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**Government and civil society:
Collaboration and challenges in
securing refugee rights.**

Sikanyiso Masuku

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About the author:

Dr Sikanyiso Masuku is a post doctoral researcher at the Institute for Democracy, Citizenship and Public Policy in Africa.

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Abstract

Several studies focusing on South Africa have identified the numerous challenges faced by refugees in securing their legal rights to employment, education, healthcare, etc. There is therefore a need to investigate such challenges and the extent to which they are conterminous with the inability to fully implement refugee policy guidelines by respective bureaucratic institutions, such as government departments. In cognizance of the existential limitations synonymous with state assisted integration models juxtaposed with the civil society's function in social protection, support and consultative roles to governments globally, this paper examines how bureaucratic efficiency (in the provisioning of refugee rights) can be achieved, i.e. the feasibility and challenges in instituting dependency partnerships between the state and civil society. This is explored through a case study based interpretive research design technique, i.e. one focus group discussion (FGD) with Congolese refugees and three face to face in-depth interviews with three purposively selected non-governmental organisation (NGO) representatives. The paper used two central theories (theory of monopolisation and Weber's theory on bureaucracy), to examine how bureaucratic arrangements can impact on refugee policy implementation as well as refugee groups' living potentials in the country. By establishing the role of multi-sectoral approaches in nurturing bureaucratic efficiency (a suggested panacea to institutional biases and unruly practices), the results in this paper make a noteworthy contribution to the body of knowledge.

Significance

The originality of this paper emanates from its exploration into how debilitating socio-cultural relations (based on race, gender, etc.) negatively impact on bureaucratic institutions' capacity to fully implement refugee policy (a situation often resulting in refugee groups' exclusion and vulnerability). Multi-sectoral approaches are therefore suggested as an alternative to top-down models whereby a single bureaucratic institution (often prone to institutional biases and unruly practices) is principally responsible for implementing refugee policy. Refugee

groups' challenges are thus conceptualised as emanating from a failure to achieve what Weber (1968 cited in Brauns, 2016: 32) terms "bureaucratic efficiency". Apart from not providing a hypothesis-based analysis of refugee deprivations, other studies on forced migrant groups in South Africa do not examine such deprivations from an institutional standpoint (Landau, 2006; Telles, 2004; Baatjes et al., 2012).

1. Introduction and background

In cognisance of the limitations within vertical top-down interventions that place government as the principal agent in the provisioning of social protections, this paper examines how non-state players can better partner governments within the refugee rights access discourse (Fischer, 2011; Dongier et al., 2003), i.e. what Berten and Leisering (2017) term inter-organisational exchanges. Chambers and Kopstein (2006) also acknowledge the importance of public and private sector partnerships in not only implementing refugee policy framework but also preventing refugee deprivations. In cognisance of the cumulative risks (synonymous with a state of social exclusion) that most vulnerable groups are exposed to, the paper also examines refugees working rapport with civil society. In this regard, the paper presents, discusses, and analyses the findings from interviews carried out with sample civil society groups as well as refugee groups in South Africa.

The limitations in adopting a collective approach to the transfer of refugee social protections (Baatjes et al., 2012) (multi-sectoral initiatives) is investigated in the paper. This is done in the backdrop of the existential challenges to refugee groups' access to a spectrum of rights and services in South Africa. These challenges are hypothesized in the paper as principally emanating from the limitations common within vertical top-down interventions (state assisted integration models), i.e. institutional biases, normative forms of exclusion and so forth (Baatjes et al., 2012; Crush et al., 2013).

As found in Germany, through their national law on integration as well as in Sweden, Italy, Netherlands and Norway, through state assisted integration programs, multi-sectoral social cohesion initiatives often reduce refugees' deprivations (Valenta & Strabac, 2011; Huggler, 2016). Elsewhere in the world, bottom-up approaches to refugee protection have been discernible through civil society groups' principal role in organising Human Rights Education (HRE) in places such as Zambia, Sudan, Uganda and Kenya (Baatjes et al., 2012; Gerber, 2011). Other studies on refugees in South Africa are dissimilar to this paper as they do not investigate the nexus between the existential challenges in forging inter-organisational exchanges (multi-sectoral partnerships) and the arising limitations in the transfer, as well as implementation, of refugee social protection policy. This study therefore examines how NGOs (due to their greater access to

grassroots communities) can help facilitate for what Strang and Meyer (1993: 493) refer to as the “bottom-up theorization” of social protection policy.

2. State assisted integration

Governments are obliged to play a pivotal role in securing refugees’ social security rights. Barry (1998 cited in Khan et al., 2015: 6) submits that “government policies targeting inequality and favouring social solidarity can promote integrated societies.” However, a considerable impediment to state assisted integration in South Africa has been the issue of exclusionary proclamations by the government. These are exemplified by predatory/unpredictable immigration systems (Owusu-Sekyere et al., 2016), prohibition on the right to work for asylum seekers (finally overturned in 2002), the nationwide closure of refugee reception offices, as well as the denial of the right to family for forced migrants in the country (Masuku, 2018: 172). These declarations have infringed not only on refugees’ attempts to integrate but also their rights to the preservation of their dignity as enshrined in Article 12 of the 1951 Convention and Article 16 of the Universal Declaration of Human Rights (UDHR) (Assembly UG, 1948; United Nations High Commissioner for Refugees, n.d.).

As another challenge to state assisted integration, there has also been little coordination in the implementation of refugee policy in South Africa (Crush et al., 2013). This situation has been worsened by some citizens’ systematic blockade of refugee groups’ liberties (Masuku, 2018). Although the paper identifies refugee groups’ service exclusion from government departments as a derivative form of exclusion (Murphy, 1988), such social closure is also conceptualised in the paper as a multi-dimensional phenomenon that state assisted integration cannot remedy on its own.

3. Refugee policy enactment: locating the civil society

Civil society organisations, across the globe, are often proactive in facilitating for refugees’ access to both bridging and bonding forms of social capital (Hebbani & Colic-Peisker, 2012). Social movements are thus particularly important in minimising refugees’ deprivations due to how they often act “as the first steps towards developing a sense of self-identity, which does not necessarily emerge through engagement with the state” (Khan et al., 2015: 59). Civility, as defined by Harbeson et al. (1994: 90), advocates for equitable rights and entitlements within all human societies and it is through the collective efforts of civil society groups that this agenda has been pushed. Examples of where the model of civility has been successfully instituted include aid agency programs designed to extend

rights to education, shelter and healthcare, i.e. through Comprehensive Refugee Response Frameworks (CRRF) as implemented in Zambia (Matapala and Kenani refugee camps) as well as in Tanzania, Malawi and Mozambique (Shahin et al., 2015; Chelwa et al., 2016). This paper therefore examines the model of civility in cognisance of how it promotes parity and equitable rights access for all (Harbeson et al., 1994).

Establishing the level of rapport between government and civil society was important in ascertaining the role of civil society as a stakeholder in the human rights discourse. Fukuyama (2001: 11) argues that by coming together in civil associations, “vulnerable groups become strong.” Civil action groups formed by vulnerable groups (such as the Congolese refugees) are therefore a form of solidarism symbolising a combined response to the challenges affecting them (Parkin, 1974). As a means of mobilising power to enhance or defend a group’s share of resources, “solidarism seeks to challenge the prevailing system of distribution” (Parkin, 1974: 5). Evidence of civil society organisations’ importance in cushioning refugees from risks in South Africa is provided by their pro-activeness during the perennial xenophobic attacks (Crush et al., 2013: 12).

4. Theoretical framework

Weber’s theory on bureaucracy identifies government as a rational legal authority responsible for the drafting and implementation of policy framework. It is from such a hypothesis that Weber developed his concept of the ideal bureaucratic organisation which is characteristically rational and efficient (Naidu, 1996 cited in Brauns, 2016: 18). Although what Selznick (1943: 50) refers to as a “depersonalisation of administrative relationships” is important in ensuring organisational efficiency and egalitarianism, Weber (1947, 1968) argues that this is difficult to achieve. In his micro theory of class and stratification, Weber (1968) argues that such a “depersonalisation” is not possible because legal rational authority is always at threat from traditional and historical prejudices. The balance between the three (traditional authority, charismatic authority and rational-legal authority) is what ultimately determines bureaucratic efficiency (Weber, 1968 cited in Brauns, 2016: 32). This paper argues that the rational legal authority in South Africa, i.e. the Refugee Act 130 of 1998, regarded as the more forceful and effective form of authority, is constantly undermined by traditional authority’s exclusionary actions. This has adversely impacted on the transfer of refugee legal rights and social protections in the country (Crush et al., 2013: 8).

This paper thus recognises how primary cultural forms of exclusion (debilitative socio-cultural relations based on race, gender, etc.) may impede on the effectiveness of government (as a bureaucratic institution) in its mandate to fully implement refugee policy. Fraser (1989), through his concept of unruly practices, argues that such practices in institutions account for the ‘gap between rules and

their selective implementation’ (Kabeer, 2000). Murphy (1986), conceptualises the gap between rules and their prejudicial implementation as a derivative form of exclusion. The theory recommends that instead of operating autonomously, ‘dependency relationships’ (minimal in both quantity and importance) should be forged between government and other organisations (Hogwood and Gunn, 1984 cited in Hill and Hupe, 2014: 50). In examining how refugee policy implementation and refugees’ living potentials can be improved in the country, this paper explores the feasibility of such dependency relationships, i.e. inter-organisational exchanges.

The paper also uses the theory of monopolisation and exclusion (Murphy, 1986) to analyse the various ways through which refugees’ access to a spectrum of services and commodity bundles is impeded. The theory develops from the social closure tradition of Weber et al. (1978) and identifies conditions of exclusion as a multi-dimensional phenomenon, perpetuated on the grounds of an outside groups’ deviance in physical and social attributes (Weber 1968: 342; Weber et al., 1978 cited in Murphy, 1986: 23). Through derivative forms of exclusion (exclusion based on racial, ethnic, religious, or gender criteria), individuals can be disfranchised from accessing social protections and a host of other necessities (Murphy, 1988 cited in Morrow, 1990: 478). Deprivations and social closure can therefore be attributed to an absence of social, symbolic and cultural forms of capital amongst refugees (Bourdieu, 1986 cited in Cederberg, 2012: 61). This paper thus conceptualises the challenges in fully providing refugees’ social protections as conterminous with the existence of unruly practices, biases, monopolisations and exclusion within respective bureaucratic institutions (Galtung, 1969; Kabeer, 2000; Cederberg, 2012; Crush et al., 2013).

5. Methodology

The study adopted an interpretive research design technique (Denzin & Lincoln, 1998). In examining how a multi-sectoral approach could be adopted in deterring refugees’ deprivations and social exclusion, the study was exploratory (Lincoln & Denzin, 1998). In assessing the governments’ effectiveness as a bureaucratic institution, the paper utilized an approach whereby the refugee interview participants purposively consisted of the beneficiaries of the refugee policy under examination. The need to interview government representatives was offset by the data obtained from the refugee participants. Their lived experiences in South Africa, adequately informed the study on whether or not the state departments services were indicative of an “efficient bureaucratic institution” (Naidu, 1996 cited in Brauns, 2016: 18).

Through expert purposive sampling, the study identified a Congolese representative association in Pietermaritzburg. The research then utilised a homogeneous sampling technique to obtain eight FGD participants from the

associations' membership. The FGD lasted a total of 90 minutes (Kelman, 1982). The use of a non-probability homogeneous sampling method was necessitated by how the study targeted candidates who shared similar traits or specific characteristics (Congolese refugees in South Africa) (Kelman, 1982). Stratified purposeful sampling (Etikan et al., 2016), was then used to sample four males and four females for the gender balanced FGD. In having a gender mixed FGD, there were some power dynamics that threatened to come into play. In such instances, the facilitator managed the proceedings by preventing those that attempted to dominate the discussions from doing so (Masuku, 2018). In selecting these participants, there was no focus on age although all participants were above the legal age of consent and had been in the country for a period of not less than 10 years. For the purposes of an instrumental case study, a longer stay in South Africa ensured that the selected participants had a greater experience with the issues under discussion (this was then used to impress on the experiences of other refugees in the country).

In obtaining a sample from the civil society, the study utilised a purposive expert sampling technique. Participants were therefore experts purposively selected (based on their activism in refugee rights) and comprised of one participant from the KwaZulu Natal Christian Council (KZNCC) and one from the Lawyers for Human Rights (LHR). In assessing the expertise of the organisations, the study examined their scope, their programs' focus areas and overall social impact (information which was readily accessible on the respective organisational websites). As a result, apart from the participants obtained and interviewed for this research being active at the provincial and national level, they were also well-informed regarding the issues affecting refugees. From the civil society organisation representing Congolese refugees, the study interviewed one participant from the Congolese Refugees Association (CRA).

6. Results and discussion

6.1. Challenges to state assisted integration

Establishing the role of government (state assisted integration), in preventing refugees' social exclusion was important because one of the dimensions within which social deprivations are conveyed is through public institutions (Kabeer, 2000). Determining governments' efforts in preventing social closure and deprivations amongst refugees was also essential, given how South Africa is signatory to a number of international conventions governing refugee rights (Assembly UG, 1948; Weber, 1947). Resultantly, the interviews revealed that Congolese refugees (through state assisted integration) expected the government to facilitate for their integration and civil rights access in the country. This was because refugee legal rights in South Africa are an Act of parliament enshrined in

Regulation 27 (G), Regulation 27 (F), Regulation 27 (B) and Regulation 27 (D) of the Refugee Act 130 of 1998 as well as Chapter 2, article 9 and 11 of the Bill of Rights (Constitution of the Republic of South Africa, 1996). Weber's theory on bureaucracy substantiates Congolese refugees conceptualisation of government as the principal custodian of their legal rights in South Africa. Weber (1968) conceptualises government as a rational legal authority, making it responsible for the drafting and implementation of social protection policy.

This paper, however, discovered that although the legislative arms of government were progressive (through liberal policy formulation), such reforms were undermined by the existence of an exclusionary traditional authority. Such a disjuncture resulted in a gap between progressive refugee policy formulation and its subsequent implementation. Although Selznick (1943) argues that there is a need for a "depersonalisation of administrative relationships", the South African public office workers' corruption, prejudices and unruly conduct evidenced the failure to fully depersonalise administrative roles. Referred to by Weber (1968 cited in Brauns, 2016: 32), as the intermission between legal rational authority and traditional authority, this has compromised the efficiency of the state (as a bureaucratic institution) in equitably implementing refugee policy. The refugee participants indicated how this phenomenon was most prominent amongst public service staff, a situation which they blamed on the government for allowing to worsen.

Murphy (1988) and Galtung (1969) argue that principal forms of exclusion and monopolisation can be enforced by the apparatus of the state through legal and coercive sanctions. One civil society representative mentioned how the issues exacerbating refugees' deprivations and derivative exclusion (Murphy, 1988), were administrative. As opposed to integrating refugees within areas of commerce, certain councillors were closing off refugees based on their group attributes (race, ethnicity, language, etc.) (Bourdieu, 1986 cited in Cederberg, 2012: 61). One participant complained that:

"There are some councillors who are saying we no longer want any foreign nationals to operate here".

Through Murphy's (1986) theory, such social exclusion and prejudices in defiance of pre-existing progressive laws can be seen as being premised on the grounds of "credentialism, racial, ethnic monopolisation and social exclusion". Weber's (1968) micro theory on class stratification, also illuminates on how exclusionary traditional and historical prejudices may subvert a progressive legal authority. Such a subversion may manifest itself through unruly practices, biases, monopolisations and exclusion (Fraser, 1989; Kabeer, 2000: 92; Bourdieu, 1986 cited in Cederberg, 2012: 61; Crush et al, 2013).

As a consequence of government's failure to effectively facilitate for their integration, Congolese refugees indicated that they were deprived of equal access

to health, education, shelter, etc. Such deprivations mainly emanated from structural or principal forms of exclusion. Refugee participants also complained of victimisation within state departments:

“Most refugees are being victimised by the SAPS, you will be at your place at night and the police officers will just pop in pretending that they are looking for illegal immigrants. So when you open they will start asking for papers for furniture, television license etc. and if you don't have receipts they will threaten to take you to the police station until you come and prove that you bought it in the shop. It can also happen at the place of work, they will come in the saloons and say all of you present your papers, whoever does not have they take him to a corner where you have to pay bribe.”

The above conduct, where workers within the public service disregard refugee policy edicts, reflects a situation whereby traditional authority incapacitates rational-legal authority and ultimately bureaucratic efficiency (Weber, 1968 cited in Brauns, 2016: 32). Fraser (1989) conceptualises it as a form of unruly practice which impedes state assisted integration models (Galtung, 1969; Kabeer, 2000: 92). The interviews therefore revealed how Congolese refugees expect the state to address the exclusionary nodes within their communities of residence and public service institutions. Public service employees' ignorance of refugee policy was identified as an impediment to refugees' access to their legal rights (Kavuro, 2015: 248). Other studies concur with the findings and argue that the exclusionary actions of public service staff often exacerbate refugees' deprivations (Amit, 2012: 7). The prejudice and deprivations refugees face due to social exclusion were confirmed by the following responses:

“When it comes to social services there is the belief that refugees are dirty, there are certain mind-sets that should be changed with regards to frontline service providers who deal with refugees.”

“...in the trainings that we have, the government officials will come in the open and say we don't know these things, which means they are not alone they are a lot out there and maybe some refugees can be disadvantaged because somebody doesn't know.”

In addressing the above challenges, participants suggested a sensitisation program for public service employees due to their role as key players in the aversion of social exclusion both inside and outside public institutions (Kabeer, 2000 cited in Hungwe, 2013: 61). These sentiments are substantiated by other researchers who argue that issues of social inclusion require awareness campaigns and a change of consciousness (Makhema, 2009). Maier et al. (2008 cited in Khan et al., 2015: 45) concur and argue that such a change of consciousness should be effected amongst stake holders to produce effective interventions at different levels.

6.2. Social cohesion and engagement: civil society

Civil society participants also mentioned having made several inroads in addressing refugees' challenges by coordinating programs (social cohesion activities), involving both citizens and refugees so as to promote cultural tolerance. This was essential in the fight against social exclusion and the associated deprivations because it created what Putman (2000 cited in Cederberg, 2012: 65), termed "bridging forms of social capital" and what Telles (2004) termed "vertical relationships". Through this form of social capital, disadvantaged groups can overcome their group identities, and go beyond the tribal, racial and cultural boundaries while benefiting from other groups' monopolies over resources (Hebbani & Colic-Peisker, 2012). Another form of social cohesion program was one whereby civil society organisations micro financed income generating projects that were jointly implemented by refugees and South African citizens. This paper recognises the importance of such activities in deterring social exclusion due to how social disengagement (a lack of participation in social activities) is one of the key forms through which social exclusion manifests itself (Fozdar, 2012).

A group's ability to harness cultural and symbolic capital is essential in the deterrence of social exclusion (Cederberg, 2012) because social capital cannot be examined far from social exclusion (due to its focus on the role of networks and human relationships as assets). Other studies done in South Africa also indicated how a lack of certain forms of capital (cultural and symbolic) can increase refugees' vulnerability (Baatjes et al., 2012). The importance of such programs thus cannot be undermined due to how they help improve the level of social contact between migrants and citizens.

The interviews also revealed that civil society was embarking on paradigm shift programs aimed at creating bonding forms of social capital for refugees. Given the exclusionary nature of some South African communities (Crush et al., 2013), the civil society hosting of community workshops (themed along topics of acceptance and tolerance), helped distil some of the group based exclusionary nodes (Leggett, 2006). A Faith Based Organisation (FBO) representative said that theology was important in inculcating tolerance amongst citizens. On the question of how they alleviate some of the challenges refugees face in socially integrating, the FBO participant said:

"...we normally have workshops and we have presenters who talk about the theology of strangers, the theology of migration that all humans are in the image of God regardless of nationality, race, etc. So, if churches can emphasise the message of how all are in the image of God regardless of where you are coming from, let us accept one another that will help reduce the friction."

6.3. Advocacy and rights sensitisation: civil society

Issues of HRE are very important and challenges in effectively sensitising the public on them can be associated with the limitations in implementing refugee policy (Crush et al., 2013: 8). In South Africa, there is a lack of knowledge on such rights not only amongst refugees but also amongst frontline bureaucrats (Kavuro, 2015: 248). During the interviews, civil society representatives mentioned how they routinely hold sensitisation workshops with refugees and frontline service providers, focusing on refugee rights in the country. Through HRE and similar interventions (Mihr, 2009), civil society is thus a principal player in the creation of communities where refugee rights are accessible. A civil society participant concurred, arguing that it is only after workshops that government employees become aware of key issues relating to refugee rights:

“...workshops should also be done on the rights of refugees nationwide, this is very important because there are a lot of people who do not know about the rights of refugees, you will find that only after a workshop someone will say I did not know.”

The LHR, an implementation partner for the UNHCR dealing with the legal aspects of refugee lives across South Africa, was also interviewed. Although the Refugee Act 130 of 1998 “exempts refugees from some discriminative policies that apply to resident foreign nationals” (Kavuro, 2015: 250), the South African government has in some instances put in place restrictive measures to disfranchise refugees. In such instances, the LHR has lobbied against prejudicial laws that disaffiliate refugees and promote deprivations and institutional bias as exemplified by the Department of Home Affairs’ (DHA) systematic closure of refugee reception offices (Amit, 2012). In response to such office closures, which adversely hamper refugees’ access to legal documents, the LHR took the DHA to court. An interviewee representing the LHR said that:

“Our organisation is here to enforce and protect refugee rights in all aspects therefore where we need to litigate, we will litigate against DHA...”

Other instances where similarly exclusionary laws have been successfully challenged through litigations by the civil society include the 2002 declaration on the right to work for asylum seekers and the 2003 legal action against the Director and Minister of Social Development. Owing to such litigations, in 2003 the government availed social protection amenities that were not enshrined within the South African refugee policy. These amenities included the South African Social Security Agencies which, although not contained in the Refugee Act 130 of 1998, are in line with global best practices on refugee rights (Assembly UG, 1948: 52). The availability of such social safety nets is essential because service exclusion is one of the numerous ways through which deprivations and social closure is

perpetuated (Kabeer, 2000 cited in Hungwe, 2013: 61). A legal attorney from the LHR commented:

“Recognised refugees can also access social grants, which was initially not in the Refugee Act 130 of 1998 but it was a case that was actually brought to the courts that then created the judicial precedence that recognises refugee access to social support grants.”

In facilitating for refugees’ inclusion and social protection in South Africa, the LHR also offers migrants free legal assistance through their four legal clinics in Durban, Johannesburg, Pretoria and Mussina. The study also discovered how the LHR continuously engages with the UNHCR to bring about awareness on the numerous issues confronting refugees in South Africa.

7. State and NGO partnerships

7.1. Collaboration (dependency relationships)

Civil society has been described as both “autonomous to the state as well as being dependent on the state” (Rosenblum et al., 2002: 410). Due to how these social movements often “allow individuals to turn grievances into a sense of collective injustice, and then action” (Chambers & Kopstein, 2006; Khan et al., 2015: 59), in certain instances, they often operate either independent or against the state. In exploring what Hogwood and Gunn (1984 cited in Hill and Hupe, 2002: 50) refer to as dependency relationships, the study examined the working relationship between the government and civil society organisations. An analysis of the level of cordiality between the two sectors in implementing refugee policy was carried out in recognition of civil society’s role in the global fight against prejudice, inequity and social exclusion (Harbeson et al., 1994). The examined studies focusing on refugees in South Africa and on the Refugee Act 130 of 1998, and those focusing on the concept of social exclusion (Baatjes et al., 2012), did not discuss cordiality between the two sectors within a comparative analytical framework. As contained in this paper, a comparative analytical framework examines the role of the state as well as civil society in alleviating refugees’ challenges.

The study discovered that civil society in South Africa assumes a relatively collaborative partnership with the state in precluding refugees’ social disaffiliation and associated deprivations (Chambers & Kopstein, 2006: 364). Maier et al. (2008 cited in Khan et al., 2015: 45), also identified a multi-sectorial approach (integration and collaborations) between the state and civil society as an effective intervention model against social exclusion. This collaboration was best exemplified by the Department of Sport and Recreation’s donation of trophies towards some of the social cohesion sporting activities hosted by civil society in

Pietermaritzburg. To foster information sharing, a participant from a faith based organisation mentioned how they often invite government department representatives to their community workshops. In the long run such dependency relationships improve bureaucratic efficiency on the side of government, as this creates a channel of communication with the refugee communities (Murphy, 1986). Such a line of communication is also essential in whistle blowing against unruly practices, institutional biases and exclusion within areas of public service (Fraser 1989; Kabeer 2000: 21).

The prevalence of exploitive structural systems (Galtung, 1969), can also be eliminated through the establishment of the above-mentioned channels of communication. In reference to such workshops done with the support of government, a civil society representative said:

“We are in close relations with government, the Department of Social Development, the SAPS, Department of Sport and Recreation, Department of Health, DHA, Department of Education. Officials are invited from these government departments during workshops.”

Civil society groups also made efforts in discouraging community attitudes that promote inequities and deprivations while at the same time facilitating for refugees’ social cohesion (Khan et al., 2015: 59). The interviews discovered that civil society was facilitating communication between the refugees and local government, in keeping with what Chambers and Kopstein (2006: 364) term as being “in dialogue with the state” and in achieving what Weber (Weber et al., 1978) in his bureaucratic theory refers to as “bureaucratic efficiency”. Other studies have shown that refugees’ deprivations in South Africa were sometimes worsened by municipality workers’ ignorance of refugee rights issues (Baatjes et al., 2012). The social services, that municipalities are legally mandated to provide refugees, are important in the preservation of their civil rights, e.g. trading licenses, municipal trading sites, low income accommodation, etc. During the interviews, the CRA participants mentioned how they were engaged in negotiations with the municipality councillors whenever possible.

7.2. Autonomy and opposition: conflictive partnerships

Due to how some of the rights and entitlements advocated for by civil society groups may not be secured through engagement with the government, sometimes relations between the two sectors become strained (Khan et al., 2015: 59). The two sectors often clash due to how the government is often concerned with safeguarding the national interests with regards to resident foreign nationals, whilst civil society has to curb governments’ excesses in its attempts to introduce restrictive immigration policies (Murphy, 1988; Kavuro, 2015).

Governments have also been criticized for facilitating social exclusion by either partially or inadequately implementing the refugee policy codifications. In attempting to address such limitations, civil society participants complained that they are often stomped out by the bureaucracy of the government and often perceived as the enemy:

“...we have recommendations and support to give but at times it becomes hard to engage and have meaningful discussions that can lead to solutions.”

On issues of policy making the interviews also revealed that government only engages civil society as stakeholders at the preliminary consultation levels. However, their input was barely regarded as often times the government would pass policies regardless of civil society groups' misgivings. As a consequence, civil society participants complained of being often left with no option but to proceed by way of litigation against government. Such conflictive relations are reflective of Chambers and Kopstein's (2006: 364) submissions on autonomous and oppositional relationships between the state and civil society. Rosenblum et al. (2002: 410) concur and argue that civil society can act “as a bulwark towards government”. One civil society participant said that:

“Relations are strained, but where we can we try to get involved on an advocacy level...This is why now civil society has been painted as using the judiciary to achieve their goals but that is because we are left with no other alternative but to approach the courts.”

From the interviews carried out with the association representing Congolese refugees, CRA, the relations between them (as part of civil society) and government were also not cordial. Grassroots associations such as the CRA represent what Parkin (1974) refers to as “solidarism” (a collective response by an excluded group to deprivations) and they help disadvantaged groups lobby government to recognise their interests (Khan et al., 2015). Interview participants representing the CRA complained that, despite continuously engaging members of the executive council, very little progress had been made in resolving their concerns, thus incapacitating their attempts to forge a rapport with government. Studies examining grassroots unions in Zimbabwe and Rwanda have also shown that such associations are marginalised from exercising their mandates due to the effect of top-down power hierarchies (Minoia, 2012 cited in Khan et al., 2015: 58). One participant said:

“We always try to be in touch with the officials, but nothing has come up from them. So briefly, there is no channel of communication between refugees and officials in government.”

The ambiguities in the Refugee Act 130 of 1998 on the probable channels of communication between refugees and government affected bureaucratic

efficiency (Weber, 1968 cited in Brauns, 2016: 32), as they impeded refugees from establishing a rapport with government. Although the duty of civil society is partly to engage the state in dialogue (Chambers & Kopstein, 2006: 364), this has not been the case for the CRA. Such a void in communication has adversely worsened the many challenges Congolese refugees face in South Africa (Crush et al., 2013).

Conclusion

Given how state assisted integration models are characterised by a plethora of limitations, examining the role of civil society in effectively improving refugee groups' living potentials was essential to the study. As compared to other African states with refugee camp settlement systems, a free settlement system as found in South Africa is prone to jurisdictional limitations i.e. within a free settlement system, refugee rights are primarily enshrined within the Constitution (Constitution of the Republic of South Africa, 1996). Consequently, "the government (rather than the 'international community' or NGOs) becomes solely responsible for the social protection of forced migrant groups within its borders" (Hungwe, 2013). However, if the government does not fully accord refugees with requisite social protections, refugees become exposed to a spectrum of risks as exemplified by how most refugee participants complained of neglect and the absence of any support mechanisms towards social integration and of life skills training.

In the face of the above-mentioned challenges that are often synonymous with free settlement systems, it is of paramount importance to curb the existential gap between the states' formulation of progressive refugee policy framework and the policy's dismal implementation (due to credentialism, racial/ethnic monopolisation and social exclusion). This disjuncture was conceptualised in the paper as principally compromising the efficiency of the state (as a bureaucratic institution) in fully operationalising the refugee policy edicts. Multi-sectoral approaches were then examined, with the paper determining that the prevailing partnerships between civil society and government in South Africa are mainly multi-dimensional i.e. both collaborative and conflictive.

Collaborative partnerships were identified as existing between civil society organisations and state departments such as the Department of Social Development, SAPS, Department of Home Affairs, Department of Health, Department of Education, etc. These collaborative partnerships (which resulted in a greater degree of bureaucratic efficiency) mainly consisted of information sharing, co-hosting and co-organising of workshops and social cohesion events, etc. Engagement with the state was also riddled with several challenges, a situation which made collaborative partnerships (dependency relationships) a challenge.

The paper identified how conflictive partnerships between the two sectors in the country were mostly emanating from a poor working rapport. In the absence of reasonable communication avenues through which effective engagements could be fostered between the two, litigations were the most common and effective methods utilized by civil society in restraining some of the government's excesses. Cases under legal contestation included, but were not confined to, the nationwide closure of refugee reception offices and the denial of the right to family for forced migrant groups. The paper noted how, in facilitating for the wellbeing and integration of refugee populations in South Africa (through mediatory functions, advocacy, human rights education, etc.), civil society groups often have to work in autonomy to the state. Although not as extreme as the conflictive type of partnerships, autonomy was also revealed in the paper as presenting several challenges which debilitate efforts to fully protect refugees. Through the adoption of multi-sectoral consociations, the state and civil society can forge formidable panaceas against some of the complex (multi-dimensional) challenges facing refugee groups.

References

- Amit, R. 2012. *No way in: Barriers to access, service and administrative justice at South Africa's refugee reception offices*. Johannesburg: African Centre for Migration & Society, Witwatersrand University.
- Assembly UG. 1948. *Universal declaration of human rights*. UN General Assembly. December 10 1948.
- Baatjes, I., Hlatshwayo, M., Mackay, K., Sibanda, S., Spreen, C.A. & Vally, S. 2012. *The education rights of migrants, refugees and asylum seekers in South Africa. Report to the Foundation for Human Rights*. Johannesburg: Centre for Education Rights and Transformation, University of Johannesburg. Accessed 10 June 2019 from:
http://fhr.org.za/files/6713/8598/8897/The_Education_Rights_of_Migrants_Refugees_and_Asylum_Seekers_in_South_Africa_Research_Report.pdf
- Berg, J. & Gabi, V. 2011. Regulating Private Security in South Africa. Context, challenges and recommendations. *African Policing Civilian Oversight Forum Policy Paper No. 3*. Mowbray, Cape Town: African Policing Civilian Oversight Forum.
- Berten, J. & Leisering, L. 2017. Social policy by numbers. How international organisations construct global policy proposals. *International Journal of Social Welfare* 26(2):151-67.
- Brauns, M. 2016. Public healthcare in a post-apartheid South Africa: a critical analysis in governance practices. Doctoral dissertation. University of KwaZulu-Natal, Pietermaritzburg.
- Cederberg, M. 2012. Migrant networks and beyond: Exploring the value of the notion of social capital for making sense of ethnic inequalities. *Acta Sociologica* 55(1):59-72.
- Chambers, S. and Kopstein, J. 2006. Civil society and the state. In *The Oxford Handbook of Political Theory*, 374-381. Accessed 09 February 2018 from:
<https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199548439.001.0001/oxfordhb-9780199548439-e-20>
- Chelwa, N.M., Likwa, R.N. & Banda, J. 2016. Under-five mortality among displaced populations in Meheba refugee camp, Zambia, 2008–2014. *Archives of Public Health* 74(1):49.
- Constitution of the Republic of South Africa. 1996. *Bill of Rights*. Pretoria. Accessed 28 January 2017 from:
<http://www.constitutionalcourt.org.za/site/theconstitution/thetext.htm>

- Crush, J., Ramachandran, S. & Pendleton, W., 2013. Soft targets: xenophobia, public violence and changing attitudes to migrants in South Africa after May 2008. *Migration Policy Series No. 64*. Cape Town: Southern African Migration Programme. Accessed 24 April 2019 from: <https://www.africaportal.org/publications/soft-targets-xenophobia-public-violence-and-changing-attitudes-to-migrants-in-south-africa-after-may-2008/>
- Denzin, N. & Lincoln, Y. 1998. *Landscapes of qualitative research*. Thousand Oaks, CA: Sage publications.
- Dongier, P., Van Domelen, J., Ostrom, E., Rizvi, A., Wakeman, W., Bebbington, A., Alkire, S., Esmail, T. & Polski, M. 2003. Community driven development, in Klugman, J. *Core Techniques and Cross-Cutting Issue. World Bank Poverty Reduction Strategy Paper* (1), 301–331. Washington, DC: World Bank.
- Etikan, I., Musa S.A. & Alkassim, R.S. 2016. Comparison of convenience sampling and purposive sampling. *American Journal of Theoretical and Applied Statistics* 5(1):1-4.
- Fischer, A.M. 2011. Reconceiving social exclusion. *BWPI Working Paper No. 146*. Manchester: Brooks World Poverty Institute, University of Manchester.
- Fozdar, F. 2012. Social cohesion and skilled Muslim refugees in Australia: Employment, social capital and discrimination. *Journal of Sociology* 48(2):167-86.
- Fraser, N. 1989. *Unruly practices: Power, discourse, and gender in contemporary social theory*. University of Minnesota Press.
- Fukuyama, F. 2001. Social capital, civil society and development. *Third World Quarterly* 22(1):7-20.
- Galtung, J. 1969. Violence, peace, and peace research. *Journal of Peace Research* 6(3):167-91.
- Gerber, P. 2011. Education about human rights: Strengths and weaknesses of the UN Declaration on Human Rights Education and Training. *Alternative Law Journal* 36(4):245-9.
- Gray, D.E. 2013. *Doing research in the real world*. 3rd ed. Sage.
- Harbeson, J.W., Rothchild, D. & Chazan, N. (eds). 1994. *Civil society and the state in Africa*. Lynne Rienner Publishers.
- Hebbani, A. & Colic-Peisker, V. 2012. Communicating one's way to employment: a case study of African settlers in Brisbane, Australia. *Journal of Intercultural Studies* 33(5):529-47.
- Hill, M. & Hupe, P. 2014. Implementing public policy: An introduction to the study of operational governance. 3rd ed. Sage.

- Huggler, J. 2016. Asylum seekers must take language and integration courses under new German laws. Accessed 05 November 2017 from: <http://www.telegraph.co.uk/news/2016/07/08/asylum-seekers-must-take-language-and-integration-courses-under/>
- Hungwe, C. 2013. *Surviving social exclusion: Zimbabwean migrants in Johannesburg, South Africa* (Doctoral dissertation). Department of Sociology, University of South Africa.
- Kabeer, N. 2000. Social exclusion, poverty and discrimination towards an analytical framework. *IDS Bulletin* 31(4):83-97.
- Kavuro, C. 2015. Refugees and asylum seekers: Barriers to accessing South Africa's labour market. *Law, Democracy & Development* 19(1):232-60.
- Kelman, H.C. 1982. Ethical issues in different social science methods. In Beauchamp, T.L., Faden, R.R., Wallace, R.J. & Walters, L. (eds) *Ethical issues in social science research*, 40-98. Baltimore: Johns Hopkins University Press.
- Khan, S., Combaz, E., McAslan Fraser, E. 2015. *Social Exclusion: topic guide*. Birmingham, UK: Governance and Social Development Resource Centre, University of Birmingham.
- Landau, L.B. 2006. Protection and dignity in Johannesburg: shortcomings of South Africa's urban refugee policy. *Journal of Refugee Studies* 19(3):308-27.
- Leggett, T. 2006. Still marginal: crime in the coloured community. *South African Crime Quarterly* (7):21-26.
- Lincoln, Y.S. & Denzin, N.K. (eds). 1998. *The landscape of qualitative research: Theories and issues*. Sage.
- Makhema, M. 2009. Social protection for refugees and asylum seekers in the Southern Africa Development Community (SADC). *Social Protection and Labour Discussion Paper 0906*. World Bank.
- Masuku, S. 2018. The implementation of the refugee act 130 of 1998 in South Africa and the question of the social exclusion of forced migrants: a case study of DRC forced migrants in Pietermaritzburg. Doctoral dissertation. University of KwaZulu Natal.
- Mihr, A. 2009. Global human rights awareness, education and democratization. *Journal of Human Rights* 8(2):177-89.
- Morrow, R. 1990. Social closure: the theory of monopolisation and exclusion. *Canadian Review of Sociology and Anthropology* 27:549-542.
- Murphy, R. 1986. Weberian closure theory: a contribution to the ongoing assessment. *British Journal of Sociology* 37(1):21-41.

Murphy, R. 1988. *Social closure: the theory of monopolization and exclusion*. Oxford: Clarendon Press.

Owusu-Sekyere, E., Kanyane, B., Viljoen, J., Tshitiza, O., Wentzel, M., Sakoane, L. & Pophiwa, N. 2016. *A critical skills attraction index for South Africa: final fieldwork report*. Pretoria: Human Sciences Research Council. Accessed 13 January 2019 from: <http://repository.hsrc.ac.za/handle/20.500.11910/10889>

Parkin, F. 1974. Strategies of social closure in class formation. In *The social analysis of class structure*. Parkin, F. (ed.) London: Routledge. 1-18.

Refugee Act 130 of 1998, Government gazette no. 19544, Notice No. 1558. Pretoria. Viewed on 28 January 2017 from: http://www.saflii.org/za/legis/consol_act/ra199899/

Rosenblum, N.L., Post, R., Post, R.C. (eds). 2002. *Civil society and government*. Princeton University Press.

Selznick, P. 1943. An approach to a theory of bureaucracy. *American Sociological Review* 8(1):47-54.

Shahin, Y., Kapur, A. & Seita, A. 2015. Diabetes care in refugee camps: the experience of UNRWA. *Diabetes Research and Clinical Practice* 108(1):1-6.

Strang, D. & Meyer, J.W. 1993. Institutional conditions for diffusion. *Theory and Society*, 22(4):487-511.

Telles, E.E. 2004. *Race in another America: the significance of skin color in Brazil*. Princeton University Press

UNHCR (United Nations High Commissioner for Refugees) n.d. *Geneva Convention Relating to the Status of Refugees*. Accessed 15 March 2019 from: <http://www.unhcr.org/1951-refugee-convention.html>

Valenta, M. & Strabac, Z. 2011. State-assisted integration, but not for all: Norwegian welfare services and labour migration from the new EU member states. *International Social Work* 54(5):663-80.

Weber, M. 1947. *The Theory of Social and Economic Organization*. (A.M. Henderson & T. Parsons, Translators.) Parsons, T. (ed.) New York: Free Press

Weber, M. 1968. *Economy and society: an interpretative sociology*. New York: Bedminster.

Weber, M., Roth, G., & Wittich, C. 1978. *Economy and society: an outline of interpretive sociology*. Berkeley: University of California Press.