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To the refugees in Meheba Refugee Settlement, your impact on my personal and intellectual journey has and will continue to be profound. I am filled with gratitude.
Authorship Declaration

I hereby certify that this thesis is the result of my own work except where otherwise indicated and due acknowledgment is given.

SIGNED: ....................................................

DATED: ....................................................
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Introduction

During a visit to Kakuma Refugee Camp in Kenya in March 1996, Guglielmo Verdirame came across three minors and a mentally ill woman detained in two cells in the middle of the camp, guarded by a young man with a long whip. When Verdirame raised the human rights implications of this justice institution with United Nations High Commissioner for Refugees (UNHCR) staff one year later, his concerns were “dismissed with the observation that ‘this is their culture.’”¹ Yet the Sudanese Bench Courts in Kakuma, of which the detention cells were part, were not fully independent from camp authorities. The courts and the prison were originally funded by the Lutheran World Federation, an international non-governmental organization.²

It was this discovery in the late 1990s that drew the attention of Jeff Crisp, the head of UNHCR’s Policy Development and Evaluation Unit, to the issue of justice administration in refugee camps and settlements. The UNHCR Protection Division subsequently set up a project to examine “the whole range of overlapping justice systems that exist in such contexts, including UNHCR-administered justice.”³

According to a senior official, however, UNHCR’s work on access to justice in the decade since “has never been very systematized.”⁴

Access to justice is an important tenet in the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Civil and Political Rights. Article 16 of the 1951 Convention Relating to the Status of Refugees gives refugees the same access to host state courts as nationals.⁵ Nevertheless, many refugees do not

¹ Verdirame 1999, 63
² Griek 2007, 57
³ Stakeholder Interview 1
⁴ Stakeholder Interview 14
⁵ It states: “1. A refugee shall have free access to the courts of law on the territory of all Contracting States. 2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the courts, including legal assistance and exemption from cautio judicatum solvi.” States may not make reservations to Article 16(1) at the time of signature, ratification, or accession to the Convention, according to Article 42.
have access to, or do not choose to utilize, the host state justice system. Camps and settlements are often characterized by a plurality of legal institutions, with host state, UNHCR, NGO, and refugee actors all playing a part in justice administration. Like the Sudanese Bench Courts in Kakuma, some of these institutions do not comply with international human rights or host state laws, leaving refugees without the equal protection of the law.

The existing body of academic and practitioner literature on justice administration in refugee camps and settlements is very small and has largely focused on procedural and legalistic questions. Researchers have been concerned with how different institutions, often classified as informal or formal, operate: whether women and minorities are involved in decision-making, the types of decisions reached, the availability of legal counsel, and so forth.

Almost no attention has been paid to the voices and agency of refugees: what are the crimes and conflicts of greatest concern to them, what justice institutions do they believe to be available, how do they view these institutions, what costs and benefits determine which institutions they use, and what are their objectives in pursuing justice? Just as Scott (1998) and Ferguson (1998) focused on the logic and operations of the development apparatus but did not consider the human agents driving the machine, there is a failure within the existing literature to understand the role of refugees in legitimating, sustaining, and driving justice institutions. An analysis of their strategic decision-making processes and behavior that reaches beyond explanations like “this is their culture” is needed.

In addition, previous studies have taken entire camps or settlements as the unit of analysis with little regard for the potential for internal variation. A generalized, macro-level narrative is thus developed without micro-level analysis. As much of the
literature was motivated by protection concerns and shaped by the agenda of UNHCR, it has focused heavily on sexual and gender-based violence (SGBV), without questioning if this is the category of crime most commonly experienced by or of greatest concern to refugees.

Using Meheba Refugee Settlement in Zambia as a case study, this thesis strives to challenge the procedural, legalistic analysis of past work that has taken refugees as the subjects of justice institutions and aims instead to capture their voices and agency.

In chapter one, I review the major contributions to the literature on justice administration in refugee camps and settlements and identify the gaps that remain. I then compare the analytic approach used in these works to socio-legal analysis, the theoretical framework that guides this thesis and from which my research questions arise. After presenting these questions, I justify the academic and policy significance of engaging with this topic.

In chapter two, I introduce Meheba Refugee Settlement and the communities within which I conducted my fieldwork. Chapter three engages with the research methodologies employed. Chapter four details the crimes and conflicts believed to be most common and of greatest concern to the refugee communities in Meheba, and chapter five discusses the justice institutions that they identify and their perceptions of and preferences for using them. The patterns that emerge in these two chapters lead directly to the analysis in chapter six, in which I make two arguments. First, refugees do not consider justice institutions as constituting parallel and dichotomous systems. Second, there are four situational and dispositional factors that help explain variations across Meheba in the perceptions of and preferences for different justice institutions.
A traditional case study draws on the specificity of a particular situation to generalize about a broad social phenomenon. This thesis does not aim to take the patterns and conclusions from Meheba and explain exactly how and why refugees engage with justice administration in camps and settlements universally. The voices of Meheba’s refugees do generate compelling hypotheses to be tested in other camps, or even re-tested in Meheba. Yet the larger contribution of the thesis is its questioning of the validity of previous macro-level, rules-based approaches to justice in protracted refugee encampment situations and its demonstration of the utility of an actor-centered, socio-legal, and micro-level analysis for generating nuanced understandings of attitudes and behavior and for producing new theory.

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6 Feagin et al. 1991
Chapter One: Literature Review, Theoretical Framework, and Significance

Literature Specific to Justice Administration in Refugee Settlements

The UNHCR has long recognized that the lack of functioning law and order systems in refugee camps and settlements has serious consequences for violence and human rights. Until 2006, however, UNHCR did not issue any policy documents or guidelines that reflected an engagement with the complexity of justice administration in these environments. When informal justice institutions were first officially addressed by UNHCR at a 2001 conference on SGBV, the resulting document simply advised protection and field officers to “discourage the use of customs and traditional practices that violate basic human rights principles.” The 2003 Guidelines on Sexual and Gender-Based Violence Against Refugees that followed recommended that both informal and host state legal systems be encouraged to “adopt human rights norms and ensure the participation of women.”

Perhaps in recognition of the challenges of operationalizing such vague recommendations, UNHCR commissioned a comparative study of access to justice in several refugee camps and settlements in the hopes of generating more concrete guidelines for field staff. Written by external consultant Rosa da Costa and released in March 2006, the study was based primarily on surveys distributed to UNHCR Regional, Branch, and Field Offices in 13 countries and 52 refugee camps and settlements. The survey questionnaire addressed the nature and history of “refugee dispute resolution structures”; refugees’ access to and experiences with the host state legal system; the nature and degree of cooperation between the host state legal system and refugee dispute resolution structures; legal aid; policing; and camp governance, among other topics.

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7 Griek 2007, 10
As the “first comprehensive attempt at compiling information on the situation of administration of justice in refugee camps,” Da Costa’s study raised important questions about the connections between justice administration and protection, the role of different camp management actors, and the operations and human rights implications of different institutions. In her conclusion, she recommended that authorities increase their presence in camps and settlements to build and maintain trust with the refugee populations; develop relevant assessment, monitoring, learning, and implementation tools; and enhance awareness of refugees’ rights among themselves and the broader refugee population.

Since the study’s release, there have been more references to access to justice in UNHCR policy documents and a seemingly greater interest in legal systems within the organization. The “Zambia: Analysis of the Gaps in Protection” report from 2007, for example, contained a section on equal benefit and protection of the law that detailed barriers refugees face when seeking access to the host state legal system and the rights violations involved with “traditional dispute resolution mechanisms.” The report recommended providing training and more support to bring such systems in line with international standards, though it did not offer guidelines on how to do so. As the ambiguous nature of this advice indicates, even with more attention to the topic, UNHCR is currently, as a senior official recently told me, “a little bit at a loss of what is really needed in the field.”

Outside of UNHCR-sponsored research and policy documents, there is little academic or practitioner literature specific to justice administration in camps and settlements. Two works that do directly address this subject, and that consequently

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8 Da Costa 2006, 2
9 Ibid 65-66
10 UNHCR 2007c, 42-43
11 Stakeholder Interview 14
have shaped this thesis, are Ilse Griek’s master’s dissertation from the Department of Public Administration at Leiden University, “Access to Justice in Kenyan Refugee Camps: Exploring the Scope of Protection” (2007), and the International Rescue Committee’s “Assessment of Protection Issues, with a Focus on Access to Justice and the Rule of Law: Mae Le Camp, Tak Province and Sites One and Two Camps, Mae Hong Son Province” (2006).

In the former, Griek explicitly builds on Da Costa’s work by providing detailed case studies of justice institutions in Kakuma and Dadaab Refugee Camps in Kenya. She examines “the forms of administration of justice,” looking specifically at the Mobile Court in each camp and what she terms “traditional dispute resolution mechanisms”: Sudanese Bench Courts in Kakuma and Somali Maslaxad in Dadaab.12 Griek argues that host state and “traditional” refugee-led justice institutions constitute “parallel legal systems” which result in more disadvantages than advantages for refugee protection. She cites discrimination against women and minorities, threats to complainants and witnesses, inadequate justice for victims, impunity for offenders, and unclear jurisdiction as the major problems.

In 2005-06, the International Rescue Committee partnered with UNHCR and the Royal Thai Government to develop a legal assistance project for camps along the Thai-Burma border. To learn more about the refugees’ security and protection-related concerns and their experiences accessing justice, the IRC completed a “comprehensive assessment” in three pilot project sites.13 A survey was administered to 2,299 refugees and in-depth interviews and focus groups were conducted with Thai authorities, camp authorities, community-based organizations, NGOs, and UNHCR. In the survey, refugees were asked about the security and safety issues of greatest

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12 Griek 2007, 11-12
13 Harding et al. 2008, 29
concern to them; the justice institutions they used to handle disputes and crimes; their reasons for pursuing or not pursuing justice (e.g. prevention, punishment, personal compensation) and which institution they would go to first; the advantages and disadvantages of the different justice institutions; the extent of their legal knowledge; and the barriers they faced in accessing camp-based and host state justice institutions.

The report that followed argues that refugees in the Thai camps are “caught in a legal void”: camp-based justice institutions do not adequately deliver justice and host-state institutions are difficult to access and fraught with their own flaws.¹⁴

These past works on justice administration in refugee camps and settlements provided a valuable background to my thesis by serving as a basis for hypotheses around the types of crimes and conflicts I would find in Meheba, the reasons why refugees might prefer one justice system over another, and what might explain variations across groups. The literature also, however, leaves significant gaps that I seek to address.

Beginning with Da Costa’s study, there are three major limitations. First, she did not directly take into account the views of refugees. As Terence Ranger has said:

“Above all, the refugee situation is so much the product of gross imbalances of power, including the power of communication, that researchers have a duty to correct these as much as they can by listening to and recording the ‘refugee voice.’”¹⁵ Only two questions out of more than 45 asked UNHCR staff to reflect on refugees’ opinions.¹⁶ The study also did not directly include the voices of host government authorities or NGOs. Da Costa justified only distributing the survey to UNHCR offices by stating that “care was taken to ensure that UNHCR field staff from a

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¹⁴ IRC 2006, 1
¹⁵ Ranger 1994, 281
¹⁶ They were: “What is the general reputation or view of [refugee dispute resolution] mechanisms by the targeted refugee population?” and “When are refugees most interested in pursuing cases in the state legal system?” (Da Costa 2006, 77-78)
variety of professional backgrounds and with direct and regular contact with the camp population responded to the questionnaire” and that “the very detailed, self-critical, and comprehensive nature of the survey required many offices to do considerable research and investigations in the field, including amongst refugee populations and NGOs working in the camps.”\textsuperscript{17} She did not address the extent to which the survey results could be comparable if similar data collection methods were not used across camps and settlements. More importantly, she did not recognize the methodological and ethical implications of having the voices of refugees and NGOs solicited and documented by UNHCR staff as compared to more neutral parties.

The second limitation emerges from the first. Methodologically and analytically, the study positions UNHCR as a central actor in justice administration. The rationale behind this approach is understandable, as the study was meant to help generate guidelines for UNHCR field staff “on how to handle situations where either national justice does not meet international standards, or where the lack of national justice mechanisms has spurred traditional justice systems to be established.”\textsuperscript{18} However, the possibility that refugees, host state, and non-governmental actors may not view UNHCR as important or even relevant to justice administration is not acknowledged.

Third, the study prioritized breadth over depth. Rodgers notes that this is a problem with research generated at many academic centers on forced migration, where the institutionalized culture is to value breadth over depth “as a marker of research expertise.”\textsuperscript{19} Even with the incorporation of examples from survey responses, the highly general nature of Da Costa’s study risks essentializing refugees and their experiences. Zetter has cautioned that the institutional use of the term

\textsuperscript{17} Ibid, 3-4
\textsuperscript{18} Ibid, 1
\textsuperscript{19} Rodgers 2004
'refugee’ can be problematic, arguing: “Ultimately the label denies uniqueness and individuality, stories become cases and the label demands conformity to the stereotyped case selected.” In personal communication, a UNHCR senior official reflected that the Da Costa study “lacked the anthropological perspective” needed to truly contribute to a nuanced understanding of justice administration in refugee camps and settlements.

Griek’s work offers the case study depth lacking in Da Costa’s study and draws attention to the important human rights and protection concerns that can arise for victims of violence seeking justice in refugee camps. However, she, too, focuses on the forms and operations of justice institutions without seeking a deeper understanding of the perceptions and preferences that sustain them. Though Griek did engage with refugees through informal conversations and five focus groups, she spent just two weeks in each camp, a limitation she acknowledges. In contrast, my fieldwork took place over two months.

Lastly, though the IRC study was excellent for its focus on refugees’ opinions, the major drawback of its large-n survey methodology is that, as the IRC noted in its report, the format made it difficult to capture diverse understandings of “complex concepts – such as ‘exploitation’, ‘trafficking’, ‘abuse’, ‘justice’, ‘law’, ‘legal’, and ‘discrimination.’”

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20 Zetter 1991
21 Stakeholder Interview 1
22 Griek 2007, 95. She does not specify how many individuals were present in each group, how they were selected, or what questions they were asked.
23 Ibid, 25
24 IRC 2006, 12
Theoretical Framework: A Socio-Legal Approach

UNHCR policy documents, Da Costa, Griek, and to some extent the IRC study analyzed justice institutions primarily in terms of their legal rules and procedures. Griek justifies her focus on “the legal and functional, rather than cultural, implications of parallel justice” by her desire to “influence practitioners and policy dealing with justice in refugee camp settings.” She calls her approach “not anthropological but policy-oriented.”25 This thesis rejects the assumption that anthropological and policy-oriented research are somehow mutually exclusive and argues that rich scholarship on the topic at hand requires more than a rules-based analysis.

In contrast to the previous literature, I employ a socio-legal approach, which takes justice systems to be comprised of dynamic social institutions that are “shaped heavily by the population’s perceptions and actions.”26 Clark (2005), who analyzed gacaca courts in Rwanda through a socio-legal lens, argues that individuals’ “involvement in, and interpretations of gacaca are important for understanding and critiquing the institution as a whole,” and extends this approach to all justice institutions that are characterized by high levels of community participation.27 In the socio-legal approach, justice institutions cannot be understood exclusively as legal entities but must be situated in the wider social, cultural, and political context.28

Lazarus (2004), who gave much consideration to legal culture in her comparative study of the treatment of prisoners in Britain and Germany, reminds us that the socio-legal approach does not mean a rejection of the idea that there are universal legal principles or features, such as rights, duties, obligations, rules and

25 Griek 2007, 25
26 Clark 2005, 6
27 Ibid, 5
28 Ibid, 97
norms. She quotes Craig (1999), who states that, “‘every democratic society will have some ideas of rights…but these will differ depending upon the nature of that society.’”29 Rather, the socio-legal approach means being conscious of this universal and parochial duality.

Additionally, it involves understanding that different stakeholders in a refugee camp or settlement may have different objectives for justice. According to Clark, there are three major categories of justice, each of which has a particular view on what punishment should achieve and the form it should take. Retributive justice emphasizes that perpetrators must be held accountable and appropriately punished. Deterrent justice views punishment as necessary not just because perpetrators “deserve it, but because it may dissuade future perpetrators from committing similar crimes,” thus helping to end impunity. Restorative justice contends that punishment is necessary but not enough in itself, and so must be facilitated in such a way that enables perpetrators and victims to rebuild relationships. Retributive and deterrent justice typically sentence perpetrators to pay financial restitution to the state or serve prison terms commensurate with the severity of the crime, while restorative justice considers that sometimes the form or degree of punishment must be altered in order to achieve more reconciliatory ends.30

A deterrent view drives many of the critiques of informal justice made by Da Costa and Griek, though the latter acknowledges that some communities may have other, or additional, objectives. She writes: “Like traditional law in much of Africa, Somali customary law (xeer) is not based upon values of retribution or punishment, but on reconciliation and compensation; the restoration of relations between

29 Lazarus 2004, 10
30 Clark 2005, 40-41
Veroff

31 Yet in the same way that Verdirame was told “this is their culture,” Griek inappropriately conflates traditional, customary, and informal justice, and stops short of asking why these preferences exist and particularly how the refugee camp or settlement environment might affect them. The socio-legal approach calls for a consideration of the “pragmatic and profound aims” of justice and the motivations behind them.

Finally, the socio-legal approach guides this thesis to question the strict formal versus informal construction that characterizes the structure of the arguments put forth by Da Costa, Griek, and the IRC, as well as the work and programming of UNHCR. In these works, and in legal pluralism literature more generally, informal justice systems are defined as composed of dispute resolution mechanisms that are outside the scope of the state. The formal justice system is composed of state-based institutions, such as police, prosecutors, and courts, which operate according to predetermined legal statutes and procedures. Informal systems are not necessarily procedurally informal, simplistic, or inferior relative to formal state systems. They may in fact have “a highly developed system of rules and be quite formal in procedure.” But they are also more likely than state systems to have features and powers that are hard to clearly discern. Informal justice systems can typically be characterized by a focus on the interests of and impact on the entire community; a consultative, participatory, and voluntary process that emphasizes reconciliation and social harmony; use of arbitrators from within the community; flexible procedural and

31 Griek 2007, 50
32 Advocating for an understanding of different justice objectives should not be confused with an attempt to defend them as acceptable or good. But as Lazarus (2004, 9) notes, “a normative commitment to human rights” should not lead the researcher “to downplay the complexity and diversity of local environments.”
33 Clark 2005, 81
34 Wojkowska 2006, 5
35 Chirayath et al. 2005, 2
36 Wojkowska 2006, 10
37 Bailey 1968, 281
evidentiary rules; lack of professional legal representation; decisions that rely upon agreement of the parties involved; limited or no distinctions drawn between civil and criminal cases; social pressure as a tool of enforcement; and a lack of separation of powers, meaning that an authority figure in the informal justice system may also have executive governing authority in the same area. Clark refers to those informal institutions that emphasize the community’s role in discussing evidence and appropriate responses as “negotiated methods of justice.”

Though the discourse is changing, the development community has generally tended to view informal, traditional, and customary legal systems as backward, archaic, in conflict with modernization, undemocratic, and lacking legal legitimacy. The most common critique is that they perpetuate unequal power structures, discriminate against vulnerable and marginalized groups, and do not meet or uphold human rights standards. In addition, some regard these systems as “interfering with and jeopardizing the course of formal ‘justice.’”

Keulder argues that such critiques reflect an overly simplistic dichotomy that equates ‘traditional’ with ‘backward’ and ‘modern’ with ‘advanced’ and restricts the possibility for development to the ‘modern’ framework alone. Furthermore, these critiques do not look to the broader social context. “It would be misleading,” Stevens argues, “to attribute the discrimination primarily to the informal process itself, rather than to the prevailing attitudes” and underlying beliefs that affect informal and formal justice systems.

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38 Wojkowska 2006, 17  
39 Clark 2005, 41  
40 Chirayath et al. 2005, 4  
41 Refugee Law Project 2007, 6  
42 Keulder 1998, 294  
43 Stevens 2001, 3
Lazarus warns that when legal comparisons, such as those between formal and informal systems, are made to support social or policy objectives, there can be a temptation to overstate differences. “Misperceptions, or misconstructions, of both difference and similarity are both potential outcomes of what might be termed ‘instrumental’ comparison,” she writes.\(^{44}\)

As such, this thesis is not structured around a comparison. I do not use phrases like “parallel justice systems” or “refugee dispute settlement mechanisms” adopted by Griek and others that make implicit assumptions about the ways that refugees engage with and understand justice administration. In fact, as I argue in chapter six, while the terms ‘informal’ and ‘formal’ have technical utility, many refugees in Meheba appear to conceive of a continuum of justice actors, rather than parallel systems. Instead, I focus on the prevailing attitudes and beliefs that affect the operation and use of different justice institutions.

In sum, there is an overall dearth of literature on justice administration in refugee camps and settlements. The works referenced above generally analyzed justice as procedural, deterrent, and able to be cleanly separated into formal and informal categories. Any nuanced sense of refugee agency and strategic thinking, as well as a notion of possible variation within the camp or settlement, is absent.

### Research Questions and Argument

Emerging from the literature, the research questions that I seek to answer are:

- What types of crimes and conflicts do refugees perceive as most common and of greatest concern?
- What justice institutions do refugees identify as available to them?

\(^{44}\)Lazarus 2004, 10
• How are different justice institutions regarded? What are the costs and benefits that determine whether a refugee will pursue justice through a particular institution?

• What do refugees believe to be the objective(s) of justice?

• To what extent and in what ways do perceptions, preferences, and utilization of justice institutions vary across different groups of refugees within the same settlement?

• What factors help explain these variations?

After qualitatively analyzing and comparing the data across three Blocks, or areas, of Meheba, and answering the descriptive questions, I make two major arguments. First, the strict dichotomy between formal and informal justice systems promoted in the past literature is not a valid construct in Meheba. There, refugees conceive of a range of institutions as constituting a continuum of justice administration, rather than distinct, parallel systems. Second, four factors help to explain variations between groups within Meheba with regard to the crimes and conflicts reported to be most common and of greatest concern and the perceptions of and preferences for different justice institutions. These are: population composition of the Block, in terms of gender, age, and country of origin; physical location in the settlement and proximity to authorities and social services; socio-cultural characteristics; and long-term durable solution preferences.45

Significance

Engaging with a socio-legal study of justice administration in Meheba Refugee Settlement is significant for academic and policy reasons. Academically, there is a serious dearth of literature on the subject. While there is a strong body of literature on legal pluralism and customary law, as well as increasing attention to

45 Durable solutions include local integration, repatriation, and resettlement.
transitional and post-conflict justice, the refugee settlement is substantively different from these contexts in three respects: restrictions on basic rights and freedoms; uncertainty about long-term prospects; and the involvement of non-state actors fulfilling state-like functions.

First, refugees are in many ways disenfranchised when living in camps and settlements. Zambia has made reservations to the 1951 Convention Relating to the Status of Refugees with regard to refugees’ rights to freedom of movement, employment, and education, and the provision of travel documents. The 1970 Refugee (Control) Act is the “principle legislation governing refugee affairs” and requires all refugees to live in camps and settlements designated by the government.\footnote{UNHCR 2007c, 7} Among its provisions are that refugees can only leave Meheba with permission from the Refugee Officer and a travel permit that specifies where and for how long they can go. An authorized officer is allowed to arrest a refugee without a warrant if they are “reasonably suspected” of committing or attempting to commit an offense against the Act. Breaches of the Act can be punished by up to three months in prison. Police officers have the right to use reasonably necessary force, including the use of firearms, to compel refugee compliance, and are given immunity “from any liability, action, claim or demand whatsoever” for their actions under the Act.\footnote{USCRI}

The 1967 Immigration and Deportation Act, last amended in 1994, authorizes Zambian courts to deport refugees convicted of offenses regardless of their gravity. The only exceptions are related “to cases where the Minister, or the court, is of the opinion that the refugee may be tried, detained, restricted or punished without trial for an offense of a political character upon return or is likely to be subjected to physical attacks.” These exceptions are much narrower than those provided for by non-
refoulement principles in the 1951 Convention and other international human rights instruments.\textsuperscript{48}

As the Senior Legal Officer in UNHCR’s Protection Division, notes, not all host governments are willing to work to ensure that refugees have the same access to courts as nationals, despite an obligation to this effect in Article 16 of the 1951 Convention. In many instances, refugees are discriminated against in favor of nationals.\textsuperscript{49}

Consequently, refugees are vulnerable relative to the host state and its nationals. With these restrictions on fundamental rights and freedoms, the power differential between refugees and the host state is greater than that between poor nationals living in the periphery and the host state.

Second, refugees living in protracted exile are uncertain about their long-term status. No longer considered part of an emergency crisis, they also have little hope of securing a durable solution – voluntary repatriation, local integration, or resettlement – in the foreseeable future.\textsuperscript{50} They are “trapped in a state of limbo”: unable to return to their country of origin, typically because it is unsafe; unable to permanently reside in their country of first asylum because of resistance from the host state;\textsuperscript{51} and unable to move to a third country, because none has consented to offer them permanent residency.\textsuperscript{52} This uncertainty and the type of duress associated is simply not something experienced by host state nationals or those living in post-conflict states, and affects the way refugees view and pursue justice.

\textsuperscript{48} UNHCR 2007c, 12-13
\textsuperscript{49} Stakeholder Interview 14
\textsuperscript{50} UNHCR 2006b, 106
\textsuperscript{51} The 1970 Refugee (Control) Act in Zambia does not provide for local integration. There are no provisions in Zambian law that would enable a refugee to become a naturalized Zambian citizen.
\textsuperscript{52} Crisp 2002, i
Finally, refugee camps and settlements are unique in that non-state actors, specifically UNHCR and partner organizations, have state-like administrative and governance functions and may play a role in justice administration. UNHCR does not have the legal authority to arbitrate justice issues, but it does believe that its protection mandate includes “fairly far reaching” responsibilities for ensuring that justice mechanisms used by refugees meet basic international standards.\textsuperscript{53} In Meheba, UNHCR financially supports the Mobile Court and the provision of defense counsel to refugees, offers occasional trainings to the police and refugee Chairmen, and is designing several programs to prevent and address sexual and gender-based violence.

Given that refugee camps and settlements are substantively different from post-conflict societies and poor, rural host state communities, this thesis is an opportunity to expand and challenge the minimal existing literature and apply the socio-legal framework to a particular space that has been overlooked.

In addition to an important academic contribution, the topic of thesis is compelling for reasons of human rights, security, and policy relevance.

The number of individuals living in protracted refugee situations is significant. Defined as 25,000 or more persons from a given country in exile for more than five years, in 2003, UNHCR reported 38 protracted refugee situations involving 6.2 million refugees, or 64% of the total global refugee population. The vast majority of protracted refugee situations are found in Africa, where more than three million refugees have been in exile for over a decade. Most live in the estimated 170 camps and settlements set up by African governments.\textsuperscript{54} Not questioning justice administration in protracted refugee camps and settlements means that millions of

\textsuperscript{53} Stakeholder Interview 14
\textsuperscript{54} Loescher and Milner 2005, 154-157
people who may currently be living without adequate access to justice will be left in such a condition without recourse.

Second, some scholars argue that protracted refugee situations can pose direct and indirect security threats to refugees themselves, the host state, and the broader region. Loescher and Milner state that:

“Protracted refugee populations are a critical element in continuing conflict and instability. They obstruct peace processes and undermine attempts at economic development. [They] are also a source of international conflict. They cause instability in neighboring countries and trigger intervention; sometimes refugee camps are used as bases by armed groups that engage in insurgency, resistance and terrorism…Security concerns such as arms trafficking, drug smuggling, trafficking in women and children, and the recruitment of child soldiers and mercenaries arise in camps hosting long-term refugees.”\(^{55}\)

Griek calls the potential for security problems “inherent” in protracted refugee encampment situations.\(^{56}\) Whether such strong, generalized statements are accurate is a topic for debate. Meheba itself is not currently a breeding ground for mass conflict and instability. While the motivation for studying justice administration in Meheba is driven more by human rights concerns, it is important to keep in mind that individual, host state, and regional security are serious concerns in other cases and that progress can only be made in this respect if there is a better understanding of the role played by justice institutions.

Finally, there is the practical matter that UNHCR and its partners are beginning to devote more attention and financing to improving access to justice. UNHCR spent $544,624 on legal assistance in Zambia in 2008 and plans to spend $466,758 in 2009. It has allocated $4.9 million to address “unmet needs” in Zambia, including improving police capacity to deal more effectively with cases of violence.

\(^{55}\) Ibid, 153
\(^{56}\) Griek 2007, 9
and exploitation and ensuring “access to justice through free legal advice and facilitation of mobile court sessions.”

Examining justice administration in refugee camps and settlements is both a response to a pressing humanitarian imperative and an exciting academic opportunity to expand a limited body of literature and apply a conceptual framework – socio-legal analysis – to a new space. This thesis embraces the opportunity to rigorously and responsibly fulfill the “dual imperative” of making a scholarly contribution while generating knowledge that can improve the lives of refugees.  

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57 UNHCR “Global Appeal Update 2009,” 222  
58 Jacobsen and Landau 2003, 1
Chapter Two: Meheba Refugee Settlement – Selection and Background

Map 1. UNHCR in Zambia (2006)

Why Meheba Refugee Settlement?

With hundreds of refugee camps and settlements throughout the world, there were many possible sites for my research. Meheba Refugee Settlement in Zambia was selected for five reasons. First, Zambia has a long history of hosting refugees fleeing strife and civil war, and current numbers are substantial. As of January 2009, Zambia hosted 77,880 refugees and asylum-seekers, 45,950 of who were assisted by UNHCR. In January 2005, Zambia was fifth in terms of countries with the largest numbers of protracted refugees in Sub-Saharan Africa. By the end of 2006, it ranked

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59 UNHCR “Global Appeal 2009 Update,” 219. The precision of these numbers should, of course, be viewed with some skepticism. As Sommers (2001, x) has argued: “All of us who study African refugees recognize that the official statistics of refugee populations and flows should be considered to be, at best, rough approximations of reality and, at worst, seriously misleading.” For various reasons, refugees may avoid registration, try to register more than once, or be accidentally or purposefully excluded from these counts.

60 UNHCR 2006b, 107-109
eighth worldwide in terms of the number of refugees – 129 – per million USD of GDP.\textsuperscript{61}

Second, the major refugee populations in Zambia are from countries with three of the region’s most violent and long-running conflicts: Angola, the Democratic Republic of Congo, and Rwanda. If thousands of these refugees do eventually repatriate, there will be serious socioeconomic, political, security, and overall stability implications and their views of and experiences with crime, impunity, and justice during their exile will be carried back with them. Given this, it is important to understand the justice institutions with which they are currently living.

Third, the camps and settlements in Zambia have not been “‘over-researched’” in the way that some East African camps, particularly Kakuma and Dadaab, have been.\textsuperscript{62} Though the influx of tens of thousands of Angolan refugees to Zambia and their subsequent repatriation once attracted the attention of researchers from academic institutions, UN agencies, and NGOs, Meheba has been largely neglected in recent years. A search on the UNHCR website for “Kakuma” and “Dadaab” in April 2009 yielded 502 and 536 results, respectively. The same search for “Meheba,” “Mwange,” “Kala,” and “Mayukwayukwa,” all in Zambia, garnered only 167, 104, 156, and 158 results each.

Focusing on Meheba presents a chance to contribute to future research by providing a rich set of data to serve as the basis of comparisons with camps like Kakuma. Furthermore, avoiding an “over-researched” environment is methodologically beneficial. Refugees in Meheba were not burned out from speaking with researchers who offered nothing in return, nor had they become experts at delivering a refined narrative of the refugee experience. Whereas Griek found the

\textsuperscript{61} UNHCR “Zambia: Country Information”
\textsuperscript{62} Inhetveen 2006, 6
personnel of some agencies in Kakuma to be wary and reluctant to speak with her, as they had been subject to “tremendous scrutiny and frequent criticism” by past researchers, I did not have any difficulties securing stakeholder interviews.63

Fourth, as a host to refugees from several countries, Meheba allows for a cross-nationality comparison without the need to control for structural or substantive differences in settlement administration. This approach distinguishes my thesis from previous work: the Da Costa study drew conclusions from 52 camps and settlements in 13 countries; Griek compared two camps in Kenya, one of Somalis and one of Sudanese; and the IRC study looked at multiple camps in Thailand with Burmese refugees. This is the first work to examine variations within a single settlement, and thus the first to demonstrate the value of a micro-level analysis as compared to the macro-level generalizations of previous literature.

Finally, I selected Meheba for reasons of accessibility and familiarity. I have previously worked for FORGE (Facilitating Opportunities for Refugee Growth and Empowerment), a non-governmental Operating Partner of UNHCR, in Mwange Refugee Camp in Zambia. FORGE also operates in Meheba and my history with the organization enabled me to easily access housing, transportation, and valuable contacts in the field. Moreover, having previously spent several months in Zambia, I felt comfortable and safe there. I also speak English, the administrative language, fluently, and was able to directly communicate with several of Meheba’s residents with English, a working knowledge of French, and basic Swahili.

63 Griek 2007, 25
**History and Current Population**

Located 70 kilometers from the city of Solwezi in the North Western Province of Zambia, Meheba Refugee Settlement was established in 1971 in response to the influx of thousands of individuals fleeing the war of independence in Angola. Prior to its formation, the area was “largely unpopulated bush” controlled by Zambian Kaonde chiefs.\(^{64}\) Since 1971, Meheba has been extended five times: in 1976-1977 as more Angolans fled the civil war between the People’s Movement for the Liberation of Angola (MPLA) and the National Union for the Total Independence of Angola (UNITA); in 1985-1987 as the MPLA-UNITA conflict escalated; in 1993-1995 following the failed national elections in Angola as well as an influx of Luba-Kasai from the Democratic Republic of Congo, who had faced repression, discrimination, and forced expulsion from their homes in Katanga Province; in 1997-1998 to accommodate about 2,000 Rwandans; and in 2000 after conflict between the MPLA and UNITA dramatically escalated in Moxico province in eastern Angola.\(^{65}\)

Meheba now covers 800 square kilometers and is organized into eight ‘Blocks’ known by the letters A through H. In most of the settlement, the Blocks are comprised of ‘Roads’ that branch off in a spine from the main road at 1km intervals. The newest Block, H, is organized into ‘villages’ of houses grouped together around a central area of land “to encourage a more communal environment and to provide services more easily.”\(^{66}\)

Meheba was established under the auspices of the 1970 Refugee (Control) Act, which requires all refugees to reside in government-designated camps and settlements unless they receive permission to do otherwise. At the time, Zambia “was virtually surrounded by hostile states and a major concern was to move refugees away

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\(^{64}\) Bakewell 2002, 59  
\(^{65}\) Powles 2000, 23  
\(^{66}\) Bakewell 2002, 59
from the border to preclude the Portuguese [in Angola] using their presence as a pretext for attacking into Zambia.” Hansen, who was researching near the Angolan-Zambian border at the time of the relocation policy, argues that the Government’s concern for national security was the most important factor driving its decision to enact an encampment policy. Other factors included greater ease of supplying food and shelter to refugees; a higher likelihood of attracting assistance from the international community; and a desire to observe and control the refugee population.  

The Government attempted to move refugees from Zambian villages to the settlements throughout the 1980s, but was largely unsuccessful. The majority remained near the border. Emergency aid near the border stopped in 1990, but resumed briefly in 2000 after fighting broke out in Moxico. Humanitarian assistance in the last two decades has been concentrated almost exclusively in the settlements and camps.

As Meheba is a settlement and not a camp, its residents are expected to be self-sufficient in terms of food production. When Meheba first opened, refugees were given five hectares of land for cultivation. Since the 1987 expansion, refugees only receive 2.5 hectares. Food rations are to be provided to new arrivals for up to two years and to other individuals who are deemed to be unable, for various reasons, to achieve self-sufficiency.

In June 2001, Meheba hosted an estimated 53,070 refugees. Between 2003 and 2007, the population greatly declined due to the voluntary repatriation of Angolans. Over 74,000 Angolans from across Zambia were assisted in their return by

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67 Powles 2000, 16-17
68 Bakewell 2002, 58
69 Ibid, 59
70 UNHCR 2001, 1
UNHCR and many others returned spontaneously. Based on the March 2008 registration, Meheba currently hosts 14,181 refugees: 8,816 Angolans, 2,430 Congolese, 2,565 Rwandans, 337 Burundians, and 33 others from Uganda, Ethiopia, Somalia, Sudan, and Namibia.

The following table summarizes the population in Meheba as given in the March 2008 registration, broken down by Block and country of origin. The Blocks on which I focus – D, G, and H – are highlighted.

Table 1. March 2008 Registration: Population by Block and Nationality

<table>
<thead>
<tr>
<th>Block</th>
<th>Angolan</th>
<th>Congolese</th>
<th>Rwandan</th>
<th>Burundian</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>1672</td>
<td>189</td>
<td>31</td>
<td>29</td>
<td>14</td>
<td>1935</td>
</tr>
<tr>
<td>B</td>
<td>1987</td>
<td>234</td>
<td>47</td>
<td>28</td>
<td>13</td>
<td>2309</td>
</tr>
<tr>
<td>C</td>
<td>1069</td>
<td>61</td>
<td>22</td>
<td>7</td>
<td>0</td>
<td>1159</td>
</tr>
<tr>
<td>D</td>
<td>1859</td>
<td>1473</td>
<td>377</td>
<td>101</td>
<td>5</td>
<td>3815</td>
</tr>
<tr>
<td>E</td>
<td>395</td>
<td>17</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>412</td>
</tr>
<tr>
<td>F</td>
<td>285</td>
<td>425</td>
<td>74</td>
<td>4</td>
<td>0</td>
<td>788</td>
</tr>
<tr>
<td>G</td>
<td>5</td>
<td>31</td>
<td>2014</td>
<td>168</td>
<td>1</td>
<td>2219</td>
</tr>
<tr>
<td>H</td>
<td>1544</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1544</td>
</tr>
<tr>
<td>Total</td>
<td>8816</td>
<td>2430</td>
<td>2565</td>
<td>337</td>
<td>33</td>
<td>14181</td>
</tr>
</tbody>
</table>

Administration

The Zambian Ministry of Home Affairs and UNHCR jointly run Meheba Refugee Settlement, with assistance from implementing and operating partners and elected refugee leaders. The following section briefly discusses each actor’s role in the settlement as it is presented in official UNHCR and FORGE policy documents or as it was explained in stakeholder interviews. The emphasis is on involvement in the facilitation of access to or the administration of justice.

Ministry of Home Affairs

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71 Shimo 2008
72 These should be considered approximations, rather than precise figures, for the same reasons as those given above regarding the total refugee population in Zambia.
73 An implementing partner receives financial support from UNHCR to perform specific services as arranged in a formal project agreement. Operating partners support the work of and closely coordinate with, but do not receive financial support from, UNHCR.
The Refugee Officer, appointed under the auspices of the Office of the Commissioner for Refugees in the Ministry of Home Affairs, is the lead official in Meheba and has far-reaching authority. He ensures that the settlement is run in an orderly and efficient manner, that essential services and general welfare are maintained, and that proper precautions are taken to preserve refugee health and well-being. He is responsible for issuing identity cards and travel permits, allocating plots of land, and “maintaining law and order.” The Refugee Officer has control over the police and military forces in Meheba and oversees the election of Road and Block Chairmen, upon whom he relies “to deal with minor problems.”

**UNHCR**

During my fieldwork, from July to September 2008, the UNHCR staff for Meheba was comprised of an Assistant Protection Officer, a Registration Officer, a Resettlement Officer with two assistants, and a Program Officer. They live and work in Solwezi and travel by vehicle to Meheba a few days per week. The former Protection Officer for Meheba was transferred to Kawambwa to oversee Kala Camp days before I arrived in the settlement. There had been no Field Officer for several months.

UNHCR’s main objectives in Zambia are:

“To promote durable solutions; help the Government of Zambia enact refugee legislation in line with international standards; strengthen collaboration with local stakeholders to give refugees better access to national social services; and advocate that refugee issues are integrated into national, regional, and community policies. The Office also aims to...ensure that the specific needs of women, the elderly and children are included in all protection and assistance programs.”

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74 Powles 2000, 26
75 UNHCR 2008a, 288
After gaining the permission of UNHCR in Zambia to conduct fieldwork in Meheba, staff there expressed the most interest in gaining a better understanding of the involvement of what they called “traditional” justice institutions in addressing sexual and gender-based violence. They shared with me several UNHCR documents that discussed SGBV-related protection concerns and protocols. As such, much of the information that I have about justice administration in Meheba from the perspective of UNHCR is specific to SGBV. The extent to which refugees perceive SGBV crimes to be the most common and of greatest concern of all will be discussed in chapter four.

Given their focus, UNHCR oversees the coordination of all SGBV activity related to security and protection, monitors the progress of legal cases, and serves as “the clearinghouse for all multi-sectoral data concerning SGBV cases.” UNHCR convenes an SGBV Task Force, which is to include representatives from the Zambian Ministries, the police, the refugee population (male and female), and NGO partners. The purpose of the Task Force is to prevent and respond to SGBV by providing counseling and advice, dispute resolution services, and sensitizations.

Refugees may bring concerns and justice issues directly to UNHCR protection staff, but staff prefer that cases first go through the refugee leaders or the Ministry of Community Development and Social Services (MCDSS).

Implementing Partners

- Ministry of Health
- Ministry of Community Development and Social Services
- Ministry of Education
- Ministry of Forestry

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76 UNHCR 2007b, 9
77 At the Task Force meeting that I attended in July 2008, the police, clinicians, and refugee representatives were not present.
78 UNHCR 2007c, 8-9
• Ministry of Agriculture and Cooperatives
• Department of Water Affairs
• World Food Program
• International Committee of the Red Cross

The Ministry of Health operates clinics in Blocks A, B, D, F, and H. Clinicians may write medical reports as evidence in criminal investigations. The MCDSS office coordinates all SGBV activities in the settlement and is to provide counseling, assistance, and advocacy for affected individuals, as well as training and community education. It is to maintain client records and all related data. MCDSS staff also helps refugees find alternative housing in the event of arson and provides clothes, soap, and blankets. The Ministry of Education runs primary schools in Blocks A, B, C, D, and F, and Meheba High School in Block A that enrolls refugees and Zambians. The World Food Program provides food rations to new arrivals and individuals classified as ‘vulnerable,’ namely the elderly, the ill and disabled, single women and mothers, and unaccompanied minors. The International Committee of the Red Cross assists with family member tracing and reunification.

**Operating Partners**

• Saint Mary’s Mission
• Zambia Mine Action Centre
• FORGE

Saint Mary’s Mission provides home-based care and non-food items to those in need and sponsors orphans and vulnerable children to go to school. The Zambia Mine Action Centre disseminates information about landmines.79

FORGE, currently staffed by three American Project Managers who live in the settlement and approximately 50 refugees, runs after-school and pre-nursery programs, literacy classes, libraries, a women’s center, a computer skills and peace

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79 FORGE 2008
Veroff

education training program, basic health services centers, a micro-loan initiative, and
a sponsorship program for unaccompanied minors in secondary school. It also
The RAI staff served as liaisons between the refugee community and social service
providers. Staff would confidentially meet with clients and document their problems,
provide information on possible assistance, escort clients to service providers, and
bring especially complicated or serious cases to the attention of MCDSS and
UNHCR. RAI had staff in Blocks A, B, D, F, G, and H. The project was closed due to
budget constraints and frustration on the part of the refugee staff that while they could
provide information to clients, they could not change the structural conditions
creating the clients’ problems. For the first half of 2008, a FORGE Project Manager
conducted resettlement referral interviews at the request of the UNHCR Protection
and Resettlement Officers.

The number and involvement of NGOs in Meheba was much greater in the past. The majority exited following the repatriation of thousands of Angolan refugees in the early 2000s.

Refugee Chairmen

Refugees choose Block and Road Chairmen in elections organized by the
Refugee Officer. Elections are held every five years for six committee members. The
person with the most votes becomes the Chairman, the next the Vice Chairman, then
the Secretary, and then three general members. The committee is to be made up of
three men and three women, according to regulations given by the Refugee Officer.\(^8^{0}\)

\(^8^{0}\) Stakeholder Interview 11
Officially, Chairmen are responsible for mitigating arguments and disagreements between parties in their respective jurisdictions; notifying residents of major UNHCR or Ministry of Home Affairs news and announcements; overseeing food distribution; and serving as an information bridge between refugees and settlement authorities. They are not supposed to handle criminal matters on their own, but are to refer these cases to higher authorities. Chairmen are not paid for their services and do not undergo any formal training.

**Police**

The Zambian police force is under the authority of the Ministry of Home Affairs and is divided into regular and paramilitary units. In Meheba, there are both regular (permanently stationed) and paramilitary (mobile and rotate every few months) police officers. The former are based in the main office at Road 6 in Block A, while the latter are 20km away at Road 36 in Block D. Officers are assigned to Meheba at the discretion of the Ministry. The Officer in Charge, head of the regular police, would not tell me how many police worked in Meheba “for security reasons.” From observation, I would estimate that there are about ten regular and paramilitary police officers in Meheba at any one time.

A UNHCR staff member in Tanzania noted that police assigned to refugee camps often feel a “sense of punishment,” resulting in low morale and poor performance. Most police posted to refugee camps and settlements do not receive training in refugee protection, though they may participate in UNHCR workshops.

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81 FORGE 2008, 10
82 Stakeholder Interview 10
83 Crisp 2000, 621
84 UNHCR 2007c, 25-26
The police maintain a Victim Support Unit to handle SGBV cases, ensure the security of the victim, and follow up on prosecutions.

The police force in Meheba is of limited capacity, hindering its ability to effectively respond to and investigate cases. They have an insufficient number of officers necessary to conduct regular security patrols, high turnover, few to no female officers, no vehicle, and minimum communication tools. There are holding cells in the main police station at Road 6, but they can only accommodate a few individuals at one time, afford no privacy, and are of “sub-standard” condition.\(^\text{85}\)

**Neighborhood Watch**

Neighborhood Watch committees, referred to by many refugees as “the Neighborhood,” are responsible for monitoring the security situation in Meheba, alerting police to any concerns or incidents, and helping individuals access the police. Members are volunteers, appointed either by the community or the police, depending on the Block, and trained by the police. They are not supposed to charge for their services. Some refugees have raised complaints about Neighborhood members abusing their power and using extortion and intimidation.\(^\text{86}\)

**Mobile Court and Legal Aid**

The Mobile Court was established in Meheba to ease the burden of travel on refugees and settlement authorities and to improve refugees’ access to the Zambian justice system. The Solwezi prosecutor informed me that all felony cases brought to the police are then taken before the court. Misdemeanors may also be addressed in

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\(^{85}\) Stakeholder Interview 2
\(^{86}\) UNHCR 2007c, 26
court but complainants have the option of setting them externally. The magistrate from Solwezi presides over the court.

The Mobile Court is supposed to convene sessions in Meheba twice per month but actual appearances are much less frequent. During my two months in Meheba, the Mobile Court held only one session. The magistrate and prosecutors did arrive for a second session, but after finding that there were no defendants, complainants, or witnesses present and waiting for 30 minutes, they cancelled the session and left.

The year in which the Mobile Court first began operating is not clear. The Officer in Charge at the police station said that the Mobile Court began holding sessions in 2004, but a UNHCR protection report from September 2007 notes that a Mobile Court was available in all refugee camps and settlements in Zambia except Meheba.87

UNHCR helps finance the Mobile Court’s operations in Meheba and, in April 2008, signed an agreement with the Legal Resources Foundation, a Zambian legal aid and human rights non-profit, to provide counsel to refugees appearing before the Mobile Court.88 In the future, should funding be available, LRF may expand its operations to include community sensitizations on Zambian law and refugees’ legal rights.89

**Blocks of Focus: G, H, and D**

With only two months available for fieldwork, I focused on three Blocks in Meheba: G, H, and D. The rationale behind their selection, as well as other methodological issues, is presented in the next chapter. The table below details the population and social services available in these three Blocks.

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87 Ibid, 27
88 Stakeholder Interview 2
89 Legal Resources Foundation 2008
Table 2. General Characteristics of Blocks G, H, and D

<table>
<thead>
<tr>
<th></th>
<th>Block G</th>
<th>Block H</th>
<th>Block D</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Population</strong></td>
<td>2,219</td>
<td>1,544</td>
<td>3,815</td>
</tr>
<tr>
<td><strong>Population by</strong></td>
<td>91% Rwandan</td>
<td>100% Angolan</td>
<td>48.7% Angolan</td>
</tr>
<tr>
<td><strong>Country of</strong></td>
<td>7.5% Burundi</td>
<td>38.6% Congolese</td>
<td>9.8% Rwandan</td>
</tr>
<tr>
<td><strong>Origin</strong></td>
<td>1.5% Other</td>
<td>2.6% Burundian</td>
<td>2.6% Burundian</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>0.3% Other</td>
</tr>
<tr>
<td><strong>Administrative</strong></td>
<td>UNHCR</td>
<td>Ministry of Home Affairs</td>
<td>Ministry of Home Affairs</td>
</tr>
<tr>
<td><strong>Offices</strong></td>
<td>Ministry of Health</td>
<td>MCDSS</td>
<td>Ministry of Health</td>
</tr>
<tr>
<td></td>
<td>Ministry of Education</td>
<td>Ministry of Education</td>
<td>Ministry of Education</td>
</tr>
<tr>
<td></td>
<td>Dept. of Water Affairs</td>
<td>Dept. of Water Affairs</td>
<td>Dept. of Water Affairs</td>
</tr>
<tr>
<td></td>
<td>Police Station</td>
<td>ICRC</td>
<td>Police Station</td>
</tr>
<tr>
<td></td>
<td>ICRC</td>
<td>World Food Program</td>
<td>ICRC</td>
</tr>
<tr>
<td></td>
<td>World Food Program</td>
<td>Zambia Mine Action Centre</td>
<td>World Food Program</td>
</tr>
<tr>
<td></td>
<td>Zambia Mine Action Centre</td>
<td>FORGE RAI</td>
<td>Zambia Mine Action Centre</td>
</tr>
<tr>
<td></td>
<td>Mobile Court</td>
<td>FORGE RAI</td>
<td>Mobile Court</td>
</tr>
<tr>
<td><strong>Educational</strong></td>
<td>FORGE Pre-School</td>
<td>Community Basic School</td>
<td>FORGE Pre-School</td>
</tr>
<tr>
<td><strong>Services</strong></td>
<td>Community Basic School</td>
<td>Community Basic School</td>
<td>Community Basic School</td>
</tr>
<tr>
<td></td>
<td>FORGE Library</td>
<td>FORGE Library</td>
<td>FORGE Library</td>
</tr>
<tr>
<td><strong>Health Services</strong></td>
<td>Clinic</td>
<td>Clinic</td>
<td>Clinic</td>
</tr>
<tr>
<td><strong>Market Size</strong></td>
<td>Moderate</td>
<td>Small</td>
<td>Largest in settlement</td>
</tr>
</tbody>
</table>
Map 2. Meheba Refugee Settlement
Chapter Three: Research Methodology

Social scientists who research humanitarian or forced migration issues are often compelled by what Jacobsen and Landau (2003) call the “dual imperative”: the desire to produce theoretically sound, methodologically rigorous, logically argued, and ethical work that also helps those people affected by humanitarian crises and rights violations. Turton (1996) argues that, “research into others’ suffering can only be justified if alleviating that suffering is an explicit objective.”

Yet Jacobsen and Landau are not kind to researchers in forced migration studies who have sought to be policy relevant. They argue that such studies generally “reveal a paucity of good social science, rooted in a lack of rigorous conceptualization and research design, weak methods, and a general failure to address the ethical problems of researching vulnerable communities.” One reason for this, they contend, is “the strong tendency towards what Myron Weiner used to call ‘advocacy research,’ where a researcher already knows what she wants to see and say, and comes away from the research having ‘proved’ it.”

While this may characterize past work, academic rigor and policy relevance are not inherently mutually exclusive objectives. In fact, good scholarship should be the basis of policy and advocacy work. To avoid the pitfalls that Jacobsen and Landau describe, I commit to revealing and explaining my methods will full transparency so that readers can judge the validity of this thesis, assess the quality and limitations of the data, replicate the study, and make comparisons with other works.

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91 Jacobsen and Landau 2003, 1
92 Ibid, 3
Research Design

As recommended by Barron et al. (2004), my research questions drove the selection of my methods. Underlying them is a combination of the epistemological positions interpretivism and realism. Interpretivists focus on “how members of society understand their own actions,” while realism “involves looking behind appearances to discover laws or mechanisms which explain human behavior.” The goal was not only to produce “thick descriptions” but to “produce theory: a set of interrelated categories that describe or explain some phenomenon.” As Strauss and Corbin explain in their work on grounded theory, a theory “is discovered, developed, and provisionally verified through systematic data collection.”

To do this, I employed three tools of qualitative analysis – focus groups, stakeholder interviews, and observation – and textual analysis. Interviews and focus groups are appropriate when “the purpose of the study is to uncover and describe the participants’ perspectives on events.” They allowed me to pursue an open-ended and deep inquiry into the complexity of refugees’ subjective views of and experiences with crimes, conflicts, and justice. Statistics and policy documents, particularly those from UNHCR, complemented this analysis by enabling me to better understand how authorities conceptualize justice administration in Meheba and their goals for improving access to justice.

Block Selection

I conducted fieldwork between July 4, 2008 and September 5, 2008. Except for two days on each end in Lusaka, the entire period was spent in Meheba. To gather

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93 Barron et al. 2004, 3
94 Travers 2001, 10-11
95 Ibid, 42
96 Strauss and Corbin 1990, 23
97 Marshall and Rossman 2006, 102
meaningful data in this short amount of time, I focused on three of the eight administrative Blocks. As Ritchie et al. (2003) note, when qualitative research is used because of the in-depth coverage it enables, “it is usually better to retain depth of data collection rather than breadth in terms of sample size, even if this means focusing the study on certain parts of the population rather than achieving a more broadly defined sample.”

While I could have chosen a sample of Meheba’s population based on other characteristics, selecting by Block was logistically efficient and presented an excellent chance for interesting variations to emerge. With the exception of Blocks D and F, the populations in each Block are nationally homogeneous and arrived in Meheba during the same time period. Block residents frequent the same market, send their children to the same schools, and have immediate access to the same set of social services. Comparing Blocks provided an opportunity to look at structural and actor-driven factors when generating hypotheses to explain observed variations in the data.

Though I could and perhaps should have selected three Blocks at random, upon my arrival I consulted the FORGE Project Managers, two Americans who had lived and worked in Meheba for nearly one year and with whom I stayed and formed a close relationship. After explaining the nature of my project, I asked them to recommend three Blocks that might yield rich and interesting data on issues related to justice administration. These individuals were my best entry point to understanding the settlement at the beginning of my fieldwork. They lived inside Meheba, in Block C, relied on bikes for transportation, and lacked regular cell service and internet access. Consequently, they were immersed in settlement life and had a sense of the pulse of each Block.

—Ritchie et al. 2003b, 104
They suggested Blocks G, H, and D. At the time, I knew so little about the differences between the eight Blocks that their recommendations were functionally the same as choosing three at random, particularly because I did not push them to justify their choices and thus did not have pre-conceived notions about what I would find. Were I to have had more time in Meheba, I would have liked to engage with all the Blocks.

Focus Groups

In Meheba, I conducted 20 focus groups with 187 participants. Using purposive sampling, I recruited participants who lived in Blocks G, H, and D, and divided them according to gender and age, holding separate focus groups for men, women, and youth, with ‘youth’ commonly understood to mean adolescents and individuals in their early twenties who were unmarried. Information on respondents’ average age, year of arrival in Meheba, and nationality is in the bibliography.

Data collection and analysis are interrelated processes, so after completing the 20 focus groups, I held feedback sessions in each Block that brought together the men, women, and youth participants.99 I summarized the major themes that I had identified from their responses, asked for clarification on issues I did not understand, and sought corrections, additions, and critiques.

Like Powles, whose anthropology DPhil was based on fieldwork in Meheba, I did not tape-record the focus groups or individual interviews. With the permission of all respondents, I took notes during the discussions and then transcribed them into my computer as soon as possible afterwards. As Powles wrote: “Although it is important to try to record peoples’ voices as accurately as possible I do not think that a

99 Ezzy 2002, 62
memorized version written down soon after the dialogue should be seen as somehow less valid than the transcript of a recorded story,” particularly if not tape-recording enabled the respondent(s) to feel more comfortable and expressive.100

Focus groups should be used when the data desired is best supplied through group interaction and when the nature of the questions asked will elicit such interaction.101 They are not an expedient way to conduct several individual interviews at once. Rather, “a good focus group is more than the sum of its parts.”102 More naturalistic than individual interviews, the focus group provides a social context for the researcher, allowing him or her insight into not just what people say, but how they think and speak about a given topic and how their ideas are shaped by conversations with others. This is particularly appropriate for researching justice administration, as justice systems are dynamic social institutions that individuals do not interpret and participate in alone.

While the focus groups provided rich data that drove the major arguments put forth in this thesis, there were four methodological problems that must be acknowledged.

The first is sampling bias. I recruited participants by placing announcements in high-traffic locations in each Block, such as along the main road, in the market, and near schools and clinics. The signs invited men, women, and youth to participate in focus groups on access to justice and noted that refreshments – juice and biscuits – would be served. Respondents were self-selected, meaning the sample was not random and not necessarily representative. Those who attended may have believed that they could benefit in some way from speaking with me, may have sought to influence the politics or policies in Meheba, may have been more opinionated than

100 Powles 2000, 49
101 Short 2006, 105
102 Finch and Lewis 2003, 185
most, or may have had an unusual or particularly impactful experience with justice
that they wanted to share. Generally, I believe that most who attended were simply
interested in the topic and the idea of participating in a research project. Meheba has
received little attention from researchers in recent years, so there is no fatigue around
speaking to outsiders, particularly students. To address any notions of benefits to be
gained, I clearly stated at the beginning of each focus group the purpose of my
research, my affiliation, and that I was not involved with resettlement, repatriation,
food distribution, or employment efforts.

The second is one of the major disadvantages of focus groups: the potential for
power dynamics between respondents to affect the content and nature of the
discussion and for minority views to be silenced. Holding separate groups for men,
women, and youth was one way to control for cross-gender and cross-generational
dynamics, but powerful actors did wield significant influence on certain occasions.
Specifically, the Block G Chairman attended the second men’s focus group, likely to
verify his previously granted approval of my project. It was clear that his voice was
the ultimate authority. He did not attend the first group because of scheduling
constraints, which provided an interesting opportunity to compare how his presence
may have influenced the discussion in the first.

Third, focus groups do not offer the same guarantee of confidentiality that
one-on-one interviews do. The researcher can ask participants to respect what is said
within the group and not share it with others, but such confidentiality cannot be
ensured.103 Participants may not be as open as they would be in an interview to
maintain personal safety and avoid social conflict or ostracism.104

103 Short 2006, 111
104 IRC 2006, 15
Finally, methodological challenges arose from the use of translators. I am not proficient in the respondents’ languages – Kinyarwanda, Luvale, Umbundu, Swahili, and French – so all focus groups were conducted through translation. There are no professional translators in Meheba. UNHCR often relies on refugee translators, but while these individuals had the best English skills, I felt it would create misunderstandings about my connections to UNHCR if I were to employ them for my research. Instead, I employed two refugees who were familiar with and sensitive to the ethical issues that could arise in such research and did not hold any official governing positions.

In Blocks G and D, my translator was a young Rwandan man, aged 22, who lived in G but was frequently in D to attend computer skills and peace education training classes. He was well respected in his community: they had come together to finance his education at Meheba High School and selected him to lead a FORGE-facilitated project to establish a clinic in G. In Block H, my translator was a 35-year-old Angolan man who had lived in Meheba since 1976. He had been a Community Health Worker in Block H with Médecins Sans Frontières and, at the time of my fieldwork, was a FORGE Refugee Advocacy Initiative employee in Block H. Both were comfortable interacting with men, women, and youth, and I did not perceive any substantive differences in the way they addressed any of these groups or in the way any of these groups responded to them. My own gender likely helped women to feel more comfortable speaking openly with me about sensitive subjects like rape and sexual exploitation.

Conducting focus groups in translation meant that some of the valuable group flow and interaction was compromised. After one participant spoke, the next person would have to wait until the comment had been translated to give their opinion.
Instead of speaking to one another, participants began speaking directly to the translator and me. To encourage discussion and debate, I actively used probing questions like, “Do others agree or disagree with that statement?”

As the translators were proficient but not fluent in English, some of the vividness of respondents’ comments was lost, especially around complex concepts. Consequently, I could not do any kind of discursive analysis. Working through translation was particularly challenging when terminology around sexual crimes was in flux or unclear. Sometimes ‘rape,’ ‘defilement,’ and ‘sexual harassment’ were all used to refer to an act of non-consensual sexual intercourse, while at other times respondents used a single term to refer to a spectrum of scenarios. ‘Defilement,’ for example, was used to mean both the rape of a girl under 18 and consensual sex among minors brought to the attention of a girl’s family, typically because she became pregnant. Having anticipated this thanks to previous literature, I was careful to ask for clarification when needed.105

Considering the positionality of the translator is vital, as it affects how participants respond to questions. Even with due diligence, when using a translator the researcher risks inadvertently “transgressing political, social, or economic fault lines.”106 To minimize reactivity between the translator and the respondents, I employed individuals who I knew to be well respected for their education and community involvement, who were unaffiliated with UNHCR and the Zambian Ministries, and who did not and had not previously held Road or Block Chairmanships. Many of the refugees in Meheba who speak excellent English are or have previously been affiliated with FORGE, so that connection was unavoidable. Prior to conducting any focus groups, I briefed my translators on issues of ethics and

105 Refugee Law Project 2007
106 Jacobsen and Landau 2003, 10
confidentiality. I strongly believe that the personalities of the two translators were such that they had minimal impact on the nature of the focus group discussions.

Finally, translation is not a purely technical task. It involves judgment and interpretation. What the researcher receives from the translator is no longer raw data, but data that has been filtered and analyzed. Without a recording of the original focus groups, I was not able to have another individual translate the data for comparison. This is an inescapable reality of conducting research in a low-resource setting without professional translators on topics sufficiently sensitive that respondents would be uncomfortable with recording. In response, I spoke extensively with my translators about the nature of my research, the types of questions I would be asking, and the importance of conveying information as accurately and neutrally as possible.

Having applied a healthy dose of methodological self-scrutiny to the data gleaned from the focus groups, I contend that despite challenges, they yielded valuable, comparable findings. Supplementing them with stakeholder interviews, observation, and textual analysis strengthens the validity of the overall arguments derived from them.

*Stakeholder Interviews*

I conducted individual interviews with stakeholders from UNHCR, Zambian Ministries, the police, and NGOs, and with refugee leaders. Their titles, affiliations, and gender are listed in the bibliography. These individuals were “influential, prominent, and/or well-informed” and were selected “on the basis of their expertise in areas relevant to the research.”107

107 Marshall and Rossman 2006, 105
Complementing the breadth of the focus groups, these interviews offered depth on specific issues, like police operations and Road Chairman responsibilities. I requested these interviews in person or in writing. Most lasted for about an hour and all were conducted in English. Through a combination of broad and narrow questions, these stakeholder interviews provided me insight into the logic of those overseeing or participating in the administration of justice in Meheba.

Observation

When not in focus groups or interviews, I was out in the community as much as possible. I spent time in the market, attended church services, visited FORGE programs, had lunch with friends in their homes, and went for bike rides and walks. Being present and visible in Meheba enabled me to establish a better rapport and build trust with refugees in the settlement and gave me a greater understanding of the explicit and implicit elements of the unique cultural, political, social, economic, and legal space of the settlement. Rodgers (2004) supports “‘hanging out’ with forced migrants” as a “relevant, important, and ethically desirable” research tool. “If it is the task of social research to reveal something about the lived experience of forced migration,” he says, “then ‘hanging out’…is essential to the formation of informed, creative and self-critical responses.”

Data Analysis and Interpretation

Through “collective analytical categorization,” I organized the data into descriptive and explanatory categories and further divided within them. The “cross-sectional ‘code and retrieve’” method enabled “a systematic overview of the scope of

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108 Dewalt and Dewalt 2001, 1
109 Spencer et al. 2003, 202
the data” and the identification of themes, concepts, and patterns from which to make comparisons and connections.\textsuperscript{110} Richard and Richard (1994) caution against an analysis that fully departs from the data, “jettisoning them once they have informed the development and refinement of categories,” so I constantly revisited the data “as an integral part of the analysis process.”\textsuperscript{111}

In addressing the more descriptive research questions, I allow the data to largely “speak for itself.”\textsuperscript{112} As part of this effort, several statements that may make the reader uncomfortable are presented without extensive commentary. These include the arguments made by men in Block G that it is sometimes optimal for a victim to marry her rapist or that a convicted rapist should be imprisoned until it is determined whether the victim can have children, as well as the earnest acknowledgment offered by youth in Block G that public beatings are held once per year. Such weighty statements are often more striking and impactful when left to stand on their own, as it goes without saying that they are problematic for reasons of gender inequality, injustice, and threats to the safety and security of the community, among others. This approach should not be misinterpreted as suggesting that I consider every refugee voice to be factual or normatively correct. The research questions that aim to produce theory – to explain variations in refugees’ opinions and actions – are addressed with a mix of dispositional and situational reasoning. The former is derived from the intentions and behavior of individuals and the latter from contextual and structural factors.\textsuperscript{113} Detailing the search for these explanations is challenging, as they do not simply emerge from the data. It involved a combination of generating hypotheses from previous empirical and theoretical work as well as common sense.

\textsuperscript{110} Ibid, 203
\textsuperscript{111} Ibid, 204
\textsuperscript{112} Neuman 1999
\textsuperscript{113} Ritchie et al. 2003a, 253
assumptions, reading and re-reading the data, moving back and forth between the data and possible explanations “until pieces of the puzzle clearly fit,” and searching for “rival explanations to establish the closeness of fit.”

Positionality, Reflexivity, and Ethics

A researcher is constituted by the reality that he or she seeks to understand and often who he or she “is perceived to be is much more important than his or her actual role.” As such, it is critical to reflect on my positionality relative to the refugee respondents in Meheba.

Unquestionably, I was an outsider and the power dynamic with refugees was skewed in my favor. I am white, educated, and have never experienced mass violence or atrocity. In Meheba, I lived in a house with solar panels and its own water pump and slept on a bed with a mosquito net. I had easy access to the UNHCR and Zambian Ministry officials from who refugees felt so distant. There were no restrictions on my basic rights and freedoms. Fundamentally, I could leave at any time and return to a comparatively privileged life.

Living inside Meheba, never riding in a vehicle but only biking or walking, and buying all my food at the local market, as well as my age, friendly demeanor, and ability to have basic conversations in French and Swahili, helped to reduce the distance between ‘them’ and me, and gave me a degree of credibility with the community that other outsiders who only spend a few hours at a time in Meheba, like UNHCR staff, have not achieved.

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114 Ibid, 252
115 Jackson 2006
116 Bulmer and Warwick 1992, 245
117 Snape and Spencer 2003, 20
I was also upfront with refugees about my background: I was an American student living in the United Kingdom and writing a dissertation on justice issues in Meheba, I was interested in and had studied forced migration and civil conflict, and I had worked for FORGE in Mwange Refugee Camp in Zambia in 2006. To some, this last fact made me an insider to FORGE’s work in Meheba and, to a large extent, I was. I lived at the FORGE compound in Block C and became good friends with their staff and familiar with their operations and ethos. However, almost all young, white women in Meheba in recent years have been FORGE employees. Children sometimes called me the names of former staff. My appearance alone would have led those who did not speak with me to assume I was affiliated, regardless of where I lived and whether I had actually ever worked for FORGE or not.

With everyone I met and with all focus group participants and interviewees, I made it very clear that I was not working for FORGE in Meheba, that I had no control over their programming or hiring, and that I had no involvement in status determination, resettlement, repatriation, food distribution, or cases backlogged with the police. The greatest benefit to my past involvement with FORGE was that many refugees expressed pleasant surprise that I had chosen to return to a refugee settlement long after my work had ended and was staying for two months. This signaled that I was deeply committed to learning about and directly engaging with them, and was not just there for a one-time, personal experience.

Despite my attempts to remain independent from the operations of settlement authorities, I made two important mistakes that may have resulted in confusion about my position and altered incentives for speaking with me. During my first week in Meheba, I observed resettlement referral interviews conducted by the FORGE Project Manager. I thought this would give me insight into some of the ways refugees
respond to violence and insecurity. In each interview, I was introduced as a student who was visiting Meheba to research justice administration, who was not working for FORGE, and who would uphold the same confidentiality as everyone else present. However, at the end of one of the interviews, the Project Manager, who was departing Meheba before I was, told the interviewee that he could approach me to follow up on his case or if he needed help with anything. He had just finished recounting experiences of brutal torture in the Democratic Republic of Congo and forced sodomy while in detention in Zambia. Contradicting the Project Manager’s statement to say, “No, you cannot approach me for help,” felt impossible to articulate in the moment, though I recognize it was inappropriate and irresponsible to allow this promise to go unchallenged. I do not know if he told others in the community about this or not, but at least in his eyes, I became a person with a direct channel to FORGE, UNHCR, and the resettlement process. Fortunately, he never approached me for assistance with his case.

The second mistake arose out of an attempt to compensate for the potential inherent in focus groups to silence minority voices. At the beginning and end of each focus group in every Block, I said that I would be happy to speak with anyone individually if they had anything to share that they did not feel comfortable articulating in the group. No one in Blocks G or H took me up on this, but in Block D, 17 people did. Many arranged meetings but some simply lined up outside of the building in which I was conducting focus groups and waited to speak with me.

Of the 17, six were women reporting that they and/or their daughters had been raped in Meheba and one was a man reporting that his wife had been raped. All wanted to convey that women were at serious risk of violence; none asked about resettlement. Learning that “a respondent is at risk of harm” or has experienced harm
“is a particularly difficult ethical dilemma.”\textsuperscript{118} The researcher becomes implicated in the situation and is forced to contemplate whether she should pass this information to an authority figure. Doing so without the respondent’s consent would be a violation of confidentiality. Doing so at the urging of the respondent may indicate that the researcher is being manipulated. I also faced this dilemma when refugees identified a specific implementing partner Project Manager as promising sex in exchange for employment and a Ministry official as engaging in corruption. In all of these cases, my training and experience as a rape crisis counselor enabled me to respond with a balance of empathy and professionalism. I encouraged individuals to contact the UNHCR Protection Officer or the MCDSS Community Services Officer and let them know that the FORGE Refugee Advocacy Initiative staff would accompany them if they desired. Additionally, I informed them that counseling and support was available from the FORGE Women’s Center.

One man shared his story of torture and violence in the DRC simply to have his voice heard. Another had recently arrived in Meheba, having worked for MONUC in the DRC, and wanted to ‘apply’ for resettlement. I advised him to contact the FORGE Project Managers, UNHCR, or MCDSS with any protection concerns.

Eight individuals sought follow-up information on the status of their resettlement cases. All had been through some part of the process, from completing interviews with the UNHCR Resettlement Officer in Meheba to traveling to Lusaka for cultural orientation and a medical examination, but none had heard anything for months. My mistake was in the way I responded to these eight individuals.

As I lived with the FORGE Project Managers, I knew that they were submitting names of refugees in this exact position to the Resettlement Officer for

\textsuperscript{118} Lewis 2003, 69
follow-up. My general disposition in life is to be helpful to others, so my automatic response was to tell these eight that while I personally could not give them any information, I could pass their names on to the FORGE Project Managers, who would follow-up at their discretion. Upon reflection later that day, I realized that I had inserted myself into the operations of FORGE and undermined my independence as a student researcher. By facilitating access to information and authority figures, I had to some extent confused my role “with that of advisor or counselor.”

However, since these conversations took place after the focus groups had concluded, I do not think my actions significantly affected the content or validity of the data collected. In some ways, taking the time to listen to these individuals and showing a willingness to serve as a conduit of information, within reason, helped refugees feel more at ease speaking with me. The Congolese community in particular is so accustomed to police and others dismissing them as troublemakers only seeking resettlement that more fully engaging allowed me to distinguish myself from the authorities.

Ethical obligations do not end upon leaving the field, but persist with data storage, presentation, and publication. The major ethical question that has emerged during my write-up is the extent to which I should anonymize the data. I do not name focus group respondents and only identify stakeholder interviewees by their specific position when I have judged it to be necessary for credibility and context. I do, however, identify the Blocks and Roads on which I focused. In her anthropology DPhil based on research from Meheba, Powles changes the number of the Road about which she writes in an effort to protect her respondents. Having spent time in Meheba, though, it is immediately clear to me the Road on which she focuses and the

119 Lewis 2003, 69
general location of the house in which she and her respondents lived. Her attempt at anonymity is ethically responsible in intent, but ineffective in reality. With publicly available data from UNHCR about the demographics and location of each of the Blocks, even if I referred to Block G as Block Y, upon identifying the population as 90% Rwandan, its true identity would be obvious. Given this, I present the letters of Blocks and the numbers of Roads as they are, while acknowledging that it is not ideal.

Conclusion

Refugee camps are not scientific laboratories. Faced with the suffering and vulnerability of refugees, researchers may be tempted to decry “the new and different ways refugees have become victims of politics and politicians” and fail to adopt a rigorous, transparent methodology.\textsuperscript{120} Operating in a culture different from one’s own means the author may not recognize the importance of some pieces of information, or may be unable to convey their broader meaning without taking something from or unjustly adding to them.\textsuperscript{121}

In openly acknowledging the strengths and weaknesses of my methods, my positionality and process of reflexivity, and my consideration of ethical issues, I demonstrate that my data is “imperfect but valuable.”\textsuperscript{122} While there were challenges and mistakes along the way, the data that has emerged is nuanced and compelling.

\textsuperscript{120} Jacobsen and Landau 2003, 20
\textsuperscript{121} Powles 2000, 52
\textsuperscript{122} Jacobsen and Landau 2003, 17
Chapter Four: Crimes and Conflicts

Lack of Administrative Data

Prior to addressing the administration of justice in Meheba, it is necessary to have an understanding of the signature justice issues that arise in the settlement and whether these vary by Block. However, there were no official statistics available from police or settlement authorities to provide a picture of the type and frequency of crimes and conflicts occurring. This information was not even available for sexual and gender-based violence, arguably the protection issue of greatest concern to UNHCR.

Clear standard operating procedures around data collection and reporting for SGBV do exist, but interviews with MCDSS, FORGE, UNHCR, and police officials revealed that they are not being followed. The MCDSS office almost never receives police or medical reports on SGBV cases and refugees do not report to them. MCDSS thus has no record of the number or type of SGBV incidents occurring. UNHCR did not present any such statistics at the SGBV Task Force meeting that I attended in July 2008.

Crime data on Meheba is also not available in the most recent UNHCR protection document on Zambia. It states that “reports from Kala and Mwange camps indicate that domestic violence, rape, and defilement are among the most serious protection risks facing women and girls in the camp” and cites a UNHCR Participatory Assessment from Mayukwayuka concluding that “rape, domestic violence, sexual abuse, and a lack of female police officers are among the foremost

123 MCDSS staff are to coordinate all SGBV activities, including receiving reports, maintaining data, completing Incident Report Forms, and reporting all cases “immediately” to UNHCR. UNHCR is to compile a statistical summary and distribute it at the monthly SGBV coordination meeting to partner organizations and “other government authorities” (UNHCR 2007b).

124 Stakeholder Interview 8
concerns of women and girls,” but offers little concrete data and no information on how these concerns were gathered.\(^{125}\)

The lack of administrative data on crime and conflict trends is not surprising given the limited capacity of the police, UNHCR, and partners in Meheba. Chikwanha, of the African Human Security Initiative, argues that the problem applies to Zambia more broadly, citing “a dearth of basic information on crime and criminal justice statistics.”\(^{126}\)

Without these statistics, I used stakeholder interviews to gain some sense of crime and conflict incidence. The Officer in Charge of the Meheba police estimated that the station handles about 15 cases per month and that the most common crimes in Meheba are assault and theft, followed by SGBV, particularly defilement, rape, and domestic violence. Since he began working in Meheba in 2002, he has seen crime rates decline. He believes this is because “people have come to understand the danger of involving themselves in crime” and because of the population decrease brought by major Angolan repatriation.\(^{127}\)

FORGE’s Refugee Advocacy Initiative keeps records of all client visits and resettlement referral interviews, some of which concern crimes and civil conflicts. According to the two RAI managers, domestic violence, rape, arson, forced marriage, and theft constitute the majority of crimes happening in Meheba, many of which are not reported to the police.

The crimes and conflicts most often brought to the attention of the FORGE Women’s Center staff are wife beating, adultery, verbal spousal abuse, theft, rape, and men denying paternity.\(^{128}\)

\(^{125}\) UNHCR 2007c, 26
\(^{126}\) Chikwanha 2007a, 5
\(^{127}\) Stakeholder Interview 10
\(^{128}\) Stakeholder Interview 7
Though the information from each of these sources can be woven together to provide a helpful snapshot of the experiences of a small number of refugees, they are not a substitute for comprehensive administrative data on crime and conflict trends. The Refuge Law Project encountered similar challenges in its research in post-conflict West Nile. In an effort to build a reliable picture of incidence without official statistics, Refugee Law Project researchers interviewed community members about their impressions of crime and conflict trends. I followed this model, using focus groups to supplement and challenge information gained from stakeholders. The crimes and civil conflicts raised generally fell into one of three categories: violent and sexual crime, livelihood-related civil and criminal issues, and threats to social harmony and community image. The following sections highlight the major trends that emerged in each Block. I then compare them to those captured in past literature on other camps and settlements.

**Crimes and Conflicts**

*Block G*

The respondents in the two men’s focus groups concentrated primarily on physical fighting, usually in public spaces, between men who had been drinking, and conflicts related to livelihood. These included disputes over unpaid debt and land ownership; theft, particularly of crops; and the destruction of crops and fields by another person’s livestock. Domestic violence, rape, and antagonism between different ethnic and national groups were also named but not discussed in any detail. In the feedback session held one month later, they stated that land disputes and conflict between different ethnic and national groups are not common.

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129 Refugee Law Project 2007, 7
Female respondents also cited fighting and livelihood-related conflicts, but spent most of the discussion strongly emphasizing their distress over threats to social harmony and the community’s image. Rumors, gossip, and false allegations about community members, as well as public quarrels and shouting matches between women, were raised. Several women insisted that any individuals who spoke negatively about the community in focus groups were lying in order to attain resettlement. In the first focus group, after I offered to speak individually with women if they would feel more comfortable doing so, I was vehemently told by one respondent that this would just provide certain women with an opportunity to tell lies about the community. In the second group, a few women strongly demanded to know if I had written anything negative about the community, asked to see my notebook, and instructed me to cross out anything disparaging, as it was all untrue and an attempt to paint the community in a poor light.\(^\text{130}\)

The first group of women repeatedly stated that rape never happens in Block G. The second women’s focus group would not acknowledge that rapes happen in Block G, but were willing to speak in the abstract about what they felt would be appropriate punishment for rape.

The two youth focus groups had a notably more open tenor. Rather than seeking to protect the image of the community, the youth seemed genuinely excited to share their thoughts and experiences. They too mentioned fighting, theft, and unpaid debts, but focused most on forced marriage and rape.\(^\text{131}\) According to several of the

\(^{130}\) I explained that I could not show them my notebook for reasons of confidentiality but that I would summarize the trends at the feedback session. The request was also impractical as the women did not speak or read English and so was more emotive than a literal request.

\(^{131}\) As defined in the SGBV Standard Operating Procedures, forced marriage “occurs when parents or others (can include perpetrator) force someone to marry another against her/his will. This includes by exerting pressure, by ordering a minor to get married, for dowry-related purposes, or in other circumstances.” It is distinct from early marriage, which “occurs when a girl under…years [sic – no age actually provided in text] gets married without parents’/guardians’ consent” (UNHCR 2007b, 5-6).
youth respondents, families will meet over drinks to negotiate the marriage of a girl and the amount of compensation to be paid to her family. “Girls are treated like a business, like gold they are selling,” one young Rwandan man, a primary school teacher, stated. He believes that parents who push their daughters into marriage, typically to older men, do not value education, as the girls are often made to quit school. Most respondents presented forced marriage as an injustice against young women, primarily because they are forced to prematurely discontinue their education. The youth felt that parents are arranging marriages for their young daughters because of the acute poverty in Meheba, in which their culture “has become spoiled and has declined.”

No one suggested that the parties arranging the marriages be held criminally responsible – as one female respondent stated, “we have become adapted to the situation” – but all felt that the practice was a serious problem that should stop. When forced marriage was discussed in the feedback session, the Block Chairman’s representative (the Chairman himself was unable to attend so appointed a representative in his stead) sought to deny that young girls were being married in exchange for money or livestock. He argued that because of the harsh conditions of flight from Rwanda, some girls appear very small when they are actually no longer minors. Several adult respondents then added that consent is ultimately with the parents; if they are content for their child to be married, then it is not to be challenged.

In an interview, a FORGE refugee staff member working in Block G agreed with the youth, stating that forced marriage of underage girls is a serious issue in Block G, but that if outsiders try to intervene, the families will simply lie about the age of the bride.
When a young male respondent first brought up rape in the focus group, he called it “sexual harassment.” After I asked for clarification, he stated: “rape.” The youth found it difficult to estimate the frequency of rape, given the “tradition in the community of keeping quiet” and their inability to identify a “clear or present cause” in the same way that they could identify drinking beer as a catalyst for fighting. Despite not being able to say whether there are “two rapes per week or a year that passes without hearing about one,” the youth participants agreed that rape is the crime they are most worried about in the community.

**Block H**

In contrast to the clear differences between the men’s, women’s, and youth focus groups in Block G, the discussions in groups across Block H were quite consistent. Men, women, and youth all cited witchcraft as the crime most common and of greatest concern. As one man stated: “We ran from Angola, we came to Zambia for peace, but now in our community we are suffering with witchcraft.” While witchcraft is largely conceptualized and described as a violent act, it is also deeply connected to livelihood and social tensions.

Each group said that witchcraft most often results in death, but can also manifest in a serious injury, particularly one that disrupts an individual’s livelihood, or in bad dreams. Examples of witchcraft cases given include the death of a 15-year-old girl in childbirth, the death of a young boy struck by lightning, and a girl killed in a bike accident.

Individuals are said to commit acts of witchcraft because of jealousy over the victim’s wealth or success: “For example, if someone buys a hammer mill, people will see that he is improving above others and the head of the house will be killed.”
Some feel that this is depressing economic development in the community, as people hesitate to grow their businesses because of fear. A “satanic manner” and frustration over the disrespect of youth were also offered as explanations.

The adult respondents argued that while witchcraft is not a problem unique to Meheba, the character of the crime has changed. In the past, individuals suspected of witchcraft tended to be older community members, but now anyone except for very young children may be suspected. The men’s and women’s groups attributed this to a growing desire among youth to be wealthy. The frequency of witchcraft accusations relative to the number of deaths, injuries, and illnesses in the community was also said to be much greater now than in the past, before thousands of Angolans were repatriated.

Although witchcraft dominated the discussion in each focus group, men, women, and youth also all mentioned theft and described it as particularly common during poor harvests, when those in need steal food for their families. Youth estimated that a case of theft – of crops, bicycles, or household supplies – occurs once per week.

Teenage pregnancy was the other issue raised in all focus groups. It is seen as especially problematic when young women leave school as a result and young fathers fail to admit paternity or contribute financially.

Other livelihood-related issues raised by one or more of the men’s focus groups were disputes over unpaid debt and high interest rates demanded by a lender ex post facto; divorces stemming from a man’s inability to support his family; conflict with nearby Zambians over land ownership; crop destruction by another person’s domestic animals; and prostitution. The men attributed prostitution to insufficient employment and educational opportunities, which are particularly scant in Block H.
relative to the rest of Meheba, and felt that women who engage in prostitution do so only in order to feed their families. Many sex workers go to the mining areas nearby, and the men were also concerned that this is fueling the spread of HIV/AIDS within the community.

The women’s and youth groups brought up just a few of these livelihood issues: the women made reference to crop destruction and youth discussed the problem of young women turning to prostitution in order to earn money to buy “nice things.”

In the category of violent and sexual crimes, men, women, and youth all mentioned fighting fueled by alcohol. Men’s and youth focus groups each mentioned rape, but felt that it does not happen often in the community, an assessment that the women agreed with when asked. Some individuals in the feedback session stated that while they were not aware of rape cases happening in the community, this may be because people settle them quietly on their own. Youth respondents brought up domestic violence and generally agreed that a husband is justified in beating his wife if she has misbehaved or not followed instructions, but that it is unacceptable to do so simply because he has been drinking. Men and women in the feedback session agreed with this, though did not introduce domestic violence as an issue in their focus groups.

With regard to conflicts affecting social tensions and community cohesion, men and women spoke of individuals spreading rumors about others in the community and of adultery.

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132 The English term ‘rape case’ was used in almost all mentions of rape during the focus groups. Several youth in the second focus group sought to clarify what they meant by ‘rape’, saying that a ‘rape case’ involved an older person with a young child. While they did say that rape can also happen between two people of the same age, they felt that more often this sex is consensual or happens because they are “pushing one another.”
Block D

The men’s, women’s, and youth focus groups in Block D all oriented their discussions around the argument that they face discrimination and injustice because of their status as refugees. Most of the discussion in the men’s focus groups was devoted to decrying problems or injustices thought to be caused, perpetrated, or permitted by UNHCR and the Zambian Government, such as the distribution of spoiled food rations; restrictions on the freedom of movement; lack of legal representation; police corruption; poor clinic conditions; discrimination relative to Zambians when accessing social services like education and health care and when seeking NGO employment; and long detention in prison without trial for immigration charges.

Specific experiences of crimes or conflicts were raised only in an effort to support the broader argument that the refugee experience is characterized by injustice. The violent and sexual crimes cited were forced marriage; rape, particularly of women while in the fields, and of young girls; prostitution and ‘sugar daddy’ relationships; and house burnings.

No crimes or conflicts related to livelihood were raised, a significant departure from the men’s focus groups in other Blocks.

“Tribalism,” the term used by the refugees to express antagonism and conflict between national and ethnic groups, was also discussed. Relations between Kasai and Katangese Congolese and between Congolese and Rwandans were said to be the most problematic. Such antagonism fuels social tensions and manifests in rumors, insults, public fighting, and violence.

133 Such statements included: “I saw a 13 year old girl forced into marriage. I wrote a report about it to the police and to FORGE. There has been no outcome yet.” “I was a victim. Two of my children ate the bad food. I saw the police myself but I was intimidated and asked if I was telling the truth…You cannot speak out about this to the government.”
134 Examples given include: “Let’s say a Congolese goes to visit where there are only Rwandans. The community there will take it in a bad way. They will tell the Congolese, ‘you are a spy for your
The female respondents also spoke at length about structural injustices against refugees, concentrating on perceived discrimination by Zambians against refugees when they seek access to education, health care, police protection, and employment. Violent and sexual crimes, particularly rape and defilement, generated the most discussion and were regarded as very serious and quite common. Female respondents felt that the majority of women in their community had been raped and said that it happened every day, especially when women are out cultivating and are more likely to be alone. They also cited sexual exploitation by police, teachers, and Ministry staff, including the rape of a newly arrived female refugee by the police, the rape of a student by a teacher in Block D Basic School, and the numerous ‘girlfriends’ had by an implementing partner Project Manager and his promises of jobs in exchange for sex. Like the men, they mentioned frequent house burnings.

With regard to livelihood issues, the women brought up theft as well as prostitution, attributing the latter to poverty and the need to feed one’s children. “Men are celebrating this,” one woman said.

Social tensions and threats to community cohesion were of great concern. While the men focused on violence stemming from “tribalism,” the women suggested that rumors are a significant source of conflict, ostracism, and economic difficulty, and that some people try to undermine the resettlement cases of individuals from ethnic groups towards which they feel antagonism.

Like the adult groups, the two youth focus groups were greatly concerned with the prevalence of rape, defilement, and sexual exploitation in Meheba. They also spoke of teachers promising female students a pass on their exams in exchange for sex, and of Ministry staff having sex with young refugee women.
brought up forced marriage, which they attributed to extreme poverty and parents’
inability to finance their children’s educations and purchase basic goods. One said:
“The father of the girl will sell her so he can buy shoes. The desire of the child
doesn’t matter. Many parents are not pushing their kids to go to school, just pushing
them into marriages. Refugees are selling their daughters to get money.” Like the
adults, they brought up perceived discrimination against refugees by Zambian clinic
workers and by the police. The youth groups were the only ones to mention domestic
violence, adultery, and men abandoning their families. They rarely spoke of
livelihood-related conflicts or issues around social tensions.

Summary

The table below visually represents the crimes and conflicts that were raised in
the three Blocks, divided into men’s, women’s, and youth focus groups, and
organized into the three categories referred to above: violent and sexual crimes,
livelihood-related crimes and conflicts, and threats to social harmony and community
image. A solid cell indicates that the crime or conflict was substantively discussed in
all of the focus groups. A lined cell indicates that the crime or conflict was either
raised by only one focus group in a substantive way, or that more than one group
raised it but did not characterize it as particularly common or serious.
Table 3. Crimes and Conflicts in Meheba According to Focus Groups

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<tr>
<th>Crimes / Conflicts</th>
<th>Block G</th>
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<th>Block H</th>
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<td>Violent and Sexual Crime</td>
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<td>Domestic Violence</td>
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<tr>
<td>House Burning / Arson</td>
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<td>Sexual Exploitation</td>
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<tr>
<td>Livelihood-Related</td>
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<td>Crop Destruction by Animals</td>
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<td>Early Pregnancy</td>
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<td>Land Ownership</td>
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<td>Men abandoning family, Divorce</td>
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<td>Unpaid debt</td>
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<td>Social Tensions / Community Image</td>
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<td>Adultery, Pursuing another’s spouse</td>
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<td>False Allegations / Rumors</td>
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<tr>
<td>‘Tribalism’</td>
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Key:

- Not mentioned.
- Substantively raised by only one group or raised by all groups but not seriously discussed.
- Substantively discussed in all groups.
Comparing Trends to Past Literature

The crimes and conflicts viewed as most common and of greatest concern in Meheba are relatively consistent with those in other camps and settlements as reported by Da Costa, Griek, and the IRC. In the 52 camps that Da Costa surveyed, theft and sexual and gender-based violence were the most prevalent justice issues, with no significant variation across regions. The survey did not seek to quantify SGBV incidents, but the types of SGBV most commonly reported by respondents were domestic violence, rape, and forced or early marriage. Beyond theft and SGBV, a range of other crimes like physical assault, arson, witchcraft, murder, and prostitution; civil, non-violent issues like unpaid debts and land disputes; and administrative violations, like breaking curfew, were named.136

Griek drew her assessment of the most common types of violence in Dadaab and Kakuma from the answers given by UNHCR officials in Kenya in response to Da Costa’s survey. They included “assault, rape, defilement, harmful traditional practices (including forced marriages, ‘elopements’, and abductions), and robbery with violence.”137

The IRC survey asked respondents to name their primary safety and security concern and then followed up with a list of possibilities, asking them to respond yes or no. Nearly 13% named some form of physical violence as their key concern, with domestic violence being the most common response, followed by physical assault and rape; 12.3% said abuse or exploitation; 2.9% were most concerned with the lack of access to justice; 14.7% mentioned a concern not on the IRC’s list of possibilities; and 19.4% said that they had no safety or security concerns.138

136 Da Costa 2006, 10-13
137 Griek 2007, 30
138 IRC 2006, Annexure B 4-5
Comparing the crimes and conflicts named in Meheba to those named in the past literature helps to make clear that Meheba is not an outlier in this respect. This is not necessarily surprising, as past literature and my own data capture categories of crimes and conflicts and not the more nuanced statistics that would come with comprehensive administrative data of incident prevalence and trends over time. As the IRC notes: “Murder, rape, beatings, domestic violence, and robberies are issues for [refugee] communities as they are for any community.”

What is particularly interesting for the refugee settlement and for this thesis is why different crimes and conflicts are focused on in each of the three Blocks in Meheba and, as detailed in the following chapter, how these three refugee communities engage with justice administration and strategically decide whether, where, and why to pursue justice.

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139 IRC 2006, 1
Chapter Five: Justice Systems

Justice Institutions

In chapter two, I presented the settlement authorities and refugee leaders with administrative responsibilities in Meheba as set forth in UNHCR and FORGE policy documents or as explained in stakeholder interviews. Here, I present the actors and institutions that refugees identified as involved with justice administration. This data is drawn from responses to the question posed in focus groups: When crimes and conflicts occur, what are the places and/or who are the people you can use to address and resolve them?

All focus groups in each of the three Blocks discussed Road and Block Chairmen and the police, and all except for men in Block D mentioned families or elders. The majority of groups in each Block brought up the Neighborhood Watch, and the court was raised by at least one group in each Block. The witchdoctor was important to all respondents in Block H but not mentioned by any other community. Notably, UNHCR was only mentioned in Block D. Almost no one mentioned MCDSS, the Refugee Officer, or FORGE.

The table below lists the institutions that were raised in the focus groups according to Block and also conveys the general attitude toward each one, i.e. whether it was viewed positively or negatively. The data to support these attitudinal classifications is introduced later in this chapter. A solid cell indicates that the group viewed the institution positively, meaning it was respected and seen as legitimate. A sparsely spotted cell indicates that the institution was viewed negatively and not respected. The more concentrated the fill of the cell, the more positively the group felt. As an example, men in Block G disliked the police, had mixed opinions on the
Neighborhood Watch, and felt very positively about the Chairmen. If a cell is left blank, the institution was not mentioned.

Table 4. Attitudes Towards Refugee-Identified Justice Institutions

<table>
<thead>
<tr>
<th>Justice Institutions</th>
<th>Block G</th>
<th></th>
<th>Block H</th>
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<th>Block D</th>
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<tbody>
<tr>
<td>Families</td>
<td>Men</td>
<td>Women</td>
<td>Youth</td>
<td>Men</td>
<td>Women</td>
<td>Youth</td>
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<td>Churches</td>
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<td>Community Court / Committee</td>
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<td>Chairman (Road or Block)</td>
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<td>Police</td>
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<tr>
<td>Neighborhood Watch</td>
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<td>Zambian Court</td>
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<td>UNHCR</td>
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<td>Refugee Officer</td>
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<td>FORGE</td>
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<tr>
<td>Witchdoctor</td>
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</table>

Key:

- = Not mentioned.
- = Not respected, viewed negatively.
- = Mixed views, moderate respect.
- = Almost all positive views.
- = Well respected, viewed positively, seen as legitimate.
How Do These Institutions Operate?

Though I have argued that it is not sufficient to focus exclusively on the procedural aspects of justice administration without considering the agency of refugees, understanding which institutions tend to handle which crimes and conflicts and how signature justice issues are typically resolved will provide the context for an analysis of refugees’ perceptions of and preferences for using particular institutions. As such, the following section offers a brief overview of the operations of different justice institutions as explained by focus group respondents.

Block G

For “simple” cases, like minor theft, fighting, and conflicts between spouses, the families of the parties involved come together to mediate a resolution. Since, as one young man stated, “there is no naked forgiveness,” the wrongdoer pays a small amount of compensation, usually in the form of drinks, “to bring back the dignity of the wronged person.” Once the parties have reconciled, they drink together.

For cases regarded as more serious or complicated, individuals approach their Road or Block Chairman. The Chairman, along with a committee of community leaders, tries to facilitate a settlement so that the parties do not have to go to the police. The Chairman calls the parties together, along with any witnesses, to discuss the case. The wrongdoer is asked to pay compensation to the complainant, the amount of which depends on the nature of the crime or conflict. After the wrongdoer accepts responsibility and reconciliation is reached, the parties share a drink. Wrongdoers are often warned not to repeat the offense.

Individuals usually only bring a case to the police if they have failed to resolve it within the families or community. Youth respondents noted that if a “non-serious”
case is taken to the police without a note from the Chairman that says that the parties tried but failed to reconcile, the police sometimes refer it back to the community. Individuals may take serious crimes like assault and murder directly to the police.

The Neighborhood Watch is regarded as an arm of the police. It is a group of individuals that generally help the police to do their work, sometimes breaking up fights, escorting offenders to higher authorities, and so forth. Members are volunteers and, once appointed, can serve indefinitely. According to the youth, about once per year, members of the Neighborhood, sometimes accompanied by the police, lead a public beating. This is done “to create a good spirit for the community,” serve as a model for young people, and deter crime. During the feedback session, the representative for the Block Chairman strongly denied that public beatings ever take place, but two FORGE Project Managers witnessed the preparations for the public beating of a man who had raped a mentally ill woman in March 2008.

Men, women, and youth were generally very clear and consistent in their descriptions of the procedures for each of these actors and the types of cases that they handle. The only procedural ambiguity was about which system should handle rape cases. The men initially stated that victims should go to the clinic for a medical examination and then to the police, because rape and defilement are beyond the ability of families and the community to handle. However, they then stated that it could be beneficial for the victim if the case were handled by the family or community and a marriage arranged between the victim and her rapist because she would likely be unable to get married otherwise. The consensus that emerged among the men was that it is acceptable for families to handle rape cases when the families are large and can prevent the man from raping again. For the rape of a young child, the men advocated imprisonment until the victim reaches adulthood. If she is able to
have children, then the man can be released. A rape that results in HIV transmission should also be punished with imprisonment, they argued, because it is the equivalent of murder. Yet the men were also quick to add that these were just their opinions and that the law always triumphed and their behavior matched the law.

Though the women would not admit to any rapes happening in the community, in the abstract, they argued that a rape victim who was a virgin should quietly address the crime with her family and the family of the rapist so that she might be able to be married later. Young children and married women who are raped should go to the police, they said.

Youth felt that while the police should handle rape cases, girls often fear that if they report being raped, they will not be able to find a husband later in life. Like the men, youth respondents believed that a good punishment for rape of a young girl is imprisonment until it is determined that she can have children, and that life imprisonment is the proper punishment for rape that transmits HIV to the victim.

*Block H*

For simple cases and for crimes that the victim and their family wish to keep quiet, the families of the parties involved come together to discuss and negotiate an agreement and compensation. Families often handle teenage pregnancy, adultery, domestic violence, spousal conflict, and rape. If an agreement cannot be reached, the parties take the case to the community level or to the police.

Road and Block Chairmen and the community court handle simple cases like theft and unpaid debt, as well as teenage pregnancy, SGBV, and domestic violence. They charge a small fee to hear cases, typically around K15,000 (£1.80). The Chairman will call the parties together, discuss the conflict, and mediate a solution.
while emphasizing reconciliation and forgiveness. For domestic violence cases, the Chairman will usually advise the wife to return to her husband and settle the problem, rather than pursue a divorce. No punishment is given to men who beat their wives. With rape cases, the accused rapist must ask the victim’s family for forgiveness and pay significant compensation. The amount initially asked ranges between K1,000,000 and K2,000,000 (£120 and £240), but is then negotiated to a lower amount that the assailant can realistically pay. The charge will be higher if the accused is known to have HIV/AIDS. In cases of teenage pregnancy, the boy must pay the family of the girl to compensate for her having to drop out of school and “interrupt her life plans.” They may marry if they so desire but the community does not demand it, as leaders “do not want to create unhappy relationships.” In any of these cases, if the parties cannot reach a settlement, or if the Chairman feels the case is too serious or complicated for the community to handle, it is taken to the police.

The police are used for serious crimes like assault, major theft (e.g. of a bicycle), arson, and murder. If a simple case is brought to them, they may refer it back to the community. As the youth understand it, if a woman would like treatment at the clinic after being beaten, she must explain the source of her injuries and file a police report. Since many women do not want to report their husbands and risk losing them to prison, they do not go to the clinic.

The Neighborhood Watch is “like the eye of the police,” but also does some work for the Block and Road Chairmen. For K10,000 (£1.20) they will escort individuals to the community court and for K15,000 (£1.80) they will make arrests. They are volunteers and can be fired by the community if their performance is deemed unsatisfactory.
The Zambian courts are seen as functioning smoothly. The youth believe that UNHCR will provide legal assistance to refugees who have problems with immigration authorities because of expired gate passes, but not to refugees who are accused of committing murder or other capital offenses.

In cases of suspected witchcraft, individuals consult a witchdoctor from outside the community to learn the identity of the witch. Armed with this information, the individuals either approach a Chairman and the community court or go to the police. At the community level, the suspected witch is charged with the expenses of the victim’s funeral and the costs for food and transport incurred en route to and from the witchdoctor. This may amount to K1,000,000 to K2,000,000 (£120 to £240). Compensation does not signal reconciliation; hatred and suspicion towards the witch remain. If the case is taken to the police or the Refugee Officer, the accused witch will be relocated to the LWF Vocational Center at Road 36 in Block D, where he or she can be protected. Respondents expressed that though they would prefer to physically harm or kill witches, they fear that this would cause them to be arrested and imprisoned, so they resort to compensatory justice instead. They were informed that murdering witches is against the law in Zambia upon arriving in Meheba.

**Block D**

Block D respondents did not go into great detail describing the mechanisms of justice administration. Simple cases like theft, quarreling, and unpaid debt are handled by the families of the parties involved or sometimes by the Road Chairman. The Road Chairman calls the parties to the conflict together and asks the offender to pay compensation to the complainant. There was no Block Chairman in D during my fieldwork.
When families handle rape cases, they typically arrange for compensation to be paid to the family of the victim. When a boy and a girl “of the same size” have consensual sex and their families find out, the families may try to arrange a marriage between them. If this is not possible, then they will negotiate an amount of compensation to be paid to the girl’s family.

Police handle cases that are too serious to be addressed at the community level, either because the law dictates that it should be taken to the police or because the parties involved prefer to report to the police. If a case “fails” after it is brought to the police, meaning the parties do not reach an agreement, compensation is not paid, or the victim does not accept compensation, then the police will refer the case to the court. Male and female respondents believe that rape victims must first go to the police and file a report before they will be allowed to receive medical treatment at the clinic.

The Neighborhood Watch, only mentioned in passing by the women, functions as a messenger of the police. Members can arrest individuals and bring them to the police.

Respondents knew that the Mobile Court is supposed to come to Meheba each month, but did not know what happens inside the courtroom or what types of decisions are reached. Women speculated that the court handles cases like murder, rape, arson, and the killing of domestic animals.

**Perceptions, Preferences, and Objectives**

Having provided an overview of how different justice institutions in Meheba operate from the perspective of refugees, I now turn to an analysis of how respondents
in Blocks G, H, and D regard them, specifically in terms of the costs and benefits associated with pursuing cases through them.

In focus groups, I asked refugees to speak about the disadvantages and advantages associated with each institution that they named. When preparing to analyze their responses, I started with the past literature. Da Costa, Griek, and the IRC list institutional and attitudinal barriers to accessing the host state legal system that include: physical distance from courts and other legal institutions and services; restrictions on freedom of movement; lack of legal assistance; lack of knowledge of or familiarity with the formal system; lack of financial means to pay for legitimate legal expenses and for bribes; language barriers; uncertain outcomes; procedural delays and frequent adjournments; lack of investigative capacity; corruption; fear of discrimination or bias; and long pre-trial detentions.\(^\text{140}\) In contrast, they say, informal institutions offer speedy resolutions; cost effectiveness; straightforward procedures; recognition of and respect for the population’s culture and traditions; intra-community coercive pressures to ensure compliance; compensatory justice; and preservation of social harmony.\(^\text{141}\)

Using these lists, I anticipated that the respondents in Meheba would name disadvantages and advantages that could be organized into the following three categories: structural features of the settlement and legal restrictions resulting from refugee status; performance; and desired type and objective of punishment.

**Structural Features and Legal Restrictions**

After coding the data based on these categories, I found that structural barriers, or the “practical obstacles” that Da Costa cited, were not raised by the

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\(^{140}\) Da Costa 2006, 27-30; Griek 2007, 46

\(^{141}\) Da Costa 2006, 54-55
No one mentioned the long physical distance to the police station, the cost of transport and need for a gate pass to travel to Solwezi, or language barriers, for example, as obstacles to pursuing justice, though gate passes were constantly mentioned as sources of aggravation. The only related issues were that groups in Blocks H and D expressed a desire for more legal knowledge, training, and access to legal assistance. Respondents in Block D were frustrated that they knew so little about the Mobile Court, its operations, and Zambian law. They felt that without this knowledge, any involvement with the court could not be considered a fair process.

That practical, structural barriers to accessing formal justice were not mentioned does not necessarily mean they are not relevant. Discussion of any part of the host state justice system outside of the police was rare. This could be because practical barriers to access are so great that refugees long ago stopped thinking of the court as an option for any but the most serious cases. It would be worth asking questions to this effect in further fieldwork.

Performance and Objectives

The advantages and disadvantages stemming from performance (i.e. how justice institutions actually operate, not how they are supposed to operate) garnered much discussion in all the focus groups, though the particular costs and benefits attributed to a specific institution varied across Blocks. Those that were mentioned can be grouped into six performance-related categories: community involvement; cost and corruptibility; efficiency; enforcement capacity; knowledge and training; and neutrality and fairness.

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142 Ibid, 27
In terms of objectives for justice and preferences for a particular type of punishment, respondents spoke of reconciliation, deterrence, and retribution, and discussed the trade-offs of compensation and imprisonment. These varied somewhat by crime, but general trends in preference did emerge within the Blocks.

For organizational ease and readability, the opinions raised about specific institutions with regard to their performance and the type of justice they offer are presented in the following table, rather than in full text. This format succinctly presents content – specifically, the costs and benefits of turning to various institutions to pursue justice – but also allows the reader to see trends across Blocks in terms of which performance-related factors were discussed with regard to which institutions.
Table 5. Perceptions of Justice Institutions

<table>
<thead>
<tr>
<th>Community Involvement</th>
<th>Block G</th>
<th>Block H</th>
<th>Block D</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Chairmen:</strong></td>
<td>Knowing the context, spirit, resources of the community allows them to make most appropriate decisions.</td>
<td>Neighborhood Watch:</td>
<td>Police:</td>
</tr>
<tr>
<td></td>
<td>• Knowing the context, spirit, resources of the community allows them to make most appropriate decisions.</td>
<td>• Helpful, available, accessible to community.</td>
<td>• Rd. 6 (regular) police more respected than Rd. 36 (paramilitary) police because they have more permanent presence.</td>
</tr>
<tr>
<td>Neighborhood Watch:</td>
<td>• Debated. Some men felt NW is accessible to and close with community.</td>
<td>Police:</td>
<td>UNHCR:</td>
</tr>
<tr>
<td></td>
<td>• Debated. Some men felt NW is accessible to and close with community.</td>
<td>• Not invested in the community. See refugees as foreigners. Should instead see them as partners.</td>
<td>• Protection Officer is unapproachable, out of touch with community, almost never in Meheba.</td>
</tr>
<tr>
<td>Police:</td>
<td>• Not respected, not involved with the community, inactive, out of touch.</td>
<td>Refugee Officer:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Not respected, not involved with the community, inactive, out of touch.</td>
<td>• Not respected, not involved with the community, inactive, out of touch.</td>
<td></td>
</tr>
<tr>
<td>Families:</td>
<td>Cost comparatively low.</td>
<td>Police:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Cost comparatively low.</td>
<td>• Charge for police reports.</td>
<td></td>
</tr>
<tr>
<td>Police:</td>
<td>• Charge for police reports.</td>
<td>• Highly corrupt. Can bribe to not investigate or to guarantee case goes to court.</td>
<td>• Highly corrupt, very easy to bribe. Party with more money will “win” the case.</td>
</tr>
<tr>
<td></td>
<td>• Highly corrupt. Can bribe to not investigate or to guarantee case goes to court.</td>
<td>• Poor are intimidated, feel at a significant disadvantage.</td>
<td>• Explain corruption as because of discrimination against refugees.</td>
</tr>
<tr>
<td></td>
<td>• Poor are intimidated, feel at a significant disadvantage.</td>
<td>• Girls don’t feel comfortable going to police on their own; rumors will spread they are the girlfriend of the police.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Girls don’t feel comfortable going to police on their own; rumors will spread they are the girlfriend of the police.</td>
<td>Neighborhood Watch:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Debated. Some say NW exploits community’s fear of police for own profit. Often ask for money, food, or bicycle use in return for assistance.</td>
<td>• Debated. Some say NW exploits community’s fear of police for own profit. Often ask for money, food, or bicycle use in return for assistance.</td>
<td></td>
</tr>
<tr>
<td>Efficiency</td>
<td>Chairman:</td>
<td>Chairmen:</td>
<td>Police:</td>
</tr>
<tr>
<td></td>
<td>• Word travels quickly in the community. When Chairman punishes someone, community helps enforce decision.</td>
<td>• Costly, but less so than police.</td>
<td>• Rarely investigate or follow-up.</td>
</tr>
<tr>
<td>Enforcement Capacity</td>
<td>Police:</td>
<td>Chairmen:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Rarely investigate or follow-up.</td>
<td>• No coercive apparatus to enforce decisions. Only his word.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Women: sometimes Road Chairman are too weak, afraid to confront noncompliant individuals.</td>
<td>• No coercive apparatus to enforce decisions. Only his word.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• No coercive apparatus to enforce decisions. Only his word.</td>
<td>• Women: sometimes Road Chairman are too weak, afraid to confront noncompliant individuals.</td>
<td></td>
</tr>
<tr>
<td>Knowledge and Training</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Chairmen:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Victims may not always receive adequate help or social service referrals because Chairmen are not fully informed of these resources.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Chairmen:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Not trained in the law or dispute resolution. Would like training.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Police:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• “Not fit to judge and solve problems, only to fight and kill.”</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Court:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Respected because judge, lawyers have been trained, educated.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Neutrality and Fairness</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Chairmen:</strong></td>
</tr>
<tr>
<td>• Highly regarded, seen as fair.</td>
</tr>
<tr>
<td>• Possible threat to neutrality if one of the parties to a conflict has personal ties to the Chairman.</td>
</tr>
<tr>
<td><strong>Chairmen:</strong></td>
</tr>
<tr>
<td>• Well regarded, seen as fair</td>
</tr>
<tr>
<td>• Possible threat to neutrality if one of the parties to a conflict has personal ties to the Chairman.</td>
</tr>
<tr>
<td><strong>Chairmen:</strong></td>
</tr>
<tr>
<td>• Congolese: Cannot use Road 36 Chairman because is Angolan, settles cases “according to his culture,” favors other Angolans. Uncertainty around rules, procedures, and decisions.</td>
</tr>
<tr>
<td><strong>Police:</strong></td>
</tr>
<tr>
<td>• Always decide in favor of Zambians against refugees.</td>
</tr>
<tr>
<td>• View Congolese as troublemakers, not victims.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Objective of Justice, Type of Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Families:</strong></td>
</tr>
<tr>
<td>• Preserve community relations, promote reconciliation.</td>
</tr>
<tr>
<td>• Give lighter punishments than outsiders / host state.</td>
</tr>
<tr>
<td><strong>Chairmen:</strong></td>
</tr>
<tr>
<td>• Promote reconciliation, preservation of community cohesion.</td>
</tr>
<tr>
<td><strong>Police:</strong></td>
</tr>
<tr>
<td>• Good institution in abstract – deters crime, has clear set of rules, provides security.</td>
</tr>
<tr>
<td>• Punishments are “too stiff.” Are sometimes violent.</td>
</tr>
<tr>
<td><strong>Chairmen:</strong></td>
</tr>
<tr>
<td>• Promote reconciliation.</td>
</tr>
<tr>
<td>• Punishment through compensation; generally preferable to long prison sentences.</td>
</tr>
<tr>
<td><strong>Police:</strong></td>
</tr>
<tr>
<td>• Give long prison sentences that generally not desirable.</td>
</tr>
<tr>
<td><strong>Refugee Officer and UNHCR:</strong></td>
</tr>
<tr>
<td>• Do not respect them because do not punish suspected witches; give them good housing instead.</td>
</tr>
</tbody>
</table>

| **Police:** |
| • Doubt that Road 36 police have been trained in the law or human rights. Called them “false police,” and “army police in false uniforms.” Should not have a role in justice. |
| **Refugee Officer and UNHCR:** |
| • Never mentioned ideas of reconciliation or forgiveness. |
| • Focused on obtaining punishment for wrongdoers, fighting against injustices inherent in refugee system. |
As the content of the table makes clear, focus groups from all three Blocks raised advantages and disadvantages of particular actors in each of the six performance-related categories, with the exception of efficiency, mentioned only in D with regard to the police, and enforcement capacity, mentioned in G and H with regard to Chairmen. All three Blocks also discussed notions of what justice should achieve and different punishment possibilities. Organizing the data in this way reveals that refugees across the three communities use, by and large, the same set of criteria when evaluating the costs and benefits of turning to a particular institution to pursue justice.

Nonetheless, the three Blocks differed in their respect for, satisfaction with, and willingness to use community-level actors; their willingness to use the police; and the type of justice they felt was most important to achieve.

**Variation Across Blocks**

Blocks G and H were similar in their generally high regard for Chairmen. The only major difference was that, in H, there is a growing sense that Chairmen lack enforcement capacity. They “have only their word,” which in some cases is not powerful enough. In Block D, most of the respondents lived at Road 36 and were Congolese. Almost none of them would turn to the Road 36 Chairman to settle a crime or conflict because of “tribalism.” They contended that, as an Angolan, he resolves cases “according to his own culture” and favors other Angolans. The Congolese community in Block D is lobbying the Refugee Officer to have their own Chairman.¹⁴³

All three communities felt that the police are expensive and highly corrupt. The police charge for writing reports, which are simple one-page forms, to document

¹⁴³ Stakeholder Interviews 5, 8
cases, and most refugees believe it necessary to bribe a police officer to have any chance of “winning” the case. Respondents in G and H found this to be frustrating, and attributed it to corruption in Zambia more generally and the fact that the police at Road 36 do not always receive their salaries on time.\(^{144}\) The Congolese in Block D, however, blamed police corruption on discrimination against refugees.

Respondents in Block G would only resort to the police in the most serious of circumstances. Those in Block H were very willing to take their cases to the police if they failed to achieve a desirable resolution at the community level and said that they would not begrudge a fellow community member who preferred to use the police instead of the Chairman. The Congolese respondents in Block D almost always bypassed the community level for the police or other settlement authorities.

In Blocks G and H, forgiveness and reconciliation were the dominant objectives of pursuing justice. Groups in both communities stated that using family- or Chairman-led arbitration provided the best hope for reconciliation. Respondents also made some references to deterrence. Men in Block G felt that families could address rape cases if they were large enough in membership that the rapist could be prevented from raping again, and others noted that word travels quickly in the community, so bringing a case before the Chairman would alert the community to monitor the wrongdoer for any future misconduct. Youth in Block H emphasized that compensation should always be of a high enough amount to deter recidivism.

In Block D, ideas of reconciliation and forgiveness were never discussed. The objectives that respondents articulated were obtaining punishment for wrongdoers, ending impunity, and fighting against the injustices inherent in the refugee system.

\(^{144}\) In the 2005 Bribe Payers Index, Transparency International reported that corruption was rife in Zambia’s public service departments. People paid bribes to obtain services, to reduce the cost of services, to avoid prosecutions, to obtain contracts, and to ensure payment for services rendered. Police officers were listed as having demanded or been paid the largest bribes (IRIN 2007).
Given that refugees in the three Blocks reported using the same set of criteria to evaluate justice actors, what can explain their different preferences for recourse? One obvious explanation is that individual actors of the same institution perform differently in each Block. That is, each Block has a Neighborhood Watch, but the quality of the members varies. The members of the Neighborhood Watch in Block H are thought to be good men. Since they are respected, the Neighborhood Watch as an institution is respected. In Block F, the leader of the Neighborhood Watch is known to be violent and temperamental. Youth in Block D told a story of a man falsely accused of theft in Block F who was tied to a bike and dragged along the road and then gravely beaten by the Neighborhood Watch. This undermined their trust in their own Neighborhood Watch.

Yet variation in individual performance alone cannot explain why respondents in Block H feel more comfortable than those in Block G about going to the police when a settlement is not reached within the community. In the next chapter, I introduce four explanatory variables that help explain this and other trends in the data: the population composition of the Block; physical proximity to settlement authorities and availability of social services; socio-cultural characteristics; and long-term durable solution preferences.
Chapter Six: Challenging Assumptions and Explaining Variations

This thesis sought to theoretically and methodologically distinguish itself from past literature that took a procedural, legalistic approach to the study of justice administration in refugee camps and settlements by adopting a socio-legal framework. “Merely comparing the rules of one jurisdiction with that of another” is too narrow, Lazarus argues.\textsuperscript{145} Though technical, procedural analysis has its place, “scholarship is supposed to have larger concerns.”\textsuperscript{146} Legrand challenges those who seek to present a meaningful comparison of legal systems to move beyond rules and procedures “to the jurisdiction’s mentality.”\textsuperscript{147} The researcher, says Bell, should “understand the context or institutional setting in which rules operate.”\textsuperscript{148}

As simply “juxtaposing descriptions of various aspects of criminal process in different cultures does little to advance the goal of explanation or understanding,” this thesis now moves forward from the data in the previous two chapters and makes two analytical contributions to the literature on justice administration in the refugee camp or settlement context.\textsuperscript{149}

First, I challenge the validity of applying the dichotomy between formal and informal justice systems that orders the literature from Da Costa, Griek, the IRC, and others to justice administration on the ground. When considering only the ‘official’ operations of each of the justice institutions in Meheba, it may seem easy to ask whether or not they are part of the host state legal system and categorize them as formal or informal. However, looking at their actual operations and taking into account the opinions of the refugees who engage with them, it is clear that the line between these two categories is often blurred in reality.

\textsuperscript{145} Lazarus 2005, 4
\textsuperscript{146} Legrand 1999b, 50
\textsuperscript{147} Legrand 1999a, 25
\textsuperscript{148} Bell 2002, 236
\textsuperscript{149} Nelken 2002, 180
Second, by considering variations across Blocks in the crimes and conflicts thought to be most common and of greatest concern and the perceptions of and preferences for using different justice institutions, this thesis is the first work on justice administration in refugee camps or settlements to engage with a micro-level analytic approach instead of taking the camp or settlement as a single unit of analysis. I propose four factors that help to explain the observed variations. Though some are structural in nature, such as proximity to the settlement authorities, others are rooted in the agency and strategic decision-making of the refugees. I would not have been able to identify these explanatory factors had I accepted the premise that refugees are simply the subjects of a larger administrative, development apparatus. Instead, I used a methodology that prioritized gathering data directly from refugees, focused on opinions over rules, and situated responses in the larger social, economic, political, and cultural context.

**Challenging the ‘Formal’ and ‘Informal’ Dichotomy**

Previous literature is largely organized around a separation of formal and informal justice systems between which refugees are said to choose. This is most clear in Griek’s dissertation. Her research question is: “How does the existence of parallel legal systems in refugee camps affect access to justice for victims of violence?” The chapters are divided into formal (Mobile Court) and informal (Bench Courts and Maslaxad) systems. Da Costa also separates her analysis into one section on “the host state justice system” and one on “refugee dispute resolution systems.” The IRC report discusses “camp-based institutions,” “other relevant organizations,” and “Thai institutions.”

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150 Griek 2007, 11
Despite these precedents, I entered my fieldwork open to the idea that refugees in Meheba might conceive of, group, or order justice institutions in a different way. When analyzing my data, I gave more weight to the operations of justice institutions as described by the refugee respondents and the ways in which they reported selecting and moving between them than I did to the descriptions of these institutions found in UNHCR and FORGE policy documents.

Refugees from all three Blocks spoke of different justice institutions – families, Chairmen, community committees, the police, and the court – as operating along a continuum of justice administration. The continuum is organized in terms of seriousness and the type of justice promoted. Sometimes the desired criteria from each of these variables will be found in a single institution. If parents want the man who raped their child to go to prison, for instance, they will report the case to the police. In other situations, the level of seriousness and the individual’s objectives in pursuing justice do not match in the same institution. For example, taking a case to the police instead of the community usually signals that it is “serious” and beyond the capacity of the community leadership to handle. Yet even if the case is a serious crime, individuals may want to keep it within their family or community because they prefer compensation and reconciliation to imprisonment of the wrongdoer.

Decisions about where to turn to pursue justice are thus made based on a host of considerations having to do with social and financial, short- and long-term costs and benefits, and personal and communal objectives. Respondents did not say anything that suggested a conception of separate and/or parallel formal and informal justice systems. Though they know that some institutions are part of the host state apparatus and some are fully independent of the host state, from their vantage point, this is not the variable by which they distinguish one institution from another.
This is in large part because of specific actions and attitudes of Zambian government actors and other authorities in Meheba, as discovered through an examination of refugees’ explanations of the different justice actors’ operations, my own observations of a Mobile Court session, and an interview with a prominent Road Chairman.

First, communities choose Block and Road Chairmen through elections organized and legitimated by the Refugee Officer. They are empowered by the Refugee Officer, with the approval of UNHCR, to facilitate the resolution of minor disputes and serve as “key ‘first responders’” to crime. Chairmen are directly connected to the settlement authorities, serving as a bridge between them and the refugee population, transmitting information, overseeing food distribution, and acting as a liaison to social services. The broader refugee population sees their leadership as sanctioned by the host state and UNHCR.

Second, the police also legitimate and support the operation of non-state justice actors. Several refugees noted that if a “simple” case is brought to the police without first trying to achieve a resolution with the help of community leaders, the police will refer it back to the Road or Block Chairman. Furthermore, respondents often stated that the police will “solve” cases by helping the parties to reach an agreement, usually involving compensation. When the police use the same type of out-of-court, compensatory justice that would be practiced at the community level, they become a more “serious” step in the continuum of justice institutions, instead of a wholly separate investigatory and security tool of the state.

Lastly, the magistrate of the Mobile Court himself encouraged the utilization of informal, compensatory justice. During the Mobile Court session on July 22, 2008,

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151 IRC 2006, 3
twelve cases were brought forward; a decision was only reached in one, the first on the docket. The case concerned two men from Block A: one was accused of assaulting the other. The magistrate focused on whether the defendant had attempted to reconcile with the complainant. He argued that “a smart person” would reconcile and then ask the complainant to petition the court to dismiss the case. The defendant contended that he had tried to reconcile, but had failed to deliver a chicken, the required compensation, to the complainant. The magistrate chastised the defendant for failing to pay the compensation and allowing the case to come to court, stating that fostering reconciliation should be the primary objective. He ruled that the defendant’s failure or unwillingness to pay the compensation indicated a lack of remorse and so sentenced him to six months in jail with hard labor and the right to appeal the decision within fourteen days. Through his discussion of and ruling on this case, the magistrate sent a message to the dozens of refugees in attendance that he supported the pursuit of reconciliation, the objective most promoted in community-level justice, as well as the use of compensation, even for crimes like assault. His actions and words blurred any previously existing clear separation between informal and formal justice in Meheba.

As refugees do not categorize justice institutions based on whether they are formal or informal, and settlement authorities themselves contribute to a blurring of the division between the two, the environment of justice administration in Meheba is best characterized as a continuum of justice institutions offering different types of punishment and justice and handling crimes and conflicts of varying seriousness.

This finding could mean that justice administration in Meheba is fundamentally distinct from that in previously studied camps and settlements, where informal and formal were treated as separate categories. More likely, it suggests that a

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152 Nine were postponed because the accused party or a witness failed to appear and two were discussed but then adjourned for a later ruling.
methodological approach that captures the views of refugees and the words and actions of settlement authorities involved in justice administration results in a more accurate and nuanced understanding of how refugees conceptualize and categorize justice institutions than a rules-based, procedural analysis could provide.

**Explaining Variation Between Groups Within Meheba**

To identify factors that help explain the variations between the three Blocks in terms of the crimes and conflicts thought to be most common and of greatest concern and the perceptions of and preferences for different justice institutions, I first looked to the past literature. Though these works compared across, rather than within, camps and settlements, I hypothesized that some of the factors they used to explain macro-level patterns in their data might apply to my micro-level analysis of Meheba.

I began with the list of factors that Da Costa used to substantiate her argument that there are particular “aspects and conditions” of refugee camps and settlements that make refugees “especially vulnerable to crime, human rights violations, and abuse and exploitation.” The list includes: poverty, uncertain legal status in the host country, restrictions on basic rights like freedom of movement, lack of capacity or willingness on the part of the host government to take an active role in law and order issues inside the camp, inadequate policing, remote location and lack of resources and infrastructure, limited monitoring by UNHCR, the presence of armed or military elements, cultural attitudes that are accepting of exploitative practices, the breakdown of traditional community and family support structures, and unrepresentative or intimidating refugee camp leadership.153 Griek uses similar factors, specifically the “logistical designs of the camps and the demographic and cultural make-up of their

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153 Da Costa 2006, 5-8
inhabitants,” to compare Kakuma and Dadaab. The IRC also compares three camps and highlights proximity to border areas and natural resources shared with the host community as explanatory factors for observed differences between them.

In order to determine which of these factors would help explain variation within Meheba, I engaged in a careful examination of the focus group data, stakeholder interviews, UNHCR population statistics, visual representations of the structural layout of the settlement, and empirical observations gathered during fieldwork. From this analysis, I argue that four key factors help to explain the observed differences across the three Blocks. These are:

- Population composition, particularly in terms of nationality, ethnicity, and gender, of the Block;
- Physical proximity to settlement authorities and police, and availability of social services within the Block;
- Socio-cultural characteristics, such as belief in witchcraft, pre-flight employment, and attitude towards the rule of law;
- Long-term durable solution preferences.

Population Composition

The impact of population composition on frequency and seriousness of crimes and conflicts is most evident in regard to forced marriage and “tribalism.” In Block H, forced marriage was not mentioned. In Block D, one man persistently argued that it was common and the girls in the youth focus groups thoughtfully discussed its widespread prevalence. Forced marriage was most thoroughly and explicitly discussed with the youth focus groups in Block G and in the feedback session with the wider community that followed. From this, as well as interviews with a Refugee Advocacy Initiative manager and my translator, both young Rwandan men, the

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154 Griek 2007, 28
155 IRC 2006, Annexure B 14
family-orchestrated marriage of teenage girls in exchange for compensation seems to be most systematic and common in Block G, followed by D, and not an issue in Block H.

The RAI manager attributed the prevalence of forced marriage and community efforts to keep it under the radar of settlement authorities and ‘outsiders’ to what he called the “scarcity” of young women in Block G. An analysis of UNHCR population statistics for Meheba from July 2005 disaggregated by country of origin, sex, and age confirms this disparity and suggests a positive correlation between unequal gender composition and concern with forced marriage as a serious and common problem.¹⁵⁶

Table 6. National Populations Disaggregated by Sex and Age

<table>
<thead>
<tr>
<th></th>
<th>Women age 18-59</th>
<th>Men age 18-59</th>
<th>% Difference</th>
<th>Total Women</th>
<th>Total Men</th>
<th>% Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Angolan</td>
<td>1,758 (51%)</td>
<td>1,673 (49%)</td>
<td>+2%</td>
<td>4,530 (50.5%)</td>
<td>4,412 (49.5%)</td>
<td>+1%</td>
</tr>
<tr>
<td>Congolese</td>
<td>558 (44%)</td>
<td>701 (56%)</td>
<td>-12%</td>
<td>1,354 (47%)</td>
<td>1,513 (53%)</td>
<td>-6%</td>
</tr>
<tr>
<td>Rwandan</td>
<td>490 (36.5%)</td>
<td>852 (63.5%)</td>
<td>-27%</td>
<td>1,218 (44%)</td>
<td>1,536 (56%)</td>
<td>-12%</td>
</tr>
</tbody>
</table>

As seen in the table, of the Rwandan population between ages 18 and 59, only 36.5% are female. The gender disparity between women and men (-27%) is much larger than among 18-59 year old Congolese (-12%). Of Angolans in this age bracket, there are slightly more (+2%) women than men. The data supports the hypothesis and the trends observed in focus groups: the proportionally smaller pool of adult women

¹⁵⁶ Though this data is disaggregated by country of origin, because the composition of the focus groups was essentially divided along national groups (H – Angolan, G – Rwandan, D – Congolese), it can be extrapolated to the Blocks.
positively correlates with, and may drive, the propensity for adult men to pay for younger, adolescent girls to become their wives.

Moving from gender to nationality, the heterogeneous population of Block D helps to explain why “tribalism” was most fervently discussed there, mentioned only in passing in one men’s focus group in Block G, and not mentioned at all in Block H. Block D is the largest and most nationally heterogeneous community in Meheba: 48.7% Angolan, 38.6% Congolese, 9.8% Rwandan, 2.6% Burundian, and 0.3% other. These groups live alongside one another, interact at the market, which is the largest in Meheba, and send their children to the same school.

In contrast, all Block H residents are Angolan, with many coming from the same area of eastern Angola during the last years of the civil war and harboring similar political opinions.

While there was only a passing mention of conflict between national or ethnic groups in Block G, UNHCR, MCDSS, and FORGE staff all spoke of continuing hostility towards and possible persecution of Tutsis by Hutus. Rwandans constitute 90.7% of Block G and most are Hutu. Of those who are fully or part Tutsi, some work to conceal their identity as such or live on the outskirts of the Block to avoid problems. The former UNHCR Protection Officer for Meheba said that some Tutsis might have falsely registered as Hutu upon entering Meheba, making it difficult for her to know the accurate ethnic breakdown of the Rwandan population. She has been told by Tutsis in the past that the Hutu “are watching them.” The MCDSS officer stated that he has received reports about conflicts and attacks between Hutus and Tutsis in the settlement, and the FORGE Project Manager conducted several

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157 Block F is similarly diverse, with 36% Angolans, 54% Congolese, 9% Rwandans, and 1% Burundians, but its population is nearly five times smaller than the population of Block D (788 vs. 3,815 persons).

158 Stakeholder Interview 3
resettlement referral interviews with Tutsis claiming that they had experienced persecution in Meheba.  

While focus group respondents in Blocks G and H expressed a general preference for pursuing reconciliation through their Road or Block Chairman and the community committee, respondents from Road 36 in Block D were adamant that they could not rely on a fair, predictable justice process with their Road Chairman because he is Angolan and they are Congolese. One man from Block D captured the sentiment by stating: “In Block G, it is mostly Rwandans, so it is very easy for them to go see the Chairman because he is also Rwandan. But here in Block D there are many different nationalities. Here we do not use the Chairman because of tribalism. If the conflict is between different nationalities, the Chairman will help his own group first.”

Though Congolese respondents attributed their unwillingness to turn to the Road 36 Chairman to “tribalism,” implying that they would use the Chairman if he were also Congolese, the Road 34 Chairman, who is Congolese, observed: “The Angolans and Rwandans respect me sometimes more than my fellow Congolese… The Congolese, we came together, so they take advantage of me for that.”  

While the different nationality of the Road Chairman and the overall country of origin heterogeneity in Block D may be the reason given by respondents for preferring to use the police, it may not actually, or at least in itself, be the primary driver of their behavior.

Conversely, in Block G, the men discussed how they feel a sense of shame when they cannot resolve a crime or conflict within the structures of the community and have to reach out to police or settlement authorities. As the Block is nationally

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159 Stakeholder Interviews 8, 15  
160 Road 34 is also in Block D and is the second most populated Road in Meheba, after 36.
homogenous, leaders are said to embody the cultural values and historical memories of Rwanda. Turning to the police or settlement authorities for assistance with pursuing justice is, to the male respondents, a signal that the community leadership, and by extension the values that govern the community, failed. One man stated that turning to outsiders left him feeling “unprotected,” like the community had “thrown out [their] dignity” and “let [their] culture down.”

In Block H, the emphasis placed on promoting reconciliation and protecting community members from “harsh” punishments given by the host state appears to stem to some extent from a sense of solidarity in their common background and flight experience. This was made most clear when several men and women in different focus groups in Block H spoke about a man in their community who had raped a young girl. Instead of taking the case to the police or the court, the community allowed him to continue living with them, on the same road as the young girl and her family, after paying a K500,000 (£59.64) fine to the family. The logic behind the decision, as summarized by my translator, was this: “We fled together, we are refugees together. We cannot allow him to suffer the stiff punishment of the court and the long time in prison.” Certainly, some members of the focus groups disagreed with this decision, and several emphasized the importance of stronger punishments to deter crime and end impunity. Nonetheless, the narrative of, “We are all the same nationality. We ran from war to come here,” characterized the overall tenor of discussions in H on pursuing justice.

In sum, though the population compositions of the Blocks, specifically the degree of country of origin homogeneity and gender disparities by age group, do not cause the trends detailed above, they enable them to emerge by contributing to a particular socio-cultural environment. To explore a counterfactual, future researchers
might ask respondents in Blocks H and G whether, if their communities were heterogeneous and their Chairmen were of nationalities different from their own, they would still prefer to pursue justice at the community leadership level. Should the Congolese population be given their own Chairman in Block D, one could then evaluate whether more cases are taken to him and less to the police.

Block Location and Access to Social Services

The administrative center of Meheba is at Road 36 in Block D. Offices or staff of UNHCR; the Ministries of Community Development and Social Services, Home Affairs, Health, Education, and Water Affairs; the International Committee of the Red Cross; World Food Program; the Zambia Mine Action Center; and FORGE are all there, along with a clinic, police station, and Basic School. When the Mobile Court comes to Meheba, it holds its sessions at Road 36.

In contrast, Block G has none of these offices or social services except a FORGE-operated preschool and a primary school organized by an Italian couple living in the community who also run a beekeeping project. Block H has only a small clinic and community-run schools. It can take up to several hours to walk from distant areas of G or H to the administrative center in D. All three Blocks are at least 20km from the main police station at Road 6 in Block A.

Focus group respondents in Blocks G and H almost never mentioned UNHCR, the Zambian Ministries, or FORGE. Block D respondents, however, were fixated on the injustices of the refugee system, bringing up examples of sexual exploitation, corruption, and poor service delivery. This is likely because they see and interact with the settlement authorities on a daily basis. Though Block D respondents were the most critical of the police and UNHCR, they were also the most likely to turn to them
to help resolve a crime or conflict. Blocks G and H are relatively removed from the administrative center and do not interact as often with the police or authorities. Respondents in G and H did not speak of the distance as a barrier or disincentive to turning to the police or authorities, but their concern with and use of these actors was so low when compared to respondents from Block D that I believe proximity had some impact.

Additional fieldwork in Block F could shed light on the relative importance of proximity to police and authorities. Block F is just as nationally heterogeneous as Block D but much smaller in terms of total population and located far from the administrative center. If the Congolese in Block F also prefer the police to community leaders, then factors other than accessibility are likely more important drivers of the use of police over community leaders. Researchers could also ask respondents in G and H directly about the extent to which proximity and ease of access affects their attitudes towards and willingness to turn to the police and authorities.

With regard to varying access to social services, the lack of educational opportunities in Block H emerged as one factor behind the prevalence of and concern with adolescent pregnancy. The Ministry of Education does not operate a Basic School in H; there are only community-run schools. Young women may be more likely to become pregnant in H because they, as well as young men, are not in school as long as youth in the other communities. This leaves them with more free time and also less knowledge of reproductive health. The Block H community has connected early pregnancy with education in the compensation asked of teenage fathers: when a
girl becomes pregnant, the boy and his family must pay the girl’s family compensation that accounts for the years of education she received up to that point.\textsuperscript{161}

\textit{Socio-Cultural Characteristics}

While a thorough literature review of the historical, political, and socioeconomic backgrounds and experiences of the populations in Meheba would undoubtedly yield more nuanced explanations of some of the observed data trends and should be part of any future research, such an analysis is beyond the scope of this thesis. Nevertheless, a basic review of such literature revealed several distinguishing socio-cultural characteristics that resonated with observed patterns. These characteristics are witchcraft beliefs, employment backgrounds, and attitudes towards the rule of law.

Though specific beliefs vary by culture, witchcraft is generally understood as “harmful actions carried out by persons presumed to have access to supernatural powers.”\textsuperscript{162} Those accused of witchcraft may face harassment, ostracism, violence, or death. Accusations are often made as a way to rationalize misfortune, such as economic hardship, disease, or sudden death, or in response to social conflict. Stewart and Strathern state:

“Claims and counterclaims about the activities of witches and sorcerers tend to exist in the background of community affairs in the societies where such ideas are held. They flourish in the shadows, fed by gossip and rumor, and emerge into public debate or accusations only in times of specific tension.”\textsuperscript{163}

\textsuperscript{161} Powles (2000, 110) similarly observed that among Angolans in Meheba, if a girl was in school when she became pregnant, compensation to her family was higher than if she had finished or already dropped out.

\textsuperscript{162} Ashforth 1998, 64

\textsuperscript{163} Stewart and Strathern 2004, 7
They are often tied to “feelings of envy, hatred, jealousy, and fear,” which may be related to wealth and power.\textsuperscript{164} During Powles’ time in Meheba, the Refugee Officer identified at least three cases in which young Road Chairmen resigned “because of their fears of certain old men” using witchcraft against them. Deaths of Road Chairmen or members of their families tended to be understood as caused by witchcraft. Young Road Chairmen were sometimes accused of using witchcraft or other improper means to secure and maintain their position in power.\textsuperscript{165}

In cultures and communities in which witchcraft beliefs exist, claims and accusations may rise during times of crisis or duress.\textsuperscript{166} This is particularly so if traditional coping mechanisms are not available or social structures and networks have broken down.

Belief in witchcraft is very strong in Block H. Respondents expressed significant concern about witchcraft and devoted the majority of each focus group to its discussion. They reported that the proportion of deaths and injuries considered to be caused by witchcraft has risen since tens of thousands of Angolans repatriated in the early 2000s resulted in a significant demographic shift in the settlement: “Since there are now fewer people, when we hear of bad things and death, it is very worrisome and we really want to figure it out. We may be more likely to go to the witch doctor.” Another man said, “When I first came to Meheba, there were many in my family. With repatriation, I am now alone. I run my own business. Others see me succeeding and I fear being witched.”

The way in which the police and settlement authorities respond to witchcraft accusations has affected Block H respondents’ attitudes towards them. If a witchcraft case is brought to the police or the Refugee Officer, the accused person is usually

\begin{footnotes}
\item[164] Schnoebelen 2009, 4
\item[165] Powles 2000, 89
\item[166] Schnoebelen 2004, 16
\end{footnotes}
relocated to the LWF Vocational Center at Road 36 in Block D, where he or she can be protected from persecution and harm. Respondents expressed great distress over this protection instead of prosecution and said that it has caused them to lose respect for the settlement authorities. This may explain, in part, why they prefer to first try to settle cases within the community.

Moving to livelihood-related issues, conflicts related to property, debt, and crops were raised as common and important in most of the focus groups in Blocks G and H, but were almost never mentioned in Block D. The proximity of G and H to land for cultivation may explain this in part, but the employment background of respondents is likely the more powerful explanatory factor. The majority, if not all, of the men in the Block D focus groups were former or current NGO employees or skilled workers with trades like carpentry and baking. Cultivation is not their primary source of income, and livelihood issues around cultivation were therefore not raised. UNHCR’s assessment of the employment backgrounds of the different national groups supports this argument, noting that many of the Congolese refugees in Zambia are “able tradesmen,” while Angolans generally tend to be from rural backgrounds and have farming skills. 167

The intense focus of the Congolese on the injustices of the refugee system, their insistent and passionate tone in discussions, and their propensity to turn to the police and settlement authorities instead of Road Chairmen to resolve signature justice issues all align with statements commonly made by practitioners and academics who have worked with and studied Congolese that they tend to be strong advocates for their rights and the rule of law. As one Congolese man noted during a focus group: “Most of the Congolese know their rights, and when their rights are

167 UNHCR 2007c, 12
neglected, they are vocal about it.” According to the FORGE Health Services manager and the Peace Education and Computer Training manager, both from the Democratic Republic of Congo, the Congolese community in Meheba has been actively writing letters to the settlement authorities about corruption and injustices, such as the sale of gate passes and the diversion of food rations intended for the elderly and disabled to relatively wealthy individuals. Bakewell notes that when these Congolese arrived in Meheba in 1996-1997, they “rapidly gained a reputation as troublemakers as they made demands of the agencies.”168 Their proactive approach may be based in what Clark describes as the “activist” Congolese nature. Even as their state has failed, he says, Congolese themselves maintain a strong conception of the rule of law.169

In contrast, according to the former UNHCR Protection Officer for Meheba, the Rwandan community in Block G is very hesitant and secretive about reporting crimes through official channels. Clark attributes this in part to Rwandan attitudes towards the rule of law. His analysis is that, prior to the 1994 genocide, Rwanda was characterized by a social environment in which rumor, innuendo, and suspicion significantly shaped individuals’ perceptions of themselves and others. There was a sense of surveillance and high visibility. This consequently fueled a notion that the rule of law “was something to get away from.”170 Indeed, many respondents in Block G expressed that approaching the police or settlement authorities for help in resolving a crime or conflict caused them to feel apprehension, fear, and shame.

168 Bakewell 2002, 60
169 Clark 2008
170 Ibid
Durable Solution Preferences

Of the four factors that help explain the observed variations between groups, the one with the greatest explanatory power, and also the one not mentioned in any of the past literature, is the general preference of each community for a particular durable solution.

The majority of Rwandans in Block G are opposed to repatriation, despite information campaigns about Rwanda’s new constitution and peaceful presidential elections. Of the 5,669 Rwandan refugees in Zambia in 2005, only 16 chose to repatriate with UNHCR assistance.\(^\text{171}\) From my conversations with Block G residents, resistance to repatriation is rooted in fear that their land in Rwanda is now owned by someone else and that, if they are Hutu, they will be tried before a gacaca court and imprisoned, even if they committed no crime during the genocide.

In general, they do not trust resettlement as an option. I was told by several people that they knew individuals who had been promised resettlement and boarded planes supposedly destined for the US or Europe, only for the flight to be diverted in mid-air to Kigali. There is also a belief that spies for the Rwandan government may be living in the community and are among the settlement authorities.

Indeed, about halfway through my fieldwork, after I had finished my focus groups in Block G, a refugee NGO staff member with intimate knowledge of the politics and happenings of Block G quietly explained to me that many G residents were skeptical of my affiliation and intentions. Some suspected that I had been sent by UNHCR or the Rwandan and American governments to spy on them. The staff member speculated that the Block Chairman may have instructed certain individuals to attend my focus groups and deliver approved statements about the community,

\(^{171}\) Darwin 2005, 21-22
which could explain the fervor with which some women denounced those who had spoken negatively about the community. Yet the fact that G residents came to the focus groups at all signals that the Block Chairman was not opposed to my research outright. He could have prevented community members from attending if he had wanted to, the staff member said.

Fears of forced return to Rwanda have resulted in a high degree of image control in Block G. Residents do not want to give any impression that the community is dysfunctional or violent, so they deal with crimes and conflicts internally and downplay their prevalence and gravity. They do not want to attract the attention of settlement authorities and cause themselves to be viewed as a security threat, giving the Zambian government cause, as they understand it, to adopt a cessation policy, which would strip them of their legal status as refugees. That community members did not discuss using UNHCR, the Refugee Officer, MCDSS, or FORGE to pursue justice does not, therefore, mean that they are irrelevant in Block G. On the contrary, their omission and the fears about them, discussed only in hushed voices one-on-one, signal just how committed many individuals in G are to projecting a particular image of the community and maintaining internal control.

Conversely, refugees in Block H are not actively pursuing a particular durable solution, though some may return to Angola should socioeconomic conditions improve and the MPLA fall out of power. These refugees chose to stay in Meheba even as tens of thousands of Angolans repatriated between 2003 and 2007. In focus groups, respondents did not express any fear of the settlement authorities or the Zambian government. Their long-term goal is a peaceful, secure community in Meheba or in Angola, so they aim to resolve justice issues in ways that balance reconciliation and deterrence. As one woman stated, to the agreement of other
respondents: “We are all the same nationality. We ran from war to come here. It is better to foster reconciliation in the community because one day we will all go back together to Angola and we do not want to have any feelings of needing revenge.” Individuals are also perfectly willing to go to the police if the seriousness of the crime demands it, or if the resolution achieved at the community level is unsatisfactory.

Many Congolese in Block D want resettlement. They live closest to the UNHCR offices and are constantly aware of interviews conducted, lists of names posted, and convoys organized to take those chosen to Lusaka for immigration interviews and eventual transport to a third country. Those who seek resettlement have learned the system well from watching others go through it. Congolese refugees regularly approach the NGO staff with “applications” for resettlement. It is not uncommon for them to use key phrases from the official resettlement criteria, such as “survivor of violence and torture, “facing insecurity,” and “woman at risk.”

There is a belief that resettlement is something that can be “actively achieved,” rather than a solution “only employed in situations of special need or protection.” Justice thus becomes a tool for obtaining resettlement, and refugees see it as in their interest to emphasize or even fabricate threats to their security and to bring such concerns to the police or settlement authorities.

The strategic utilization of justice processes to obtain resettlement is not unique to Meheba. Jansen argues that the combination of a pervasive desire for resettlement and a cumbersome and arbitrary screening process in Kakuma made “vulnerability and insecurity subject to negotiation.” For refugees with little else,
he says, “representing vulnerability and using identity to negotiate access to opportunities is the essential resource.”

The former UNHCR Protection Officer for Meheba commented that, in her experience, when a Congolese reported a crime to the police, at the end of the day they would ask for resettlement. She was not sure whether this was their primary motivation for reporting or whether they believed that resettlement was the next step for a victim of crime. Congolese respondents in Block D said that because they almost always bring their cases to the police, the police have come to view them as troublemakers. When they report that their houses have been burnt down, the police accuse them of burning their own houses to demonstrate insecurity for resettlement cases.

The ease with which one can buy documentation of a crime, specifically police and medical reports, fuels false reporting and exaggerations of insecurity. As one UNHCR official in Meheba admitted: “You can buy whatever documents you want in this settlement.”

Conclusion

In many cases, more than one of these four factors helps to explain observed differences in the data across the three Blocks. Further research on justice administration in Meheba or elsewhere could strengthen this analysis by investigating the relative impact and interaction of these factors.

There are also other factors that may hold important explanatory power in Meheba. One possibility is population density: violent crime and theft may be more common in highly crowded areas. The breakdown of pre-flight community and family

174 Ibid, 576
support structures, the extent of violence and trauma experienced, and the performance and qualities of individual Block and Road leaders are also likely to explain some of the observed variations.

Ultimately, the contribution of this analysis is just not in the identification of explanatory factors alone, but in the demonstration that a micro-level, actor-centered approach generates new and different theories than procedural, rules-based comparisons.
Chapter Seven: Conclusion

“There are failures of justice [in Meheba] are not because the formal system is not working. It is working. People can act with impunity because they are protected by the informal justice system.”
– UNHCR Protection Officer\(^ {175} \)

“We have tried to educate the refugees on the procedures of solving crimes… There are many SGBV cases but most are not reported. Our conclusion is that it is all based on their tradition.”
– MCDSS Community Services Officer\(^ {176} \)

On September 1, 2008, a mother brought her two daughters, aged seven and eight, to the police station at Road 6. She reported that older boys in their school had raped them. The police asked if she had bathed her girls since. When she responded in the affirmative, they told her that nothing could be done, they could not help her. Rumors began to spread that the parents of the boys had already been to Road 6 and bribed the police not to accept the case.

... 

This thesis has demonstrated that justice administration, particularly in the unique, complex environment of a protracted refugee settlement in which people are under high levels of duress and uncertainty and governed by a range of state and non-state actors, cannot be accurately and deeply understood with only a legal and functional analysis. Justice systems are comprised of dynamic social institutions that are continually constituted, legitimated, and challenged by the involvement and subjective views of participants.

To the refugees in Meheba, justice is often about more than simply seeking a resolution to a single crime or conflict. Personal reputation, community image, monetary costs, pride, fear, shame, manipulation, and the pursuit of a particular durable solution or long-term goal all affect refugees’ strategic decision-making processes about whether and where to pursue justice. Until now, there has been no

\(^ {175} \) Stakeholder Interview 3

\(^ {176} \) Stakeholder Interview 8
academic literature on justice administration in refugee camps and settlements that has combined a focus on the voices and agency of refugees with a micro-level, intra-settlement analysis.

By departing from the rules-based, legalistic assumptions of past works and adopting a socio-legal framework and methodology, I have generated new theories that can and should be tested and refined by future researchers. Two of the most interesting are: first, that the academic divide between informal and formal justice is not the most relevant categorization to refugees, who instead compare and order justice institutions based on seriousness and type of justice promoted and who select between them using a host of performance-related factors. Second, the longer-term, durable solution preferences of distinct groups of refugees significantly affect how they approach and utilize justice institutions. The pursuit of justice becomes a negotiating tool in ensuring a particular personal and communal objective. With such variation in the perceptions of and preferences for different justice institutions among refugees in the same settlement, it is clear that much has been overlooked by past macro-level generalizations in academic and practitioner literature and that one-size-fits-all policies and programs to improve access to justice will be ineffective.

Fortunately, it appears that trends may be shifting within UNHCR away from surface-level engagement with access to justice and vague policy recommendations towards efforts to elicit a more concrete and comprehensive understanding. In late 2008, the Rule of Law Sub-Working Group in the Protection Cluster Working Group began developing an interagency participatory assessment tool to enable UNHCR and partner agencies to obtain more and better data on the ways in which justice is interpreted by displaced individuals and communities and whether the experience of displacement itself affects notions of justice. The tool is based on the belief that while
desk-based research on justice may be helpful, “only an understanding of the
experiences of individuals living in displaced situations will allow agencies to
develop conclusions which approach accuracy.”177 If the tool moves from its current
position as a concept paper to an implemented strategy, there may soon be valuable
findings to compare with and complement my own.

The potential for more and better academic engagement with justice
administration in refugee camps and settlements is also significant. Throughout the
thesis, I have noted ways in which researchers could approach fieldwork in Meheba to
challenge my hypotheses and lend strength to or dispute proposed theories. A socio-
legal, micro-level analysis could be done in a different camp or settlement, perhaps at
first with the same national populations as those in Meheba, to discern whether the
type and magnitude of variations documented in Meheba exist elsewhere. In addition
to or instead of focus groups, researchers could consider relying more on interviews
with individuals who have been party to a crime or conflict, as Lubkemann and Isser
(2008) are doing in post-conflict Liberia, to build detailed records of their views
towards and experiences with justice institutions.

Striving to discern and make sense of the patterns around justice
administration and to identify the situational and dispositional factors that affect how
refugees perceive and engage with justice institutions has resulted in a body of rich,
nuanced, and complicated data. The human rights implications that emerged from the
focus groups, interviews, policy documents, and literature review were undeniable,
and fueled a dual imperative to produce rigorous scholarly work and make a practical
contribution. The latter cannot be responsible or impactful without the former, so it is
my hope that the hypotheses and arguments put forth in this thesis will be part of an

177 UNHCR 2008b, 5
expanding domain of actor-centered, micro-level research on justice administration in refugee camps and settlements.
### Bibliography: Primary Sources

#### Focus Groups

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178 Not always the same as year left country of origin or year entered Zambia.

179 Data marked as “X” when I failed to collect the information, not because participants refused to or were unable to provide the information.
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1997: 11%  
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2006-07: 45% |
|   |   |   |   |   | 14 Aug 2008 |
|16 | D | Men | 15 | X | Congolese: 66%  
Rwandan: 20%  
Angolan: 7%  
Ugandan: 7% |
|   |   |   |   |   | 1987: 7%  
1994-95: 13%  
1997-99: 20%  
2000-01: 20%  
2003: 7%  
2006-08: 33% |
|   |   |   |   |   | 15 Aug 2008 |
|17 | D | Women | 14 | 32 | Congolese: 93%  
Angolan: 7% |
|   |   |   |   |   | 1976: 7%  
1993: 72%  
1997: 7%  
2002-04: 14% |
|   |   |   |   |   | 16 Aug 2008 |
|18 | D | Women | 16 | 34 | Congolese: 100% |
|   |   |   |   |   | 1992-93: 50%  
1997: 6%  
2001-04: 44% |
|   |   |   |   |   | 18 Aug 2008 |
|19 | D | Youth | 4\(^{180}\)  
(2 boys, 2 girls) | 17 | Congolese: 100% |
|   |   |   |   |   | 1993: 50%  
2007: 50% |
|   |   |   |   |   | 19 Aug 2008 |
|20 | D | Youth | 5  
(3 boys, 2 girls) | 19 | Congolese: 80%  
Angolan: 20% |
|   |   |   |   |   | 1993: 60%  
2005-07: 40% |
|   |   |   |   |   | 22 Aug 2008 |

\(^{180}\) I suspect turnout was low because the president of Zambia died on 19 August 2008 and the country was in a period of national mourning.
## Stakeholder Interviews and Communications

<table>
<thead>
<tr>
<th>#</th>
<th>Position</th>
<th>Affiliation</th>
<th>Gender</th>
<th>Location</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Head of Evaluation and Policy Analysis Unit</td>
<td>UNHCR</td>
<td>M</td>
<td>Email (UK to Geneva)</td>
<td>Feb 2008</td>
</tr>
<tr>
<td>2</td>
<td>Senior Protection Officer</td>
<td>UNHCR</td>
<td>M</td>
<td>Lusaka</td>
<td>04 July 2008</td>
</tr>
<tr>
<td>3</td>
<td>Protection Officer (previously in Meheba)</td>
<td>UNHCR</td>
<td>F</td>
<td>Lusaka</td>
<td>04 July 2008</td>
</tr>
<tr>
<td>4</td>
<td>Refugee Advocacy Initiative Manager</td>
<td>FORGE</td>
<td>M</td>
<td>Meheba</td>
<td>14 July 2008</td>
</tr>
<tr>
<td>5</td>
<td>Health Service Manager, Nurse</td>
<td>FORGE</td>
<td>M</td>
<td>Meheba</td>
<td>29 July 2008</td>
</tr>
<tr>
<td>6</td>
<td>Refugee Advocacy Initiative</td>
<td>FORGE</td>
<td>M</td>
<td>Meheba</td>
<td>08 Aug 2008</td>
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<tr>
<td>7</td>
<td>Women’s Center Staff (3)</td>
<td>FORGE</td>
<td>F</td>
<td>Meheba</td>
<td>15 Aug 2008</td>
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<tr>
<td>8</td>
<td>Community Services Officer</td>
<td>MCDSS</td>
<td>M</td>
<td>Meheba</td>
<td>21 Aug 2008</td>
</tr>
<tr>
<td>9</td>
<td>Peace Education and Computer Skills Training Manager</td>
<td>FORGE</td>
<td>M</td>
<td>Meheba</td>
<td>22 Aug 2008</td>
</tr>
<tr>
<td>10</td>
<td>Officer in Charge</td>
<td>Police</td>
<td>M</td>
<td>Meheba</td>
<td>29 Aug 2008</td>
</tr>
<tr>
<td>11</td>
<td>Road Chairman</td>
<td>Refugee Leadership</td>
<td>M</td>
<td>Meheba</td>
<td>30 Aug 2008</td>
</tr>
<tr>
<td>12</td>
<td>Basic School Teacher</td>
<td>Ministry of Education</td>
<td>M</td>
<td>Meheba</td>
<td>31 Aug 2008</td>
</tr>
<tr>
<td>13</td>
<td>Microfinance Institute Staff (2)</td>
<td>FORGE</td>
<td>M</td>
<td>Meheba</td>
<td>01 Sept 2008</td>
</tr>
<tr>
<td>14</td>
<td>Senior Legal Officer, Protection Operations and Legal Advice Section,</td>
<td>UNHCR</td>
<td>M</td>
<td>Phone (UK to Geneva)</td>
<td>14 Jan 2009</td>
</tr>
<tr>
<td></td>
<td>Division of International Protection Services</td>
<td></td>
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<tr>
<td>15</td>
<td>Project Managers (5)</td>
<td>FORGE</td>
<td>3 F, 2 M</td>
<td>Meheba (Shared residence)</td>
<td>July – September 2008</td>
</tr>
</tbody>
</table>
Bibliography: Secondary Sources


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Inhetveen, Katharina. “‘Because we are refugees’: utilizing a legal label.” New Issues in Refugee Research, Research Paper No. 130, October 2006.


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