
<td>Restrictive</td>
<td>No</td>
</tr>
<tr>
<td>Eastern Bloc</td>
<td>1970-1990</td>
<td>Intermediate</td>
<td>Yes</td>
</tr>
<tr>
<td>Chechens</td>
<td>1999-2010</td>
<td>Restrictive</td>
<td>No</td>
</tr>
</tbody>
</table>

*Note: Cells where predictions and observations match are in bold.*

Overall, shifts in policy do not seem to match changes in economic performance or humanitarian concerns. Between 1970 and 2010, Turkey’s real GDP per capita grew from about US$4,300 in 1970 to over US$10,400 in 2010. In fact, Turkey is considered one of the fastest growing economies in the world. However, I do not observe uniformly more generous policies over time. Resource constraints are not a compelling explanation, moreover, even when Turkey was faced with large refugee flows. The government was willing to expend significant resources in order to integrate hundreds of thousands of Bulgarian refugees, for example. There is also no evidence that policies were shaped by humanitarian concerns or were shaped by the cause of refugee flows or the conditions of refugees.

A major alternative explanation, often invoked to explain Turkey’s asylum policy, is the country’s desire to accede to the European Union (EU). In 2001, the EU adopted an Accession Partnership Document that sets out reforms that Turkey must undertake, and which includes a discussion of Turkey’s legislation on asylum. That same year, Turkey issued the NPAA, which

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GDP per capita is reported at 2005 constant prices. Heston, Summers, and Aten 2012.
also addresses forced migration. However, this harmonization process cannot explain the variation in policies across refugee groups described above. For instance, it does not appear to be linked to improved treatment for Chechen and Iranian refugees over time. Of course, these developments are fairly recent. While it is likely that these factors influenced the drafting and passing of a new asylum law in 2013, for instance, they do not apply to much of the period under study in this case (1970-2010). Further research will be better suited to examining the impact of the EU on asylum policies in Turkey.

Conclusion

The analysis in this chapter demonstrates that the variation in Turkey’s group-specific asylum policies does not fit neatly within a European/non-European dichotomy. For instance, Bulgarians, Chechens, and Bosnians/Kosovars, should all be considered “European” under the 1951 Refugee Convention. However, there is significant variation between these different refugee groups.

The systematic assessment of the selective sovereignty theory shows that matches some, but not all of the variation in Turkey’s asylum policies. As in Chapter 5, the theory performs better at explaining generosity and restrictiveness, than in explaining patterns of delegation. At the same time, alternative explanations related to material or humanitarian concerns cannot explain the observed variation in this case.

423 In addition, since the year 2000, the European Court of Human Rights has issued a number of judgments against Turkey, relating to its treatment of non-European asylum-seekers. These cases included: Jabari v. Turkey (2000), D. and others v. Turkey (2006), Abdolkhani and Karimnia v. Turkey (2009), Z.N.S. v. Turkey (2010), Charahili v. Turkey (2010), Keshmiri v. Turkey (2010), and Tehrani and others v. Turkey (2010). Zieck 2010, 601-02.
Regulating migration has been portrayed as the “last bastion of sovereignty.” Confronted with the forces globalization, so the argument goes, countries have seen fit to open their borders to flows of goods and capital. However, population movements have not been liberalized. Refugees, along with voluntary migrants, have been subject to states’ desire for control and sovereignty.

Statements by officials often contain a similar refrain. In 2011, the leader of Canada’s Liberal Party said: “The decisions we make to grant or refuse citizenship or refugee status are fundamental to our sovereignty.” Policymakers in developing countries have echoed this sentiment. Ugandan Minister for Disaster Preparedness and Refugees, Moses Ali, said in 2004: “I will not accept our sovereignty to be compromised by softness to refugees.” More recently, a Turkish official said: “… we obviously will not allow [Syrian refugee] camps to be under the control of UNHCR. We will not give up our sovereign rights.” There are numerous examples of government officials from around the world invoking sovereignty in regards to refugees.

If states are intent on asserting their sovereignty, however, it is extremely puzzling that there are a number of countries where asylum applications are adjudicated jointly by the government and UNHCR. In 2011, UNHCR was involved in refugee status determination (the procedure that determines whether or not an applicant qualifies for refugee status) jointly with the national government in 23 countries. In another 54 countries, RSD was conducted solely by UNHCR. It is striking that these governments have granted UNHCR authority to determine who is granted

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424 Dauvergne 2008, 47.
428 Annex to UNHCR 2012.
or denied refugee status and the privileges associated with that status (such as the right to remain in the country and access to assistance and social services). I call this phenomenon the “delegation puzzle.” Countries are willing to delegate policies that fit squarely under their sovereign prerogative.

Another puzzle is that countries do not implement their sovereignty and border control measures uniformly or across the board. Indeed, the academic literature has demonstrated that oftentimes a single country will treat different refugee groups differently. In the US, there is the well-known and much-publicized comparison of Cuban and Haitian refugees: while Cubans have been welcomed, Haitians have been shut out.\footnote{Loescher and Scanlan 1986; Zolberg, Suhrke, and Aguayo 1989; Zucker and Zucker 1987.} In India, Tibetan refugees have been treated differently from Sri Lankan and Bangladeshi refugees.\footnote{Chimni 1994.} And in Costa Rica, Nicaraguan and Salvadoran refugees have also had divergent experiences.\footnote{Basok 1990.} I call this the “differential treatment puzzle.”

Accordingly, this project is motivated by two research questions: Why do countries welcome some refugees and treat others poorly? And when do governments keep asylum policy firmly in their grip, and when do they willingly hand it over to the UN? In other words, what explains the delegation puzzle and the differential treatment puzzle? Clearly countries are not simply clamping down on population flows because they are besieged by the forces of globalization. Instead, countries have been selective in their exercise of sovereignty in response to refugee flows.

I argue that states’ approaches to refugees are shaped by foreign policy and ethnic politics. These two factors together explain the selective exercise of sovereignty. Internationally, leaders

\footnote{Loescher and Scanlan 1986; Zolberg, Suhrke, and Aguayo 1989; Zucker and Zucker 1987.}
\footnote{Chimni 1994.}
\footnote{Basok 1990.}
use refugees in order to reassure allies and exert pressure on rivals. And domestically, policymakers have incentives to favor those refugee groups with whom they share an ethnic identity. These two factors work together to explain when countries will welcome refugees, restrict them, or shift the burden to the UN.

In the previous chapters, I tested this theory using a mixed-methods research design. First, I used statistical analysis of a global dataset to examine when countries grant or deny refugee status. Then, I presented a series of in-depth case studies to compare the treatment of refugee groups on a broader range of asylum policy indicators. In particular, I examined Egypt’s policies towards Palestinian, Sudanese, Iraqi, Somali, Eritrean, and Ethiopian refugees; Kenya’s policies towards Somali, Sudanese, Ethiopian, Ugandan, and Rwandan refugees; and Turkey’s policies towards Bulgarian, Iraqi, Iranian, Eastern Bloc, Chechen, and Bosnian/Kosovar refugees.

These quantitative and qualitative chapters tested the “selective sovereignty theory” against two alternative explanations, resources and humanitarianism. Hosting refugees entails material costs, and policies can therefore be shaped by economic downturns, economic conditions, or the availability of land and ecological resources. Alternatively, states may adopt asylum policies that reflect “principled beliefs” that align with international human rights norms. In this case, states may be motivated by genuine altruism or by a desire for international legitimacy.

The following pages will first summarize the findings from the chapters above and present a few cross-case comparisons. Then, I will offer some general observations on how the selective sovereignty theory performs, and present some possible areas for modification and improvement. I conclude by exploring the broader implications of the project.
Findings in Brief

In Chapter 4, statistical analysis showed that global asylum admissions and delegation are correlated with international and domestic political competition. First, I examined when countries are likely to accept or reject asylum applications. Then, I analyzed why countries delegate decisions on asylum applications. This analysis looked at a single component of asylum policy, entry. The results lend support to the selective sovereignty theory and are robust to a variety of alternative operationalizations.

Chapters 5, 6, and 7 examined a broader spectrum of asylum policies with case studies on Egypt, Kenya, and Turkey. I define “asylum policy” as a set of measures adopted by a national government to regulate the entry, exit, and conditions of residence of foreign asylum-seekers and refugees. To identify and compare countries’ asylum policies, a series of indicators was used which span five broad categories of asylum policy: legal framework, admission and status, protection and security, basic needs, and durable solutions.

Chapter 5 challenged the conventional wisdom about Egypt’s asylum policy: that there is, in fact, no policy. Indeed, Egypt does not have domestic refugee legislation or a single, clearly articulated official asylum policy. However, this chapter demonstrated that, contrary to the conventional wisdom, there are clear patterns in Egypt’s responses to refugees. Drawing on elite interviews as well as primary sources and unpublished materials, I analyzed and compared Egypt’s post-WWII policies towards six refugee groups: Palestinians, Sudanese, Iraqis, Somalis, Eritreans and Ethiopians. The selective sovereignty theory, described in Chapter 2, was largely able to predict generosity and restrictiveness though there were some anomalies.

For instance, Palestinian refugees, who had enjoyed rights similar to nationals for some thirty years were stripped of these rights following the signing of the Egyptian-Israeli peace treaty.
Following the overthrow of Sudanese President and Egyptian ally Nimeiry, Sudanese migrants faced tightened borders but Sudanese refugees were generously welcomed. As Egypt and Sudan grew closer at the end of the 1990s, Sudanese refugees found themselves subject to mass detention and deportation. In fact, the Egyptian government continues to delegate RSD to UNHCR because it does not want to antagonize the Sudanese government. The threats to physical safety faced by the Sudanese (largely non-Arab and non-Muslim) surpass those faced by Palestinian refugees (Arab and largely Muslim) today. In the words of one interviewee, when it comes to refugees in Egypt, “politics has overtaken policy.”

Chapter 6 argued that focusing on the dramatic 1990/1991 shift in Kenya’s asylum policies, as most studies tend to do, masks important variation within and across refugee groups. With the arrival of hundreds of thousands of Somali refugees in the early 1990s, the country did suddenly contain refugees in camps and abdicate responsibility to UNHCR. However, and though its performance is mixed, the selective sovereignty theory can help account for Kenya’s responses to refugee groups before, during, and after the Somali refugee crisis.

Kenya refused to open its border to Somali refugees so long as the Barre regime, with which it enjoyed a warm relationship, was in power. Once Barre fell and Somali refugees were admitted, they were subjected to the same sorts of discrimination and violence that have been directed at Kenya’s own ethnic Somali minority. Kenya also extended or withheld support to resistance activities by Ugandan refugees, reflecting its fluctuating relationship with that government. And when the governments of Kenya and Rwanda reconciled in 1997, Rwandan refugees suddenly faced police sweeps and (for suspected génocidaires) transfer to the ICTR.

Chapter 7 begins by noting that Turkey maintains a “geographical limitation” to the 1951 Refugee Convention, restricting asylum to European refugees. But simply comparing European
to non-European refugees, as most studies have tended to do, misses important variation within each category. Indeed, Turkey has been selective in its application of the Refugee Convention, as well as its Law on Settlement, which permits the immigration of refugees who are of “Turkish descent and culture.” The selective sovereignty theory’s predictions match much of the generosity and restrictiveness in Turkey’s asylum policies, though it is unable to explain patterns of delegation.

Faced with a large inflow of ethnic Turks from Bulgaria in 1989, Turkey opened its border, provided them with assistance, and adopted measures to ease their integration. In contrast, Kurds escaping Iraq in 1988 and 1991 were encamped and quickly repatriated. It is also useful to compare Turkey’s policies towards refugees from Eastern Bloc during the Cold War, with its treatment of Chechens in the 2000s. Turkey welcomed individuals fleeing Eastern Europe and the Soviet Union, consonant with the country’s alignment with NATO. Turkey’s cordial post-Cold War relationship with Russia, however, has led it to refuse refugee status to Chechens. Finally, security cooperation between Turkey and Iran has informed the former’s treatment of Iranian refugees, including the reciprocal exchange of dissidents.

Cross-Case Comparisons

There are several refugee groups who live in two of the three countries under study. Both Egypt and Kenya host Sudanese and Somali refugees. And there are Iraqis in both Egypt and Turkey. Since it is not the primary focus of this dissertation, I will only very briefly compare the treatment of each refugee group across countries.

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432 Though there are Ethiopian refugees in both Egypt and Kenya, there is not much information on their treatment in each country.
Chapter 5 details the experience of Sudanese refugees in Egypt, and Kenya’s policies towards the group are examined in Chapter 6. The presence of Sudanese refugees in both countries overlaps during the period 1991-2010. During this time, there are few similarities in how the group was treated by each country. In Kenya, the group was restricted to Kakuma refugee camp, where the SPLA was able to recruit fighters and receive support. In Egypt, there was no similar encampment, but there was a shift in 1989/1999 (corresponding with a shift in relations with Sudan) when Sudanese refugees began experiencing wide-scale detentions and deportations. It is worth noting that the refugee group does not share an ethnic tie with either receiving country.

Somalis fleeing the civil war entered Egypt and Kenya, both countries where they lacked an ethnic tie. In Egypt, Somalis have experienced few detentions and deportations. In contrast, Somali refugees in Kenya have faced encampment as well as extensive screenings, expulsions, and violence. It may be that Somali refugees in Kenya, because they share an affinity with Kenya’s own ethnic Somali minority, have been targeted for increased discrimination.

The Iraqis who sought refuge in Egypt and Turkey were fleeing different events, and had different ethnic compositions. As described in Chapter 5, Iraqi refugees flowing into Egypt were fleeing the wave of violence sparked by the 2006 al-Askari Mosque bombing. As Arab Sunnis, they share an ethnic affinity with Egyptians. Meanwhile, Iraqi refugees who went to Turkey in 1998 and 1991, were ethnic Kurds fleeing Saddam’s military campaigns. While Turkey restricted Iraqi Kurds to camps and repatriated them as soon as possible, Egypt simply denied them access to public services and the formal labor market.
Assessing the Selective Sovereignty Theory

All of the empirical chapters lend some plausibility to the selective sovereignty theory. The results of the quantitative analysis in Chapter 4 are consistent with the theory. In Chapters 5, 6, and 7, the discussion points to the relevance of sending country relations and ethnic affinity in shaping group-specific asylum policies. Although I am unable to draw on process-tracing evidence, the sequencing and timing of events does appear to match the direction and timing of shifts in asylum policy. At the same time, shifts in policy did not seem to match changes in economic performance or humanitarian concerns, for any of the cases. Moreover, at least in the Egypt and Turkey cases, generosity and restrictiveness largely matched with theoretical predications.

There were some important anomalies, however. For instance, there were many inconsistent findings in the case study on Kenya. And in every qualitative chapter, there were predicted breakpoints in asylum policies that did not take place. These anomalies indicate that the selective sovereignty theory requires further refinement and testing on new cases. I will briefly discuss two ways in which the theory might be modified.

First, the magnitude of the refugee flow might be worth considering as a scope condition. Countries may respond differently to a massive influx, compared to a smaller wave of refugees. In fact, I suggested in Chapter 5, that Egypt may not have found it essential to develop policies targeting Ethiopian and Eritrean refugees, due to their small number. More importantly, even strong states may be unable to close their borders in the face of hundreds of thousands of refugees, as with Turkey and the Iraqi Kurds in 1991. It is worth noting, however, that Turkey did not react in the same way to comparable numbers of Bulgarian and Iraqi refugees.

Alternatively, a sudden refugee crisis may engender different responses than a small stream of individual asylum-seekers over a longer period of time.

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that it received between 1988 and 1991. The divergence in treatment between the two refugee
groups (hundreds of thousands of Bulgarians were integrated, while hundreds of thousands of
Iraqis were encamped then repatriated) is, in fact, consistent with the selective sovereignty
theory.

Second, it might be worthwhile to distinguish between those refugees that are simply ethnic
others, and those who share an identity with an excluded minority in the receiving country. In
Chapter 6, I note that Somali refugees may have been singled out because they share an affinity
with Kenyan Somalis, who were already viewed with suspicion and faced significant
discrimination and violence. Similarly, in Chapter 7, I suggest that the links between Iraqi Kurds
and Turkey’s own Kurdish minority led policymakers there to view that refugee group with
alarm. In both cases, domestic ethnic politics led policymakers to view a particular refugee
group as a serious security threat.

With regards to delegation, I hypothesized that policymakers delegate when the incentives
from sending country relations and ethnic affinity point in opposite directions. Because the
policymaker risks either antagonizing the sending country or his domestic constituency, he
delegates in order to shift responsibility for these politically-sensitive decisions to someone else.
I test this theoretical explanation quantitatively in Chapter 4, and qualitatively in Chapters 5, 6,
and 7. In Chapter 4, the results for delegation provide some limited support for my theoretical
expectations. In the case studies, however, many of the results did not match my theoretical
predictions. Each of the case studies exhibits interesting group-specific variation on delegation:
Egypt has refused to delegate on Palestinians in particular, Turkey on Iraqis and Bulgarians, and
Kenya on pre-1990 refugees. However, these observed patterns do not behave as expected, and
often do not vary over time.
In light of these significant empirical anomalies, the delegation hypothesis requires serious reexamination. Thus, my future research will attempt to provide a more theoretically sound explanation for the delegation puzzle. Below, I will mention three possible avenues that could lead to such a reformulation.

One current weakness with the delegation hypothesis is that it is not built on a theory of UNHCR behavior. I do not stipulate whether UNHCR’s RSD is generally generous or restrictive. Indeed, beyond assuming that the Agency will accept some positive number of asylum applications, it is difficult to characterize UNHCR’s RSD as consistently more or less generous than receiving countries. In fact, there is substantial variation in procedures and recognition rates between UNHCR country offices. This is consistent with the argument that the Agency is limited by its resources as well as its desire to continue operating in these countries. Moving forward, I will need to explore UNHCR’s own incentives for taking on delegated responsibilities as well as how it alters its behavior in response to the threat of sanction.

A modified theory of delegation will also need to take into account the possibility of path-dependency. The case studies reveal that countries do not tend to move back and forth on delegation, or quickly switch it “on” and “off” for a single refugee group. It may be that countries that initially delegate continue to do so, because, for instance, they never establish appropriate institutional mechanisms. In contrast, countries that initially take matters into their own hands may continue to do so, because, for example, they cannot credibly claim that they suddenly require UNHCR’s assistance or guidance.

Finally, I need to rethink the notion that the two scenarios for conflicting cross-pressures (ethnic non-kin from a hostile country and ethnic kin from a friendly country) are symmetric. Reformulating the theory should involve specifying how and why delegation can resolve
tensions at international and domestic levels. For example, it might not be reasonable to assume that domestic and international audiences can be deceived equally by delegation to UNHCR.

**Implications and Future Research**

This project demonstrates that the selective sovereignty theory, which emphasizes foreign policy and ethnic politics rather than resources and humanitarianism, sheds light on states’ approaches to refugees. Treating countries as though each had a single blanket asylum policy masks important disparities in treatment between refugee groups. These insights can inform the activities of UN agencies and NGOs and can assist the international community in forecasting when exerting pressure will bear fruit.

In addition, the research improves our understanding of when host countries pursue policies that can have implications for conflict, peacebuilding, and post-conflict reconstruction in the country of origin. The screening of asylum-seekers, to determine if they are “genuine” refugees, can prevent armed elements from residing in the host country or infiltrating refugee communities. If host countries restrict refugees to camps or segregated settlements, the possibility of radicalization or infiltration seems compounded. Moreover, when host countries engage in early and coerced mass returns of refugees, this can undermine peacebuilding efforts in the country of origin by straining fragile institutions or even sparking conflict anew. In contrast, where host countries allow refugees access to social services and employment, refugees may be able to acquire transferable skills or generate remittances that can contribute to statebuilding and post-conflict reconstruction in their country of origin.

Future research might examine whether the theory can be extended to other policies relevant to refugees, such as funding and resettlement. Most financial assistance for refugees provided by
donor countries is earmarked for use in certain regions and/or activities. By providing funds to another host country, policymakers can take advantage of the international mechanisms described without activating domestic ethnic competition. In addition, individuals who have been recognized as refugees in one host country can sometimes be resettled in another. The selective sovereignty theory should apply to these resettlement activities, usually undertaken by developed countries.

The delegation puzzle and the differential treatment puzzle point to gaps in the academic literature, but they also have significance for the lives of tens of millions of refugees around the world. At the time of writing, over two million Syrian refugees had fled Syria, the majority going to Lebanon, Turkey, Jordan, and Iraq. In addition, there were ongoing refugee crises in South Sudan, the Central African Republic, and elsewhere. Yet, the scholarly and policy communities lack a coherent and clearly-articulated account of how and why countries respond to refugee flows like these. The selective sovereignty theory provides a plausible account, and one that can inform our responses to new and continuing refugee crises around the world.
## Appendix I: Variable Descriptions

### Table 27. Variable descriptions (Admission and rejection)

<table>
<thead>
<tr>
<th>Variable Descriptions</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Asylum Recognition Rate</strong></td>
<td>Number of decisions in the receiving country recognizing Convention status asylum claims from the sending country in any one year, relative to the number of claims decided upon. From the UNHCR Statistical Online Population Database.</td>
</tr>
<tr>
<td><strong>Sending Country Relations</strong></td>
<td>The Affinity of Nations Index (s2un4608i) based on two category votes data (1=&quot;yes&quot; and 2=&quot;no&quot;) and with interpolation for missing values. It ranges from -1 (for least similar interests) to 1 (for most similar interests).</td>
</tr>
<tr>
<td><strong>Refugee Group Affinity</strong></td>
<td>Dummy variable which takes the value 1 if an ethnic group is in power in the receiving country but excluded in the sending country in that year, and 0 otherwise. Coded by the author using EPR and MAR datasets.</td>
</tr>
<tr>
<td><strong>ln GDP per capita</strong></td>
<td>The natural log of real GDP per capita for the receiving country in each year, in $1,000s in current prices. From PWT v. 6.3.</td>
</tr>
<tr>
<td><strong>Origin’s ln GDP per capita</strong></td>
<td>The natural log of real GDP per capita for the sending country in each year, in $1,000s in current prices. From PWT v. 6.3.</td>
</tr>
<tr>
<td><strong>Origin’s Political Terror</strong></td>
<td>Average of the Amnesty International and US State Department ratings for political terror for the sending country in each year. From the Political Terror Scale.</td>
</tr>
<tr>
<td><strong>Origin’s Domestic Violence/War</strong></td>
<td>Dummy variable capturing whether the sending country experienced ethnic or civil violence or war (new or ongoing) in each year. Based on the Major Episodes of Political Violence dataset. It takes the values: 1) Experiencing ethnic or civil violence or war; 2) Not experiencing ethnic or civil violence or war.</td>
</tr>
<tr>
<td><strong>Origin’s Interstate War</strong></td>
<td>Dummy variable capturing whether the sending country experienced interstate war (new or ongoing) in each year. Based on the COW Interstate War Dataset v4.0. It takes the values: 1) Experiencing interstate war; 2) Not experiencing interstate war.</td>
</tr>
<tr>
<td><strong>Origin’s Genocide/Politicide</strong></td>
<td>Scaled number of deaths from genocide/politicide in the sending country in each year. From the PITF State Failure Problem Set. Ranges from 0 to 5.0.</td>
</tr>
<tr>
<td><strong>ln Distance</strong></td>
<td>The natural log of the distance between sending and receiving countries’ capitals in kilometers. From the CEPII Distances dataset.</td>
</tr>
</tbody>
</table>
**TABLE 28. Variable descriptions (Delegation)**

<table>
<thead>
<tr>
<th>Variable Description (Delegation)</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Refugee Status Determination</td>
<td>An ordinal variable which indicates whether refugee status determination was conducted solely by the government (RSD=1), jointly with UNHCR (RSD=2), or solely by UNHCR (RSD=3). From the UNHCR Statistical Online Population Database.</td>
</tr>
<tr>
<td>Sending Country Relations</td>
<td>Average of “Sending Country Relations” variable across all sending countries, weighted by the number of applications made from each sending country.</td>
</tr>
<tr>
<td>Refugee Group Affinity</td>
<td>Average of “Affinity with Refugee Group” across all sending countries, weighted by the number of applications made from each sending country.</td>
</tr>
<tr>
<td>Asylum Recognition Rate</td>
<td>Number of decisions in the receiving country recognizing Convention status asylum claims at t-1, relative to the number of claims decided upon. From the UNHCR Statistical Online Population Database.</td>
</tr>
<tr>
<td>ExCom Member</td>
<td>Dummy variable capturing whether the receiving country is a member of UNCHR’s Executive Committee. It takes the values: 1) Member; 0) Not a member.</td>
</tr>
<tr>
<td>Refugee Treaty</td>
<td>Dummy variable capturing whether the receiving country has ratified the 1951 Refugee Convention and its 1967 Protocol. It takes the values: 1) Ratified; 0) Did not ratify.</td>
</tr>
<tr>
<td>ln Refugee Stock</td>
<td>Natural log of refugee population residing in destination at t-1. From the UNHCR Statistical Online Population Database.</td>
</tr>
<tr>
<td>Number of Origin Countries</td>
<td>Number of countries from which asylum applications were filed in t-1. From the UNHCR Statistical Online Population Database.</td>
</tr>
<tr>
<td>ln GDP per capita</td>
<td>The natural log of real GDP per capita for the receiving country in each year, in $1,000s in current prices. From PWT v. 6.3.</td>
</tr>
<tr>
<td>Applications per capita</td>
<td>The number of asylum applications to the receiving country at t-1 divided by the destination country’s population. Computed using the UNHCR Statistical Online Population Database and PWT.</td>
</tr>
</tbody>
</table>
Appendix II: Case Study Coding Details

For each refugee group, the outline below lists the years it has been present in significant numbers, the majority ethnic identity of the refugee group, the sending country, the years in which relations with the sending country were predominantly friendly or hostile, and the major events that point to this categorization. The main sources used for coding these variables for each refugee group are listed in the footnotes.

To identify the ethnic identity of refugee groups, the Minorities at Risk (MAR) and Ethnic Power Relations (EPR) datasets were used in combination with secondary sources. In cases where refugees from a single country of origin represented a number of different ethnic identities, the identity of the majority of refugees was used.

Relations with a sending country were characterized as friendly or hostile depending on whether there were disputes, material support for opposition groups, alliances, trade agreements, or high-level visits in a given year. For cases in which there is occupation by a third party, that third country is considered the sending country. Failed state situations are coded as missing observations for sending country relations.

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The Egyptian regime’s ethnic identity is taken to be “Arab Muslim.”

Palestinian Refugees

- Years in Egypt: 1948-2010
- Majority Ethnic Identity: Arab Muslim
- Sending Country: Israel
  - Hostile: 1948-1977

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434 Cederman, Min, and Wimmer 2009; Minorities at Risk Project 2009.
435 El-Abed 2009.
Friendly: 1978-2010
  - Camp David Accords followed by peace treaty.

Sudanese Refugees
  - Years in Egypt: 1956-2010
  - Majority Ethnic Identity: Southerners and Darfur Black Muslims
  - Sending Country: Sudan
    - Hostile: 1956-1957
      - Halaib border dispute.
    - Friendly: 1958-1984
      - Mutual defense agreement in 1976.
      - Egypt provides military support during 1983 crisis with Libya and 1984 Omdurman bombing.
      - Union of political leadership in 1977.
      - Nimeiry overthrown in 1985 and granted asylum in Egypt despite Sudan calls for extradition.
      - Egypt grants asylum to opposition politicians (e.g., Mirghani) and supports Democratic Unionist Party and SPLM, Sudan grants asylum to Egyptian Islamists.
      - In 1990-1991, Egypt accuses Sudan of stationing Iraqi missiles on its soil, Sudan refuses to join Arab coalition.
      - In 1995, Mubarak assassination attempt in Ethiopia allegedly supported by Sudanese government.
    - Friendly: 1999-2010
      - Bashir visits Cairo in 1999 and 2002 and leaders agree to normalize relations.
      - Egypt supports Bashir’s stand against ICC indictment.

Iraqi Refugees
  - Years in Egypt: 2006-2010
  - Majority Ethnic Identity: Arab Sunni
  - Sending Country: US
    - Friendly: 2006-2010
      - Strategic alliance with military aid and security coordination.

Somali Refugees
  - Years in Egypt: 1991-2010
  - Majority Ethnic Identity: Darood, Hawiye, Issaq, Dir and Rahenweyn
  - Sending Country: N/A (Civil War)

Eritrean Refugees
  - Years in Egypt: 1993-2010
  - Majority Ethnic Identity: Black Muslim and Christian
  - Sending Country: Eritrea
    - Friendly: 1993-2010

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437 Fargues et al. 2008.
438 Al-Sharmani 2003; Moret, Baglioni, and Efionayi-Mäder 2006; Zohry and Harrell-Bond 2003.
During the 1998-2000 border war, Egypt supports Eritrea with arms and expertise.

**Ethiopian Refugees**

- **Years in Egypt**: 1977-2010
- **Majority Ethnic Identity**: Black Muslim and Christian
- **Sending Country**: Ethiopia
  - **Hostile**: 1977-1986
    - Egypt sides with Somalia during 1977-1978 Ogaden War (sends weapons and Russian equipment, provides military training), and supports Eritrean insurrection.
    - In 1979, Sadat threatens to bomb any Nile diversion projects
  - **Friendly**: 1987-1997
    - Mengistu visits Egypt and Mubarak visits Ethiopia.
    - Joint Egypt-Ethiopia Committee meets.
    - Prime Minister Wogderes visits Cairo in 1988.
    - In 1993, framework of cooperation signed.
  - **Hostile**: 1998-2000
    - During the 1998-2000 border war, Egypt supports Eritrea with arms and expertise.
  - **Friendly**: 2001-2010
    - Starting 2003, Egypt offers food, humanitarian, and health assistance.
    - In 2004, Egyptian Foreign Minister Abul-Gheit visits Ethiopia.
    - In 2005, Meles visits Cairo and mentions agreement for Egypt to purchase $200 million in meat.
    - In 2006, Joint Egypt-Ethiopia Committee meets.
    - In 2008, Ethiopian Foreign Minister visits Egypt.
    - In 2009, Egypt’s Prime Minister visits Addis Ababa.

The Kenyan regime’s ethnic identity is taken to be “Kikuyu” for the period 1964-1978 and 2003-2010, and “Kalenjin” for the period 1979-2002.

**Somali Refugees**

- **Years in Kenya**: 1991-2010
- **Majority Ethnic Identity**: Somali and Somali Bantu
- **Sending Country**: Somalia
  - **Friendly**: 1991
    - Barre had renounced claims on Kenyan territory and the two countries signed a security agreement in the 1980s.
  - **N/A (Civil War)**: 1991-2010

**Sudanese Refugees**

- **Years in Kenya**: 1991-2010

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Chau 2010; Tóth 2011.
Hornsby 2012; Mogire 2011.
Majority Ethnic Identity: Dinka and Nuer
Sending Country:
  - N/A (Neutral): 1991-2010
    - Kenya hosts SPLA leader John Garang and provides support to SPLA.
    - Kenya mediates between SPLA and Sudanese government.
    - Kenya does not enforce ICC arrest warrant during Bashir’s visit in 2010.

Ethiopian Refugees
- Years in Kenya: 1964-2010
- Majority Ethnic Identity: Oromo and Amhara
- Sending Country: Ethiopia
  - Friendly: 1964-2010
    - Kenya objects to Ethiopian border incursion in 1999, but joint communiqué issued soon afterwards.

Ugandan Refugees
- Years in Kenya: 1966-2010
- Majority Ethnic Identity: ?
- Sending Country: Uganda
  - Friendly: 1966-1975
    - East African Community, with Kenya, Tanzania, and Uganda as members, founded in 1967.
    - Kenya welcomes Amin’s 1971 coup and provides assistance.
    - Kenyatta & Amin meeting in 1974.
    - Uganda lays claim to parts of Kenyan territory in 1976.
  - Friendly: 1981-1985
    - Return of Obote in late 1980 leads to improved relations.
    - Kenya, Tanzania, and Uganda reach 1983 agreement to distribute EAC assets and liabilities.
  - Hostile: 1986-1989
    - Museveni claims Kenya is harboring rebels; border fire in 1986.
    - Border clashes in 1987.
  - Friendly: 1990-2010
    - 1990 Moi visits Museveni.
    - 1993 Moi visits Uganda and communiqué signed for security and trade cooperation.

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443 Kenya 2010; Makinda 1985; Tekle 1996.
444 Kenya 2010; Hornsby 2012.
- 1995 troop buildup on border, and accusations of incursions and harboring opposition groups, but quickly resolved in 1996.
- Agreement to share security information in 2006.

**Rwandan Refugees**

- **Years in Kenya:** 1994-2010
- **Majority Ethnic Identity:** Hutu
- **Sending Country:** Rwanda
  - **Hostile:** 1994-1996
    - 1995 Kenya refuses to permit ICTR to access génocidaires.
  - **Friendly:** 1997-2010

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The Turkish regime’s ethnic identity is taken to be “Turkish.”

**Bulgarian Refugees**

- **Years in Turkey:** 1989-1990
- **Majority Ethnic Identity:** Bulgarian Turks and Pomaks
- **Sending Country:**
  - **Hostile:** 1989-1990
    - Cold War rivalry
    - Bulgarization policies

**Iranian Refugees**

- **Years in Turkey:** 1979-2010
- **Majority Ethnic Identity:** Persians and Kurds
- **Sending Country:**
  - **Friendly:**
    - 1980-1988 Turkey declares “positive neutrality” during Iran-Iraq war, and pursues significant trade relationship
    - 1984 security agreement
    - 1991 Rafsanjani visits Turkey
    - 1994 Demirel visits Iran
    - 1994 meeting of border committee
    - 1996 economic agreement granting most favored nation status
    - 1997 Baqeri/Sincan affair. Iranian and Turkish diplomats expelled, but crisis quickly resolved
    - 1998 agreement to increase customs cooperation
    - 1999 security agreement

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446 Petkova 2002.
- 2008 Ahmadinejad visits Turkey
- 2009 Erdoğan visits Tehran

**Iraqi Refugees**

- **Years in Turkey:** Kurds
- **Majority Ethnic Identity:** 1988-1991
- **Sending Country:** Iraq
  - Friendly: 1988-1989
    - Extensive trade continues between the two countries
    - Turkey participates in Gulf War and enforces sanctions in Iraq

**Bosnian/Kosovar Refugees**

- **Majority Ethnic Identity:** Bosniaks/Muslims, Albanians
- **Sending Country:** Federal Republic of Yugoslavia (Serbia and Montenegro)
    - Turkey adopts embargo, freezes assets, closes airspace, and recalls ambassador
    - Turkey helps enforce no-fly zone over Bosnia in 1993
    - Turkey supports NATO action in Kosovo
    - Turkey contributes troops to the Kosovo Force

**Eastern Bloc**

- **Years in Turkey:** 1970-1990
- **Majority Ethnic Identity:** ?
- **Sending Country:** Eastern Bloc
    - Cold War rivalry

**Chechen Refugees**

- **Years in Turkey:** 1999-2010
- **Majority Ethnic Identity:** Chechens
- **Sending Country:** Russia
  - Friendly: 1999-2010
    - Putin visits Turkey and signs trade, defense, and finance cooperation agreements in 2004
    - Erdoğan visits Russia in 2009

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450 Turkey 2010; Hale 2000.
References


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Turkish Ministry for EU Affairs. 2001. *National Program for the Adoption of the EU Acquis.*


