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Security, structural factors and sovereignty: Analysing reactions to Kenya's decision to close the Dadaab refugee camp complex¹

Brendon J. Cannon² & Hirotaka Fujibayashi³

Abstract

Kenya's decision to close the Dadaab refugee camp complex highlights structural flaws in the international refugee regime. While much attention has been paid to Kenya's reasoning, less has been given to the reactions of organisations and states. Given the state's primacy in the international system and uncertainty about refugees, Kenya's decision is perhaps unsurprising. It is contended that the stakeholders were unprepared because of path dependence and disbelief that Kenya would repatriate the refugees. While stakeholder reactions arguably demonstrate concern for refugees, the international refugee regime remains unquestioned, sustaining revenue streams that may fuel corruption, encourage lengthy encampment and prolong conflict,

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² Brendon J. Cannon is an assistant professor of international and civil security in the Department of Humanities and Social Sciences at the Khalifa University of Science and Technology in Abu Dhabi, UAE (brendon.cannon@kustar.ac.ae).

³ Hirotaka Fujibayashi is a graduate student in the Department of International Studies of the Graduate School of Frontier Sciences at the University of Tokyo, Japan (h.fujibayashi13@gmail.com).

Introduction

Dadaab refugee camp, located in Garissa County in north-eastern Kenya, is composed of five camps¹ and reportedly home to more than 300 000 refugees, 95% of whom originate from Somalia. The camp complex opened in 1991 as a temporary shelter for nearly 100 000 Somalis fleeing a civil war. Over 25 years later, Dadaab has become the world's largest refugee camp due to hundreds of thousands of refugees following their compatriots to the relative safety and stability of the camp complex in Kenya.

Until recently, Dadaab's existence remained largely unquestioned, given Kenya's commitment to providing refuge, its international obligations and the unsettled situation in Somalia.² Yet there have been rumblings of discontent in Nairobi, and calls for refugee repatriation and the camp's closure have become more frequent and unequivocal as al-Shabaab – a terror organisation with ties to both al-Qaeda and the Islamic State – continues to perpetrate attacks in Kenya.³ As a partial response, Kenya, Somalia and the United Nations High Commissioner for Refugees (UNHCR) signed a tripartite agreement in November 2013 that reportedly allowed the repatriation of Dadaab's Somalis. Yet the process described in the agreement has been repeatedly delayed for a number of reasons,⁴ and preparations for the reintroduction and reintegration of returnees into Somalia remain moribund. In May 2016, Kenya's government announced it would permanently close Dadaab by November 2016.⁵ For Kenya, the time had come for the United Nations (UN), various international non-governmental organisations (INGOs), non-governmental organisations (NGOs), and Dadaab's refugees to leave. They were no longer welcome in Kenya.

Rather than exploring Kenya's decision to close Dadaab or its humanitarian and political repercussions as some have attempted,⁶ this article aims to fill a gap in the literature by exploring the negative reactions elicited from refugee regime stakeholders. In doing so, the actors, institutions and stakeholders involved in the management and running of Dadaab are pointedly analysed, along with the length of time the camp has been operating. First, the concepts and definitions surrounding refugees and camps are explored and an attempt is made to locate the refugee regime within the parameters of international politics, taking into account not only the continuing pre-eminence of the state system as the basis for international relations but also the increasing role of non-

state actors. Second, the current refugee encampment paradigm is considered using path dependency theory as a theoretical framework. Third, the article takes a novel approach to exploring Kenya's decision—made as a fully sovereign state in the international system—to close Dadaab for security reasons. Fourth, examples of the largely negative and extremely vocal reactions from key humanitarian stakeholders are presented, including those of the various INGOs and NGOs as well as the UN. Fifth, the rationale behind these reactions—above and beyond the arguably natural impulse to protect refugees—is deconstructed, highlighting significant flaws in the international refugee regime. Finally, the conclusion posits that the current refugee regime is not only damaged but may act as a brake in relation to solving near-permanent crises, thereby leaving refugees in a state of suspended limbo for decades. Additionally, the increasing tension between state sovereignty and international agreements and treaty obligations is illustrated in our analysis of Kenya's decision, which concludes that states and organisations should understand that sovereignty and security will generally trump treaty obligations. As such, they should take steps to develop 'what if' policies in the eventuality that other states make similar decisions to the one made by Kenya.

Refugee camps and refugees

Refugees occupy an odd place in the literature of world politics.⁷ On the one hand, the primacy of sovereignty at the heart of the Westphalian state system is said by some scholars to necessarily engender refugees through the construction of political borders, strongly sovereign states and concepts of insiders and outsiders.⁸ On the other, some scholars view refugees as a side effect of a world increasingly characterised by weak or 'failed' states, and the international community is therefore called upon to uphold humanitarian norms and treaty obligations.⁹ Furthermore, ideas about political communities, citizenship and the role of states in politics, economy and society are fundamental to understanding the place of refugees in international society. A distinction exists between members and non-members where strong notions of political community exist—or are reified by an influx of refugees. Herein lies the tension between universally constructed values and community¹⁰—namely, the tension between hosting refugees for extended periods of time, absorbing them into the community, or sending them back home.

Refugee camps—by their very nature and according to international law—are meant to be temporary havens of refuge, even though the concept of

protracted refugee situations is now commonly used by the UNHCR.¹¹ As stipulated by the international refugee regime, refugees housed in temporary camps are supposed to be integrated into host country populations as permanent residents or naturalised citizens, resettled in a third country, or repatriated to their country of origin.¹² Yet little has been done for refugees in Dadaab.¹³ Their situation seems to mirror that of many others. The UNHCR noted in 2012 that more than half of the world's refugees – reportedly 12 million at the time – find themselves in 'protracted refugee situations (PRS) and the vast majority are not on the road to a durable solution'.¹⁴ The limbo of Dadaab's refugees has been compounded for nearly three decades by an international response

*dominated by strategies for containment which have stifled the life chances of hundreds of thousands of people. The current crisis of displacement seems to have reinforced this dominant policy approach, with the emphasis on emergency response ...*¹⁵

This has generally led to the long-term encampment of refugees.¹⁶ Refusal by Kenya to grant citizenship to hundreds of thousands of Somalis, along with refugee registration and resettlement schemes reportedly bungled by the UNHCR¹⁷ and the fear of a political backlash by potential third country hosts welcoming Muslim Somali refugees, has resulted in the status quo of refugees in Dadaab being perpetuated.¹⁸ Additionally, treaties and other agreements – such as the Khartoum Process and the 2016 migrant deal between the European Union (EU) and Turkey – can be said to reinforce and even reinvigorate long-term encampment by continuing to relegate the physical burden of managing and housing refugees to states in crisis-hit regions such as Kenya.¹⁹

Path dependency and motivations for encampment

Regardless of its recent decision, the fact remains that Kenya has hosted hundreds of thousands of Somali refugees for almost three decades.²⁰ Initially, refugee issues were not an overwhelming problem for Kenya. From independence in 1963 until the early 1990s there was little, if any, domestic refugee legislation.²¹ As such, Kenya's decision to host upwards of 300 000 Somalis in Dadaab for a quarter of a century is almost without precedent. Why did Kenya agree to do so? This is difficult to ascertain, but it is posited here that it was likely because of goodwill and the fact that Kenya had ratified, without reservation, the 1951 UN

Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, as well as the 1969 Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa.²² Another possibly complementary motive for the decision by Kenya and other states to host refugees is also posited: path dependence.²³

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Map 1. Location of Dadaab Refugee Camp Complex. Source: NordNordWest.
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Over the past few decades, political scientists' attention to the role of path dependence and the politics associated therewith has grown.²⁴ Sewell defines path dependence or path dependency as follows: 'what happened at an earlier point in time will affect the possible outcomes of a sequence of events occurring at a later point'.²⁵ In other words, 'history matters'.²⁶ However, for the purposes of this article, a narrower definition by Levi is more germane:

*Path dependence has to mean [...] that once a country or region has started down a track, the costs of reversal are very high. There will be other choice points, but the entrenchments of certain institutional arrangements obstruct an easy reversal of the initial choice.*²⁷

What is missing from Levi's descriptive definition is that organisations—be they political, economic or social—also exhibit path dependency in the decisions they make.²⁸ Such a situation, for states and organisations, can be established through two mechanisms: 'lock-in', when certain options are rendered wholly unattainable by original choices; and 'disincentive effects', when original choices make future options not impossible but deeply unattractive.²⁹ Arguably, these twin mechanisms may be said to have contributed to the quasi-permanent— or protracted (in the UNHCR's vernacular)—refugee situations around the world. Within the context of Dadaab, for example, a crisis in a neighbouring state (Somalia) flares up, large numbers of people flee chaos and violence, and the host country (Kenya) is faced with a dilemma. At this critical juncture, the host country then cannot help but choose a long-term solution amongst the following two options. The first option involves self-settlement and local integration wherein the refugees are absorbed over time into the fabric of a country's society. The second involves allowing the establishment of temporary refugee camps until a 'durable' solution can be formulated. In reality, however, the first option is politically unfeasible given resistance by most polities to integrating foreign-born populations in anything approaching significant numbers.³⁰ This is because most states will operate under the assumption that integrating substantial numbers of refugees— especially when there is a perceived identity and/or culture clash— is destabilising, and may lead to insecurity on multiple fronts and levels. As such, the second option—other than attempting to seal their borders to refugees as some European states have done— is arguably the only one open to most states.³¹ This is done with the implicit understanding that the crisis next door will eventually dissipate, thereby allowing the refugees to return home. It is also done, as Montclouse and Kagwanja presciently noted about the establishment of Dadaab, with the critical political backing of the host country.³² Simply put, Kenya could have sealed its borders and forbidden the settlement of thousands of Somali refugees fleeing famine and war. Instead, it mobilised the political will to facilitate temporary shelter. However, at the critical juncture where the state allows for the establishment of a refugee camp, the camp— along with the international refugee regime surrounding and supporting it—

begins to take on a life of its own. In other words, '[t]he temporal construction of the refugee, in turn, informs path dependent properties that affect the identities and interests of actors associated with refugee governance.'³³

Crisp and Jacobsen criticise scholars who fail to appreciate the full significance of the role played by host governments in determining refugee policies—particularly in the decision to establish temporary refugee camps.³⁴ Yet it is argued here that their criticism fails to account for the role played by NGOs and INGOs in the establishment of the building blocks of the international refugee regime, as created and refined in the seven decades since the end of the Second World War. Indeed, once a host state such as Kenya allows the initial establishment of a refugee camp, the refugee policies and procedures that surround and support that camp are almost wholly driven by the demands of donors and humanitarian organisations rather than the host state.³⁵ Furthermore, the path dependence inherent in the policies of international humanitarian organisations and NGOs has arguably engendered and reinforced the long-term quarantine of refugees in camps, thereby leading to aid dependence and near-permanent encampment.³⁶ In the words of Harrell-Bond: 'Camps deprive refugees of access to networks of social and economic support and there is evidence that over the long term even those camps deemed self-sufficient become destitute'.³⁷ Yet the UNHCR and aid agencies continue to fill a gap in the current international refugee protection regime by quasi-permanent encampment, on a 'less evil' argument, despite seeing the negative consequences associated therewith.³⁸ Indeed, it has been argued that the right to be a refugee has trumped the right *not* to be a refugee:

*Thus, while the principle of non-refoulement is the bedrock of modern refugee protection, it does not provide the foundation for the 'solution' to the 'refugee problem.' That solution is the cessation of refugee status through the (re)attachment of a person to a political and social community in which one has full status and full membership rights. This is precisely the very thing that refugees – no matter what rights they are guaranteed by the Convention – lack.*³⁹

This overemphasis on *non-refoulement* has further reinforced the path dependency surrounding refugee encampment and, correspondingly, led to a de-emphasis on finding durable solutions, thereby making temporary camps permanent fixtures. Additionally, the almost inescapable longevity of camps

inherent in the current refugee regime may – in terms of care – lead to an acceptance of the unacceptable. For example, camps such as Dadaab have been described not only as massive, but teeming, isolated, insecure and permanent.⁴⁰ Human Rights Watch (HRW) argues that the UNHCR and INGOs subcontracted to run the camps are largely to blame for the deplorable state of Dadaab.⁴¹ A Nonprofit Quarterly review of a *Médecins sans frontières*/Doctors without Borders (MSF) report describes the situation thusly:

While international organisations have seen increases in their fundraising efforts, their direct impact in the developing world has decreased significantly. The MSF report highlighted a number of issues and made assertions that ranged from 'Humanitarian responses are slow and cumbersome and lack impact' to 'UN agencies and INGOs are increasingly absent from field locations' and 'when assistance is most needed, international staff of humanitarian agencies are rapidly evacuated or go into hibernation'.⁴²

Kenya's security and the decision to close Dadaab

While Kenya has allowed Somali refugees sanctuary and relative safety for nearly three decades, it has not always been comfortable with housing them. Indeed, former presidents Daniel arap Moi and Mwai Kibaki, citing security and other concerns, both called for the deportation of refugees from time to time.⁴³ As far back as 2002, officials from north-eastern Kenya have demanded that the camps be relocated on account of alleged rampant corruption at the UNHCR.⁴⁴ Yet it was only after the 2013 tripartite agreement was signed – and contrary to the argument that refugee repatriation should not be engineered by states or by the UNHCR – that Kenya announced its intention to permanently close Dadaab.⁴⁵

In justifying its decision, Kenya has chiefly cited security concerns. President Uhuru Kenyatta arguably encapsulated the feelings of many Kenyans thusly:

For more than two decades, more than 400,000 Somalis have been hosted at the Daadab Refugee Complex. During this time, the Daadab Camp has been operating on a fraction of the resources it requires [...]. This should not be a permanent condition. It is only a humanitarian measure and as such it should be short-term. Instead, Dadaab has become a protracted situation, characterized by hopelessness that easily feeds environmental

*destruction, conflicts between refugees and host communities, insecurity, radicalization, criminality, and allows terrorist operatives to exploit it for their operational efforts. It is for these reasons that the Kenya government made a decision in May last year to close down the Dadaab Refugee Complex.*⁴⁶

Kenyan security services and government agencies have compiled evidence and assess that al-Shabaab has used the Dadaab refugee camp complex as a base from which to repeatedly attack Kenya.⁴⁷ Between 2008 and 2016, the group executed a total of 291 attacks in Kenya,⁴⁸ which included explosions in Dadaab itself⁴⁹ and the kidnappings of at least six foreign nationals from the camp complex.⁵⁰ These attacks have been spectacularly chilling and highlighted to Kenyans and foreigners alike the tenuous state of security in Kenya. For example, the attack at Westgate Mall in central Nairobi on a busy Saturday in September 2013 resulted in at least 67 deaths and more than 175 wounded. The massacre at Garissa University College in April 2015 made front-page news globally as governments and individuals alike reacted with horror to the slaughter of 148 innocent students over 10 hours. Faced with public revulsion as the identities of the Garissa attackers came to light, Kenya demanded that the UNHCR and related humanitarian agencies remove the refugees from Dadaab, but ultimately withdrew the threat. After compiling further evidence, Kenya renewed its call for the camp complex's closure one year later, noting that two of the four Westgate Mall attackers were Somali refugees who had grown up in Kenya and that the mastermind of the Garissa University attack possessed a support network in Dadaab.⁵¹

Reactions

Aid agencies, international organisations and governments have roundly criticised the Kenyan government's decision to close Dadaab. Immediately after the announcement, multiple NGOs released a joint statement urging the Kenyan government to reconsider its decision.⁵² Amnesty International criticised the move as a 'reckless decision' and warned that Kenya would be violating its obligations under international law,⁵³ while HRW raised concerns over the reportedly involuntary repatriation programme for Somali refugees asking: 'Is such a move at all feasible and in line with international law?'.⁵⁴ Various media outlets rushed to report the voices of refugees who simply did not wish to return to Somalia or, in the case of second- and third-

generation refugees, settle in a country they had never known.⁵⁵ MSF issued the following statement questioning Kenya's security trepidations and blaming it for negligence:

*Today's statement by the Kenyan government to close down Dadaab [...] citing security concerns highlights once more the continued and blatant neglect of millions of refugees around the world [...]. MSF is urging the government to reconsider this call, and—alongside the international organizations already present in the camp—to continue to provide humanitarian assistance and ensure acceptable living conditions for the hundreds of thousands of people who desperately need it.*⁵⁶

At the heart of the matter is a conflict between Kenya's treaty obligations and its rights and obligations as a sovereign state to protect its citizens and secure its borders. On the one hand, Kenya—in making the decision to close Dadaab—has chosen to emphasise state sovereignty, supporting its decision by citing security concerns. On the other hand, the international community believes strongly that international agreements must be upheld at all costs. In essence, the UN, many other states and various organisations were so certain that Kenya would uphold its treaty obligations that they never fathomed a change to the status quo. Indeed, the international community was arguably less shocked by Kenya's decision to close the camp complex than by its unwillingness to give in to significant international and regional pressure and offers of increased aid in order to keep Dadaab open.⁵⁷ They simply took Kenya's sacrifices for granted for over a quarter of a century and reacted to its security arguments with vociferous allegations that they were simply lies aimed at 'scapegoating' Dadaab's refugees.⁵⁸ Indeed, the United Nations Security Council (UNSC) argued that Kenya's security worries were risible, noting 'the non-availability of clear information on the presence of terrorist elements inside the [Dadaab] camps'.⁵⁹ However, the UNSC offered no information contradicting Kenya's evidence and ignored the terrorist attacks and related deaths reportedly linked to Dadaab. The UNSC and other organisations critical of Kenya's security concerns also ignored multiple studies demonstrating the dilemma faced by states that, on the one hand, host refugees as a humanitarian obligation and, on the other, significantly compromise their national security due to refugee security dynamics.⁶⁰

The vehement dismissal of Kenya's security concerns by others, particularly

INGOs and NGOs, is not only problematic but possibly disingenuous. This is because aid organisations operating on the ground may not recognise – or choose to turn a blind eye to – elements posing a security risk to the host country. This is because doing so would contradict one of their core mandates: ‘Many NGOs that operate in an odour of sanctity routinely supply active combatants. Defenceless, they cannot exclude armed warriors from their feeding stations, clinics, and shelters’.⁶¹ Additionally, the UNHCR notes in its mission statement that it ‘offers protection and assistance to refugees and others in an impartial manner, on the basis of their need and irrespective of their race, religion, political opinion or gender’.⁶² Thus, even if UN or NGO staff could tell the difference between al-Shabaab supporters, recruits and operatives, they would either be unable or unwilling to exclude them from partaking in Dadaab’s meagre succour. This alone largely cancels out arguments to the contrary that Dadaab cannot represent a safe haven for terrorists. Moreover, there have been reports of a senior al-Shabaab operative being arrested in Dadaab and another terrorist caught driving a vehicle with UN number plates stolen from Dadaab. The operative had the reported aim of using the vehicle to mount suicide vehicle-bound improvised explosive devices (SVBIEDs). Incidents such as these further call into question the judgement of aid organisations, the UN and various states and their related criticism of Kenya’s security worries.⁶³ As Amos Gathecha, the secretary for security and operations in Kenya’s Interior Ministry drily stated, ‘[w]e are aware of the international outcry regarding the closure [but] we are not going to back down on closing Dadaab’.⁶⁴

The return of hundreds of thousands of Somalis – voluntary or forced – is considered to be unviable given the unsettled security situation in southern Somalia and the accompanying lack of adequate infrastructure.⁶⁵ Hassan Sheikh Mohamud, former president of the Somalia Federal Government (SFG), expressed concerns over Dadaab’s planned closure when he visited the camp and met with refugees.⁶⁶ Similarly, Ahmed Awad, Somalia’s ambassador to the US, stated that the closure of the refugee camp was logistically impractical, could exacerbate the threat from terrorism for both countries and worsen Kenya–Somalia relations.⁶⁷ Yet as far back as 2013, the government of Somalia was reportedly making basic preparations for the return of Dadaab’s refugees.⁶⁸ Contrariwise, all indications are that the UNHCR ignored Kenya’s prior proposals⁶⁹ as well as the 2013 tripartite agreement, and then scrambled to develop coherent policies and preparations after Kenya unilaterally decided to close the camp complex. This is difficult to fathom because, besides Kenya,

it is arguably the UNHCR that has the greatest stake in the camps and how the closure process will proceed. Yet it has repeatedly sent mixed signals to Kenya, the refugees in Dadaab and the world. For example, the UNHCR initially appealed to donors for an additional US\$115,4 million to fund the voluntary return and reintegration of Somali refugees from Dadaab, indicating that the UNHCR was resigned to refugee repatriation after all.⁷⁰ However, the UN appeared publicly to disagree with the UNHCR call for funding by sending repeated high-level delegations to Kenya in order to convince Nairobi to alter course.⁷¹ As this occurred, neither the UN nor the UNHCR had made efforts to study or assess the security situation in Somalia, simply assuming – and publicising – that the situation in Somalia would remain as it has for decades: unstable and therefore unsuitable for refugees to return to. It was only in mid-2016 that the UN protection cluster, the body that coordinates protection activities in Somalia, produced its first analytical report. However, that information had yet to be communicated to the refugees in Dadaab in late 2016.⁷² Instead, the UNHCR began giving US\$200 to refugees who voluntarily returned to Somalia by road. It also offered an additional US\$200 per person – and regardless of family size – upon arrival in Somalia.⁷³ This has confused not only the refugees, but many other aid organisations and governments.⁷⁴

Explaining reactions

At the time of writing, the decision by Kenya's government to close Dadaab seemed firm, despite the international outcry, the accompanying incredulity of NGOs and INGOs, and an early 2017 Kenyan high court decision ruling the closure of Dadaab unconstitutional.⁷⁵ While the announcement to permanently close Dadaab may have seemed sudden to outsiders, it came as no surprise to many of Dadaab's denizens.⁷⁶ Relatedly – and, as noted above, given Kenya's well-known stance on Dadaab – it arguably should not have shocked many UN personnel and aid agency employees operating in Kenya. Yet the stunned reactions suggest otherwise. This is because the vigorously negative international reactions to Kenya's decision are partially predicated on path dependence. In short, it is argued here that refugees represent large sums of money, and multiple domestic and international actors find themselves reliant on and, in some cases, maybe even enriched through the maintenance of the refugee regime status quo. And while concerns of forcible repatriation to the 'failed state' of Somalia may be posited as a legitimate motivator informing the strenuous reactions to Kenya's decision, the present analysis

points to five factors – not necessarily presented in order of importance – that reinforce path dependence and resistance to change amongst aid organisations. Additionally, these factors act as a critical brake to finding durable solutions - not only for refugees but the conflicts from which they have fled.

Path dependence

Issues revolving around path dependence, relevance, the concept of increasing returns and job security are all part of a mix that has kept Dadaab running and funded – however unevenly - for over two decades.⁷⁷ In the process of increasing returns, as a facet of path dependence, ‘the probability of further steps along the same path increased with each move down that path. This is because the relative benefits of the current activity compared with other possible options increase overtime’.⁷⁸ It should be recognised that a number of international agencies and NGOs have been assisting in the operation of Dadaab for over two decades – and, in the process, Dadaab has grown to become Kenya’s fourth largest city.⁷⁹ This is because of the presence of refugees. But they would not be there without the presence of humanitarian agencies and international organisations.⁸⁰ In other words, the prospect of an exit – the closure of Dadaab by Kenya or some other alternative – is stoutly resisted by these organisations. Additionally, the longer the camp complex remains open, the more entrenched the interests become as the costs of exit rise. As such, by providing for very basic dietary and sanitary needs, as well as a modicum of safety (when compared with 1990s Somalia at the height of its civil war), Dadaab has become a home for thousands, regardless of its severe limitations on freedom of movement and social mobility.

Refugee discourse

The refugee discourse, as developed since the UN’s inception, has had a real, physical effect on the environment and the way in which states and individuals react to and deal with refugees. As theorised by Foucault, the way in which political issues such as refugees and the crises that create them are thought about is a continuous negotiation process searching for the ‘correct’ response.⁸¹ These negotiations occur via discourse and are often influenced and controlled by actors and interest groups. The refugee discourse has developed into a system replete with laws, institutions, and camps requiring the requisite professions and therefore jobs associated therewith. Accordingly, the refugee discourse has had far-reaching implications in how politics and

economies are structured. Kenya's move to close Dadaab has led to a renewed negotiation vis-à-vis the refugee discourse. In the process, the very institutions with a stake in the status quo have found themselves in an uncomfortable and changing position – as have the refugees.

Funding and budgets

This discussion necessarily leads to a third factor and a set of questions regarding money and funding – i.e. the political economy of Dadaab and its refugees. Opponents of Kenya's decision have argued that Kenya stands to lose millions of dollars in revenue associated with housing refugees in Dadaab. It is estimated that up to US\$98 million flow into the Dadaab refugee camp complex annually and that Kenya would forfeit a portion of this significant sum should it close the camps.⁸² Another estimate states that the direct and indirect benefits of the camp amount to as much as US\$14 million per year.⁸³ The same report notes that more than 5 000 businesses are run within or in proximity to the camp, including taxi companies, hotels, restaurants and small shops, whose yearly turnover is estimated to be as much as US\$25 million.⁸⁴ While the combined economic benefits to north-eastern Kenya are questionable, there is no doubt that the abrupt closure of Dadaab will have a major, likely negative effect on the local economy in an under-served and arid region. What is not in question is that these economic benefits have come at a steep cost. The Kenyan government's official position is that closing the Dadaab complex will eventually solve the negative environmental impact, remove the burden of the provision of services to refugees, and stem the economic fallout of terrorism, i.e. the long-term benefits of Dadaab's closure outweigh the short-term costs. Additionally, while much reporting on Dadaab's closure has focused on what Kenya would lose in revenue, no similar amount of time has been spent reporting the benefits and costs accrued to the UNHCR and its contracted partners that have largely been running the refugee camp complex for decades. As demonstrated below, this is a critical variable. Additionally, no research has been systematically performed on the insecurity dividend accrued by Kenya and Kenyans as a result of hosting Dadaab's refugees for over two decades. This represents yet another line of inquiry that is beyond the scope of this article.

Organisational perpetuation

It has been argued that humanitarian organisations such as the UNHCR, like any organisation, ‘are interested in perpetuating themselves, which means that their first priority is to attract charitable contributions by being seen to be active in high-visibility situations’.⁸⁵ The need to feed, clothe and house refugees – reportedly far below acceptable standards in the case of Dadaab – allows the UNHCR, INGOs and other stakeholders to advertise their indispensability to donors, fill their coffers and maintain relevance. It also undercuts the primacy of the state and reifies path dependence:

*Ceding what should be functions of the state to outside aid agencies, private companies, and NGOs is not sustainable precisely because it undermines the corresponding branches of the state, whose legitimacy is crucial to its functioning... Ceding state functions to outside agencies severs the crucial link of accountability between the state and citizens. And once ceded, even if on a temporary basis, entrenched interests develop, which means that the NGO, contractor or agency will lobby for funds to keep performing that function.*⁸⁶

Financial sustainability has long been of interest to non-profit organisations, current and potential funders, and support-recipient communities. In particular, a core challenge for most non-profit organisations is figuring out how to balance financial sustainability with the organisational mission.⁸⁷ In the case of NGOs, they generally compete to raise money and secure contracts which are often of a performance-based, renewable, and short-term nature. They also respond to contractual incentives and organisational pressures much like firms (and international organisations) do in markets. Furthermore, the great majority of NGOs are dependent on voluntary contributions – as is, ultimately, the UN.⁸⁸ Because financial sustainability is crucial for the long-term survival and effectiveness of all organisations, it is essential to enhance the availability of funds and developments of needs-based and demand-driven programmes among several other aspects of organisation’s activities.⁸⁹ What is true for INGOs is also true for UN organisations such as the UNHCR.

The UNHCR has a huge, global mandate. Its primary purpose is to safeguard the rights and well-being of refugees.⁹⁰ Though the UNHCR arguably has a mixed record vis-à-vis its mandate, it has accrued and disbursed millions of dollars over the past quarter of a century in Dadaab alone. According to [Table 1](#), from 2014 to 2016 the UNHCR, the World Food Programme (WFP) and

their partners accrued budgets of over US\$300 million to spend as they deemed fit in relation to Dadaab. These are only the reported figures and include staffing and administrative costs. The lack of clarity regarding pledged funds, spent funds and earmarked funds hampers research efforts and related attempts to ascertain the actual fiscal situation in relation to Dadaab. This mirrors the situation of attempting to grasp the sheer number of stakeholders involved in the day-to-day running of Dadaab over the course of a quarter of a century.⁹¹ While the day-to-day operations of running a refugee camp housing over 300 000 inhabitants is necessarily Herculean in scope, these are not insignificant sums of money – particularly when food aid is reportedly covered by the UNHCR's sister organisation, the WFP. Yet they are positively dwarfed by the entire UNHCR budget for 2015, reported at approximately US\$5.1 billion.⁹² Indeed, the UNHCR's parent organisation, the UN, has reported annual expenditures 40 times higher than those of the early 1950s. The daily allowances allotted to its bureaucrats add up to more than those given to an average American civil servant and now equal US\$5.4 billion, having doubled in the past 20 years. And these allowances do not include other benefits, such as the relocation of foreign nationals to Nairobi, for example, with expat packages that incorporate healthy housing allowances and private education for their children.⁹³ Although the UN and, by proxy, the UNHCR are reportedly perennially 'broke',⁹⁴ stiff competition for UN jobs and plum assignments like Nairobi continues unabated. One commentator wryly notes: 'The UN resembles the infamous club Berghain. Everyone wants to get in, but hardly anyone knows how'.⁹⁵

Corruption

Many of the protests levelled at Kenya regarding its decision to close Dadaab have focused less on the deplorable state of the refugee camps and their residents, and more on the reported greed and corruption of Kenyan officials.⁹⁶ While the Kenyan body politic can be classified as largely corrupt,⁹⁷ this can also be asserted regarding the UN, including the UNHCR.⁹⁸ Allegations of grand corruption at the UNHCR in Kenya, for example, date back to at least 2002, when members of the then-ruling Kenya African National Union (KANU) noted that the UNHCR 'delivers only 10 percent of the total resources meant for refugees, while the remaining 90 percent is used to hire Kenyan policemen to clobber locals, buy satellite dishes and, eating protein rich foods and drinking beer'.⁹⁹ In their 'Nairobi bubble' far removed from parallel world of

Dadaab,¹⁰⁰ the UNHCR officials also reportedly extorted bribes from Dadaab’s refugees as part of a resettlement process that never came to fruition.¹⁰¹

Fresh allegations of corruption at the UNHCR in Kenya surfaced in 2004.¹⁰² Instead of ‘fixing’ the problem, allegations of corruption reportedly only resulted in further headaches for already vulnerable refugees, as the UNHCR reportedly froze all regular resettlement referrals at its Nairobi office in the aftermath.¹⁰³ This further entrenched a perception amongst refugees that the UNHCR was working against them and amongst many Kenyans that the organisation was active in perpetuating the status quo at the Dadaab camp complex.¹⁰⁴

Table 1: Program Budget in Dadaab (2014 – 16: US\$)

Year	UNHCR	WFP	Partners	Total Available
2014	54,680,181	49,700,000	36,690,471	141,070,652
2015	48,965,336	25,290,000	28,450,653	102,705,989
2016	44,977,067	25,860,000	18,191,394	89,028,461

Source: Figures for “Programme Budget in Dadaab (2014 - 16)” were extracted from UNHCR (2014; 2015; 2016a). Kenya Comprehensive Refugee Programme

Corruption at the UN reportedly reaches beyond Dadaab.¹⁰⁵ As far back as the mid-1990s, a report by Karl Paschke – the UN Inspector-General and Head of the Office of Internal Oversight Services – noted that mismanagement in the UN’s Nairobi office was so bad that it would be ‘reprehensible’ to let it continue functioning.¹⁰⁶ A review of corruption and fraud noted that theft of UN funds remains rampant and is most pronounced in developing countries such as Kenya and Somalia.¹⁰⁷ Furthermore, the UN oversight offices specifically charged with investigating cases involving massive fraud, theft and corruption at the UN have either been ‘stalled, halted or closed’ by these same oversight bodies.¹⁰⁸ Indeed, the UN Procurement Task Force, established in 2006, was unceremoniously closed in 2009 (reportedly because of pressure from member states whose nationals had been implicated) after it uncovered dozens of cases of corruption and graft at the UN.¹⁰⁹ More recently, Rasna Warah – a former writer and editor at the UN Human Settlements Programme (UN-Habitat) in Nairobi – documented the deliberate exaggeration or underestimation of problems by UN agencies in order to keep donor funding flowing in, thereby sustaining the political economy of Dadaab and extending the run of the corruption gravy train.¹¹⁰

Conclusion

The international community, and particularly the UNHCR and affiliated aid organisations, have failed to offer effective solutions for Dadaab’s refugees and their host country Kenya for over 25 years. Whether or not Kenya actually closes the camp remains to be seen, but its decision to do so is novel and important for a number of reasons. First, it serves to highlight major structural flaws in today’s international refugee regime to include an inherent inability or unwillingness to seek durable solutions for refugees. An overemphasis on *non-refoulement* and a corresponding de-emphasis on durable solutions has resulted in producing Kenya’s fourth largest city – one with no permanent structures and little hope. The camp’s closure means that the only options left for refugees in Dadaab are to return to Somalia, attempt to disappear into Kenya’s urban melting pots or attempt to flee to Europe. The first option is certainly the most viable logistically but is fraught with difficulty and uncertainty given the continued instability and insecurity in Somalia. While the situation in Somalia is complicated by numerous external and internal factors, this article argues that the maintenance of long-term refugee camps such as

Dadaab has directly contributed – in some measure – to Somalia’s continuing instability, because the existence of the camp acts as a safety valve by limiting the movement of refugees. Simply put, because of the tangible existence of Dadaab, the international community has been able to comfort itself with the thought that multiple humanitarian tragedies were being avoided – or, at least, postponed.¹¹¹ Instead, lesser human catastrophes have played out individually within the camp complex while regional and international efforts to solve perennial security and humanitarian crises in Somalia have been de-emphasised.¹¹² Yet the variables of refugee camp perpetuation, path dependence and longevity can also be said to have conspired to create a massive body of refugees who remain both nameless and victims in perpetuity. They are victims because of their recognised status, and nameless

*in the sense that no identity referent is supposed to affect the support provided to the physical maintenance of the victims (security, health, food); this care is aimed at persons belonging indifferently to factions, regions or states which may be friendly or hostile. Thus the humanitarian system induces the social and political non-existence of the recipients of its aid.*¹¹³

Second, Kenya’s decision to close Dadaab has uncovered numerous defects in the planning, preparation and modus operandi of the UNHCR and other organisations. Indeed, it highlights the path dependence of these organisations based on the political economy of refugee camps and additionally demonstrates their inability or unwillingness to prepare for a situation in which sovereign states such as Kenya choose to close refugee camps due to concerns over security and safety trumping international treaty obligations. Yet rather than taking Kenya’s security arguments at face value, the UN, most UN member states and other organisations have largely dismissed the claims, thereby overlooking Kenya’s most important obligation as a state: the protection of its citizens. This is not only disingenuous but callous. Kenya’s former minister of the interior Joseph Nkaissery presciently notes: ‘Considering the changing landscape of global terrorism, with new terrorist entities seeking to root themselves in our region, it would be inexcusable for the government to overlook its primary constitutional responsibility to protect [Kenya’s] citizens and their property’.¹¹⁴

In this regard, the international community – not Kenya – has failed Dadaab’s refugees by relying on what was assumed to be a never-ending status quo. In

this scenario, various international organisations and states conveniently carried on with business as usual to include corrupt practices and self-serving political machinations in both Kenya and Somalia.¹¹⁵ These came at the expense of refugees, well-meaning donors and particularly Kenyans, as Kenya suffered from terrorism and instability, a drop in tourism and a bad reputation as a result of that status quo. Equally as important, Dadaab's refugees suffered the indignities of statelessness and an utter lack of options. Though Washington and London, along with the UN and countless organisations, have decried Kenya's decision as callous, it should be remembered that it is Kenya which has borne the brunt of playing host to hundreds of thousands of refugees for close to three decades. And while calls for a continuation of the status quo have inundated Nairobi, what is noticeably absent are offers to resettle Dadaab's refugees outside of Kenya. Indeed, as this article demonstrates, Kenya's important decision was years in the making and 'taken at a time when a growing number of countries – rich and poor alike – globally are limiting refugee entry on the grounds of national security. [And] for much lower populations than Kenya has hosted for decades'.¹¹⁶

Kenya's decision to close Dadaab may prove cathartic and, in the end, partially positive. According to Kagwanja, 'Kenya, on the cutting-edge of transforming the outdated and dehumanising camp-based relief system, is set to provide a new model of resolving the refugee crisis in the 21st century world'.¹¹⁷ And while the fate of Dadaab's refugees remains uncertain, Kenya's security situation may improve, bringing with it the return of much-needed investment and tourism. Additionally, should Dadaab's refugees return to Somalia, the impetus for finding a durable, lasting solution to Somalia's ills may be in the offing as aid agencies and international actors scramble to adjust to new realities. Yet this will require that the UN, various organisations and states all spend the time, effort and money needed to either resettle Dadaab's refugees or lay the groundwork for their repatriation to Somalia rather than piling international pressure and condemnation onto Kenya.

Notes

1. There are five camps that together comprise the Dadaab refugee camp complex: Dagahaley, Ifo, Ifo 2, Hagadera and Kambioos; see UN High Commissioner for Refugees, *Kenya Comprehensive Refugee Programme 2014*.
2. Provost and Mohamed, 'Dadaab Refugee Camps'.
3. Cannon and Pkalya, 'Why al-Shabaab Attacks Kenya', 2–3. See also Mueller, 'The Evolution of Political Violence'.
4. Karanja, 'Reflection'.
5. As of mid-2017, the Dadaab camp complex remains open.
6. Balakian, "'Money Is Your Government'"; Crisp and Long, 'Safe and Voluntary Refugee Repatriation'.
7. Betts and Loescher, *Refugees in International Relations*, 88–96.
8. Haddad, *The Refugee in International Society*, 7.
9. Betts and Loescher, *Refugees in International Relations*, 89–90.
10. Benhabib, *The Rights of Others*, 44.
11. Crisp, 'No Solution in Sight'.
12. Abdi, 'In Limbo'.
13. Kingsley, 'Kenya Tells UK to Resettle Somali Refugees'.
14. Aleinikoff and Poellot, 'Responsibility to Solve', 198.
15. Lindley, 'Seeking Solutions', 36.
16. Aleinikoff and Poellot, 'Responsibility to Solve'.
17. Human Rights Watch, *From Horror to Hopelessness*.
18. Betts, 'Survival Migration'; Abdi, 'In Limbo'; Provost and Mohamed, 'Dadaab Refugee Camps'.
19. Trauner, 'Migration Policy'.
20. Chkam, 'Aid and the Perpetuation of Refugee Camps'; Provost and Mohamed, 'Dadaab Refugee Camps'.
21. Lindley, 'Between a Protracted and a Crisis Situation'.
22. Refugee Consortium of Kenya, 'Asylum Under Threat'.
23. Aleinikoff and Poellot, 'Responsibility to Solve', 198–202.
24. See, for example, Peters, Pierre, and King, 'Politics of Path Dependency'; Kay, 'Critique of the Use of Path Dependency'; Fioretos, 'Historical Institutionalism in International Relations'; Hansen, 'Globalization, Embedded Realism, and Path Dependence'.
25. Sewell, 'Three Temporalities', 262–3.
26. Pierson, 'Increasing Returns', 252.
27. Levi, 'A Model, a Method, and a Map', 28.
28. See, for example, Moncada et al., 'Exploring Path Dependence'; Notteboom, De Langen, and Jacobs, 'Institutional Plasticity and Path

- Dependence'; Friedman, 'More of the Same'.
29. See, for example, Arthur, 'Competing Technologies'; David, 'Clio and the Economics of QWERTY'; Fioretos, 'Historical Institutionalism in International Relations'; Hansen, 'Globalization, Embedded Realism, and Path Dependence', 271; Thelen, 'Historical Institutionalism'.
 30. Ceobanu and Koropecjy-Cox, 'Should International Migration Be Encouraged?'.
 31. Culik, 'Anti-Immigrant Walls and Racist Tweets'.
 32. Montclos and Kagwanja, 'Refugee Camps or Cities?', 206.
 33. Cottrell, 'Constitutive Effects of Time', 25.
 34. Crisp and Jacobsen, 'Refugee Camps Reconsidered', 28.
 35. Karadawi, 'Constraints on Assistance to Refugees'.
 36. Kibreab, 'Local Settlements in Africa'; Harrell-Bond, Voutira, and Leopold, 'Counting the Refugees'; Hyndman, 'Geographies of Displacement'.
 37. Harrell-Bond, 'Camps: Literature Review', 2.
 38. Chkam, 'Aid and the Perpetuation of Refugee Camps'.
 39. Aleinikoff and Poellott, 'Responsibility to Solve', 203.
 40. Black, 'Putting Refugees in Camps'.
 41. 'Kenya: Involuntary Refugee Returns to Somalia'.
 42. Schaffer, 'Closure of Kenyan Camps'.
 43. 'Closing the Camps'.
 44. 'UNHCR Outraged at Corruption Claims'.
 45. Crisp and Long, 'Safe and Voluntary Refugee Repatriation'.
 46. Government of Kenya, 'Speech by Kenyatta'.
 47. Kibicho, 'As the Kenyan Minister for National Security'.
 48. Global Terrorism Database, *National Consortium for the Study of Terrorism*.
 49. Anderson and McKnight, 'Kenya at War'.
 50. Hyndman, 'Human Security in the Face of Dual Disasters', 121.
 51. Goldman, 'How al Shabaab Terrorists Exploit Dadaab'.
 52. 'Media Advisory: Government of Kenya'.
 53. Kriel, Duggan, and Muktar, 'Kenya to Close Refugee Camps'.
 54. 'Kenya: Involuntary Refugee Returns to Somalia'; Schwarz, 'Nothing to Go Back to'.
 55. Kriel, Duggan and Muktar, 'Kenya to Close Refugee Camps'.
 56. 'MSF Response to Kenyan Government Statement'.
 57. Kagwanja, 'Camps Are Terrorist Dens'.
 58. Rawlence, 'City of Thorns'; Currier, 'Refugee Camps Are Factories for Terrorists?'; Allison, 'World's Largest Refugee Camp Scapegoated'; Lilley and Wyss, 'No "Silver Bullet" for Kenya's Security'; Schwarz, 'Nothing to

- Go Back To’.
59. Kelley, ‘Terrorism in Dadaab Camps Not Verified’.
 60. Kirui and Mwaruvie, ‘Dilemma of Hosting Refugees’; Hakata, ‘Mobility and Vulnerability’; Milner, *Sharing the Security Burden*; Weku, ‘Asylum and the Rights of Refugees’.
 61. Luttwak, ‘Give War a Chance’, 43.
 62. UN High Commissioner for Refugees, ‘UNHCR Mission Statement’.
 63. Jones, ‘Terrorist Threat from al Shabaab’.
 64. Wanjala, ‘Kenya Says It Will Begin’.
 65. The exception seems to be Finland, which considers Somalia safe for the return of refugees; see Lewis, ‘Finland Says Afghanistan, Somalia and Iraq are “Safe”’.
 66. ‘Somalia: President visits Dadaab’.
 67. Gaffey, ‘Dadaab: Kenya to Close the World’s Biggest Refugee Camp’; ‘Kenya’s Plan to Shut Dadaab Refugee Camp Criticized’.
 68. Hamilton, ‘Kenya to Repatriate Somali Refugees’.
 69. Mbogo, ‘Agencies Reject Plan to Relocate Dadaab Refugees’.
 70. UN High Commissioner for Refugees, ‘Somalia Situation Supplementary Appeal’.
 71. Pakistani Nobel laureate Malala Yousafzai spent her much-publicised nineteenth birthday visiting Dadaab and publicly criticising Kenya’s decision. Crucially, Yousafzai noted the reality on the ground: the camp would close at some point. She therefore asked that the refugees not be forcibly returned and that efforts be made to open schools and other facilities in Somalia in order to avoid ‘a generation lost’; see Odula, ‘Malala Yousafzai’.
 72. ‘Kenya: Involuntary Refugee Returns to Somalia’.
 73. ‘UNHCR Appeals for Additional \$115 Million’.
 74. ‘Kenya: Involuntary Refugee Returns to Somalia’.
 75. The Kenyan government is appealing the decision; see Aglionby, ‘Kenya Court Rules against Decision to Shut Refugee Camp’.
 76. Hujale, ‘Kenya Camp Closures No Surprise’.
 77. Aleinikoff and Poellot, ‘Responsibility to Solve’.
 78. Pierson, ‘Increasing Returns’, 252.
 79. Kagwanja, ‘Camps Are Terrorist Dens’.
 80. Mungai, ‘Larger Than 11 African Capital Cities’.
 81. Foucault, *Archaeology of Knowledge*.
 82. Mutegi, ‘Kenya at Risk of Sh10bn Loss’.
 83. Enghoff et al., *In Search of Protection and Livelihoods*, 39.
 84. These are not insignificant sums. For example, Kenya’s GDP for 2014 was US\$53,4 billion (4,76 trillion Kenyan shillings); see *ibid.*, 48.

85. Luttwak, 'Give War a Chance', 38.
86. Ghani and Lockhart, *Fixing Failed States*, 28.
87. Sontag-Padilla, Staplefoote, and Morganti, 'Financial Sustainability for Nonprofit Organizations'.
88. Hailey, 'Models of INGO Sustainability'.
89. Ibid. See also Okorley and Nkrumah, 'Organizational Factors'.
90. UN High Commissioner for Refugees, 'UNHCR Mission Statement'.
91. Chkam, 'Aid and Perpetuation of Refugee Camps', 4–6, 13.
92. 'Beyond Irreparable'.
93. McGreal, '70 Years and Half a Trillion Dollars Later'.
94. Grant, 'UN Agencies "Broke and Failing"'.
95. Tammer, 'How to Get a Job at the UN'.
96. 'Media Advisory: Government of Kenya'; Mutiga and Graham-Harrison, 'Kenya Says It Will Shut World's Biggest Refugee Camp'; 'Kenya Says Go Home'; Edelen, 'Will Kenya Shut Down the World's Largest Refugee Camp?'.
97. Kibwana, Wanjala, and Okech-Owiti, *Anatomy of Corruption in Kenya*; Persson, Rothstein, and Teorell, 'Why Anticorruption Reforms Fail'; D'Arcy and Cornell, 'Devolution and Corruption in Kenya'.
98. Gupta, *Reform of the United Nations*; Munshi, 'The United Nations'.
99. 'UNHCR Outraged at Corruption Claims'.
100. Harper, 'Somalia', 163.
101. Kirby, 'Crime Did Pay in Kenyan UN Office'; Astill, 'UN Staff Ran Refugee Extortion Racket'.
102. Namwaya, 'Kenya: Renewed Claims'.
103. Human Rights Watch, *Resettlement as an Important Protection Tool*.
104. Harrell-Bond and Kegan, 'Road Home for Africa's Refugees'; Odhiambo-Abuya, 'United Nations High Commissioner for Refugees'.
105. UN officials in Nairobi reportedly hired shoddy aircraft for several million dollars (the rate of well- equipped aircraft) and pocketed the proceeds; see Sanjuan, 'The UN Gang'.
106. Ibid.
107. Heilprin, 'AP Exclusive'.
108. Warah, 'Corruption at the UN'; Warah, *Unsilenced*.
109. Warah, 'Lords of Impunity'.
110. Warah, *Unsilenced*.
111. Aleinikoff and Poellott, 'Responsibility to Solve'.
112. Harper, 'Somalia'; Cannon, 'Deconstructing Turkey's Efforts in Somalia', 115–16.

113. Agier, 'Between War and City', 322.
114. Ombati, 'State to Spend Sh1b'.
115. Cannon, 'Deconstructing Turkey's Efforts in Somalia', 115–16.
116. Thurston, 'Kenya's Threat on Camp Closures'.
117. Kagwanja, 'Camps Are Terrorist Dens'.

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