

The Politics of Asylum in Africa: The cases of Kenya, Tanzania and Guinea

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

SIGNED.....DATE.....27 JULY 2006

Abstract

There is a crisis of asylum in Africa. In response to large and protracted refugee populations, declining donor assistance and a range of related security concerns, a significant number of African states have limited the asylum they offer to refugees. Some states have closed their borders to new arrivals and pursued early repatriations. Many other states have contained refugees in isolated and insecure camps. Given the scale of this crisis, the global pressures on asylum, and the disproportionate share of the global refugee burden borne by Africa, understanding the responses of African states poses an important challenge.

A critical examination of the factors influencing the refugee policies of African states is, however, strikingly absent from the scholarly literature. The objective of this thesis is to address this gap by examining the responses of Kenya, Tanzania and Guinea to the arrival and prolonged presence of significant refugee populations. Drawing on field research, this thesis argues that the asylum policies of the three cases are the result of factors both related to the presence of refugees, such as burden sharing and security concerns, and unrelated to the presence of refugees, such as foreign policy priorities, democratization, economic liberalization and the sense of vulnerability experienced by many regimes in Africa.

Drawing on a political history of the post-colonial African state, this thesis argues for an approach that recognizes the *politics of asylum in Africa*. Such an approach highlights the importance of incorporating the host state into any examination of asylum in Africa and the predominant role that broader political factors play in the formulation of asylum policies. This is not to suggest that factors such as the protracted nature of refugee populations, levels of burden sharing and security concerns are irrelevant to the study of asylum in Africa. Instead, the thesis argues that such factors are very relevant, but need to be understood in a more critical way, mindful of the political context within which asylum policies are formulated. This approach leads to important lessons not only for the study of asylum in Africa, but also for the future of the refugee protection regime in Africa.

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Doctoral research can be a lonely experience, replete with crises of faith and doubt that all the threads will finally be woven together. I have been blessed with a legion of supporters who have sustained me through the long process, and who have enriched the experience with humour, friendship and love. I am indebted to many for making this research possible, and these years of work unforgettable, but would like to acknowledge some by name.

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Lastly, thanks to Him, through whom all things are possible.

Dedication

This thesis is dedicated in loving memory to my father, William Stephenson Milner (1932 – 2000), a great man who believed that honour and diligence matter more than accent and status. While he was not able to see the final product, his spirit, determination, love and humour have sustained me throughout. He was a grand lad.

I have tried to follow his advice:

If you can keep your head when all about you,
Are losing theirs and blaming it on you;
If you can trust yourself when all men doubt you,
But make allowance for their doubting too;

If you can dream and not make dreams your master,
If you can think and not make thoughts your aim,
If you can meet with Triumph and Disaster
And treat those two impostors just the same;

If you can force your heart and nerve and sinew
To serve your turn long after they are gone,
And so hold on when there is nothing in you
Except the Will which says to them: 'Hold on'!

If you can fill the unforgiving minute
With sixty seconds' worth of distance run,
Yours is the Earth and everything that's in it,
And, which is more, you'll be a man, my son.

(From 'If', by Rudyard Kipling)

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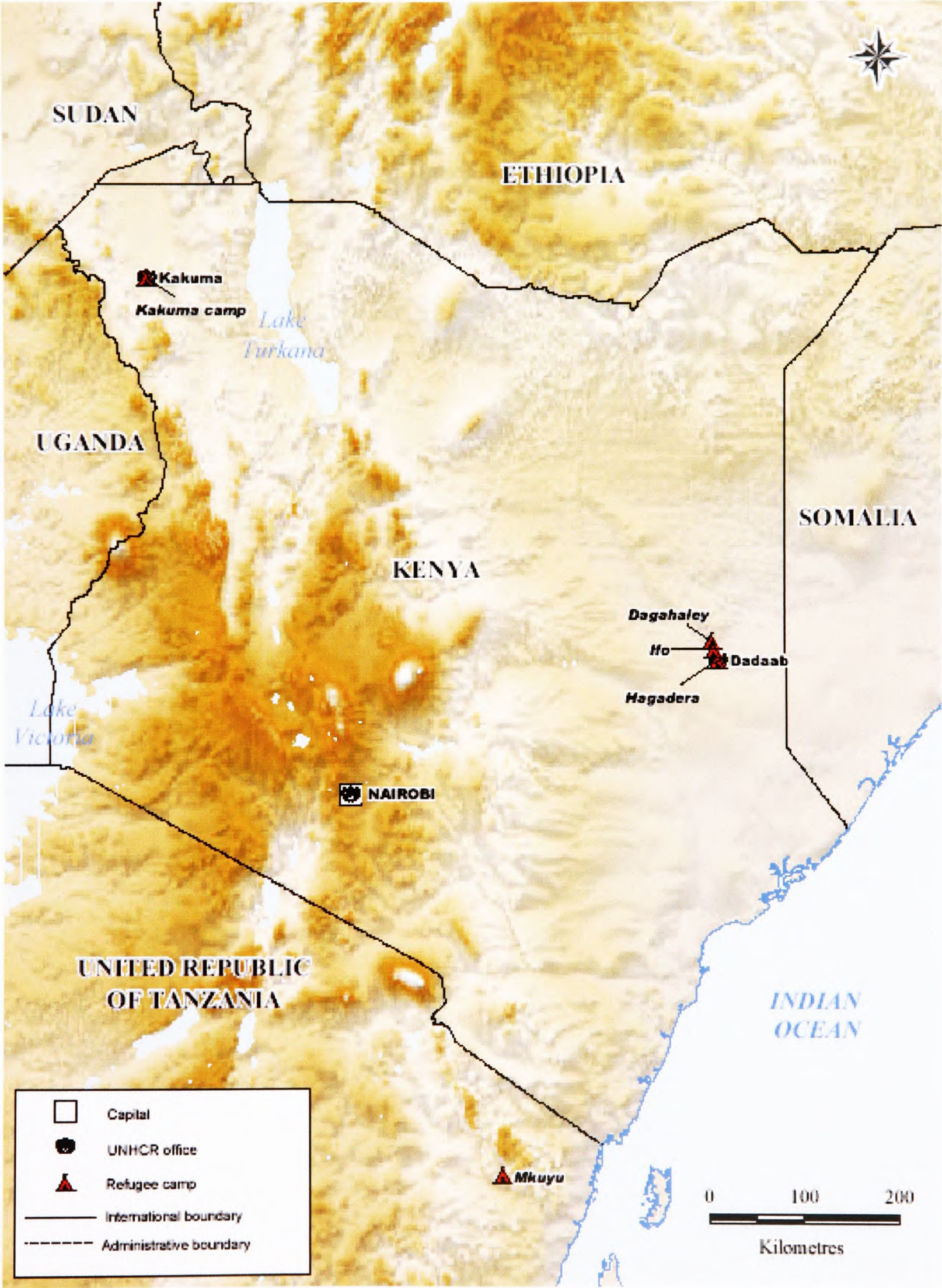
Acronyms

ACT	Action by Churches Together
ADFL	Alliance of Democratic Forces for the Liberation of Zaire/Congo
AFP	<i>L'Agence France-Presse</i>
AFRC	Armed Forces Revolutionary Council, Sierra Leone
AI	Amnesty International
ANC	African National Congress
ATC	Annual Tripartite Consultations on Resettlement
BMS	Mixed Brigade, Guinea
CCM	<i>Chama Cha Mapinduzi</i> (Party of the Revolution), Tanzania
CIREFCA	International Conference on Central American Refugees
CPA	Comprehensive Plan of Action for Indochinese Refugees
CRS	Centre for Refugee Studies, York University
DDR	Disarmament, Demobilization and Reintegration
DRC	Democratic Republic of the Congo (formerly Zaire)
ECHO	European Community Humanitarian Office
ECOMOG	ECOWAS Monitoring Group
ECOWAS	Economic Community of West African States
ECRE	European Council on Refugees and Exiles
ELF	Eritrean Liberation Force
ERP	Economic Recovery Programme, Tanzania
ExCom	Executive Committee of the High Commissioner's Programme, UNHCR
FDD	<i>Forces de la démocratie</i> , Burundi
FGoR	Former Government of Rwanda
FRELIMO	<i>Frente de Libertação de Moçambique</i> , Mozambique
GDP	Gross Domestic Product
GTZ	<i>Gesellschaft für Technische Zusammenarbeit</i> , Germany
HEP	Humanitarian Evacuation Programme for Kosovar Refugees
HRW	Human Rights Watch
HTP	Humanitarian Transfer Programme for Kosovar Refugees
ICARA I	First International Conference on Assistance to Refugees in Africa, 1981
ICARA II	Second International Conference on Assistance to Refugees in Africa, 1984
ICG	International Crisis Group
ICMC	International Catholic Migration Commission
IFI	International Financial Institution
IMF	International Monetary Fund

IRIN	UN Integrated Regional Information Network
IRR	International Refugee Regime
KANU	Kenya African National Union
KLA	Kosovo Liberation Army
LAP	Local Assistance Project, Kenya
LCHR	Lawyers Committee for Human Rights
LURD	Liberians United for Reconciliation and Democracy
MPLA	<i>Movimento Popular de Liberação de Angola</i> , Angola
NARC	National Rainbow Coalition, Kenya
NATO	North Atlantic Treaty Organization
NCKK	National Council of Churches – Kenya
NCCR	National Convention for Construction and Reform, Tanzania
NEP	North Eastern Province, Kenya
NESP	National Economic Survival Programme, Tanzania
NFD	Northern Frontier District, British East Africa
NGO	Non-Governmental Organization
NPFL	National Patriotic Front of Liberia
NRS	National Refugee Secretariat, Kenya
OAU	Organization of African Unity
ODA	Overseas Development Assistance
OSCE	Organization for Security and Cooperation in Europe
PAC	Pan-African Congress, South Africa
PANA	Pan-African News Agency
QIP	Quick-Impact Programme
RCK	Refugee Consortium of Kenya
RCMP	Royal Canadian Mounted Police
RENAMO	<i>Resistencia Nacional Moçambicana</i> , Mozambique
RPA	Refugee Populated Area
RPF	Rwandan Patriotic Front
RSD	Refugee Status Determination
RUF	Revolutionary United Front, Sierra Leone
SADF	South African Defence Force
SPRAA	Special Programmes for Refugee Affected Areas, Tanzania
SWAPO	South West Africa People’s Organization of Namibia
TCRS	Tanganyika Christian Refugee Service, Tanzania
ULIMO	United Liberian Movement for Democracy
UNDP	United Nations Development Programme

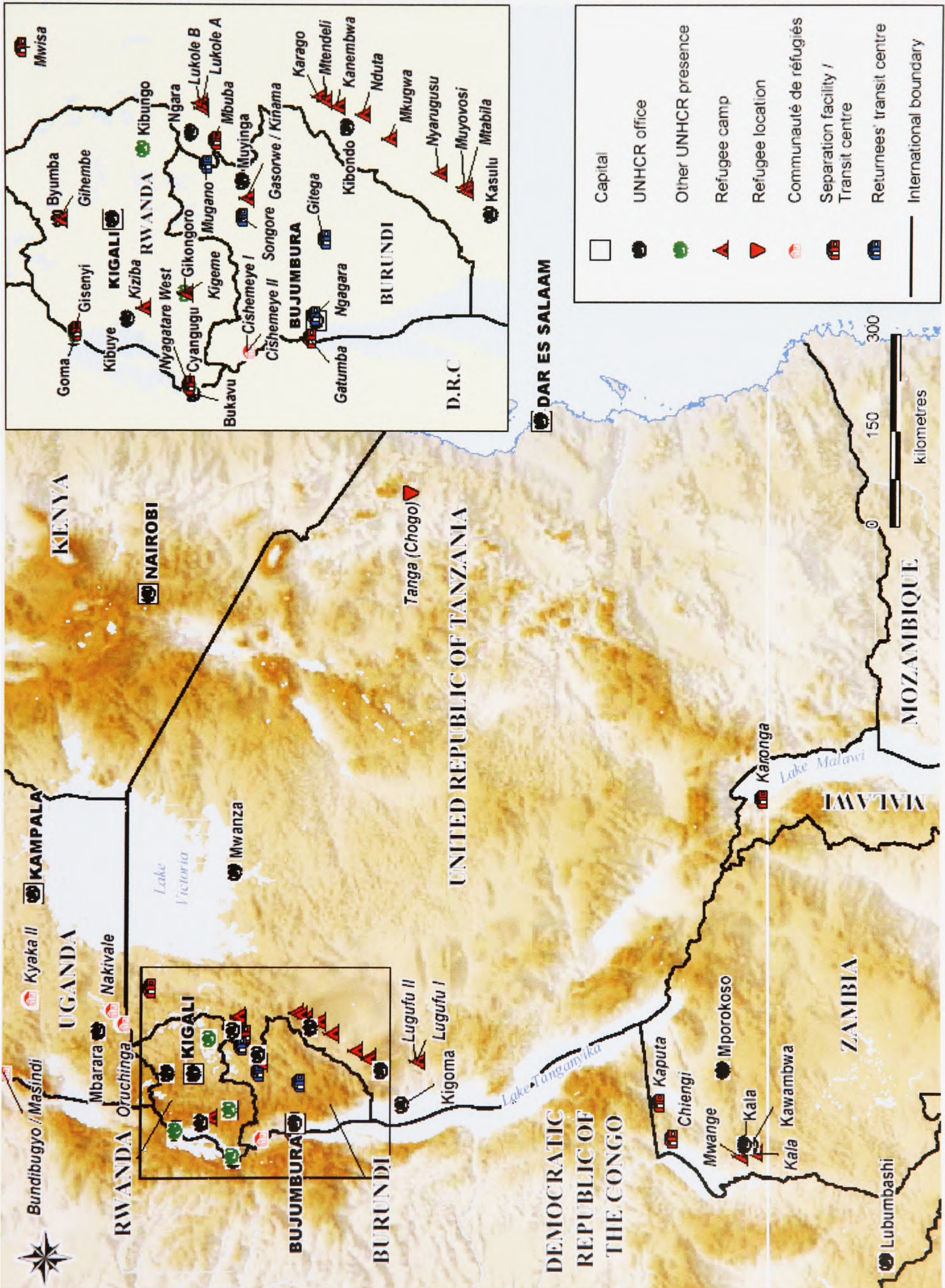
UNEP	United Nations Environment Programme
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations International Children’s Emergency Fund
UN-OCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNOIOS	United Nations Office of Internal Oversight Services
UNOSOM	United Nations Operation in Somalia
USCR	US Committee for Refugees
USRP	US Resettlement Programme
WFP	World Food Programme
ZANU	Zimbabwean African National Union

Map 1
UNHCR Operations in Kenya
(31 December 2003)



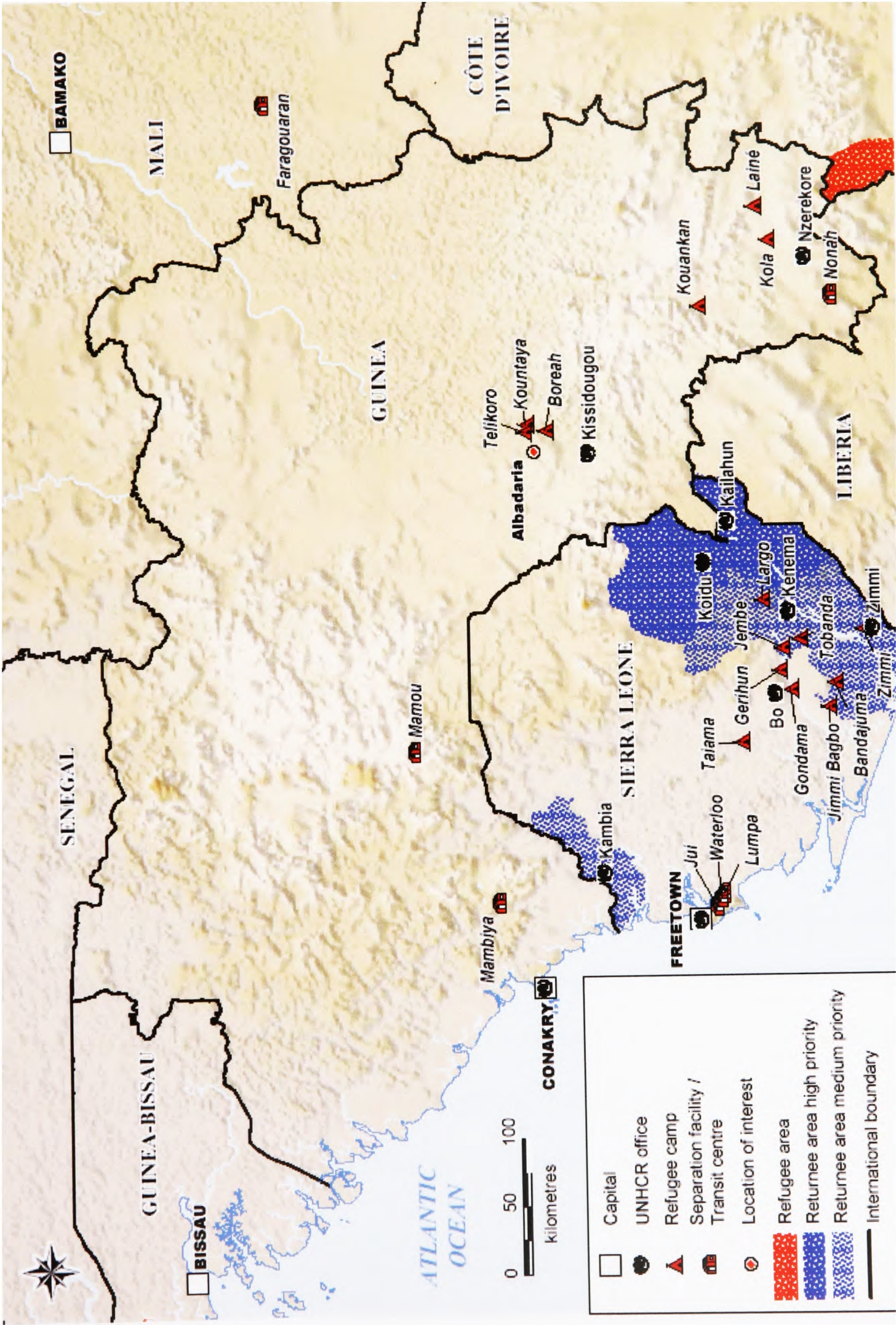
Source: UNHCR, Global Report 2003, Geneva: UNHCR, 2004.

Map 2
UNHCR Operations in Tanzania
(31 December 2003)



Source: UNHCR, Global Report 2003, Geneva: UNHCR, 2004.

Map 3
UNHCR Operations in Guinea
(31 December 2003)



Source: UNHCR, Global Report 2003, Geneva: UNHCR, 2004.

Introduction

There is a crisis of asylum in Africa. With a third of the world's refugees, large and protracted refugee populations, declining donor assistance and a range of related security concerns, the institution of asylum in Africa is under greater pressure now than at any time in the history of post-colonial Africa. In response to the scale of these challenges, and in stark contrast to the treatment of African refugees in the 1960s and 1970s, a significant number of host countries across the continent have placed restrictions on the asylum they offer to refugees.¹ Some states have limited the *quantity* of asylum they offer by closing their borders to new asylum seekers, promoting early repatriations, and, in exceptional cases, carrying out mass expulsions. Other states have limited the *quality* of asylum they provide by denying refugees a range of basic rights and containing them in isolated and insecure camps, on the periphery of the state and cut off from local communities.²

In recent years, African states have generally pointed to three justifications for adopting restrictive asylum policies. First, they highlight the scale and enduring nature of the problem, arguing that the sheer number of refugees on their territory makes the problem simply too big for their limited resources and state capacity. In addition, states point to the prolonged stay of many refugee populations, stretching into decades for many groups, and argue that they are unable to cope with such a protracted problem.

Second, many African states have pointed to a lack of assistance from the international donor community, so-called 'burden sharing', as a justification. They argue that the mass arrival and prolonged presence of refugees has placed a strain on the environment, economy and public services in refugee-populated areas, and that they have carried this burden for too long. Coupled with declining support from donor countries to fund assistance programmes

¹ See: Bonaventure Rutinwa, "The end of asylum? The changing nature of refugee policies in Africa", *New Issues in Refugee Research*, Working Paper No. 5, Geneva: UNHCR, May 1999; and Jeff Crisp, "Africa's refugees: patterns, problems and policy challenges", *New Issues in Refugee Research*, Working Paper No. 28, Geneva: UNHCR, August 2000.

² See: Merrill Smith, "Warehousing Refugees: A Denial of Rights, a Waste of Humanity", *World Refugee Survey 2004*, Washington: US Committee for Refugees (USCR), 2004, 38 - 56.

across Africa, states now feel justified in geographically isolating refugee populations until a solution can be found outside of their country.

Third, states claim that the presence of refugees has resulted in a number of security concerns for the host state. These concerns include the presence of armed groups within the refugee population, the spill-over of conflict, and crime and insecurity in refugee-populated areas. Given their limited capacity to resolve such security concerns, a number of states have responded by attempting to ‘contain’ the refugee ‘problem’ in remote border areas, on the periphery of the state, and far from the core of political power in the capital city.

This response further exacerbates the crisis of asylum in Africa. The Office of the United Nations High Commissioner for Refugees (UNHCR) estimates that, as of the end of 2003, there were over 2.3 million refugees in Africa who had been in exile for 5 or more years, typically contained in geographically isolated camps or segregated settlements.³ According to UNHCR, “the consequences of having so many human beings in a static state include wasted lives, squandered resources and increased threats to security.”⁴ Given the interplay of these human rights, development and security implications, the global pressures on asylum, and the disproportionate share of the global refugee burden borne by Africa, the pressing need to develop a more rigorous understanding of the politics of asylum in Africa becomes more apparent.

Research objectives and hypotheses

In contrast with the more open approach to refugees exhibited by a number of African states in the 1960s and 1970s, recent evidence would seem to suggest that states in Africa have generally become more reluctant to host refugees. The objective of this thesis is to ask why, to critically examine the factors cited by host states in Africa as a justification for

³ UNHCR, Executive Committee of the High Commissioner’s Programme (ExCom), “Protracted Refugee Situations”, EC/54/CRP.14, 10 June 2004, 10.

⁴ UNHCR, ExCom, 10 June 2004, 2.

limiting asylum, and to develop a more rigorous understanding of the range of factors that shape the asylum policies of major African host states. Drawing on the cases of Kenya, Tanzania and Guinea, this thesis considers three related questions. First, how have African states responded to the mass arrival and prolonged stay of large refugee populations? Second, which factors have played the most significant role in determining the state's response to refugees? Third, how have these factors and responses changed over time?

This thesis argues that a state's asylum policy is partially the result of a number of factors relating to the presence of refugees, such as the responsiveness of the donor community and a range of security concerns perceived to be associated with the presence of refugees. Crucially, however, asylum policies are also the result of a number of factors unrelated to the presence of refugees, but stemming from broader changes in the African political landscape since the 1980s. These changes have resulted in new internal and external constraints on the state in Africa, including democratization, economic liberalization, and the increased imbalance in power relations between African states and the international donor community. This thesis argues that it is a combination of these factors, both related to and separate from the presence of refugees, which motivates African states to adopt particular asylum policies.

This thesis argues that any examination of asylum policies in Africa should consequently be rooted in an approach that recognizes the *politics of asylum in Africa*. Taking Africa's perceived place on the periphery of the international system as its point of departure,⁵ such an approach illustrates how many regimes in contemporary sub-Saharan Africa have a prevailing sense of vulnerability to external and internal challenges. This sense of vulnerability, in turn, leads many regimes to view the arrival and presence of refugees as a potential threat to their survival. Facing such threats, but under pressure from the international

⁵ See: Christopher Clapham, *Africa and the International System: The Politics of State Survival*, Cambridge: Cambridge University Press, 1996; and Mohammed Ayoob, *The Third World Security Predicament: State Making, Regional Conflict and the International System*, Boulder, CO: Lynne Rienner Publishers, 1995.

donor community to provide asylum to refugees from neighbouring conflicts, African states balance a number of often contradictory priorities when formulating their asylum policies.

Recent commentators on asylum in Africa have not given sufficient consideration to the relationship between the increasingly restrictive asylum policies adopted by states during the 1990s and broader political forces in Africa. The predominant perspective of the literature on refugees in Africa in the past decade has been to examine the causes of refugee movements, catalogue violations of refugee protection standards and examine specific aspects of particular refugee populations. This literature has made important contributions to the debate on root causes and prevention, advocacy efforts on behalf of refugees, and understandings of the realities of the refugee experience. Such approaches, however, are limited in their analytical utility when trying to explain the response of states to refugee movements. While commentators have acknowledged that political factors affect the asylum policies of African states, the literature in this area remains remarkably limited, especially when compared to the literature on asylum elsewhere. In considering the asylum policies of Western states, Gibney argues that “how much any state – or to be more specific, any *government* – can do for refugees will be determined largely by the possibilities afforded by its domestic political environment, and that environment will be shaped by a changing array of social, institutional and economic forces, both domestic and international in origin.”⁶ A similar approach is required to understand asylum policies in Africa.

An understanding of the politics of asylum also facilitates a more critical examination of the factors highlighted by African states as justifications for placing restrictions on asylum, especially the characterization of refugees as a burden and a security concern. Recent work on refugees in Africa has not critically engaged with these justifications. In particular, the rhetoric of African governments has generally been accepted at face value and has typically not been critically examined within a broader historical and political context to understand the

⁶ Matthew J. Gibney, *The Ethics and Politics of Asylum: Liberal Democracy and the Responses to Refugees*, Cambridge: Cambridge University Press, 2004, 213. Emphasis in original.

interests behind the rhetoric. A more comprehensive understanding of the crisis of asylum in Africa should, therefore, include more critical understandings of the concepts of burden sharing and security, developed in light of broader political factors, and tested against contemporary cases.

Relation to the literature

This thesis consequently seeks to address three important gaps in the scholarly literature. First, an analysis of the politics of asylum in Africa in the past decade, critically examining the actions and motivations of African host states and rooted in a comparative study of major asylum countries, is strikingly absent from the scholarly literature. This absence is, for some, indicative of the fact that “much of the refugee literature ... focuses on the refugees themselves, rather than the effects of refugee movements on host countries and communities.”⁷ In 1990, Loescher highlighted how “less than adequate treatment ... has been accorded to the process of refugee policy-making at the national or international level.”⁸ Instead, he argued that additional attention was needed on “national interest, domestic and foreign policy constraints, and ideological concerns of states which must be taken into account together with legal and humanitarian principles in order to understand both the reasons for and the response of states to refugee crises.”⁹ While Loescher’s appeal has been followed by a number of works on individual asylum countries, with the case of Tanzania being especially well represented in the literature,¹⁰ such factors have yet to be considered in a comparative perspective. Indeed, with the exception of recent works by Crisp, Jacobsen and

⁷ Karen Jacobsen, “Factors Influencing the Policy responses of Host Governments to Mass Refugee Influxes”, *International Migration Review*, Vol. 30, no. 3, Autumn 1996, 656.

⁸ Gil Loescher, “Introduction” in Gil Loescher and Laila Monahan (eds.), *Refugees and International Relations*, Oxford: Clarendon Press, 1990, 4.

⁹ Loescher, 1990, 5.

¹⁰ According to a review of holdings in the Refugee Studies Centre Library, University of Oxford, and searches of *Journal of Refugee Studies*, *International Journal of Refugee Law*, *African Affairs*, *Journal of Modern African Studies*, more research has been conducted on Tanzania than on any other asylum country in Africa in the past decade.

Rutinwa,¹¹ no scholarly work in the past decade has attempted a comparative analysis from the specific perspective of African host states.

Second, the literature on refugee movements in Africa has been focused predominantly on mass influx situations, considering the dynamics of the arrival of significant numbers of refugees in a relatively short period of time. While Chapter 1 will outline how such movements were a particular feature of the refugee question in Africa in the early 1990s, most refugee populations in Africa today are protracted, having been in exile for five or more years. While Callamard's work on Malawi's treatment of Mozambican refugees examines the response of an individual state to long-term refugee populations,¹² the response of host states to protracted refugee situations has not been systematically addressed. This thesis, therefore, seeks to make a contribution to the literature through a comparative analysis of the various factors affecting the response of three significant host states to the mass arrival and prolonged presence of refugees, thereby contributing to a more general analytical approach to the study of asylum policies in Africa.

Third, this thesis critically examines past works on burden sharing¹³ and the relationship between refugees and security¹⁴ to assess their contribution to the contemporary debate on asylum in Africa. As Chapter 1 will argue, burden sharing and refugee-related insecurity have both been significant concerns for African host states for many years, and failures to address these concerns have frequently been cited by governments as justifications for placing restrictions on asylum since the mid-1990s. These concepts have not, however, been examined in light of a more rigorous understanding of the political context within which

¹¹ Crisp, August 2000; Jacobsen, 1996; and Rutinwa, 1999.

¹² Agnès Callamard, "Malawian refugee policy, international politics and the one-party regime", *Journal of International Affairs*, Vol. 47, iss. 2, Winter 1994.

¹³ See, for example: James C. Hathaway (ed.), *Reconceiving International Refugee Law*, Nijhoff Law Specials No. 30, London: Martinus Nijhoff Publishers, 1997. The thesis also examines the ways in which the presence of refugees can benefit a host state. See: Karen Jacobsen, "Can refugees benefit the state? Refugee resources and African statebuilding", *Journal of Modern African Studies*, Vol. 40, no. 4, 2002.

¹⁴ See, for example: Gil Loescher, *Refugee Movements and International Security*, Adelphi Paper 268, London: Brassey's for the International Institute for Strategic Studies, 1992; and Myron Weiner (ed.), *International Migration and Security*, Boulder, CO: Westview Press, 1993.

asylum policies are formulated. To address this gap, Chapters 2 and 3 of this thesis will critically examine the concepts of burden sharing and the relationship between refugee movements and security, respectively, consider the extent to which broader political factors lead to the characterization of refugees as either burdens or security threats by host states, and develop framework understandings of burden sharing and security appropriate to the study of asylum in contemporary Africa. These frameworks will then serve as the basis for examining the key justifications advanced by Kenya, Tanzania and Guinea for adopting particular asylum policies.

This thesis also draws from a range of related areas in the literature. Understandings of the evolving relationship between refugee movements in Africa and international responses are drawn from works on the history and politics of the ‘international refugee regime’.¹⁵ Works on the politics of asylum in Western states¹⁶ are used to help frame an examination of the politics of asylum in African states. This thesis also draws on the literature on comparative African politics¹⁷ and African international relations¹⁸ to understand significant changes in the political and economic context of African states since independence, and to critically examine those changes and pressures on the African state which have, in turn, influenced the state’s response to refugees.

¹⁵ See, for example: Gil Loescher, *The UNHCR and World Politics: A Perilous Path*, Oxford: Oxford University Press, 2001; Gil Loescher, *Beyond Charity: International Cooperation and the Global Refugee Regime*, New York: Oxford University Press, 1993; and Arthur Helton, *The Price of Indifference: Refugees and Humanitarian Action in the New Century*, Oxford: Oxford University Press, 2002.

¹⁶ See, for example: Gibney, 2004; and Myron Weiner, *The Global Migration Crisis: Challenge to States and to Human Rights*, New York: HarperCollins, 1995.

¹⁷ See, for example: Naomi Chazan, Peter Lewis, Robert Mortimer, Donald Rothchild and Stephen John Stedman, *Politics and Society in Contemporary Africa*, Third Edition, Boulder, CO: Lynne Reinner Publishers, 1999; and William Tordoff, *Government and Politics in Africa*, Fourth Edition, London: Palgrave Macmillan, 2002.

¹⁸ See, for example: Clapham, 1996; John W. Harbeson and Donald Rothchild (eds.), *Africa in World Politics: The African State System in Flux*, Third Edition, Boulder, CO: Westview Press, 2000; and Edmond Keller and Donald Rothchild (ed.), *Africa in the New International Order: Rethinking State Sovereignty and Regional Security*, Boulder, CO: Lynne Reinner Publishers, 1996.

Methodology

The methodology of this thesis draws predominantly from international relations and political science.¹⁹ These disciplines have informed the research design, case selection and levels of analysis used in this thesis. In addition, a wider literature on research methods and ethics informed the practical aspects of the research, including the literature review, fieldwork preparation, conducting semi-structured interviews and addressing the ethical implications of the research.²⁰ Consequently, this thesis is the result of multi-disciplinary research, rooted in international relations and political science, but drawing on other disciplines including history, development studies, international law, economics, sociology and anthropology.

The core of this thesis is a comparative study of the asylum policies of Kenya, Tanzania and Guinea. A case study approach was selected to investigate the dynamics of state response to refugees because, as argued by King *et al*, “case studies are essential for description, and are, therefore, fundamental to social science.”²¹ Within the case study approach, the possibility of either a single-case or multi-case approach was considered. While Eckstein argues in favour of employing a single ‘crucial case’ to test ‘candidate theories’, arguing that “a single crucial case may certainly score a clean knock-out over a theory,”²² a single case study did not seem the most appropriate approach given the nature and scope of the research questions. As argued by King *et al*, drawing analysis from a single case or observation is problematic given the importance of examining more than one causal variable, imperfect measurement, and the prevalence of random error.²³ King *et al* argue instead that

¹⁹ See, for example: Harry Eckstein, “Case Study and Theory in Political Science”, in Fred I. Greenstein and Nelson W. Polsby (eds.), *Handbook of Political Science*, Volume 7, London: Addison-Wesley Publishing Company, 1975; Gary King, Robert O. Keohane and Sidney Verba, *Designing Social Inquiry: Scientific Inference in Qualitative Research*, Princeton, NJ: Princeton University Press, 1994; and David Marsh and Gerry Stoker (eds.), *Theory and Methods in Political Science*, Second Edition, Basingstoke: Palgrave Macmillan, 2002.

²⁰ See, for example: H. Russell Bernard, *Research Methods in Anthropology: Qualitative and Quantitative Approaches*, Third Edition, Oxford: AltaMira Press, 2002; Tim May, *Social Research: Issues, Methods and Process*, Second Edition, Buckingham: Open University Press, 1997; Social Research Association (SRA), *Ethical Guidelines*, December 2003, accessed on-line: <http://www.the-sra.org.uk/documents/pdfs/ethics03.pdf>

²¹ King *et al*, 1994, 44.

²² Eckstein, 1975, 127.

²³ King *et al*, 1994, 209 – 212.

the number of observations should be proportional to the complexity of the phenomenon to be observed. Given the complexity of the crisis in asylum in Africa and the variety of state responses, it was found that no single case contained all the elements required to answer the questions posed by this thesis.

Given the benefits of a comparative approach, coupled with the limitations of resources and time inherent in a doctoral research project, a cross-regional comparison of three sub-Saharan African states emerged as the best way to examine the core questions of this thesis. Kenya, Tanzania and Guinea were selected as the most appropriate cases for this study for three reasons. First, they have hosted large and protracted refugee populations from three dominant refugee-producing regions (the Horn of Africa, the Great Lakes region of Central Africa, and the Mano River region of West Africa) and from prominent examples of so-called “collapsed states”²⁴ in Africa (Somalia, Rwanda, Burundi, Liberia and Sierra Leone). Second, these countries hosted the largest refugee populations in Africa at various times during the 1990s. Third, all three states are post-colonial sub-Saharan African states that have acceded to both the *1951 Convention relating to the Status of Refugees* (1951 Convention),²⁵ and the *1969 OAU Convention on the Specific Aspects of Refugee Problems in Africa* (1969 OAU Convention),²⁶ thereby providing a sufficient conceptual and legal basis for comparison of their asylum policies.

The study is not only comparative between countries, but also over time. Each case study considers the state’s response to hosting refugees from the arrival of the significant refugee populations to 2004. The Kenya study focuses on the response to the mass arrival of Somali refugees from 1991. The Tanzania study considers the treatment of refugees since the early 1960s, while focusing specifically on the treatment of Burundian refugees in Western

²⁴ See: I. William Zartman (ed.), *Collapsed States: The Disintegration and Restoration of Legitimate Authority*, Boulder, CO: Lynne Reinner Publishers, 1995.

²⁵ 1951 Convention relating to the Status of Refugees. Text: 189 *United Nations Treaty Series* 150. Entry into force: 22 April 1954.

Tanzania since 1993. The Guinea chapter examines the case of Liberian and Sierra Leonean refugees who began to arrive in 1990.²⁷

Furthermore, this thesis is also comparative across space, examining the politics of asylum in both the refugee-populated area²⁸ and in the state capital. Drawing on Landau's methodology to record an 'archaeology of the state',²⁹ the substantive fieldwork conducted in each case included a consideration of the perception of refugees among key stakeholders in the capital city, at the core of the state, and in the refugee-populated area, on the periphery of the state. This approach served to examine the "inevitable variations in the means and form of the national state throughout a bounded territorial entity,"³⁰ that is, to highlight differences in perception of and experience with refugees at the national and local levels, and consequently to illustrate the benefits of disaggregating the state when considering its response to the arrival and prolonged presence of refugees.

Undertaking such a three-fold comparison – between states, over time, and between levels of the state – is perhaps the most comprehensive way of identifying the full range of factors that leads to the formulation of asylum policies in Kenya, Tanzania and Guinea. While it would be problematic to generalise from these cases to the continent of Africa as a whole, such a comparative analysis does illustrate how common political dynamics have led to the formulation of the particular asylum policies of each of these three states.

²⁶ Organization of African Unity: 1969 Convention on the Specific Aspects of Refugee Problems in Africa. Text: 1000 *United Nations Treaty Series* 46. Entry into force: 20 June 1974.

²⁷ The justification for focusing on these individual refugee populations is addressed in the introduction to the case study chapters.

²⁸ According to Jacobsen, the term 'refugee-populated areas' refers to "areas, usually border regions, that have experienced the brunt of an influx of refugees, where refugees are initially settled, and where most continue to live." Karen Jacobsen, "A Framework for Exploring the Political and Security Context of Refugee Populated Areas", *Refugee Survey Quarterly*, Vol. 19, no. 1, 2000, 3.

²⁹ See: Loren Landau, "Crisis and Authority: A Research Agenda for Exploring Political Transformation in Refugee-Affected Tanzania", *The Journal of Humanitarian Assistance*, 20 May 2000.

³⁰ Landau, May 2000, 19.

Methods

The study began with background research and literature review on the themes of the research and individual case studies. A literature search revealed a wide range of secondary works and grey literature on Tanzania and Kenya. While a considerable amount of literature on Kenya was identified, the literature on refugee policy and practice in Tanzania was found to be vast. In stark contrast, the literature on Guinea, especially relating to the cross-border incursions into refugee-populated areas between September 2000 and March 2001, was found to be very limited. To address this gap, a comprehensive review of UNHCR press releases, situation reports from the United Nations Office for the Coordinator of Humanitarian Affairs (UN-OCHA) and related news-wire reports³¹ covering events from 1 September 2000 to 1 April 2001 was conducted to detail the sequence of key events and the response of the Guinean government and other actors.

The primary source of information for the case study chapters was fieldwork in Kenya, Tanzania, Guinea and Geneva. Semi-structured interviews were conducted with representatives of UNHCR in its Geneva headquarters in August 2003 and September 2004.³² The objectives of these interviews were to gather additional information on UNHCR operations in the three case studies, to identify gaps in the secondary literature and to ensure UNHCR's support for fieldwork in East and West Africa. Additional information was gathered while the author worked as a Consultant in UNHCR Headquarters in March – June 2002. Fieldwork planning was further facilitated by earlier field visits to Tanzania in January 1999, Guinea in March – September 2001 and Kenya in November – December 2001.

Fieldwork was undertaken during 2004 in Kenya (March), Tanzania (April) and Guinea (September-October). During each field visit, interviews were conducted in the capital

³¹ News-wires included in the review were: *l'Agence France-Presse* (AFP), the UN Integrated Regional Information Network (IRIN), the Panafican News Agency (PANA), and Reuters.

³² Principles for conducting semi-structured interviews were drawn from: Bernard, 2002, 203 – 239; and May, 1997, 109 – 131.

city and in the refugee-populated areas³³ with representatives of the host government, UNHCR, donor governments, international and national non-governmental organizations (NGOs), civil society and refugee groups. Interviews focused on the history of the government's refugee policy, the impact of refugees on the host state and the effectiveness of the international response. A total of 130 informants were interviewed in Kenya, Tanzania, Guinea and Geneva.³⁴ Interviews were conducted in either English or French with no translators,³⁵ and lasted between 60 and 90 minutes.

The potential for bias in information collected during interviews was a real concern throughout the project,³⁶ especially arising from the author's close association with UNHCR. In all three cases, UNHCR provided essential logistical support, especially in the refugee-populated areas of Dadaab, Kibondo and N'Zérékoré. UNHCR ensured access to refugee camps, arranged interviews with refugee committees, and facilitated contact with a number of government departments and NGOs. As a result, there was a concern that informants could confuse the researcher with UNHCR, resulting in bias. In addition, assessment of the interview materials required consideration of the problem of 'reactivity', "where the active presence of the researcher can potentially influence the behaviour and responses of informants, thereby compromising the research findings."³⁷ To address this potential for motivated bias and reactivity, findings from interviews were triangulated against other interviews and secondary sources.³⁸ In addition, each informant was told that the researcher

³³ In Kenya, this involved research in both Nairobi and Dadaab, the region of North Eastern Province that hosts the Somali refugee population. In Tanzania, this involved research in both Dar es Salaam and in Kibondo, the region of Western Tanzania that hosts the majority of the Burundian refugee population. In Guinea, this involved research in both Conakry and N'Zérékoré, the region of Southern Guinea that hosts the majority of Liberian refugees.

³⁴ For a complete list of informants, see: References: Section 3: Interviews.

³⁵ The author is bilingual in English and French.

³⁶ See: Fiona Devine, "Qualitative Methods" in Marsh and Stoker (eds.), 2002, 205 – 206.

³⁷ Karen Jacobsen and Loren Landau, "Researching refugees: some methodological and ethical considerations in social science and forced migration", *New Issues in Refugee Research*, Working Paper No.90, Geneva: UNHCR, June 2003, 8.

³⁸ See: Melvyn Read and David Marsh, "Combining Quantitative and Qualitative Methods" in Marsh and Stoker (eds.), 2002.

was not employed by UNHCR, but was a doctoral student from the University of Oxford. Furthermore, special attention was paid to introducing the nature of the research prior to the start of interviews, especially with refugee groups, to address concerns related to raising expectations during research.

Finally, the nature of the research, and specifically the author's motivation for undertaking the research, raised a number of ethical considerations. Turton argues that research on questions relating to human suffering can only be justified if its objective is to alleviate that suffering.³⁹ In this way, research of this nature raises a 'dual imperative' identified by Jacobsen and Landau: that "refugee-related social science aspires to satisfy high academic standards ... to justify its place in the academy ... and to ensure that the knowledge and understanding our work generates are used to protect refugees, influence governments, and improve the ways institutions like the United Nations or Non-Governmental Organizations do their work."⁴⁰ Given that the African continent is seen to be "scarred by dictatorship, civil war, AIDS, refugees, and famine enhanced by environmental degradation,"⁴¹ this thesis seeks not only to contribute to the academic understanding of the response of the African state to one of these 'scars', but ultimately to contribute to solutions based on a more comprehensive understanding of the problem.

Key concepts: Refugees, asylum policy, and the African state

Given the objectives of this thesis, it is important to begin by explaining how the terms 'refugee', 'asylum policy' and 'African state' are employed. The most influential definition of 'refugee' is contained in Article 1(A)2 of the 1951 Convention, which applies the term 'refugee' to any person who:

³⁹ See: David Turton, "Migrants and Refugees" in Tim Allen (ed.), *In Search of Cool Ground: War, Flight, and Homecoming in Northeast Africa*, Trenton, NJ: Africa World Press, 1996.

⁴⁰ Jacobsen and Landau, June 2003, 1.

⁴¹ Christopher Clapham, "Introduction", *International Affairs*, Vol. 81, no. 2, 2005, 275 – 276.

As a result of events occurring before 1 January 1951 and owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, unwilling to avail himself of the protection of that country...

This definition was developed specifically in response to the refugee situation in Europe after World War II, and “from the outset, it was recognized that, given its various limitations, the Convention definition would not cover every refugee.”⁴² It was not until the adoption of the *1967 Protocol relating to the Status of Refugees* (1967 Protocol)⁴³ that the temporal and geographic limitations of the definition were removed, making the definition more universally applicable.

A central feature of this definition remained, however, its exclusive reference to individualized persecution. According to the 1951 Convention definition, only persons who could demonstrate that they were individually the victims of persecution could be recognized as a refugee. This raised two particular concerns for newly-independent African states in the 1960s.⁴⁴ First, as outlined in Chapter 1, the majority of refugees in Africa at the time were not fleeing individualized persecution, but generalized violence, either as a result of the on-going wars of national liberation or as a result of conflicts in newly independent states. Second, application of the 1951 Convention requires individual refugee status determination procedures. Even given the number of refugees in Africa in the 1960s, such procedures were found to be too resource and time-intensive for many African states.

In response to these and other concerns, African states adopted an additional refugee definition under the auspices of the Organization for African Unity (OAU). The 1969 OAU Convention contains two definitions of the term ‘refugee’. The first, in Article I(1), is identical to the definition in Article 1(A)2 of the 1951 Convention. Article I(2) of the 1969 OAU Convention, however, states that:

⁴² Guy Goodwin-Gill, *The Refugee in International Law*, Second Edition, Oxford: Clarendon Press, 1996, 19.

⁴³ 1967 Protocol relating to the Status of Refugees. Text: 606 *United Nations Treaty Series* 267. Entry into force: 4 October 1967.

The term 'refugee' shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

Through this definition, the 1969 OAU Convention introduced two important innovations. First, the term 'refugee' in the African context now applies to individuals fleeing both persecution and generalized violence. Second, by making refugee status contingent on generalized situations in the refugee's country of origin, the 1969 OAU Convention allows states to recognize entire groups of individuals as refugees on the basis of shared characteristics and common cause of flight. This procedure, known as *prima facie* refugee status determination,⁴⁵ is the basis upon which the vast majority of refugees in Africa are recognized today. Of the 324,135 new refugees recognized in Africa in 2003, 276,988 (85%) were recognized on a *prima facie* basis.⁴⁶

With the arrival of individuals or groups of individuals claiming to be refugees, states must decide how to respond to these claims and how to accommodate refugees for the duration of their exile. Taken together, this response is the state's 'asylum policy'. As outlined by Jacobsen,⁴⁷ states receiving refugees, called 'host states', must adopt policy responses to three sets of questions. The first set relates to what Jacobsen terms "the legal-bureaucratic response," involving the position states take on the legal status of those individuals seeking asylum, the adoption of procedures to determine refugee status on a group or individual basis, and the allocation of responsibility for the refugees within the state bureaucracy. The second set of questions relates to the nature and level of cooperation

⁴⁴ See: George Okoth-Obbo, "Thirty Years On: A legal review of the 1969 OAU Refugee Convention" in A.A. Yusuf (ed.) *African Yearbook of International Law*, London: African Association of International Law, 2001.

⁴⁵ See: Bonaventure Rutinwa, "Prima facie status and refugee protection", *New Issues in Refugee Research*, Working Paper No. 69, Geneva: UNHCR, October 2002.

⁴⁶ UNHCR, *Statistical Yearbook 2003: Refugees, Asylum-seekers and Other Persons of Concern – Trends in Displacement, Protection and Solutions*, Geneva: UNHCR, May 2005, Annex 2.

⁴⁷ See: Jacobsen, 1996.

between the host state and the international donor and humanitarian community.⁴⁸ The third set of questions relate to the “admission and treatment of refugees.” In this way, the host state’s asylum policy will determine whether refugees are allowed to enter the state’s territory, where and in what manner they are allowed to settle, what rights they are afforded while in exile, and the division of responsibility between the host state and international actors such as UNHCR.

If a host state applies international and regional refugee protection standards, allows access to and cooperates with international organizations, and grants refugees the full range of social, economic and political rights contained in international refugee law, such as freedom of movement and the right to seek employment, they may be said to have adopted an ‘open asylum policy’. If, by contrast, a state prevents or frustrates the arrival of refugees, does not apply international and regional refugee protection standards, does not cooperate with international organizations, and denies refugees the rights they are afforded by the 1951 Convention, they may be said to have adopted a ‘restrictive asylum policy’. As Chapter 1 will illustrate, the position of African states on these questions have changed considerably in the past fifty years, moving from a “very generous attitude towards refugees” in the 1960s and 1970s to a marked decrease in their commitment to asylum in the 1980s and 1990s.⁴⁹ Explaining this shift is a core objective of this thesis.

While there is general agreement on the legal definition of ‘refugee’, notwithstanding its potential conceptual and operational limitations,⁵⁰ there is significant debate on the definition of the ‘state’, and particular debate on the meaning of ‘the African state’. The objective of this section is not to resolve these debates, but to present a framework understanding of the origins and evolution of the African state for the purposes of this thesis.

⁴⁸ Engagement with the international donor and humanitarian community is taken to mean both bilateral relations with donor governments and broader multilateral engagement with the host state through UNHCR and operational NGOs active in refugee-populated areas.

⁴⁹ Rutinwa, 1999, 1.

This thesis works from the position that “states, like fruits, are exceedingly varied despite their fundamental similarities.”⁵¹ While recognizing that the post-colonial experiences of individual states have been very different, as illustrated in the three case studies in this thesis, it is possible, and indeed important, to emphasise those characteristics shared by the majority of post-colonial states in sub-Saharan Africa. It should, however, be emphasised that the argument of this thesis is limited to sub-Saharan Africa, and excludes the question of refugee movements in North African states bordering the Mediterranean.

From the early uses of the term ‘state’ by Jean Bodin and Thomas Hobbes in the sixteenth and seventeenth centuries,⁵² to characterizations developed by Weber⁵³ and Migdal,⁵⁴ the ‘state’ has generally been taken to consist of a territory, a population that inhabits that territory, and an authority that governs that population and which has a monopoly over the use of force to exercise its authority. To these domestic characteristics must be added the international characteristics of the state, namely recognition by other states and sovereignty. As argued by von Glahn, “unless a group of people possessing territory and governmental institutions also possess independence – that is, the ability to regulate its internal affairs without outside interference or control – that group cannot properly claim to be a state.”⁵⁵ The challenge, therefore, is to conceptualize the state “broadly enough to encompass not only the relationships between the internal dynamics of individual territory-

⁵⁰ See: Roger Zetter, “Labelling Refugees: Forming and Transforming a Bureaucratic Identity”, *Journal of Refugee Studies*, Vol. 4, no. 1, 1991.

⁵¹ Barry Buzan, *People, States and Fear: An Agenda for International Security Studies in the Post-Cold War Era*, Second Edition, London: Longman, 1991, 96.

⁵² Skinner, cited in Gibney, 2004, 198 – 201.

⁵³ Weber defined the ‘state’ as “that human community which (successfully) lays claim to the monopoly of violence within a certain territory, the ‘territory’ being another of the defining characteristics of the state.” Max Weber, “The Profession and Vocation of Politics” in Peter Lassman and Ronald Speirs (eds.), *Weber: Political Writings*, Cambridge: Cambridge University Press, 1994, 310 – 311.

⁵⁴ Migdal defined the ‘state’ as “an organization composed of numerous agencies led and coordinated by the state’s leadership (executive authority) that has the ability or authority to make and implement the binding rules for all the people as well as the parameters of rule making for other social organizations in a given territory, using force if necessary to have its way.” Joel S. Migdal, *Strong Societies and Weak States: State-society relations and state capabilities in the Third World*, Princeton, NJ: Princeton University Press, 1988, 19.

⁵⁵ Gerhard von Glahn, *Law among Nations: An Introduction to Public International Law*, Seventh Edition, Boston: Allyn and Bacon, 1996, 52.

government-society packages, but also the larger systemic dynamic of the way in which these packages relate to each other.”⁵⁶ Such a conceptualization of the state is particularly important in the context of refugee movements, which are, by their very nature, both domestic and international events.

To this end, Buzan proposes a conceptualization of the state based on three components. The first is the physical basis of the state, including its population, territory and resources. The second is the institutional expression of the state, comprising “the entire machinery of government, including its executive, legislative, administrative and judicial bodies, and the laws, procedures and norms by which they operate.”⁵⁷ The final component is the idea of the state, rooted both in the nation, especially in those rare instances where the territory of nation and the state coincide, and in organizing ideologies, which can take for form of “some fairly general principles, like Islam, or democracy, or some more specific doctrine, like republicanism or communism.”⁵⁸

As Chapter 1 will argue, pan-Africanism and solidarity with liberation movements were central elements of the idea of many African states in the 1960s and 1970s. This idea of the state contributed to open asylum policies for refugees fleeing wars of national liberation, even when such policies resulted in retaliation by the colonial power and attacks on the host state. Buzan’s characterization of the state helps explain this willingness to host refugees, despite attacks on the physical base of the state. As he argues, “since the state ultimately rests on its physical base, the protection of territory and population must count as fundamental national security concerns, though they may be sacrificed in considerable measure to protect the other two components of the state.”⁵⁹ As Chapter 5 will argue, for example, this explains Tanzania’s willingness to host refugees from Mozambique in the late 1960s and early 1970s

⁵⁶ Buzan, 1991, 60.

⁵⁷ Buzan, 1991, 83.

⁵⁸ Buzan, 1991, 79.

⁵⁹ Buzan, 1991, 95.

despite attacks by the Portuguese Air Force: the hosting of refugees was seen as a tangible expression of the idea of the pan-Africanist Tanzanian state under the regime of Julius Nyerere.

In this way, it is important to understand the difference between the 'state' and the 'regime'. According to Job, the term 'regime' "refers to the small set of persons who hold the highest offices in the state and/or are the elite that effectively command the machinery, especially the coercive forces, of the state."⁶⁰ While Buzan incorporates the regime into his conceptualization of the institutional expression of the state, he notes that the 'state' and 'regime' are not always the same. In fact, regimes "can be assumed to have their own interests, both organizational and individual, apart from the state interests which they represent."⁶¹ As illustrated in the case studies, differentiating between the interests of the state and the governing regime is "both possible and necessary" in the African context.⁶²

Underlining Buzan's three components of the state is sovereignty. States are, by definition, sovereign, and in the post-1945 international order enshrined in the Charter of the United Nations, all sovereign states are equal.⁶³ To paraphrase Orwell, however, while all states are equal, some are more equal than others. Accordingly, it is important to consider the nature of weaker states in the international system, which Jackson refers to as 'quasi-states'.⁶⁴ Jackson argues that the rapid process of decolonization following the end of World War II brought into existence a significant number of states. These states came into being in an international system that both guaranteed their existence and bestowed upon them sovereign equality. In reality, however, these states were far from equal with other states in their

⁶⁰ Brian Job, "The Insecurity Dilemma: National, Regime, and State Securities in the Third World", in Brian Job (ed.), *The Insecurity Dilemma: National Security of Third World States*, Boulder, CO: Lynne Rienner Publishers, 1992, 15.

⁶¹ Buzan, 1991, 89.

⁶² John W. Harbeson and Donald Rothchild, "The African State and State System in Flux" in Harbeson and Rothchild (eds.), 2000, 7.

⁶³ See: von Glahn, 1996, 48 – 64.

⁶⁴ See: Robert H. Jackson, *Quasi-states: Sovereignty, International Relations, and the Third World*, Cambridge: Cambridge University Press, 1990.

capacity to provide the “concrete benefits which have historically justified ... sovereign statehood.”⁶⁵ Jackson consequently argues that while these states may have juridical statehood, their empirical statehood “in large measure still remains to be built,” making them ‘quasi-states’.⁶⁶

While Jackson argues that this juridical statehood has ensured the survival of many otherwise weak states, especially in Africa,⁶⁷ Ayoob argues that the ‘negative sovereignty’ conferred upon weak states has not made them more secure, but is at the core of their ‘insecurity predicament’.⁶⁸ Ayoob believes that many ‘Third World’⁶⁹ states share a common predicament stemming from their late or delayed state-making and their late entry into the international system. As a result of these pressures, Ayoob argues that Third World states can be characterized by their weakness and vulnerability, a view echoed by Krasner, who has argued that “the international and domestic weaknesses of Third World states make them vulnerable to systemic shocks, which they cannot control.”⁷⁰ As a result, the primary objective of these states, and the regimes that govern them, is to “reduce the deep sense of insecurity from which Third World states suffer domestically and internationally.”⁷¹ While the concept of vulnerability will be central to the examination of the relationship between refugee movements and security in Chapter 3, it is also useful for understanding the nature of the state in Africa.

⁶⁵ Jackson, 1990, 21.

⁶⁶ *Ibid.*

⁶⁷ See: Robert H. Jackson and Carl G. Rosberg, “Why Africa’s Weak States Persist: The Empirical and Juridical in Statehood”, *World Politics*, Vol. 35, no. 1, October 1982.

⁶⁸ See: Ayoob, 1995.

⁶⁹ This thesis uses the terms ‘Third World’ and ‘global South’ interchangeably. For a discussion of the continued relevance of the term ‘Third World’, see: S. Neil MacFarlane, “Taking Stock: The Third World and the End of the Cold War”, in Louise Fawcett and Yezid Sayigh (eds.), *The Third World beyond the Cold War: Continuity and Change*, Oxford: Oxford University Press, 1999.

⁷⁰ Stephen D. Krasner, *Structural Conflict: The Third World Against Global Liberalism*, Berkeley, CA: University of California Press, 1985, 58.

⁷¹ Ayoob, 1995, 2 – 3.

While recognizing the tremendous diversity of African politics,⁷² it has been argued that “to talk about politics in Africa is virtually to talk about the state.”⁷³ Domestically, the post-colonial African state has been characterized as “weak in foundations, structurally deficient, without deep legitimacy and generally lacking the political means of its putative power over civil society.”⁷⁴ Internationally, the African state is “at the bottom of any conventional ordering of global power, importance and prestige.”⁷⁵ To this characterization of the African state must be added the artificiality of its borders, which were drawn mostly in the late nineteenth century by European colonial powers with little or no regard for local particularities. As argued by Davidson, “the colonial partition ... inserted the continent into a framework of purely artificial and often positively harmful frontiers.”⁷⁶ While European colonial rule was, largely, “a mere interlude in the broader sweep of African history,” the colonial heritage remains “the necessary point of departure for analysis of African international relations.”⁷⁷

Notwithstanding the weakness and artificiality of the African state, gaining control of the state and preserving it were the twin priorities of African nationalist leaders, both in the run-up to independence and in the early post-colonial period. Leaders subsequently agreed not to revisit the colonial boundaries, a principle enshrined in the Charter of the OAU, signed in 1963. It is also significant that African independence was achieved in the early phases of the Cold War, during which “diplomatic, economic and military support was often given to individual African leaders who allied themselves (sometimes interchangeably) with either the

⁷² See: Chazan *et al*, 1999, 5 – 13.

⁷³ Patrick Chabal, *Power in Africa: An Essay in Political Interpretation*, Basingstoke: Macmillan, 1994, 68.

⁷⁴ Chabal, 1994, 74.

⁷⁵ Clapham, 1996, 3.

⁷⁶ Basil Davidson, *The Black Man's Burden: Africa and the Curse of the Nation-State*, New York: Times Books, 1992, 163.

⁷⁷ Crawford Young, “The Heritage of Colonialism”, in Harbeson and Rothchild (eds.), 2000, 23.

United States or the Soviet Union.”⁷⁸ While the dynamics of the Cold War will be discussed in greater detail in Chapter 1, it is important to note here that a number of African leaders were able to use superpower rivalry to “fend off political opponents at home.”⁷⁹

The assurance of sovereignty did not, however, ensure domestic stability and security. The weight of expectations at independence, coupled with the scarcity of resources available to the newly-independent state, created fierce domestic competition over the authority to allocate those scarce resources. Regimes in Africa in the 1960s and 1970s became increasingly centralized either around a single political party or the military, and domestic opposition was either constrained or eliminated.⁸⁰ This centralization of power allowed a number of regimes to pursue ambitious state-led development programmes, such as those in Tanzania (Chapter 5) and Guinea (Chapter 6). It also allowed several regimes to pursue refugee policies irrespective of domestic support, especially in the context of refugees fleeing Cold War proxy conflicts (Chapter 1). These models of governance did not, however, prove sustainable and “by the late 1970s and early 1980s most, if not all, African states were undergoing an organizational crisis.”⁸¹ This crisis was characterized by deteriorating relations between the state and society, high levels of graft and corruption, and “the inability of many formal institutions to fulfil even the most basic tasks.”⁸²

This organizational crisis was mirrored by an economic crisis. Declining growth, coupled with population increases, resulted in a significant reduction in *per capita* income in Africa through the 1980s.⁸³ At the same time, Africa’s terms of trade were drastically affected by the declining value of the continent’s main exports – such as cocoa, coffee and cotton –

⁷⁸ Ian Taylor and Paul Williams, “Understanding Africa’s place in world politics”, in Ian Taylor and Paul Williams (eds.), *Africa in International Politics: External involvement on the continent*, London: Routledge, 2004, 6.

⁷⁹ Taylor and Williams, 2004, 7.

⁸⁰ See: Clapham, 1996, 56 – 62; and Chazan *et al*, 1999, 137 – 158.

⁸¹ Chazan *et al*, 1999, 65.

⁸² *Ibid*.

⁸³ Chazan *et al*, 1999, 325.

relative to the cost of imports, leading to a decline in real terms by about a third between 1980 and 1987. In response, African states borrowed heavily, with total African debt climbing from about US\$16 billion in 1970, to US\$58 billion in 1980, to US\$144 billion in 1987.⁸⁴ By 1985, foreign debt equalled 43% of Africa's total gross domestic product (GDP), causing a balance of payments crisis. While a number of regimes tried to fend off the crisis through a range of short-term measures, the implementation of structural adjustment programmes guided by the World Bank and International Monetary Fund (IMF) became increasingly unavoidable. While the nature and implementation of these programmes will not be addressed here, recognizing that "few issues in contemporary African development have been as contentious as the role of these international financial institutions (IFIs) over the past two decades,"⁸⁵ it is important to emphasise that "the needs of debtor countries gave the IFIs unprecedented leverage over the region's economic policies."⁸⁶

In reflecting on this period, Clapham notes that "whereas the domestic economies of African states were heavily penetrated by external forces which limited the power of the state, African governments were to a very large extent left free to manage politics as they wished."⁸⁷ Domestic human rights records went unchallenged and governance unquestioned by donor states. In the geopolitical context of the Cold War, "Western states did not want to risk the imposition on Africa of principles of human rights or democracy which would be applicable to their allies as well as to their adversaries, and which would tend to push African leaders into the less demanding arms of the Soviet Union."⁸⁸ This rationale led to Western support for regimes with poor human rights and governance records, such as those in Zaire, South Africa, Kenya and Ethiopia.

⁸⁴ World Bank figures cited in Chazan *et al*, 1999, 326.

⁸⁵ Chazan *et al*, 1999, 334.

⁸⁶ Chazan *et al*, 1999, 337.

⁸⁷ Clapham, 1996, 187.

⁸⁸ Clapham, 1996, 191 – 192.

The end of the Cold War in the late 1980s, however, “brought about an almost instant transformation” in Africa.⁸⁹ One of the most striking features of this transformation was democratization, with the overwhelming majority of African states committing themselves to some level of democratic reform in the early 1990s.⁹⁰ This change was the result of domestic and international pressures which “made it extremely difficult for [African leaders] to cling to their previous insistence on unfettered sovereignty in the international arena combined with monopoly statehood in the internal one.”⁹¹ For their part, the ‘victory’ of capitalist and neo-liberal ideology in the Cold War emboldened Western states to seek universal application of, and adherence to, these principles through the formulation of the ‘Washington Consensus’. Without the Soviet Union as a counter-balance, African regimes lost one of the main bargaining chips that they “had been able to use to protect their domestic political hegemony from external attack.”⁹² Dependent on Western donor states to provide continued support for their ailing economies, carrying significant debt, and lacking alternatives, African states had little choice but to accept the new terms of their relationship with the West. Given the centrality of political and economic liberalization, compounded by the power imbalance between African states and donor governments and institutions, African states became subject to “a comprehensive superstructure of international accountability.”⁹³

Taken together, these changes in the political and economic landscape in Africa since the mid-1980s have resulted in a number of internal and external constraints on the African state today. Internally, African states are constrained by the effects of democratization and economic liberalization. Externally, African states face the constraints imposed by the neo-

⁸⁹ Clapham, 1996, 192.

⁹⁰ See: E. Gyimah-Boadi, “Africa: The Quality of Political Reform”, in E. Gyimah-Boadi (ed.), *Democratic Reform in Africa: The Quality of Progress*, Boulder, CO: Lynne Rienner Publishers, 2004.

⁹¹ Clapham, 1996, 193.

⁹² Clapham, 1996, 194.

⁹³ Crawford Young, “The Third Wave of Democratization in Africa: Ambiguities and Contradictions”, in Richard Joseph (ed.), *State, Conflict, and Democracy in Africa*, Boulder, CO: Lynne Rienner Publishers, 1999, 34 – 35.

liberal consensus and lack of policy alternatives.⁹⁴ As a result, the sense of vulnerability of African states, as described by Ayoob, has been further compounded by the imbalance of power between African states and donor states, and the peripheral place Africa occupies in the international system. A central objective of this thesis is to trace how these internal and external constraints resulting from changes in Africa's political landscape since the 1980s have affected the asylum policies of African states over the past decade.

Structure of thesis

This thesis argues that these external and internal pressures faced by African states play a predominant role in the formulation of asylum policies. While factors relating to the presence of refugees, such as numbers, burden sharing and security, play an important role in the determination of asylum policies, these factors are typically conditioned by factors unrelated to the presence of refugees. In particular, this thesis argues that the characterization of refugees as a burden and a security concern is often the result of efforts on the part of the governing regime within the host state to ensure its survival in light of external and internal pressures. This is not to say that the presence of refugees does not result in burdens and security concerns for the host state and the refugee-populated areas; in many instances it does. Instead, the thesis argues that the impact of refugees is characterized differently at the core and the periphery of the host state, pointing to the influence of broader political factors. Fundamentally, this thesis argues that scholarly work in the area must incorporate an understanding of the politics of asylum in Africa to more effectively understand the causes of the crisis of asylum in Africa.

To support this argument, this thesis has three sections. The first section sets the historical and conceptual context of the thesis by tracing the history and nature of the crisis of asylum in Africa and efforts to address to two of the most often articulated concerns of host

⁹⁴ See: Keith Somerville, "Africa After the Cold War: Frozen Out or Frozen in Time?", in Fawcett and Sayigh (eds.), 1999.

states on the continent, namely burden sharing and host state security concerns. Section two is comprised of three case study chapters, examining how each state has responded to the mass arrival and prolonged presence of key refugee populations since the early 1990s. Section three then presents a framework for understanding the politics of asylum in Africa by examining the interplay between factors relating to the presence of refugees, such as the dependability of international assistance and the security implications of refugee movements, and factors unrelated to the presence of refugees, such as democratization, economic liberalization and the sense of vulnerability derived from the peripheral place occupied by African states in the international system.

Chapter 1 traces the history of state response to refugee movements in Africa from the early 1960s, through the wars of national liberation in Southern Africa, post-colonial conflict in independent Africa, and the Cold War, to the emergence of the crisis of asylum in Africa in the 1990s. The chapter examines refugee movements and state responses during this period to illustrate how burden sharing and refugee-related insecurity have been concerns for African host states for many years, and how failures to address these concerns came to be cited by governments as justifications for placing restrictions on asylum from the mid-1990s. In addition, the chapter will draw from the political history of the African state outlined in the Introduction to argue that broader political factors have also had an impact on the asylum policies of African states.

Chapter 2 critically examines the principle and practice of burden sharing with African states. The chapter begins by defining the principle and outlining its foundations before examining its rising significance in Africa, the challenges of quantifying Africa's refugee burden, and the various mechanisms through which this burden has been shared by other states. By contrasting the African burden sharing experience with the history of burden sharing in other regions, the chapter will argue that African states have been largely unable to alter the level and nature of burden sharing, due partially to the nature of their relationship

with the international donor community. While a significant amount of burden sharing with African states does occur, and the presence of refugees may constitute a benefit for host states, the chapter argues that the scope, scale, sustainability and dependability of burden sharing with African states is largely determined by the interests of donor states. This disaggregated understanding of burden sharing will then be employed in the case studies to examine various aspects of refugee burden sharing in Kenya, Tanzania and Guinea.

Chapter 3 examines the relationship between refugee movements and security, with a particular focus on Africa. The chapter first highlights the importance of the relationship and outlines the security implications of refugee movements during and after the Cold War. The chapter then considers changing understandings of security since the end of the Cold War and reviews the early scholarly literature on refugees and security. After considering the applicability of this literature to the security concerns of host states in Africa, the chapter develops an understanding of ‘security’ appropriate to African states. Finally, the chapter presents a framework for understanding the nature and causes of the refugee-related security concerns of host states in Africa, which will be employed in the case studies.

Chapters 4, 5 and 6 apply these framework understandings of burden sharing and security to the cases of Kenya, Tanzania and Guinea. Each chapter details the arrival of a particular refugee population, then considers the state response to the initial arrival of that population and subsequent policy changes. In all three cases, concerns relating to burden sharing and security were identified by the government as justification for adopting a particular asylum policy. By applying the frameworks developed in Chapters 2 and 3, however, the case studies argue that such concerns do not sufficiently account for the nature of asylum policies adopted by host states. Drawing on the political history of the African state presented above, the case studies argue that the asylum policies of each host state are more fully understood by considering the significance of broader historical and political factors and by understanding the politics of asylum in each case.

Taken together, the case studies argue that Kenya's approach to Somali refugees, Tanzania's approach to Burundian refugees and Guinea's approach to Liberian and Sierra Leonean refugees, while different in substance, are the product of a common logic. All three states have made policy choices on their approach to the continued presence of refugees, with Kenya and Tanzania adopting restrictive policies and Guinea maintaining an open policy. While these three states have chosen different strategies, the approach taken is best understood only partially in the context of issues relating to the presence of refugees, such as the increase in numbers, failures of burden sharing and security concerns.

More generally, the thesis argues that states typically interpret the implications of the arrival and protracted presence of refugees according to factors unrelated to the presence of refugees. In Kenya, the presence of Somali refugees was tolerated to placate the donor community, but a history of conflict between the Kenyan state and Somali irredentists led to the securitization of the Somali refugee population and their relegation to the political and geographic periphery of the state. In Tanzania, economic liberalization and democratization have placed pressures on the governing regime, which has used the presence of refugees to its domestic political advantage while seeking to extract additional resources from the donor community. In Guinea, the state has used the presence of refugees in its effort to leverage support from an otherwise restrictive donor community.

Based on this analysis, **Chapter 7** develops a framework for understanding the politics of asylum in Africa, highlighting the full range of factors that influence the formulation of asylum policies of African states. The chapter argues that political factors unrelated to the presence of refugees tend to play a predominant role in the asylum policies of states like Kenya, Tanzania and Guinea, and that these states typically incorporate decisions on asylum into their broader political calculus. In this way, the chapter argues that while the presence of refugees may constitute a burden and a security concern in certain circumstances,

approaches to such concerns are more often the result of pressures and factors unrelated to the presence of refugees.

Such an approach leads to important lessons not only for the study of asylum in Africa, but also for the future of the refugee protection regime in Africa. While part of the solution to the crisis in asylum surely lies in addressing concerns relating to numbers, burden sharing and security, part of the solution also lies in engaging in broader political and economic forces that influence a state's asylum policies. As the findings of the thesis illustrate, African host states do not approach the arrival and prolonged presence of refugees in a historical or political vacuum. If the scholarly understanding of refugees in Africa is to more effectively identify solutions to the current crisis in asylum, it must also adopt such an approach.

Chapter 1

The History of Asylum in Africa: Origins of the crisis

Introduction

Migration has been a significant feature of African history since pre-modern times.⁹⁵ Forced migration in Africa can be traced back to antiquity, and was a central feature of the consolidation of the Bafour, Ghana, Benin and Lunda empires.⁹⁶ Inter-communal conflict, especially resulting from the *mfecane* in Southern Africa, shifting cultivation and the slave trade also resulted in significant migration both from and within Africa.⁹⁷ Colonial policies of forced recruitment and the settler agricultural system also resulted in forced migration. In 1917, for example, an estimated 100,000 Africans fled from Mozambique subsequent to an uprising against Portuguese colonial labour policies.⁹⁸

The emergence of the modern refugee phenomenon in Africa may, however, be linked to the “struggle for and attainment of independence by most African nations”⁹⁹ in the late 1950s and early 1960s for two reasons. First, “the process of decolonisation brought new and powerful political forces into play and released forces which had been checked or suppressed during the colonial period,”¹⁰⁰ resulting in a dramatic increase in the number of refugees in Africa. Second, this increase in the number of refugees occurred in the context of newly independent states, internationally recognized borders, and changing relations with the

⁹⁵ See: Gaim Kibreab, *African Refugees: Reflections on the African Refugee Problem*, Trenton, NJ: Africa World Press, 1985, 11 – 20.

⁹⁶ See: Vincent Khapoya, “Political Developments in Historic Africa”, Chapter 3, *The African Experience: An Introduction*, Englewood Cliffs, NJ: Prentice Hall, 1994; and CIMADE, INODEP and MINK, *Afrique, terre des réfugiés: Que faire?*, Paris: Harmattan, 1984.

⁹⁷ See: Aristide R. Zolberg, Astri Suhrke and Sergio Aguayo, *Escape from Violence: Conflict and the Refugee Crisis in the Developing World*, Oxford: Oxford University Press, 1989, 290, note 7.

⁹⁸ See: B. Munslow, “Refugees and Migrants in Mozambique: A Historical Overview”, Paper presented at the meeting of the African Studies Association, London, 13 – 14 September 1979, on file with author.

⁹⁹ Louise W. Holborn, *Refugees: A Problem of Our Time: The Work of the United Nations High Commissioner for Refugees 1951 – 1972*, Metuchen, NJ: The Scarecrow Press, 1975, 825.

¹⁰⁰ *Ibid.*

international system. The confluence of these factors not only raised legal questions, but important political questions as well.

The goal of this chapter is to set the historical context for the thesis by tracing the major periods of post-independence refugee movements in Africa and outlining the response of states. The structure of this chapter builds from Rutinwa's argument that asylum policies in post-independence Africa may be "classified into two periods."¹⁰¹ The first period, from the early 1960s to the 1970s, has been described as a time when African states "proved remarkably generous in their response to refugee influxes."¹⁰² Since the 1980s and through the 1990s, however, Rutinwa notes "a marked shift in refugee politics in Africa" with states becoming "less committed to asylum."¹⁰³ By tracing the trends in refugee movements and asylum policies in Africa from the early 1960s through the 1990s, this chapter outlines the changing response of African states to refugees, and highlights the range of factors that have resulted in the shift towards more restrictive policies.

In contrast with those who argue that the response of African states to refugees in the 1960s and 1970s is best explained in terms of 'traditional hospitality', or who describe the period as a 'golden age' of asylum,¹⁰⁴ when humanitarian concerns superseded political concerns in the formulation of asylum policies, this chapter argues that asylum policies have been influenced by political concerns since the emergence of an independent African state system in the early 1960s. In fact, asylum policies have been largely motivated by concerns of domestic politics, national security and international relations. This is not to say that a period of open asylum policies in Africa did not exist, but that it existed for specific political and strategic reasons. As such, the changing response of African states to refugees is arguably not

¹⁰¹ Rutinwa, 1999, 1.

¹⁰² Holborn, 1975, 826.

¹⁰³ Rutinwa, 1999, 1.

¹⁰⁴ According to Rutinwa, this period "may be described as the 'golden age' of asylum in Africa." Rutinwa, 1999, 4.

the result of a new approach to refugees, but the result of the changing political context within which refugee movements occur.

This chapter has three sections. Section one considers the response of newly-independent African states to refugee movements in 1960s and early 1970s, arguing that political considerations guided the response of states to the arrival of refugees during this period. Section two examines the increased pressures placed on asylum in the late 1970s and through the 1980s, resulting from an increase in refugee numbers, concerns about declining donor engagement, and a rise in security concerns, and compounded by the globalization of the Cold War and the economic crisis that came to grip Africa in the 1980s. As outlined in section three, these concerns were magnified in the 1990s, as the end of the Cold War signalled both Western disengagement and the proliferation of conflict in Africa. As Africa's refugee population topped 6 million, concerns of African states relating to burden sharing and security, coupled with political and economic changes on the continent, led to increasing restrictions on asylum.

Post-independence refugee movements: 1960s and 1970s

The “first African struggle against European colonial rule in the postwar period to produce significant numbers of refugees” was the 1956 Algerian war of independence from France.¹⁰⁵ During the 1960s and 1970s, however, the overwhelming majority of refugees in Africa were to be found south of the Sahara, and could be broadly divided into two categories. The first category included refugees from wars of national liberation in minority and colonial-governed states.¹⁰⁶ By the early 1970s, 57% of the estimated 1 million refugees in Africa “originated mainly from the territories still under Portuguese rule, namely Angola, Guinea-

¹⁰⁵ Loescher, 2001, 97. For a detailed history of the Algerian refugee crisis, see: Cecilia Ruthström-Ruin, *Beyond Europe: The Globalization of Refugee Aid*, Lund: Lund University Press, 1993; and UNHCR, *The State of the World's Refugees: Fifty Years of Humanitarian Action*, Oxford: Oxford University Press, 2000, Chapter 2.

¹⁰⁶ For an overview of refugee movements resulting from wars of national liberation, see: Zolberg *et al*, 1989, 72 – 102.

Bissau and Mozambique ... [and] were living in three neighbouring countries sympathetic to the liberation cause, namely Zaire, Senegal and Tanzania.”¹⁰⁷ As illustrated by the case of Tanzania in Chapter 5, these refugees, and the liberation movements themselves, were often granted refuge by neighbouring states, both as a gesture of African solidarity and as a means of highlighting the deficiencies of the colonial regimes.¹⁰⁸

The second category of refugees was the result of “explosive internal, social and political situations, which existed long before the colonial period but which came to a climax only after independence was reached.”¹⁰⁹ Crises in Zaire, Rwanda, Burundi, Sudan, Ethiopia and Uganda prompted significant refugee movements in the Great Lakes region and in the Horn of Africa,¹¹⁰ and equally significant challenges for neighbouring states. As argued by Loescher, “new African governments often viewed refugees as a national security threat because they frequently caused severe interstate tensions.”¹¹¹ This was especially true in the case of refugees from Rwanda and Sudan.¹¹² Throughout the 1960s and early 1970s, for example, Sudan believed that refugee populations in neighbouring countries provided a base for insurgent groups. In response, the Sudanese military entered border areas in Uganda and Ethiopia, seized refugees, and returned them to Sudan, resulting in a significant strain on relations between Sudan and its neighbours.¹¹³

¹⁰⁷ Aderanti Adepoju, “The Dimension of the Refugee Problem in Africa”, *African Affairs*, Vol. 81, no. 322, 1982, 22.

¹⁰⁸ According to Clapham, early liberation movements in Africa “acquired a legitimate and even honoured place in the international relations of the continent.” Clapham, 1996, 209.

¹⁰⁹ Sven Hamrell, “Introduction: The Problem of African Refugees” in Sven Hamrell (ed.), *Refugee Problems in Africa*, Uppsala: The Scandinavian Institute of African Studies, 1967, 9. See also: Adepoju, 1982, 21; and John Hatch, “Historical Background of the African Refugee Problem” in Hugh C. Brooks and Yassin El-Ayouty (eds.), *Refugees South of the Sahara: An African Dilemma*, Westport, CT: Negro University Press, 1970, 2.

¹¹⁰ For an overview of refugee movements in the Great Lakes region and in the Horn of Africa in the 1960s and early 1970s, see: Zolberg *et al*, 1989, 37 – 71. For an overview of UNHCR’s response to these movements, see: Loescher, 2001, 114 – 126.

¹¹¹ Loescher, 2001, 114.

¹¹² See: Jacques Cuénod, “The Problem of Rwandese and Sudanese Refugees” in Hamrell (ed.), 1967.

¹¹³ See: Loescher, 2001, 136.

While statistics for refugee populations in Africa are problematic,¹¹⁴ the following table provides an overview of the distribution of refugees in Africa in the early 1970s:

Table 1.1
Estimated Number of Refugees of Concern to UNHCR in Africa
(1 December 1972)¹¹⁵

Country of asylum	Origin of main groups	Total
Botswana	Angola	4,500
Burundi	Rwanda	33,000
Central African Republic	Sudan, Zaire and Chad	24,000
Egypt	Various	5,000
Ethiopia	Sudan	10,000
Kenya	Various	1,500
Rwanda	Burundi	5,000
Senegal	Portuguese Guinea	81,000
Sudan	Ethiopia and Zaire	59,000
Uganda	Rwanda, Sudan and Zaire	166,000
Tanzania	Mozambique, Rwanda, Burundi and Zaire	91,000
Zaire	Angola, Rwanda, Sudan, Burundi, Zambia	478,000
Zambia	Angola, Mozambique and Malawi	34,000
West Africa	Various	6,000
Others	Various	4,500
Total:		1,002,500

Response from African states

The majority of these refugees did not live in camps, but were integrated into local and national economies through the ‘zonal development’ approach to refugee settlement.¹¹⁶ As argued by Kironde, “zonal development and planning [was] generally accepted [by African states] as the best method of consolidating the economic and social condition of refugee settlements as well as integrating them into the economic and social systems of the country.”¹¹⁷ Kibreab notes that the majority of refugees in Africa were accommodated in local settlements at the end of the 1970s, with more than 90% of refugees living in settlements in

¹¹⁴ See: Gaim Kibreab, *The State of the Art Review of Refugee Studies in Africa*, Uppsala Papers in Economic History, Research Report No. 26, Uppsala: Uppsala universitet, 1991, 8 – 15; and Jeff Crisp, “Who has counted the refugees? UNHCR and the politics of numbers”, *New Issues in Refugee Research*, Working Paper No. 12, Geneva: UNHCR, June 1999. The politics of refugee numbers will be discussed in Chapter 7.

¹¹⁵ UNHCR figures, cited in Holborn, 1972, 835.

¹¹⁶ See: Kibreab, 1985, 103 – 118. For examples of the zonal development approach across Africa, see: Appendix VII in Brooks and El-Ayouty (ed.), 1970, 281 – 291.

¹¹⁷ Apollo Kironde, “An African Evaluation of the Problem”, in Brooks and El-Ayouty (eds.), 1970, 110.

many of the largest asylum countries,¹¹⁸ including Senegal,¹¹⁹ Sudan,¹²⁰ Tanzania¹²¹ and Zaire.¹²² As part of the refugee settlement approach, refugees were allocated land, granted the right to work, encouraged to pursue self-reliance through a range of economic activities,¹²³ and generally received a “generous welcome.”¹²⁴ While UNHCR and other agencies provided significant support for this approach,¹²⁵ credit was mostly given to African states for adopting such open asylum policies.

Given the range of concerns relating to the presence of these refugees, it is important to understand why African states adopted such an open response. Most early work on post-independent asylum policy in Africa points to notions of ‘traditional hospitality’ as a sufficient explanation for the open asylum policies of African states during this period.¹²⁶ As argued by Zarjevski:

Everywhere the fate of refugees is determined by the attitude of the country of reception. In Africa, this attitude has always been influenced by a simple human feeling of brotherly sympathy, and by unshakeable optimism. No persuasion was needed in Africa to make governments grant asylum to refugees who sought it. *Refoulement* at the frontier is the exception rather than the rule, and represents a rare breach of *traditional hospitality*.¹²⁷

Likewise, Rutinwa refers to this period as “the ‘golden age’ of asylum in Africa.”¹²⁸ For him, the signing of the 1969 OAU Convention marked the formalization of an ‘open door policy’ where “African countries readily admitted all those in search of security and

¹¹⁸ Kibreab, 1985, 86.

¹¹⁹ See: Holborn, 1972, 1193 – 1211.

¹²⁰ See: Yéfime Zarjevski, *A Future Preserved: International Assistance to Refugees*, Oxford, Pergamon Press, 1988, 122 – 128; and Holborn, 1972, 1329 – 1370.

¹²¹ See: Chapter 5.

¹²² See: Holborn, 1972, 1045 – 1118; and Zarjevski, 1988, 106 – 112.

¹²³ For an overview of the zonal development approach, see: Howard Adelman and John Sorenson (eds.), *African Refugees: Development Aid and Repatriation*, North York: York Lanes Press, 1994; and Robert F. Gorman, (ed.), *Refugee Aid and Development: Theory and Practice*, Westport, CN: Greenwood Press, 1993.

¹²⁴ Zarjevski, 1988, 106.

¹²⁵ UNHCR notes that “by 1969, some two-thirds of UNHCR’s global programme funds were being spent in African countries...” UNHCR, *State of the World’s Refugees*, 2000, 37.

¹²⁶ For example, see: Hamrell (ed.), 1967; Brooks and El-Ayouty (eds.), 1970; and W. T. S. Gould, “Refugees in Tropical Africa”, *International Migration Review*, Vol. 8, no. 3, 1974.

¹²⁷ Zarjevski, 1988, 102. Emphasis added.

¹²⁸ Rutinwa, 1999, 4.

safety.”¹²⁹ Rutinwa argues that the expanded refugee definition contained in the 1969 OAU Convention, the Convention’s commitment to asylum,¹³⁰ provisions for inter-African burden sharing,¹³¹ the granting of a broad range of rights to refugees,¹³² and, finally, the timely identification of a solution for refugees are hallmarks of the ‘golden age’ of asylum.¹³³ While Rutinwa concedes that these provisions were not universally applied, he argues that the codification of these principles demonstrates the degree of African hospitality. A brief review of the process leading to the drafting of the 1969 OAU Convention, however, highlights that, in contrast with the humanitarian considerations implied by notions of ‘traditional hospitality’, political considerations played a much greater role in the process.

1969 OAU Convention

While most African states became party to the 1951 Convention shortly after gaining their independence,¹³⁴ many soon began to “express increased dissatisfaction that the international refugee instruments did not reflect the realities of the refugee situation in Africa”¹³⁵ and were consequently “inadequate to deal with the continent’s refugees.”¹³⁶ In response, African leaders undertook a process to address this gap, while simultaneously

¹²⁹ Rutinwa, 1999, 1.

¹³⁰ “Member States of the OAU *shall* use their best endeavours consistent with their respective legislations to receive refugees and to secure the settlement of those refugees who, for well-founded reasons, are unable or unwilling to return to their country of origin or nationality” Article II(1), 1969 OAU Convention (emphasis added). Rutinwa argues that this provision constitutes a right to asylum. Rutinwa, 1999, 5.

¹³¹ “Where a Member State finds difficulty in continuing to grant asylum to refugees, such Member State may appeal directly to other Member States and through the OAU, and such other Member States *shall* in the spirit of African solidarity and international co-operation take appropriate measures to lighten the burden of the Member State granting asylum.” Article II(4), 1969 OAU Convention (emphasis added).

¹³² Rutinwa argues that refugees enjoyed a high quality of asylum during the “open door period”, including freedom of movement, the ability to engage in wage-earning employment and self-sufficiency activities, and access to education and health services. Rutinwa, 1999, 7 – 8.

¹³³ See Rutinwa, 1999, 8 – 9.

¹³⁴ See: UNHCR, *State of the World’s Refugees*, 2000, 302 – 305.

¹³⁵ Loescher, 2001, 124.

¹³⁶ Renu Anand, *African Refugees: An overview*, New Delhi: Khama Publishers, 1993, 16.

responding to concerns surrounding the political and strategic aspects of Africa's early experience with refugees.¹³⁷

The origins of the 1969 OAU Convention can be traced to December 1963, when the Liberation Committee of the OAU¹³⁸ met in Dar-es-Salaam to consider the increasing number of refugees resulting from conflicts in independent African countries. The Committee charged two related sub-committees – one covering North and West Africa, the other covering Central, Eastern and Southern Africa – with the task of conducting “a survey of the refugees and the conditions under which they were living in their countries of asylum.”¹³⁹ The two sub-committees subsequently submitted a joint report, in which they recommended that “the OAU should assume direct responsibility for the refugees in Africa, and create a commission under the aegis of the Liberation Committee to look after them.”¹⁴⁰ They further recommended that all OAU Member States should be required to contribute to the activities of this new agency, that all international assistance should be channelled through the OAU, and that all able-bodied refugees should be “given training to go back to their home countries to fight for independence.”¹⁴¹

Before the sub-committees could complete their work, however, the problem of refugees was raised at the OAU Council of Ministers in February 1964. The Council was “informed that the activities of refugees from Rwanda and other independent African states were causing serious problems in relations between states.”¹⁴² The Council established its own Commission on Refugee Problems in Africa to “investigate ways to deal with the

¹³⁷ See: C.O.C. Amate, *Inside the OAU: Pan-Africanism in Practice*, Basingstoke: Macmillan, 1986; and M.R. Rwelamira, “Two Decades of the 1969 OAU Convention Concerning the Specific Aspects of the Refugee Problem in Africa”, *International Journal of Refugee Law*, Vol. 1, no. 4, 1989.

¹³⁸ For background on the branches and functions of the OAU, see: Gino J. Naldi, *The Organization of African Unity: An Analysis of Its Role*, London: and Amate, 1986.

¹³⁹ Amate, 1986, 459.

¹⁴⁰ Amate, 1986, 460.

¹⁴¹ *Ibid.*

¹⁴² *Ibid.*

political nature of the continent's refugee problems.”¹⁴³ In reporting back in July 1964, the Commission reported that “the movement of refugees from independent African countries into other independent African countries had become a source of friction and, in some cases, of serious dispute between the governments of the countries of asylum and the governments of the countries of origin...”¹⁴⁴ In response, the Commission drafted a set of guiding principles that involved action by all African states on the question of refugees.

The final steps towards drafting the convention were taken in February 1965, when the Council of Ministers established a committee of legal experts. This committee was tasked to meet before 30 July 1965, “for the purpose of examining the said convention in the light of comments and remarks of member states and preparing a final draft convention.”¹⁴⁵ Although final preparation of the Convention was delayed first by the adoption of the 1967 Protocol, and second by the 1967 *Conference on the Situation of Refugees in Africa*,¹⁴⁶ the OAU Convention was finally signed in 1969.

Alternative explanations for asylum policies

Based on this review, it may be argued that political concerns played a more significant role in the drafting of the 1969 OAU Convention than notions of ‘traditional hospitality’. In fact, a number of authors find the ‘traditional hospitality’ argument to be problematic.¹⁴⁷ Crisp argues that while the argument “should not be entirely discounted, it is important to recognize the extent to which the principle and practice of asylum was underpinned by other considerations.”¹⁴⁸ Noting that the majority of refugees in Africa during the 1960s and 1970s were the result of wars of national liberation, Crisp emphasizes

¹⁴³ Loescher, 2001, 125.

¹⁴⁴ Amate, 1986, 461.

¹⁴⁵ Amate, 1986, 463.

¹⁴⁶ See: Hamrell (ed.), 1967.

¹⁴⁷ For an early critique of the notion of ‘traditional hospitality’, see: Kibreab, 1985, 67 – 84.

¹⁴⁸ Crisp, August 2000, 5.

how “the ideologies of pan-Africanism and anti-colonialism remained strong throughout much of the continent” and resulted in open asylum policies.¹⁴⁹ Crisp also argues that substantial international assistance was the essential factor that ensured asylum for refugees fleeing other conflicts in independent African states. He argues that “an implicit deal was struck” between African states and the international community: that African states would provide the land for refugee settlements, and that donor states would provide the necessary funding.¹⁵⁰ While such assistance from donors did mitigate the impact of the presence of refugees, Crisp adds that such assistance programmes “provided African states and elites with a welcome source of foreign exchange, employment and commercial opportunities.”¹⁵¹

As such, it may be argued that there was a dual imperative for providing asylum to refugees in the 1960s and early 1970s, as illustrated by the case of Tanzania in Chapter 5. Asylum was granted to refugees fleeing wars of national liberation as part of the ideology of Pan-Africanism and as a means of highlighting the failures of colonial and minority-ruled territories. Likewise, providing asylum to refugees through the zonal development approach was seen as a means of attracting international assistance to under-developed areas of newly independent states. Such an approach, however, was premised on manageable numbers of refugees, sustained international assistance, and the ability to insulate the governing regime from the security implications associated with hosting politicized refugee populations. As numbers increased, international assistance waned and as security concerns increased, coupled with broader changes in the African political and economic landscape, willingness to host refugees diminished through the 1980s.

¹⁴⁹ *Ibid.*

¹⁵⁰ *Ibid.*

¹⁵¹ *Ibid.*

Roots of the crisis in asylum: late 1970s – 1980s

The 1970s witnessed two contradictory trends in refugee movements in Africa. On the one hand, it was a time of solutions. In 1972, some 200,000 refugees repatriated to South Sudan, while international engagement helped find solutions for the Ugandan Asians expelled by Idi Amin.¹⁵² The change of regime in Portugal led to the independence of Angola, Mozambique and Guinea-Bissau in 1975 and the subsequent repatriation of some 500,000 refugees. Then, in 1980, significant numbers of refugees repatriated to Zaire, Angola and independent Zimbabwe.

As the majority of international assistance remained focused on supporting these operations, however, the number of refugees resulting from other conflicts began to climb in the early 1970s.¹⁵³ By 1980, there were over 4 million refugees in Africa.¹⁵⁴ As the continent witnessed additional refugee movements, especially from Chad, Ethiopia and Zaire, and as the “number of African refugees grew exponentially, solutions such as local settlement ... became more difficult and less likely to be achieved quickly.”¹⁵⁵ By the end of the 1970s, host countries began to argue that refugees had become an “open-ended burden.”¹⁵⁶ This was compounded by the fact that many host countries had “less sympathy for, and solidarity with, refugees fleeing from their independent neighbour than for those fleeing from imperialism.”¹⁵⁷

These refugee movements also occurred in a changing international context. As outlined in the Introduction, many African countries experienced slow economic growth, rapid population growth, balance of payments deficits and a climbing debt burden by the early 1980s, placing additional pressures on host states. At the same time, new refugee movements,

¹⁵² See: Loescher, 2001, 165 – 168.

¹⁵³ Gould, 1974, 415.

¹⁵⁴ UNHCR, *State of the World's Refugees*, 2000, 310.

¹⁵⁵ Barry N. Stein, “ICARA II: Burden Sharing and Durable Solutions” in John R. Rogge (ed.), *Refugees: A Third World Dilemma*, Totowa, NJ: Rowman and Littlefield, 1987, 50.

¹⁵⁶ *Ibid.*

¹⁵⁷ Stein, 1987, 51.

especially in Southern Africa and the Horn of Africa, emerged as part of the globalization of the Cold War.¹⁵⁸ In contrast with the robust Western response to refugees in other regions, however, “the politicization of refugee problems during the 1980s precluded an easy solution to the refugee dilemma,”¹⁵⁹ especially in Africa. Unlike the Western response to the Indochinese crisis,¹⁶⁰ there was no political will for the large-scale resettlement of refugees from Africa. Unlike the Western response to the refugee situation in Latin America and the development of the CIREFCA process,¹⁶¹ donor governments no longer appeared willing to support large-scale local integration programmes in Africa. Finally, the disengagement of the superpowers from Africa by the end of the 1980s left many of the proxy conflicts unresolved, frustrating repatriation efforts and leaving many refugee populations in limbo. Notwithstanding the large-scale repatriation to Namibia, significant refugee populations from Angola, Mozambique, Ethiopia, Sudan and elsewhere remained in exile at the end of the 1980s. By 1990, Africa’s refugee population was over 5.8 million.¹⁶²

The vast majority of these refugees were no longer accommodated in settlements, but in refugee camps.¹⁶³ This approach was sought by host states, who, “concerned about the security risks of hosting refugees from neighbouring countries and about the enormous strains on local economic, political and physical resources, viewed refugee camps as the most convenient way to segregate refugees and to limit their impact on the local community.”¹⁶⁴ This shift was an early indication of changes in the asylum policies of African states.

In the context of rising numbers, economic crisis and the politicization of refugee populations, it soon became clear that two of the most important concerns for African states

¹⁵⁸ See: Loescher, 2001, 201 – 246. For an overview of the Cold War dynamic and refugee movements in Southern Africa, see: Zolberg *et al*, 1989, 90 – 102. For an overview of the Cold War dynamic and refugee movements in the Horn of Africa, see: Zolberg *et al*, 1989, 103 – 120.

¹⁵⁹ Loescher, 2001, 225.

¹⁶⁰ See: UNHCR, *State of the World’s Refugees* 2000, 79 – 104.

¹⁶¹ See: UNHCR, *State of the World’s Refugees* 2000, 136 – 143.

¹⁶² UNHCR, *State of the World’s Refugees*, 2000, 310.

¹⁶³ See: UNHCR, *State of the World’s Refugees*, 2000, 108 – 109.

¹⁶⁴ Loescher, 2001, 226.

were the question of sharing the burden of hosting large refugee populations for extended periods of time and the security implications of hosting refugees from Cold War conflicts. This chapter now considers how African states and the international community responded to these concerns, and how the failure to address the concerns of African states contributed to the emergence of restrictive asylum policies by the late 1980s.

Burden sharing: ICARA I and ICARA II

As outlined above, host states generally responded to early refugee populations by implementing zonal development and local settlement schemes. Initially, this approach proved to be successful, but over time, it became unsustainable, and refugee populations became increasingly dependent on international assistance to meet their basic needs.¹⁶⁵ During the 1979 *Conference on the African Refugee Problem*, many states argued that a new approach was necessary if the burdens of African asylum countries were to be more equitably shared.¹⁶⁶ By the early 1980s, it was recognized that donor governments were increasingly reluctant to fund lengthy care and maintenance programmes. At the same time, “African states stressed the need for greater international burden sharing so that they could better manage the adverse impact of refugees on their economies and environments.”¹⁶⁷

Using their influence in the UN General Assembly (UNGA), African states pushed for additional resources for the assistance of host states in Africa. On 25 November 1980, the UN General Assembly passed Resolution 35/42, which called for an *International Conference on Assistance to Refugees in Africa* to be held the following year. The resolution recognized that Africa had come to host over half the world’s refugees, and that the UNGA was “aware of the

¹⁶⁵ On the demise of the zonal development approach, see: Loescher, 2001, 119 – 122.

¹⁶⁶ See: L.-G. Eriksson, G. Melander and P. Nobel (eds.), *An analysing account of the conference on the African refugee problem, May 1979, Arusha*, Uppsala: Scandinavian Institute of African Studies, 1981.

¹⁶⁷ Loescher, 2001, 227.

consequent social and economic burden placed on African countries of asylum...”¹⁶⁸

Significantly, the resolution also recognized the:

... universal collective responsibility to share the urgent and overwhelming burden of the problem of African refugees through effective mobilization of resources to meet the urgent and long-term needs of the refugees and to strengthen the capacity of countries of asylum...¹⁶⁹

The Conference, known as ICARA I, had three objectives: to focus world attention on Africa’s refugee problem; to mobilize additional resources for the problem; and, finally, to assist host countries through the application of these additional resources. There is some disagreement over the extent to which ICARA I, held in Geneva from 9 – 10 April 1981, fulfilled its objectives. Stein argues that the Conference was “relatively successful in meeting its first two objectives,”¹⁷⁰ in that it did focus international attention on the scale of the refugee problem in Africa and mobilized more than US\$570 million.¹⁷¹ In contrast, it was argued that it “fell short of its third objective”¹⁷² as the money pledged was not new money. The fact “that most of the money was earmarked by the donors for specific programmes rather than being generally available to all host countries was also a disappointment.”¹⁷³ Also significant was the fact that “very few funds went to hard-hit nations like Ethiopia and other countries in the Horn of Africa.”¹⁷⁴ This level of engagement was justified by many donors on the basis that the requests received were considered to be “unrealistic and exaggerated”, and that in preparation for ICARA I “old, rejected development projects that had been lying on the shelf were dusted off and given a refugee label, and were submitted for funding.”¹⁷⁵

¹⁶⁸ UN General Assembly (UNGA), “International Conference on Assistance to Refugees in Africa”, Resolution 35/42, 25 November 1980.

¹⁶⁹ *Ibid.*

¹⁷⁰ Stein, 1987, 48.

¹⁷¹ This total was roughly half the amount requested by African states. The largest contributions were received from: USA (\$285 million), European Economic Community (\$68 million), West Germany (\$34 million), Japan (\$33 million), Saudi Arabia (\$30 million), Canada (\$18.8 million), Italy (\$17 million), the United Kingdom (\$13.8 million), and France (\$2.4 million). Anand, 1993, 77.

¹⁷² Stein, 1987, 48.

¹⁷³ *Ibid.*

¹⁷⁴ Loescher, 2001, 227.

¹⁷⁵ Stein, 1987, 49.

When the question of assistance to refugees in Africa returned to the agenda of the UN General Assembly in December 1982, it was noted that “while [ICARA I] succeeded in raising world consciousness about the plight of refugee and returnees in Africa, as well as the problems of asylum countries, the overall results of the Conference in terms of financial and material assistance have fallen short of the expectations of the African countries.”¹⁷⁶ The UN Secretary General, in close cooperation with the OAU and UNHCR, was requested to convene a second *International Conference on Assistance to Refugees in Africa* (ICARA II) in 1984 to review the results of ICARA I, to consider providing “additional assistance to refugees and returnees in Africa,” and “to consider the impact imposed on the national economies of the African countries concerned and to provide them with required assistance to strengthen their social and economic infrastructure to cope with the burden of dealing with large numbers of refugees and returnees.”¹⁷⁷

A process of consultation was established through which country reports were prepared for ICARA II, providing a detailed assessment of the assistance needs of refugees and returnees, in addition to the assistance required by host countries to develop the infrastructure necessary to better cope with the refugee burden. While the preparations for ICARA II were impressive, the response from donor countries was not. According to Gorman:

... donor country attitudes toward ICARA II were marked by a lack of enthusiasm and in some cases out-right circumspection. Most donors doubted the motives for the convening of ICARA II. As a rule, they felt – in contrast to the Africans – that ICARA I had been a success, and many were upset with the African criticism of their response to the first conference.¹⁷⁸

Through ICARA II, it became clear that, notwithstanding the extensive preparative work, there were significant differences between host and donor countries on what burdens were

¹⁷⁶ UNGA, “International Conference on Assistance to Refugees in Africa”, Resolution 37/197, 18 December 1982.

¹⁷⁷ Operational paragraph 5, UNGA, “International Conference on Assistance to Refugees in Africa”, Resolution 37/197, 18 December 1982.

¹⁷⁸ Robert F. Gorman, *Coping with Africa's Refugee Burden: A time for solutions*, Dordrecht: Martinus Nijhoff Publishers and UNITAR, 1987, 67.

borne by host states and how these should be addressed. At the same time, it became increasingly clear that it would be the donor states' characterization of Africa's refugee burden that would inform future burden sharing discussions. As this position became entrenched through the 1980s, African states not only felt that their concerns relating to burden sharing were not addressed by the international community, but that they had limited influence over the very terms of the debate.¹⁷⁹

Security concerns: Attacks on refugee camps and settlements

While the UN General Assembly was attempting to address the burden sharing concerns of African states, the UNHCR's Executive Committee was engaged in a second challenge: the question of armed attacks on refugee camps and settlements. While the security implications of refugee movements, especially the presence of armed elements within the refugee population, had been evident in Africa for over a decade,¹⁸⁰ the question of refugees and stability in Africa was brought into particular focus as a result of specific events in Southern Africa in the late 1970s.

On 4 May 1978, the South African Defence Force (SADF) attacked Kassinga, Angola, killing 600 Namibian refugees. The attack was justified on the grounds that the refugees were actively engaged in an armed struggle against South African control of Namibia. A similar pattern ensued elsewhere in the region as South Africa employed the threat or use of military force to pressure the 'frontline states' of Mozambique, Lesotho, Botswana, Swaziland and Angola into not hosting refugees active in the struggle against white minority rule in Southern Africa.¹⁸¹ Other incidents included the January 1981 SADF raid on Maputo, Mozambique,

¹⁷⁹ Jeff Crisp, "Mind the Gap! UNHCR, humanitarian assistance and the developmental process", *New Issues in Refugee Research*, Working Paper No. 43, Geneva: UNHCR, May 2001b, 5.

¹⁸⁰ For a review of the question of refugees and security in Africa in the 1960s, see: Robert O. Matthews, "Refugees and Stability in Africa", *International Organization*, Vol. 26, no. 1, 1972; and Thomas Hovet, "Boundary Disputes and Tensions as a Cause of Refugees", in Brooks and El-Ayouty (eds.), 1970.

¹⁸¹ See: Elly-Elikunda Mtango, "Military and Armed Attacks on Refugee Camps" in Loescher and Monahan (eds.), 1990; and Joe Molefi, "Few Safe Havens for Apartheid's Exiles", *African Report*, Vol. 29, no. 1, January/February 1984.

killing 12 South African refugees, the December 1982 SADF attack on Maseru, Lesotho, killing 30 South African refugees and 12 Lesotho nationals and the May 1983 bombing of Matola by the South African air force.

In light of these attacks and similar events elsewhere, UNHCR's Executive Committee decided in October 1981 to examine the need for special measures and procedures to respond to such circumstances. Former High Commissioner for Refugees Felix Schnyder was asked to undertake a review of the situation and make recommendations to the Executive Committee. Schnyder's report, submitted on 15 March 1983,¹⁸² concluded that attacks on refugee camps may "endanger the national populations of asylum countries and thus lead to the risk of governments of these countries adopting more restrictive attitudes towards asylum seekers."¹⁸³ The report proposed a *Draft Declaration on the Prohibition of Military or Armed Attacks against Refugee Camps and Settlements*, containing a range of provisions to ensure the civilian and humanitarian character of camps.

According to Mtango, "political and strategic considerations prevailed over humanitarian concern" when an earlier version of the *Draft Declaration* was first considered by the Executive Committee in October 1982.¹⁸⁴ As during ICARA II, a split emerged between developing countries, who "insisted on outright condemnation of armed attacks on refugee camps and settlements", and Western states, especially the US, "who preferred not to jeopardise the interests of friendly states (Israel and South Africa) who were among the known main culprits."¹⁸⁵ In the end, the geopolitical interests of the US, who needed South Africa to counter-balance Cuban and Chinese involvement in the Angolan proxy war, trumped the security concerns of African host states. As a result, the *Draft Declaration* was finally rejected in 1986.

¹⁸² UNHCR, "Report of Ambassador Felix Schnyder on Military Attacks on Refugee Camps and Settlements in Southern Africa and Elsewhere", EC/SCP/26, 15 March 1983.

¹⁸³ UNHCR, 15 March 1983, paragraph 5.

¹⁸⁴ Mtango, 1989, 98. See also: UNHCR, "Informal Meeting on Military Attacks on Refugee Camps and Settlements in Southern Africa and Elsewhere held on Thursday, 28 April 1983", EC/SCP/27, 6 June 1983.

¹⁸⁵ *Ibid.*

This prioritization of geopolitical concerns over the concerns of African states, coupled with the economic crisis gripping the continent, caused significant concern for host states during the 1980s and resulted in a marked change in their characterization of the presence of refugees. By 1990, African states claimed that “the problem of refugees in Africa [had] reached unmanageable proportions.”¹⁸⁶ Hosting 5.8 million refugees in increasingly insecure conditions, African states were particularly concerned about the emergence of “donor fatigue syndrome coupled with declining political will on the part of some of the traditional donors”¹⁸⁷ and the consequent short-fall in UNHCR’s Africa programme budget for the first time in four decades. There was a concern that Western states were withdrawing completely from Africa in the dying days of the Cold War. Many of these concerns would be both confirmed and compounded by the events of the 1990s.

The emergence of the crisis: 1990 – 2004

Referred to as “the turbulent decade,”¹⁸⁸ the 1990s witnessed refugee movements in Africa unprecedented in their scale and complexity. As detailed in the case studies of this thesis, conflict in the Horn of Africa, the Great Lakes region and West Africa almost simultaneously resulted in the influx of hundreds of thousands of refugees into neighbouring states. While a resolution of the conflict in Mozambique allowed for the repatriation of some 1.7 million refugees between 1992 and 1996,¹⁸⁹ the proliferation of conflict across the continent saw Africa’s refugee population reach 6.7 million in 1994.¹⁹⁰

¹⁸⁶ OAU, *The Khartoum Declaration on Africa’s Refugee Crisis*, Adopted by the OAU Seventeenth Extraordinary Session of the Commission of Fifteen on Refugees, Meeting in Khartoum, Republic of Sudan, 22 – 24 September 1990, paragraph 1.

¹⁸⁷ OAU, *Khartoum Declaration*, 1990, paragraph 3.

¹⁸⁸ Sadako Ogata, *The Turbulent Decade: Confronting the Refugee Crises of the 1990s*, London: W. W. Norton and Company, 2005.

¹⁸⁹ See: UNHCR, *State of the World’s Refugees*, 2000, 148 – 152.

¹⁹⁰ UNHCR, *State of the World’s Refugees*, 2000, 310.

Notwithstanding the scale of the problem, it appeared as though Western powers were reluctant to become involved in these crises, especially as “their strategic interests [in Africa] were limited.”¹⁹¹ This lack of Western involvement also contributed to a prolongation of the conflicts that caused these refugee movements.¹⁹² This response was particularly stark when compared to Western engagement in other regions, as “the level of international attention and humanitarian assistance to [Africa’s] refugees and displaced people was miniscule compared to other high-profile conflicts,”¹⁹³ especially in the Balkans. In response, a number of host states across Africa became “alarmed by the economic, environmental, social, and security costs of hosting mass influxes of refugees” and “took steps to exclude asylum-seekers from their territory and to ensure the rapid – and in some cases involuntary – repatriation of refugees.”¹⁹⁴ While these concerns were replicated across the continent during the 1990s, their interplay in the context of mass displacement in the Great Lakes region was perhaps the most striking.

*Crisis in the Great Lakes region: 1994 - 1997*¹⁹⁵

In the aftermath of genocide and civil war,¹⁹⁶ more than 2 million Rwandan refugees fled to neighbouring countries in 1994.¹⁹⁷ The largest population, some 1.2 million, fled to Eastern Zaire. Many believed that this exodus was “far from spontaneous,”¹⁹⁸ but rather a strategic decision by the Former Government of Rwanda (FGoR) to withdraw a portion of the population of Rwanda to delegitimize the new Tutsi regime, to provide a cover for the

¹⁹¹ Loescher, 2001, 13.

¹⁹² See: Oliver Furley (ed.), *Conflict in Africa*. London: Tauris Academic Studies, 1997.

¹⁹³ Loescher, 2001, 302.

¹⁹⁴ Loescher, 2001, 16.

¹⁹⁵ For a detailed consideration of the refugee crisis in the Great Lakes region, see: Ogata, 2005, 172 – 275.

¹⁹⁶ For background on the Rwandan crisis, see: Gérard Prunier, *The Rwanda Crisis: History of a Genocide*, London: Hurst and Company, 1995.

¹⁹⁷ UNHCR, *State of the World's Refugees*, 2000, 250.

¹⁹⁸ UNHCR, *State of the World's Refugees*, 2000, 246.

political and military activities of the FGoR in exile, and to attract international material assistance. Using the camps as a base and the refugees as a shield, elements of the FGoR and the Hutu militia, the *interahamwe*, launched attacks back into Rwanda throughout 1995,¹⁹⁹ causing significant problems for other refugees, the country of asylum, the country of origin, states in the region and UNHCR.²⁰⁰ At the same time, a number of host states, especially Tanzania, highlighted the range of burdens associated with the arrival and presence of such large refugee populations.²⁰¹ Most prominent was the negative impact on the environment, physical infrastructure, law and order, social services, food security and local economy in refugee-populated areas.

It soon became evident that the international community, through UNHCR, was unable or unwilling to address the security implications of the presence of these armed elements. Likewise, the international donor community seemed reluctant to respond to the impact of such massive refugee populations on neighbouring states. Divisions within the international donor community, especially over the question of providing assistance to refugee camps known to contain perpetrators of the genocide,²⁰² continued through 1995. Meanwhile, UNHCR made “repeated calls for measures to be taken by the [UN] Security Council to ensure the civilian and humanitarian nature of the refugee camps.”²⁰³ In the end, inaction on the part of the international community frustrated efforts to find a solution to either challenge.

By mid-1996, “the situation in the Great Lakes region was extremely tense.”²⁰⁴ Rwanda was increasingly frustrated with inaction on the part of the international community

¹⁹⁹ See: Wm. C. Reed, “Guerrillas in the Midst: The Former Government of Rwanda (FGoR) & the Alliance of Democratic Forces for the Liberation of Congo-Zaire (ADFL) in Eastern Zaire” in Christopher Clapham (ed.), *African Guerrillas*, Oxford: James Currey, 1998.

²⁰⁰ See: Sarah Kenyon Lischer, *Dangerous Sanctuaries: Refugee Camps, Civil War, and the Dilemmas of Humanitarian Aid*, Ithaca: Cornell University Press, 2005, 73 – 117.

²⁰¹ See: UNHCR, “The Rehabilitation of Refugee-Impacted Areas in the Great Lakes Region”, OAU and UNHCR, “Report of the Regional Meeting on Refugee Issues in the Great Lakes”, Kampala, 8 – 9 May 1998.

²⁰² See: Ben Barber, “Feeding Refugees or War?: The Dilemma of Humanitarian Aid”, *Foreign Affairs*, Vol. 76, no. 4, July 1997.

²⁰³ UNHCR, *State of the World's Refugees*, 2000, 254.

²⁰⁴ UNHCR, *State of the World's Refugees*, 2000, 259.

to separate the armed elements from the refugee population, while host states like Zaire and Tanzania expressed their frustration with the lack of donor engagement to mitigate the burden of hosting large refugee populations. Elsewhere, a *coup d'état* in Burundi on 26 July 1996 brought the Tutsi Buyoya regime to power. In Zaire, violence erupted in South Kivu as elements loyal to Zairian President Mobutu attacked Banyamulenge Tutsis. In response to the regionalization of the conflict, and in the absence of an effective international response, Rwanda, and to a lesser extent Burundi, began to back Zairian opposition groups as a means of breaking the deadlock in the refugee situation.

In late-1996, the *Alliance des forces démocratiques pour la libération du Zaïre/Congo* (ADFL), led by Laurent Kabila, emerged as the main foreign-backed opposition group in Zaire. Regardless of this group's agenda, it is important to note that "the refugee camps were the initial target" in the ADFL's march to Kinshasa.²⁰⁵ The first camps attacked were Burundian camps in South Kivu, allegedly used by the *Forces de la démocratie* (FDD) to mount attacks against the Buyoya regime in Bujumbura. Then, in a series of attacks in late October and early November 1996, ADFL forces advanced on Goma and the FoGR-controlled refugee camps. Over the course of the next two weeks, the Rwandan camps in eastern Zaire were overrun by the ADFL. The overwhelming majority of refugees poured back into Rwanda, while thousands more fled deeper into Zaire. After ridding eastern Zaire of the armed elements challenging Rwanda and Burundi, the ADFL turned towards Kinshasa, ousting the Mobutu regime in May 1997.

These events sent shockwaves throughout Africa. While it was not the first time that a regime in Africa had been overthrown as a result of events stemming from refugee movements,²⁰⁶ Mobutu was viewed as the "leading example in Africa of a corrupt but

²⁰⁵ UNHCR, *State of the World's Refugees*, 2000, 263.

²⁰⁶ Herbst notes that Museveni's capture of power in Uganda in January 1986 was "the first time that power was seized in Africa by a leader who had gone back to the bush to form his own army," which, in this case, drew heavily from Rwandans in exile since the 1960s. Jeffrey Herbst, *States and Power in Africa: Comparative Lessons in Authority and Control*, Princeton, NJ: Princeton University Press, 2000, 255.

Western-backed dictator” who had been able to cling to power for decades.²⁰⁷ There was a feeling that if the Mobutu regime could fall as a result of such events, then all regimes in Africa were vulnerable. As detailed in Chapter 5, these events contributed to Tanzania’s decision to forcibly expel the Rwandan refugee population on its territory, ending its decades-old tradition of an open asylum policy.

In the aftermath of these events, UNHCR and the OAU co-hosted the *Regional Meeting on Refugee Issues in the Great Lakes* on 8-9 May 1998 in Kampala. The meeting was convened “at the urging of leaders of the region,”²⁰⁸ many of whom hosted refugees, in order to address issues identified as most pressing by host states and the OAU. It was hoped that the meeting would highlight African concerns relating to the growing refugee problem on the continent. As argued by the Secretary-General of the OAU, “the time has come for all of us to work towards enhancing mutual understanding and restoring confidence.”²⁰⁹ During the meeting, African states identified two issues that needed to be addressed for their confidence as host states to be restored: the security implications of hosting refugees, and the need for increased international assistance to deal with the burdens associated with the mass influx and prolonged presence of refugees.²¹⁰

A wider crisis: Erosion of the quality and quantity of asylum in Africa

Events in the Great Lakes region were, for many, emblematic of a broader crisis of asylum in Africa.²¹¹ Many believed that African states, generally, had begun “to retreat from the fundamental principles of international refugee law,”²¹² and that African states had shifted

²⁰⁷ Clapham, 1996, 203.

²⁰⁸ Sadako Ogata, “Opening Statement”, OAU and UNHCR, May 1998.

²⁰⁹ Salim Ahmed Salim, “Opening Statement”, OAU and UNHCR, May 1998.

²¹⁰ See: OAU and UNHCR, “Report Prepared by OAU/UNHCR Secretariat”, OAU and UNHCR, May 1998.

²¹¹ See: Amnesty International (AI), “In search of safety: The forcibly displaced and human rights in Africa”, London: Amnesty International, June 1997; Lawyers Committee for Human Rights (LCHR), *African Exodus: Refugee Crisis, Human Rights and the 1969 OAU Convention*, New York: LCHR, 1995; Rutinwa, 1999; and Crisp, August 2000.

²¹² Rutinwa, 1999, 8.

from the ‘open door’ asylum policies of the 1960s and 1970s to a more generally restrictive approach to asylum. Some authors highlighted the dramatic rise in examples of *refoulement*, rejection at the frontier, expulsion of refugees, and proposals to contain refugees in countries of origin.²¹³ At the same time, some pointed to a marked decline in standards of protection of refugees by a majority of African states, and a retreat from solutions for refugees other than repatriation,²¹⁴ noting that “there is a great deal of qualitative evidence to suggest that the situation of Africa’s displaced people is becoming increasingly precarious.”²¹⁵

Rutinwa and Crisp were the first to attempt a systematic explanation for the cause of this continent-wide shift throughout the 1990s. Both agree on the over-riding significance of the sheer numbers of refugees in Africa, rising from 1 million in the early 1970s to over 6 million in the mid-1990s. While this number had dropped to 3.1 million refugees by 2003,²¹⁶ this reduction in numbers has not led to a simplification of the refugee problem in Africa. 2.3 million (75%) of Africa’s refugees in 2003 were trapped in protracted refugee situations.²¹⁷ These situations, defined as situations in which “refugees find themselves in a long-standing and intractable state of limbo,”²¹⁸ are found in every region of Africa. Unlike the 1960s, when most refugees were accommodated in settlements, or the 1990s, when most refugees were in emergency situations, the overwhelming majority of African refugees in 2004 had been contained in Africa’s 170 refugee camps for five or more years.²¹⁹ As highlighted during

²¹³ Rutinwa, 1999, 9.

²¹⁴ Rutinwa argues: “States in Africa are ... becoming increasingly reluctant to provide refugees with opportunities for local integration or resettlement. The current policy is to repatriate all refugees at the earliest opportunity, whether or not there have been fundamental and irreversible changes in the situation in the countries of origin as required by international refugee law.” Rutinwa, 1999, 15.

²¹⁵ Crisp, August 2000, 1.

²¹⁶ UNHCR, *Statistical Yearbook 2003*, 2005.

²¹⁷ UNHCR, ExCom, 10 June 2004, 10. See also: Jeff Crisp, “No solutions in sight: the problem of protracted refugee situations in Africa”, *New Issues in Refugee Research*, Working Paper No. 75, Geneva: UNHCR, January 2003.

²¹⁸ UNHCR, ExCom, 10 June 2004, 1.

²¹⁹ Arafat Jamal, “Camps and freedoms: long-term refugee situations in Africa”, *Forced Migration Review*, No. 16, January 2003, 4.

recent meetings between states and UNHCR in Geneva, finding solutions to these refugee situations is one of the greatest challenges to refugee protection in Africa today.²²⁰

Coupled with the protracted nature of many of these refugee situations is declining international support. Crisp notes that “donor states can be said to have exacerbated the decline in protection standards in Africa by making it increasingly clear that they are no longer prepared to support long-term refugee assistance efforts.”²²¹ As detailed in Chapter 2, this perception of diminishing international support for long-term refugee programmes, coupled with a wider recognition of the range of burdens borne by host states, has resulted in the perception by a number of African states “that their generosity has been too quickly forgotten.”²²²

Crisp and Rutinwa also emphasise changes in the nature of refugee movements and populations in Africa as another set of causes for the rise in restrictive asylum policies. Both highlight the fact that the majority of refugees in contemporary Africa are no longer fleeing wars of national liberation and decolonisation, but civil wars taking place in independent countries. As a result, “the new generation of African exiles have not been able to count on the support and solidarity offered to refugees in earlier years.”²²³ These changing circumstances, especially in the aftermath of the Rwandan genocide, have resulted in an increased perception of refugees as a security concern for host states, as detailed in Chapter 3. These “national security and inter-state relations” concerns are also highlighted by states as a justification for their restrictive policies.²²⁴

²²⁰ See: UNHCR, Africa Bureau, “Addressing Protracted Refugee Situations in Africa”, paper prepared for the Informal Consultations on New Approaches and Partnerships for Protection and Solutions in Africa, Geneva, 14 December 2001.

²²¹ Crisp, August 2000, 6.

²²² *Ibid.* This point was echoed by a significant number of representatives of African Governments at a recent Ministerial meeting between UNHCR and African Governments on protracted refugee situations in Africa. See: Chairman’s Summary, Informal Consultations on New Approaches and Partnerships for Protection and Solutions in Africa, Geneva, 14 December 2001, on file with author.

²²³ Crisp, August 2000, 6.

²²⁴ Rutinwa, 1999, 16 – 17.

Crucially, however, both Crisp and Rutinwa emphasise the relationship between external factors, including democratisation and economic liberalization, and the rise of a more restrictive asylum policy in Africa. Crisp argues that “there is growing evidence of a linkage between the process of democratisation on the one hand and the decline in refugee protection standards on the other.”²²⁵ Both emphasize that prior to the 1990s, authoritarian and one-party states in Africa were able to offer asylum to individuals or groups without having to answer to domestic opposition. In contrast, the opening of the political process across Africa has led to “growing xenophobia in many African countries,”²²⁶ often fuelled by the effects of “austerity programmes imposed by the IMF and the World Bank, which have forced governments to curtail free services to their populations, have made it difficult for the people to accept the same services being provided free to refugees.”²²⁷ In the context of democratization, Rutinwa argues that “the result has been the adoption of anti-refugee platforms by political parties which result in anti-refugee policies and actions by governments.”²²⁸ Both argue that such factors must consequently be taken into account when considering the asylum policies of African states.

Conclusion

This chapter has traced the history of refugee movements in Africa from the early 1960s to the end of the 1990s and highlighted the changes in African asylum policies. In the 1960s and early 1970s, solidarity with liberation movements and the desire to attract international assistance motivated newly-independent African states to adopt a ‘zonal development’ approach to refugee settlement. This approach proved untenable in the late 1970s and early 1980s as refugee numbers increased and as the economic crisis gripped

²²⁵ Crisp, August 2000, 8.

²²⁶ Rutinwa, 1999, 1.

²²⁷ *Ibid.*

²²⁸ Rutinwa, 1999, 2.

Africa. The globalization of the Cold War and emergence of proxy wars in Southern Africa and the Horn of Africa politicized the refugee problem, leading not only to security concerns for host states, but frustrating efforts to find solutions. The international donor community, however, seemed unwilling or unable to address these concerns, as illustrated by the outcomes of the ICARA process and the *Draft Declaration* on attacks on refugee camps.

These concerns were compounded in the early 1990s by the end of the Cold War and the proliferation and regionalization of conflict in Africa. The emergence of so-called ‘failed states’ in Somalia and Liberia not only produced significant refugee flows, but proved difficult to resolve throughout the 1990s, leading to protracted refugee situations. Likewise, the aftermath of conflict and genocide in the Great Lakes brought home with particular force the potential negative impact of hosting large refugee populations, especially following the fall of the Mobutu regime.

More generally, the 1990s witnessed an erosion of refugee protection principles in Africa. While the scale and protracted nature of the continent’s refugee situations, coupled with concerns about burden sharing and security, clearly contributed to the adoption of restrictive asylum policies in the late 1990s, pressures such as democratization and economic liberalization also played a crucial role. The remainder of this thesis will examine the extent to which these factors can explain the asylum policies adopted by countries of asylum in Africa. The following chapters will critically consider the concepts of burden sharing and the relationship between refugee movements and security in Africa, before section two of this thesis examines the relative importance of these and other factors in explaining the asylum policies adopted by Kenya, Tanzania and Guinea.

Chapter 2

The Principle and Practice of Burden Sharing with Africa

Introduction

Burden sharing, in the context of refugees, is the principle through which the diverse costs of granting asylum assumed by the host state are more equitably divided among a greater number of states. In recent years, there has been a perceived lack of global burden sharing, which has been cited by many states in the global South as a justification for placing limits on the asylum they offer to refugees. Given these restrictions, the fact that the majority of the world's refugees are in some of the world's poorest countries, and the growing tendency of Southern host states to identify adequate burden sharing as a precondition for hosting refugees, burden sharing has become, for some, "the most critical issue of contemporary global refugee policy."²²⁹ This is especially true in the case of Africa.

The focus of this chapter is the principle and practice of international burden sharing with Africa. Given that a lack of burden sharing on the part of the international community has been cited by a number of African states as a justification for adopting restrictive asylum policies, this chapter develops a more critical understanding of burden sharing appropriate to the study of asylum in Africa. By identifying the various mechanisms through which Africa's refugee burden has been shared, this chapter argues that a significant level of burden sharing with African states does, in fact, take place. Crucially, however, the scope and scale of these burden sharing activities are largely based on the interests of donor states, with the priorities and demands of African states influencing the practice of burden sharing only in very limited ways. This chapter argues that the inability of African states to significantly alter the level and nature of burden sharing can partially be explained by the nature of the relationship between African states and the international donor community.

²²⁹ B. S. Chimni, "The Principle of Burden Sharing: Some reflections", Presentation to the Summer School in Forced Migration, University of Oxford, July 1999, on file with author.

This emphasis on global burden sharing efforts with African states is not intended to suggest that inter-African burden sharing does not occur. Under the spirit of Article II(4) of the 1969 OAU Convention, there have been a limited number of examples of inter-African burden sharing. As outlined in Chapter 5, Tanzania resettled Rwandan refugees from Zaire in the 1960s. Likewise, Benin and Burkina Faso had short-lived resettlement programmes in 2000-2002.²³⁰ Given the very limited scale of these activities, however, this chapter concentrates on burden sharing activities by Western donor states with African host states.

The goal of this chapter is to develop a more critical understanding of burden sharing to be employed in the case studies of this thesis. This understanding will emphasise the need to consider which state interests determine the scope, scale, sustainability and dependability of financial and physical burden sharing, while also considering the potential ways in which the presence of refugees may constitute a benefit for the host state and refugee-populated area. By applying this disaggregated understanding of burden sharing to the cases of Kenya, Tanzania and Guinea, subsequent chapters of this thesis will consider the extent to which the characterization of refugees as a burden by host states is influenced by broader political factors unrelated to the presence of refugees.

This chapter has five sections. Section one outlines the principle of burden sharing before considering a range of factors that have contributed to the perceived significance of the burden sharing debate in Africa in recent years. Section two considers how the refugee burden has been measured, before considering the ways in which the presence of refugees could constitute both a burden and a benefit to host states and refugee-populated areas. Section three then details the various ways in which donor states have shared Africa's *financial* and *physical* refugee burden. Based on this disaggregated understanding of burden sharing, section four considers the renewed debate on burden sharing to highlight the limited ways in

²³⁰ See: Stefan Sperl and Irinel Bradisteanu, "Refugee resettlement in developing countries: The experience of Benin and Burkina Faso, 1997 – 2003: An independent evaluation", Geneva: UNHCR, Evaluation and Policy Analysis Unit and Resettlement and Special Cases Section, EPAU/2004/04-Rev.1, April 2004.

which African states have been able to influence burden sharing discussions. Section five then briefly contrasts the history of burden sharing in Africa with examples of burden sharing with Southeast Asia and Macedonia to consider what factors have led to successful burden sharing in other regions.

The principle and significance of burden sharing in Africa

The principle of burden sharing, also referred to as international solidarity, has been expressed in a wide range of statements since the founding of the modern international refugee regime in the early 1950s. As expressed in the Preamble of the 1951 Convention:

... the grant of asylum may place unduly heavy burdens on certain countries, and
... a satisfactory solution ... cannot therefore be achieved without international
cooperation.

Similar statements have been repeated in numerous UN General Assembly resolutions and in a significant number of Conclusions of UNHCR's Executive Committee over the past 25 years.²³¹ The importance of the principle has also been highlighted by the Global Consultations on International Protection²³² and the subsequent Agenda for Protection.²³³ While illustrating the desirability of burden sharing, however, these statements do not constitute binding obligations on states and international law, by custom or treaty, does not include a duty on states to engage in burden sharing.²³⁴

While burden sharing is not a binding obligation, it is important to begin this chapter by understanding the link between burden sharing and *non-refoulement*: the prohibition on expelling or returning of a refugee "in any manner whatsoever to the frontiers of territories

²³¹ For a review of UNGA resolutions and ExCom Conclusions that emphasise the importance of burden sharing, see: Agnès Hurwitz, "Responsibility-sharing Arrangements for the Protection of Refugees, with Particular Reference to Europe and the Determination of Claims for Refugee Status", DPhil Thesis, Faculty of Law, University of Oxford, 2002, 170 – 171.

²³² See: UNHCR, Global Consultations, "Mechanisms of International Cooperation to Share Responsibilities and Burdens in Mass Influx Situations", EC/GC/01/7, 19 February 2001b.

²³³ See: Goal Three: "Sharing the burdens and responsibilities more equitably and building of capacities to receive and protect refugees", UNHCR, ExCom, "Agenda for Protection: Addendum", AC.96/965/Add.1, 26 June 2002.

²³⁴ See: Hurwitz, 2002, 191 – 193.

where his life or freedom would be threatened.”²³⁵ Unlike burden sharing, this prohibition is binding not only on states party to the 1951 Convention but has also become a principle of customary international law,²³⁶ and is consequently binding on all states in the international system.²³⁷ As such, states are generally understood to have a duty to offer, at minimum, temporary protection to refugees entering their territory. The responsibility to host refugees therefore falls primarily on those states neighbouring the refugee-producing country, with most states consequently hosting refugees due to an “accident of geography.”²³⁸ As a result, there is an uneven distribution of refugees between countries, which results in “some countries bearing a disproportionate share of the refugee burden, while others bear little or none of these responsibilities.”²³⁹

To address this unequal distribution, it has been argued that there is an international collective responsibility to uphold the principle of *non-refoulement* through burden sharing. According to Fonteyne,

Burden sharing, certainly in cases of large-scale refugee movements, is a virtual *sine qua non* for the effective operation of a comprehensive *non-refoulement* policy...²⁴⁰

Some have argued that in recognizing this implicit link, the drafters of the 1951 Convention understood that “if the burden became too much to bear, countries of asylum may be forced not to respect the principle of *non-refoulement*.”²⁴¹ As cautioned by Chimni, “when the link between the two principles [of burden sharing and refugee protection] is snapped what you

²³⁵ Article 33(1), 1951 Convention.

²³⁶ See: Goodwin-Gill, 1996; and James C. Hathaway, *The Law of Refugee Status*, Toronto: Butterworths, 1991. For an explanation of custom as a source of international law, see: Michael Akehurst, *A Modern Introduction to International Law*, Sixth Edition, London: Routledge, 1970, 25 – 34.

²³⁷ See: Goodwin-Gill, 1996, 167 – 171.

²³⁸ James C. Hathaway and Alexander Neve, “Making International Refugee Law Relevant Again: A proposal for collectivized and solution-oriented protection”, *Harvard Human Rights Journal*, Vol. 10, 1997, 141.

²³⁹ Rutinwa, 1999, 6.

²⁴⁰ J.-P. Fonteyne, “Burden-Sharing: An analysis of the nature and function of international solidarity in cases of mass influx of refugees”, *The Australian Year Book of International Law*, Vol. 8, 1980, 175.

²⁴¹ Kibreab, 1991, 31.

will witness is the devaluation of the core protection principles, in particular of *non-refoulement*.”²⁴²

UNHCR has warned that this link is under strain in Africa. As a consequence of recurring budget short-falls for refugee programmes in parts of Africa, UNHCR warned in 2001 that “governments [in the region] have already made it clear that they are no longer prepared to meet their international obligations *vis-à-vis* refugees if the international community and UNHCR leave them alone with the consequences of their generosity and hospitality.”²⁴³

A number of factors have added to this strain in recent years. First, African states believe that they host a disproportionate share of the world’s refugees, with approximately 3,295,900 (28%) of the world’s 11,498,100 refugees and asylum seekers at the end of 2004, compared to Western states who together hosted some 934,900 (8%).²⁴⁴ In fact, as illustrated by Table 2.1, Africa has hosted roughly a third of the global refugee population since 1964.

Table 2.1:
Refugee populations: Africa and Global (1954 – 2004)²⁴⁵

Year	Africa	Global	Percentage
1954	5,400	1,749,500	0.3
1964	1,269,600	3,873,600	33
1974	1,108,600	2,460,600	45
1984	3,408,100	10,685,400	32
1994	6,752,200	15,291,400	44
2004	2,863,400	9,593,000	30

This pattern of distribution gives rise to concerns about the impact of refugees on poorer states, an issue that gained prominence in Africa in the mid-1990s. Following the 1994-1996 Rwandan refugee crisis and in response to concerns raised by host states in the

²⁴² Chimni, July 1999, 7.

²⁴³ UNHCR, Regional Directorate for East, Horn of Africa and the Great Lakes Region, “The Impact of Lack of Funding on UNHCR’s Beneficiaries and Humanitarian Staff in the East and Horn of Africa”, internal, Addis Ababa, 21 March 2001, 1 – 2, on file with author.

²⁴⁴ USCR, *World Refugee Survey*, 2005, 6 – 7.

²⁴⁵ See: UNHCR, *State of the World’s Refugees*, 2000, 310 – 313; and UNHCR, Population and Geographical Data Section, *2004 Global Refugee Trends: Overview of Refugee Populations, New Arrivals, Durable Solutions, Asylum-Seekers, Stateless and other Persons of Concern to UNHCR*, Geneva: UNHCR, 17 June 2005.

region, an assessment of the impact of refugees on host countries has subsequently been presented every year to UNHCR's Executive Committee.²⁴⁶ These assessments have generally argued that "from the moment of arrival, refugees compete with the local citizens for scarce resources such as land, water, housing, food and medical services", and that "over time, their presence leads to more substantial demands on natural resources, education and health facilities, energy, transportation, social services and employment."²⁴⁷ Such concerns are compounded by the increasingly protracted nature of many refugee situations. As solutions remain elusive, host governments come to perceive the hosting of these populations as an unending burden.

These concerns are further exacerbated by the reluctance of donor states to fund protracted assistance programmes, arguing that "programmes which have already been in existence for a number of years ... should be brought to an end as rapidly as possible."²⁴⁸ This argument stands in stark contrast with the willingness of donor states to provide assistance to refugees in regions that are seen to be more politically relevant. For example, in 1999, at the height of the Kosovo crisis, it was reported that donors contributed about US\$0.11 per refugee per day in Africa, compared to an average of US\$1.23 per refugee per day in the Balkans.²⁴⁹ Likewise, substantial donor support was received for potential refugee movements in the weeks preceding the US-led invasion of Iraq in 2003, while programmes across Africa were simultaneously forced to make budget cuts.²⁵⁰

²⁴⁶ See, for example: UNHCR, ExCom, "Economic and Social Impact of Massive Refugee Populations on Host Developing Countries, as well as Other Countries: A Quantitative Assessment on the Basis of Special Case Studies", EC/48/SC/CRP.40, 3 August 1998; UNHCR, ExCom, "Economic and Social Impact of Refugee Populations on Host Developing Countries as well as Other Countries: Partnerships with Bilateral Development Agencies", EC/52/SC/CRP.10, 31 May 2002; and UNHCR, ExCom, 18 February 2004.

²⁴⁷ UNHCR, ExCom, "Social and Economic Impact of Large Refugee Populations on Host Developing Countries", EC/47/SC/CRP.7, 6 January 1997, 1.

²⁴⁸ Crisp, August 2000, 7.

²⁴⁹ John Vidal, "Black need, but only whites receive: Race appears to be skewing the west's approach to aid", *The Guardian (UK)*, 12 August 1999.

²⁵⁰ Interview with Jean-Noel Wetterwald, Head, Donor Relations and Resource Mobilisation Service, Division of External Relations, UNHCR Headquarters, Geneva, 15 September 2004.

Measuring Africa's refugee burden

The combined effect of these various pressures has given added significance to the burden sharing debate in Africa in recent years. There is, however, no consensus on how to measure or quantify Africa's refugee burden. In fact, this question has long been a challenge for scholars and practitioners.²⁵¹ As found by the technical teams preparing submissions for ICARA II, the assumption that the presence of large refugee populations in poor host states results in a burden, "though widely held, is almost impossible to verify with hard data."²⁵²

In an effort to address this problem, a number of indicators have been used since ICARA II to facilitate comparison of the *relative* burden borne by various countries: the total number of refugees in a host country, the number of refugee relative to the national population (refugees *per capita*), and the number of refugees relative to the wealth of the country (refugees *per capita* GDP). While some efforts have been made to refine these measures,²⁵³ they are still generally seen to be the most effective way of ranking countries according to the scale of their refugee burden.²⁵⁴

Such measures, however, provide a highly simplified representation of the refugee burden in any one country. In particular, these figures do not indicate how the presence of large refugee populations may have a differentiated impact on different parts of a host country. Specifically, they do not reveal the extent to which the presence of refugees is distributed within a country, whether spread evenly across a country or concentrated in particular areas. In addition, such quantitative measures do not reveal if the presence of refugees constitutes a burden or a benefit for the host state or local population. According to Kibreab,

²⁵¹ See: Gorman, 1987, 30 – 34.

²⁵² Gorman, 1987, 30.

²⁵³ See: Mathias Czaika, "A Refugee Burden Index: methodology and its application", paper presented at the conference "Seeking Refuge, Seeking Rights, Seeking a Future", Oxford Brookes University, Oxford, 13 – 14 May 2005, on file with author.

²⁵⁴ See: UNHCR, Population Data Unit, "Selected Indicators Measuring Capacity and Contributions of Host Countries", Geneva: UNHCR, April 2002.

A review of the literature on refugee impact on national, regional and local economies and social infrastructure reveals two discernable views. One view looks on refugees as a problem or as a burden on the economies and societies of the host countries, while the other looks on refugees as representing an opportunity for social progress and improved welfare.²⁵⁵

For this reason, a more disaggregated understanding of the impact of refugees on host states and communities is required, including an assessment of both the negative and positive impact that the presence of refugees may have.

The benefits relating to the presence of refugees

While recognizing that the presence of refugees may have a *negative impact* on host states, as outlined above, a number of authors have argued that the presence of refugees and the international refugee assistance programme can also have a *positive impact* on the development of host communities and host states.²⁵⁶ While recognizing that “the massive influx of refugees in an underdeveloped African country... represents a heavy burden”, early research on refugees in Africa also found that “the presence of refugees can turn from a burden to a stimulus leading to an economic growth and development.”²⁵⁷ Such benefits may be experienced either by the local population or by the host state, and should be considered as part of a more comprehensive understanding of the nature of Africa’s refugee burden.

In the 1980s, Chambers and Kibreab both argued that the arrival of refugees in rural areas could lead to regional development as refugees could be settled on underutilized land and contribute to the local economy through increased agricultural production.²⁵⁸ As noted by Chambers, “much of the local welcome to rural refugees can be attributed to benefits from the cheap labor they provide.”²⁵⁹ While arguing that poorer, wage-dependent members of a host

²⁵⁵ Kibreab, 1991, 56.

²⁵⁶ See: Robert Chambers, “Hidden Losers? The Impact of Rural Refugees and Refugee Programs on Poorer Hosts”, *International Migration Review*, Vol. 20, no. 2, Summer 1986; Gorman (ed.), 1993; Jacobsen, 2002; Kibreab, 1985; and Loren B. Landau, “Beyond the Losers: Transforming Governmental Practice in Refugee-Affected Tanzania”, *Journal of Refugee Studies*, Vol. 16, no. 1, 2003.

²⁵⁷ Kibreab, 1985, 119.

²⁵⁸ See: Chambers, 1986; and Kibreab, 1985, 119 – 129.

²⁵⁹ Chambers, 1986, 250.

community could be adversely affected by the arrival of refugees, Chambers concludes that “in rural refugee-affected areas, the better-off and more visible hosts usually gain from the presence of refugees and from refugee programs.”²⁶⁰ Later in the 1980s, Gorman advanced the notion of refugee aid and development, arguing that a closer linkage between refugee assistance programmes and national development plans would increase benefits for both refugees and local populations.²⁶¹

More recently, Jacobsen has shed additional light on the political economy of refugee-populated areas.²⁶² Like Kibreab, Jacobsen recognizes that while refugees impose a range of burdens on host countries, they also “embody a significant flow of resources in the form of international humanitarian assistance, economic assets and human capital.”²⁶³ She notes that the protracted nature of most refugee situations in Africa means that refugee-related resources are available for extended periods, and may be used to attract development assets to regions that remained otherwise underdeveloped. More generally, she argues that the presence of refugees, even with the associated burdens, can contribute to the process of African statebuilding by compelling the state to “strengthen its grip on border areas,”²⁶⁴ or, in the words of Herbst, to more effectively “broadcast power” to the periphery of the state.²⁶⁵

There are, in fact, three ways that the presence of refugees can have a positive economic impact on the refugee-populated area. First, as a result of the presence of a large refugee programme, additional services, facilities and opportunities may be available to the local population. Refugee programmes create local employment as a wide range of positions need to be filled by international agencies and NGOs. There may also be benefits to the local

²⁶⁰ Chambers, 1986, 245.

²⁶¹ Robert F. Gorman, “Beyond ICARA II: Implementing Refugee-Related Development Assistance”, *International Migration Review*, Vol. 20, no. 2, 1986; Robert F. Gorman, “Linking Refugee Aid and Development in Africa” in Gorman (ed.), 1993; and Robert F. Gorman, “Refugee Aid and Development in Africa: Research and Policy Needs from the Local Perspective”, in Adelman and Sorenson (eds.), 1994.

²⁶² See: Jacobsen, 2002.

²⁶³ Jacobsen, 2002, 577.

²⁶⁴ *Ibid.*

²⁶⁵ Herbst, 2000, 1.

population as humanitarian agencies invest in more reliable transportation and communication networks, especially by building more permanent roads and bridges. Second, many refugee operations include specific programmes to benefit the local population, both to alleviate local burdens and to foster good relations with the local population. In this way, local water sources, schools and hospitals may be rehabilitated. It should, however, be emphasised that given the precarious nature of funding to refugee programmes in Africa, such activities may be the first to be cut in the event of budget short-falls. Finally, as argued in the early work of Kibreab and Chambers, in situations where refugees are allowed to engage in wage-earning employment, they may significantly contribute to agricultural production and the local economy.

Ways of sharing the refugee burden

Just as it is important to disaggregate the impact of refugees, it is also important to disaggregate the practice and forms of burden sharing with African states in recent years. There are essentially two ways in which third countries can share the refugee burden of the country of first asylum. First, states may engage in *financial burden sharing* by “providing financial assistance for countries of asylum ... to help them with the care and maintenance of refugees...”²⁶⁶ Second, states may engage in *physical burden sharing*, involving the “dispersal of refugees among states.”²⁶⁷ Any consideration of burden sharing in Africa should include an examination of both these mechanisms as financial and physical burden sharing are the two sides of the burden sharing coin.²⁶⁸

²⁶⁶ Christina Boswell, “Burden-sharing in the New Age of Immigration”, *Migration Information Source*, Washington DC: Migration Policy Institute, 1 November 2003, 1.

²⁶⁷ *Ibid.*

²⁶⁸ See: Hurwitz, 2002, 174 – 187; Asha Hans and Astri Suhrke, “Responsibility Sharing” in Hathaway (ed.), 1997; and Amitav Acharya and David B. Dewitt, “Fiscal Burden Sharing” in Hathaway (ed.), 1997.

Financial burden sharing

There are a number of ways in which donor states may engage in financial burden sharing with countries of first asylum. Financial and material assistance may be provided bilaterally or be channelled through multilateral avenues, such as the World Bank or UNHCR. Material and in-kind assistance may be channelled through agencies such as the World Food Programme (WFP). This section focuses on the practice of multilateral financial burden sharing through UNHCR, which is taken to be a useful barometer of donor engagement in financial burden sharing more generally. In fact, given that UNHCR has received billions of dollars in voluntary contributions for its work in the past decade, it may be concluded that substantial financial burden sharing does, in fact, take place. This section will examine the scale and dependability of financial contributions to UNHCR, the gap between programme needs and funding, and the practice of financial burden sharing with African host states.

According to Chapter III(20) of UNHCR's Statute, "no expenditure other than administrative expenditures relating to the functioning of the Office of the High Commissioner shall be borne on the budget of the United Nations and all other expenditures relating to the activities of the High Commissioner shall be financed by voluntary contributions."²⁶⁹ As a result, and given the dramatic increase in the organization's operational activities over the past fifty years, contributions from the United Nations Regular Budget now account for less than 3% of UNHCR's Annual Budget.²⁷⁰ As a result, UNHCR is substantially dependent on voluntary contributions to carry-out its programmes.

UNHCR's dependence on voluntary contributions is compounded by the fact that a limited number of states are responsible for the majority of contributions to UNHCR. In

²⁶⁹ Chapter III(20), 1950 Statue of the Office of the High Commissioner for Refugees, Annex to UN General Assembly Resolution 428/5, 14 December 1950.

²⁷⁰ In 2004, UNHCR's Annual Programme and Supplementary Programme budgets combined totalled US\$1.2 billion. Of that, US\$27.7 million (2.3%) was met by resources made available through the United Nations Regular Budget. See: UNHCR, *Global Report 2004*, Geneva: UNHCR, 2005, 17.

2004, 11 donors accounted for 86% of contributions to UNHCR.²⁷¹ When considering aggregate funding to UNHCR over the period 1990 to 2004, three donors have been responsible for over 50% of all contributions to UNHCR: the US (28.4%), the European Commission (13.2%) and Japan (12.1%). These donors exercise additional control over UNHCR by ‘earmarking’ their contributions.²⁷² In 2004, 100% of contributions from the US and European Commission to UNHCR were earmarked. In fact, only 20% of all funding to UNHCR in 2004 was unrestricted, while 60% was earmarked at a regional, sub-regional, or country level, and 20% was earmarked for certain themes.²⁷³

Through earmarking of voluntary contributions, donors exercise considerable influence over the work of UNHCR. As a result, programmes considered to be important by key donors receive substantial support, while those deemed less important receive less support. In their study on donor behaviour and humanitarian financing, Smillie and Minear have argued that the foreign and domestic policy concerns of donor states are more important determinants of contributions to agencies such as UNHCR than humanitarian considerations.²⁷⁴ The fact that the total contributions received for programmes in Iraq and Afghanistan between 2001 and 2004 exceeded the amount requested by UNHCR, while programmes across Africa were chronically under funded, would seem to support the conclusions of Smillie and Minear.²⁷⁵

Since the mid-1990s, donor preference has resulted in a regional disparity in funding to UNHCR, with Africa being the clear loser. As argued by Loescher, during the late 1990s,

²⁷¹ These donors were, in declining order: the US, Japan, the European Union, the Netherlands, Sweden, Norway, the UK, Denmark, Germany, Canada and Switzerland. UNHCR, *Global Report 2004*, 2005, 21.

²⁷² “Earmarking is a device by which a bilateral donor agency specifies the geographic or sectoral areas in which a multilateral agency or NGO may spend its contribution.” Ian Smillie and Larry Minear, *The Quality of Money: Donor Behaviour in Humanitarian Financing*, Sommerville, MA: Humanitarianism and War Project, The Feinstein International Famine Centre, Tufts University, April 2003, 20.

²⁷³ UNHCR, *Global Report 2004*, 2005, 25.

²⁷⁴ See: Smillie and Minear, April 2003.

²⁷⁵ Interview with Wetterwald, 2004.

while the international community focused attention and resources on the crisis in Kosovo and East Timor, conflict and displacement in Africa were virtually ignored... Donor governments continued to give vastly disproportionate amounts of aid to a few well-known crises and trivial amounts of aid to dozens of other hidden humanitarian emergencies.²⁷⁶

In August 1999, it was reported that UNHCR had received little more than half of its request for refugee programmes in sub-Saharan Africa.²⁷⁷ In 2002, another funding crisis loomed as a shortfall of some US\$100 million was predicted in contributions to UNHCR's budget.²⁷⁸ To address the shortfall, UNHCR reduced its operations, primarily in Africa.

In 2004, UNHCR's total budget for programmes in sub-Saharan Africa was some US\$537 million, almost 44% of UNHCR's global budget of just over US\$1.2 billion.²⁷⁹ Given that Africa hosted only 30% of the world's refugees in 2004, it may be concluded that Africa received a disproportionate share of financial burden sharing. It is, however, important to understand how these funds were earmarked by donors. Over 15% of contributions to UNHCR's activities in Africa were earmarked by donors for the programme in Chad/Darfur, a programme with a budget of US\$102 million for a population of concern of some 200,000.²⁸⁰ This budget was almost double that of the entire region of Southern Africa (US\$54.6 million), a region including 14 countries with a population of concern of some 450,000.²⁸¹ Donors earmarked US\$18.9 million to support return and reintegration in Burundi, while Tanzania's budget of US\$30.6 million meant that it could only spend US\$5 per Burundian refugee in 2004.

It may, therefore, be argued that while significant funds have been contributed to refugee programmes in Africa, these funds have been allocated more according to the interests of donors and have consequently not met the stated needs of many regions. Donor

²⁷⁶ Loescher, 2001, 335.

²⁷⁷ Loescher, 2001, 336.

²⁷⁸ See: UNHCR, Donor Relations, "Impact of Budgetary Reductions: Preliminary Note", Geneva: UNHCR, 25 September 2002.

²⁷⁹ UNHCR, *Global Report 2004*, 2005, 36.

²⁸⁰ UNHCR, *Global Report 2004*, 2005, 180.

²⁸¹ UNHCR, *Global Report 2004*, 2005, 280 – 281.

preference and the practice of earmarking have meant that significant funds have been allocated to certain high-profile emergencies and repatriations, while other programmes and regions receive little support. Also, given that this pattern has been repeated over a number of years, it may be concluded that neither host states nor UNHCR has been able to alter these preferences and that the interests of donors have prevailed over those of African host states.

Physical burden sharing

The second form of burden sharing is physical burden sharing, either through permanent resettlement to a third country or through temporary relocation. Given the limited practice of temporary relocation, especially in the African context, this section focuses on third country resettlement, defined as “the making available in a third country, on a voluntary basis, permanent residence to a refugee who is in another country, in a manner where the resettled person enjoys ... rights similar to nationals.”²⁸² While “no country is legally obliged to resettle refugees,”²⁸³ refugee resettlement has increasingly been recognized as “a tangible expression of international solidarity” that allows states to “help share each other’s burdens.”²⁸⁴ While there have been significant developments in recent years in the area of international resettlement policy – namely on the strategic use of resettlement,²⁸⁵ the functions of resettlement,²⁸⁶ and the role of resettlement in comprehensive solutions²⁸⁷ – this section focuses on resettlement as a burden sharing mechanism. In particular, it examines the practice of physical burden sharing through the resettlement of refugees from African host states.

²⁸² UNHCR, ExCom, “The Strategic Use of Resettlement”, EC/53/SC/CRP.10/Add. 1, 3 June 2003, paragraph 6.

²⁸³ UNHCR, Department of International Protection, “Resettlement Handbook”, Geneva, November 2004, I/3.

²⁸⁴ UNHCR, Global Consultations, “Strengthening and Expanding Resettlement Today: Dilemmas, Challenges and Opportunities”, EC/GC/02/7, 25 April 2002, paragraph 5.

²⁸⁵ See: UNHCR, ExCom, 3 June 2003.

²⁸⁶ See: UNHCR, Global Consultations, 25 April 2002.

²⁸⁷ See: UNHCR, High Commissioner’s Forum, “Making Comprehensive Approaches to Resolve Refugee Problems more Systematic”, FORUM/2004/7, 16 September 2004.

Resettlement has long been a feature of the international response to refugee crises. During the Cold War, Western governments, led by the United States, used resettlement not only as a tool of protection for those in need, but also as a means of highlighting the failures of Communist regimes. In this way, large-scale resettlement tended to be focused on particular groups of refugees and driven by the foreign policy of Western states.²⁸⁸ While the end of the Cold War removed many of these foreign policy motivations, domestic pressures, especially in the United States, sustained global resettlement programmes, and made resettlement activities more geographically diverse. According to UNHCR, these shifts resulted in “significant and positive changes for Africa.”²⁸⁹ Through UNHCR, 7,776 refugees were resettled from African countries of first asylum in 1995.²⁹⁰ By 1999, that number had increased to 14,430 refugees, representing 55% of resettled refugees assisted by UNHCR that year.²⁹¹ While this number represents a small fraction of the total number of refugees in the region, it does indicate increased donor interest in one form of burden sharing with Africa.

As with financial burden sharing, many resettlement countries earmark their resettlement offers to specific regions. In this way, seven resettlement countries made specific quotas available for the resettlement of refugees from Africa,²⁹² as outlined in Table 2.2 (below). It is important to note that as UNHCR reported in 2003 that 57,836 refugees in Africa were in need of resettlement on protection grounds,²⁹³ the quotas in Table 2.2 indicate

²⁸⁸ See: Gil Loescher and John Scanlan, *Calculated Kindness: Refugees and America's Half-Open Door*, New York and London: Free Press and Macmillan, 1986.

²⁸⁹ Debbie Elizondo, “Opening remarks by Ms. Debbie Elizondo, Chief, UNHCR Resettlement Section”, UNHCR Regional Resettlement Meeting, Addis Ababa, 27 February 2001, on file with author.

²⁹⁰ *Ibid.*

²⁹¹ *Ibid.*

²⁹² Nine other countries have smaller resettlement programmes with no geographic quotas. Following is a list of resettlement countries (and their quotas) in 2003-2004: Australia (4,000), Brazil (100), Benin (n/a), Burkina Faso (n/a), Canada (7,700), Chile (60), Denmark (500), Finland (750), Iceland (30), Ireland (10 families), the Netherlands (500), Norway (1,145), New Zealand (750), Sweden (1,000), UK (500), USA (70,000). Belgium, France, Spain and Switzerland resettled individual refugees referred by UNHCR in 2003. As such, the global resettlement quotas for 2003 was approximately 90,000 refugees. See: UNHCR, Resettlement Section, “Easy Guide to Refugee Resettlement Programmes”, Geneva: UNHCR, June 2003.

²⁹³ UNHCR, Resettlement Section, “UNHCR: Projected Global Resettlement Needs: 2004”, Geneva: UNHCR, 18 June 2003.

that resettlement countries expressed a willingness to resettle roughly half of those refugees in Africa identified as being in need of resettlement in 2004.

Table 2.2:
Geographic resettlement quotas (2003 – 2004)²⁹⁴

Country	Africa	Global	% for Africa
Australia	1,700	4,000	42.5
Canada	2,100	7,500	28
Denmark	110	500	22
Finland	130	750	17.3
Norway	300	1,630	18
Sweden	125	770	16
US	20,000	70,000	28.5
Total	24,465	85,150	28.73

As also indicated by Table 2.2, the US is the largest resettlement country. In fact, the US has resettled more refugees in the past decade than all other countries in the world combined. Between 1975 and 2003, the US resettled over 2.5 million refugees.²⁹⁵ While only 135,081 of these refugees were from Africa, pressure from the US-based NGO consortium Refugee Council USA has led to a gradual increase in the resettlement quota from Africa.²⁹⁶ This quota increased from 7,000 refugees per year from Africa in 1998, representing 8% of the US Resettlement Programme (USRP), to 20,000 refugees per year from Africa in 2003, representing 28%.

Another motivation for this increase arose from the aftermath of the two month suspension of the USRP following the terrorist attacks on New York and Washington on 11 September 2001. When the programme was reactivated in November 2001, increased security requirements for resettled refugees and travel restrictions on US government officials frustrated resettlement activities in traditional programme areas, especially the Middle East

²⁹⁴ UNHCR, Resettlement Section, 18 June 2003.

²⁹⁵ Government of the United States of America, Department of State, Bureau of Population, Refugees and Migration, “Cumulative Summary of Refugee Admissions: As of October 1, 2003”, Washington DC, 15 November 2003.

²⁹⁶ See: Refugee Council USA, “US Refugee Admissions Program for Fiscal Year 2004: Recommendations of The Refugee Council USA”, Washington DC, May 2003.

and Southwest Asia.²⁹⁷ Given domestic pressures to maintain a large resettlement programme, the US government turned its attention to groups of refugees in need of resettlement from Africa. As argued by Noll and van Selm, the identification of large groups of refugees is “important to a program facing significant domestic pressure to maintain certain numbers,” which has led to “gradually greater emphasis on Africa as a major producer of refugees, as it once did to emphasis on the Middle East.”²⁹⁸ As a result, the USRP had an admissions ceiling of 25,000 refugees from Africa for fiscal year 2004.²⁹⁹

While resettlement opportunities from Africa have been increasing marginally in recent years, UNHCR’s capacity to identify refugees for resettlement in the region remains low. UNHCR cases have first priority under the USRP, and could theoretically fill the entire quota, but limited processing capacity in UNHCR offices in Africa means that it is unable to submit a significant number of resettlement cases to the US. In fact, only an estimated 7% of refugees resettled from Africa by the USRP in the 1990s were referred by UNHCR.³⁰⁰

In an effort to increase UNHCR’s resettlement capacity in the field, the US government made a special contribution of US\$7 million to UNHCR in 2002-03. This contribution went directly into increasing UNHCR’s resettlement capacity in Africa, with the creation of twelve new resettlement positions in eight African countries, including Kenya, Tanzania and Guinea. In return, the US government expected significant numbers of referrals from UNHCR in these countries during 2004 with the hope that a higher proportion of its resettlement quota for Africa would be filled by UNHCR-referred cases.³⁰¹ As the case studies of Kenya, Tanzania

²⁹⁷ In the fiscal year preceding the attacks of 11 September 2001, Afghan and Iraqi refugees were two of the largest nationalities resettled to the United States. Government of the United States of America, Department of State, 15 November 2003.

²⁹⁸ Gregor Noll and Joanne van Selm, “Rediscovering Resettlement”, *Insight*, No. 3, Washington DC: Migration Policy Institute, December 2003, 10.

²⁹⁹ Government of the United States of America, Department of State, Bureau of Population, Refugees and Migration, “Fact Sheet: Refugee Admission Programme for Africa”, Washington DC, 16 January 2004.

³⁰⁰ Correspondence with Larry Yungk, Resettlement Officer, UNHCR Regional Office, Washington DC, 29 September 2003, on file with author.

³⁰¹ *Ibid.*

and Guinea later in this thesis illustrate, however, this objective has not yet been met and the burden sharing benefits of resettlement in Africa have yet to be fully realized.

The renewed debate on burden sharing

Given the link between burden sharing and *non-refoulement*, as outlined above, coupled with a perceived lack of dependability in burden sharing, scholars of refugee law have long debated ways of formulating more structured burden sharing mechanisms, considering more predictable mechanisms to be a “morally attractive idea.”³⁰² At the core of early proposals³⁰³ was a common understanding that “collective action would strengthen protection for refugees by reducing inequities among recipient states.”³⁰⁴ The emergence of the ‘crisis in asylum’ in the mid-1990s gave added momentum to the burden sharing debate.

Two specific proposals were presented in 1997. The first proposal followed the six-year *Towards the Reformulation of International Refugee Law* project.³⁰⁵ At the core of the Reformulation Project’s findings is a proposal for a mechanism to ensure the dependability of burden sharing based on four principles. First, it argues that refugee protection should actively seek solutions in line with state interests.³⁰⁶ It also argues that refugee law should adopt a more “robust” concept of temporary protection according to the logic that “if the protection of refugees is ... respectful of human dignity, it need not be permanent.”³⁰⁷ Third, the Project emphasises that there is no need to assume that every state will play an identical

³⁰² Weiner, 1995, 219 – 220.

³⁰³ See: Fonteyne, 1980; Atle Grahl-Madsen, *Territorial Asylum*, Stockholm: Almqvist and Wiksell International, 1980; and Atle Grahl-Madsen, “Ways and prospects of international cooperation in refugee matters”, *AWR Bulletin*, Vol. 23, no. 2/3, 1983.

³⁰⁴ Astri Suhrke, “Burden-sharing during Refugee Emergencies: The Logic of Collective versus National Action”, *Journal of Refugee Studies*, Vol. 11, no. 4, 1998, 2.

³⁰⁵ Publications resulting from this project include: Centre for Refugee Studies, York University, “Common but Differentiated Responsibility: A Model for Enhanced International Refugee Protection within Interest Convergence Groups”, Discussion Paper, Refugee Law Research Unit, Centre for Refugee Studies, York University, Toronto, 25 March 1996; Hathaway and Neve, 1997; and Hathaway (ed.), 1997.

³⁰⁶ James C. Hathaway, “Introduction: Can International Law be made Relevant Again?” in Hathaway (ed.), 1997, xxiii.

³⁰⁷ *Ibid.*

role.³⁰⁸ Finally, it argues that the institutions of the international refugee regime need to be “retooled” to “promote and coordinate a process of collectivized responsibility,”³⁰⁹ thereby ensuring confidence amongst states that a more systematised and coordinated approach to burden sharing would result in a more dependable response. The Reformulation Project concludes that burden sharing would be more effectively administered if it took place in the context of pre-negotiated responsibilities within ‘interest-convergence groups’.

Peter Schuck’s proposal follows the logic of the Reformulation Project and works from an understanding that the inequality in the distribution of burdens in hosting refugees has resulted in a political decision to reduce levels of asylum. He argues that a solution to this problem must counter this trend of declining asylum by “easing these burdens in exchange for a set of obligation that states are willing to accept and implement.” To this end, Schuck proposes a solution focused on two central elements. First, an initial core group of states should agree to bind themselves to ‘proportional’ burden sharing for refugees. These states would then try to build from that core, encouraging other states to join, while arranging for a “newly-established international agency” to assign to each state a “refugee protection quota.”³¹⁰ This quota, based on a range of indicators, would commit the states to assure temporary protection or permanent residence for a certain number of refugees over a certain period of time. The second element would be the opportunity for the participating states to “trade their quotas by paying others to fulfil their obligations.”³¹¹

State response: the 1998 ExCom debate

While it would be problematic to premise a critique of these proposals on such brief

³⁰⁸ Referred to as ‘common but differentiated responsibilities’. See: Centre for Refugee Studies, 25 March 1996.

³⁰⁹ Hathaway, 1997, xxiv.

³¹⁰ Shuck, 1997, 248.

³¹¹ *Ibid.* This approach flows from the quota-market schemes employed to resolve North-South disputes during the negotiations over reductions in global carbon emissions. See: Richard Benedick, *Ozone Diplomacy: New directions in safeguarding the planet*, London: Harvard University Press, 1991.

summaries,³¹² it is important to understand how these themes were addressed during the 1998 meeting of UNHCR's Executive Committee, where "International Solidarity and Burden Sharing in all its Aspects" was adopted as the annual theme. The Chairman's summary of the debate recognized that the theme was challenging "even though international solidarity and burden sharing are not new concepts."³¹³ There was widespread support for the concept of burden sharing, but not for the systemization of a burden sharing system or for the introduction of obligations in addition to those of the 1951 Convention. There was endorsement for increased "institutional collaboration at the operational, advocacy and fundraising levels", but "less support for global mechanisms."³¹⁴ Clearly, there was no state interest in the type of mechanisms proposed by the Reformulation Project and Schuck.

It is also interesting to contrast statements made during the debate by Tanzania, one of the largest host states in Africa, and the US, the largest donor state. The US delegation encouraged all participants, especially host states in the global South, to not characterize refugees only as a burden, arguing that "many countries – East and West, North and South – have benefited from the intellectual and economic contributions of individual refugees."³¹⁵ The US also argued that burden sharing must be focused on solutions, reflecting the donors' reluctance to keep funding long-term refugee programmes, and that the donor community "should be seen as more than just the handful of nations who contribute the bulk of the cash and commodities to UNHCR."

In contrast, the Tanzanian delegation noted that "countries of asylum are to a large extent left to bear the brunt of the burden of hosting the refugees they admit onto their

³¹² See: Suhrke, 1998; and Deborah Anker, Joan Fitzpatrick and Andrew Shacknove, "Crisis and Cure: A Reply to Hathaway/Neve and Schuck", *Harvard Human Rights Journal*, Vol. 11, 1998.

³¹³ UNHCR, ExCom, "Report of the Forty-Ninth Session of the Executive Committee of the High Commissioner's Programme", A/AC.96/911, 12 October 1998, paragraph 25. See also: UNHCR, ExCom, "Annual Theme: International Solidarity and Burden-Sharing in all its Aspects: National, Regional and International Responsibilities for Refugees", A/AC.96/904, 7 September 1998.

³¹⁴ UNHCR, ExCom, 12 October 1998, paragraph 25.

³¹⁵ Government of the United States of America, United States Mission to International Organizations Geneva, "United States Plenary Statement to the UNHCR Executive Committee 49th Session 1998", Geneva, 5 October 1998.

territories.”³¹⁶ In the absence of a global mechanism to apportion responsibility for refugees, Tanzania argued that “whatever resources that are made available to the countries of asylum remains a matter of charity, left to the discretion of individual [donor] states.” The delegation pointed to the need to address the wide range of burdens faced by host states, assist the local population in refugee-populated areas in addition to refugees, and ensure that burden sharing is sustainable, arguing that “all the sympathy and support evaporates once there is less publicity given to the crisis.” Crucially, Tanzania noted that “the recipient countries who bear the brunt of the burden of hosting refugees do not have much say in determining the extent to which they should be assisted by the international community.” These contrasting statements illustrate that differences between host states and donor states, evident during the ICARA process, remained in Africa at the end of the 1990s, and that host states remained unable to significantly influence the terms of the burden sharing debate.

‘Burden shifting’

This inability of host states to influence the burden sharing debate has been further highlighted through discussions on proposals from European governments to increase engagement in regions of refugee origin as a substitute for providing asylum in Europe.³¹⁷ Oxfam highlights how, in recent years, “EU member states and institutions have presented an array of initiatives with one common theme: instead of receiving asylum seekers on EU territory, they propose to deal with them abroad.”³¹⁸ Such proposals have led to a renewed ‘protection in regions of origin debate’, and proposals by the UK, the Netherlands and Denmark to develop ‘extra-territorial’ approaches to protection, where refugees would be

³¹⁶ Government of the United Republic of Tanzania, “Statement by Mr. Bernard Mchomvu, Permanent Secretary in the Ministry of Home Affairs, to the 49th Session of the EXCOM on International Solidarity and Burden Sharing in All its Aspects: National, Regional and International”, Geneva, 6 October 1998.

³¹⁷ See: Oxfam, *Foreign Territories: The Internationalization of EU Asylum Policy*, Oxford: Oxfam GB, 2005, 57 – 68; Gil Loescher and James Milner, “The ‘missing link’: the need for comprehensive engagement in regions of refugee origin”, *International Affairs*, Vol. 79, no. 3, May 2003; and Alexander Betts, “What does ‘efficiency’ mean in the context of the global refugee regime?”, Working Paper No. 9, Centre on Migration, Policy and Society, University of Oxford, 2005.

³¹⁸ Oxfam, 2005, ii.

prevented from seeking asylum in Europe, but would instead be contained in ‘regional protection zones’ and resettled to Europe on a limited quota basis.³¹⁹

Although such approaches would “turn the notion of international solidarity on its head” by “shifting the refugee burden away from richer, more stable countries and placing more of it on poor and unstable countries that already host the overwhelming majority of the world’s refugees,”³²⁰ it is striking how the proposals have been presented in terms of burden sharing initiatives. While there may be positive aspects to some of the proposals, including “financial and technical assistance to refugee-hosting countries ... to provide better legal, physical, and material protection to refugees,”³²¹ there is a more general concern of their being used as “a means of migration management, reducing the numbers of secondary movements to the EU and creating the conditions for the return of asylum seekers from Europe” to states in the region of refugee origin.³²²

To what extent can African states counter these ‘burden shifting’ proposals? In addition to the concern expressed by the Tanzanian delegation in 1998 that African host states “do not have much say in determining the *extent to which* they should be assisted by the international community,”³²³ it could be added that they have limited say in the *ways in which* they should be assisted by the international community. To highlight this dynamic, this chapter now turns to a brief consideration of historical examples of ‘successful’ burden sharing.

³¹⁹ For an overview of these proposals, see: Alexander Betts, “International Cooperation Between North and South to Enhance Refugee Protection in Regions of Origin”, RSC Working Paper No. 25, Oxford: Refugee Studies Centre, Queen Elizabeth House, University of Oxford, July 2005, 13 – 17.

³²⁰ Loescher and Milner, 2003, 603 – 604.

³²¹ Oxfam, 2005, iv.

³²² *Ibid.*

³²³ Tanzania, 6 October 1998. Emphasis added.

Historical examples of burden sharing

Given the shortcomings in burden sharing articulated by African states, it is important to ask why African states have not been able to exert greater pressure on donor governments to extract more reliable and appropriate levels of burden sharing, especially given the importance of the link between *non-refoulement* and burden sharing. Given the absence of an international legal obligation to engage in burden sharing with host countries, it is also important to consider those situations where international cooperation has successfully resulted in the sharing of the costs of granting asylum more equitably among a greater number of states. In light of the limited results of the ICARA process, as outlined in Chapter 1, this chapter now briefly considers examples of burden sharing with Southeast Asia and Macedonia to consider what factors have led to successful burden sharing in other regions.

*Refugees from Indochina*³²⁴

The consolidation of communist Southeast Asian regimes in 1975 resulted in an estimated 3 million people fleeing Vietnam, Cambodia and Laos in the following two decades. Most fled in small boats, and many died in shipwrecks or were targeted by pirates. Humanitarianism, coupled with the geopolitical interests of the United States, motivated Western states to recognize the ‘boat people’ as refugees *prima facie* and to resettle them. More than 550,000 Indo-Chinese sought asylum in Southeast Asia between 1975 and 1979, of which 200,000 were resettled.³²⁵ As arrivals continued to exceed resettlement quotas, however, regional states declared in June 1979 that they had “reached the limit of their endurance and decided that they would not accept new arrivals.”³²⁶

³²⁴ See: Shamsul Bari, “Refugee Status Determination under the Comprehensive Plan of Action (CPA): A Personal Assessment.” *International Journal of Refugee Law*, Vol. 4, no. 4, 1992; Loescher, 2001, 203 – 209 and 257 – 262; W. Courtland Robinson, *Terms of Refuge: The Indochinese Exodus and the International Response*, London: Zed Books, 1998; Suhrke, 1998; and UNHCR, *State of the World’s Refugees*, 2000, 79 – 103.

³²⁵ UNHCR, *State of the World’s Refugees*, 2000, 82.

³²⁶ UNHCR, *State of the World’s Refugees*, 2000, 83.

This reluctance, and reports of regional states pushing boats carrying asylum seekers away from their shores, led to the *International Conference on Indo-Chinese Refugees* in July 1979. States agreed that worldwide resettlement quotas would be doubled, that the boat people would be recognized as refugees *prima facie*, that illegal departures would be prevented, and that regional processing centres would be established. The result was a formalized *quid pro quo*; burden sharing through resettlement to Western states in exchange for assurances of *non-refoulement* and first asylum in the region. The immediate results were positive: resettlement increased, ‘push-backs’ ended and arrival rates fell dramatically as heavy penalties were imposed on clandestine departures. By 1988, however, the number of asylum seekers began to rise dramatically as promises of resettlement resulted in a pull factor. Believing that these new arrivals no longer warranted automatic refugee status, Western countries introduced selective criteria and reduced resettlement quotas. In response, regional asylum countries returned to earlier policies of preventing arrivals, including push-backs.

In light of this new reality, the UN General Assembly called for a *Second International Conference on Indo-Chinese Refugees*.³²⁷ The Conference, convened in June 1989, adopted the Comprehensive Plan of Action for Indochinese Refugees (CPA), which contained a number of mechanisms through which the countries of origin, countries of first asylum and resettlement countries would cooperate to resolve the refugee crisis in South Asia. The CPA is seen to have generally achieved its objectives of reducing the number of clandestine departures and finding extra-regional durable solutions for recognized refugees. In 1989, roughly 70,000 Vietnamese sought asylum in Southeast Asia. By 1992, this number had fallen to 41.³²⁸ At the same time, over 1,950,000 refugees had been resettled by the end of the CPA in 1995; 1,250,000 to the United States alone. On this basis, the CPA is seen by

³²⁷ UNGA, “International Conference on Indo-Chinese Refugees”, Resolution 43/119, 8 December 1988.

³²⁸ UNHCR, *State of the World's Refugees*, 2000, 84.

many as a success, and a dramatic example of the possibilities of burden sharing arrangements to address refugee crises.³²⁹

Suhrke highlights how the strategic interest of the US in the region was a key precondition to the success of the CPA.³³⁰ US interests in the CPA were rooted in its regional strategic interests, domestic public pressure, a sense of responsibility for the victims of the wars in Indochina relating to the Vietnam War, and its desire to support non-communist allies in the region who were facing a heavy refugee burden. Responding to these interests, Suhrke argues, the US played a crucial leadership function by ensuring that the issues remained high on the policy agenda and that key actors remained engaged. As such, the CPA demonstrates that there is potential for burden sharing by a wide range of actors where key states recognize that they have political, economic and strategic interests in a particular region or refugee situation.³³¹ Some have argued, however, that as the CPA was undertaken during the Cold War, its relevance to contemporary discussions of burden sharing and comprehensive solutions is limited. To counter this argument, it is useful to consider how similar motivations factored into the international response to the Kosovo refugee crisis.

*The Kosovo refugee crisis*³³²

The end of the Balkan wars in the mid 1990s did not lead to peace in the Yugoslav province of Kosovo. By the late 1990s, clashes between the Kosovo Liberation Army (KLA) and Serbian forces had led to the internal displacement of some 175,000 persons.³³³ Anxious to avoid another Balkan war, NATO members pressed for UN Security Council Resolution

³²⁹ The CPA has, however, been criticized for a number of reasons. See: Bari, 1992; Robinson, 1998; and Suhrke, 1998.

³³⁰ Suhrke, 1998, 11.

³³¹ See: Centre for Refugee Studies, March 1996, 12 – 14.

³³² See: Michael Barutciski and Astri Suhrke, “Lessons from the Kosovo Refugee Crisis: Innovations in Protection and Burden-sharing”, *Journal of Refugee Studies*, Vol. 14, no. 2, 2001; Astri Suhrke, Michael Barutciski, Peta Sandison and Rick Garlock, “The Kosovo refugee crisis: An independent evaluation of UNHCR’s emergency preparedness and response”, Geneva: UNHCR, Evaluation and Policy Analysis Unit, EPAU/2000/001, February 2000; and UNHCR, *State of the World’s Refugees*, 2000, 233 – 239.

³³³ UNHCR, *State of the World’s Refugees*, 2000, 233.

1199 of September 1998 and the deployment of observers from the Organization for Security and Cooperation in Europe (OSCE) to the region. While this deployment resulted in a temporary lull in the conflict, hostilities continued in January 1999. Following the collapse of peace talks on 19 March, NATO launched a series of air strikes on 24 March 1999.

The NATO air campaign triggered an escalation in the conflict on the ground as fighting between the KLA and Serbian security forces intensified. According to UNHCR, thousands of Kosovar Albanians were killed and over 800,000 fled or were expelled from Kosovo.³³⁴ Within nine weeks of the start of the NATO air campaign, an estimated 444,600 refugees fled to Albania, 344,500 to the Yugoslav Republic of Macedonia, and some 69,900 to Montenegro.³³⁵ While Albania was generally willing to accept ethnic Albanian refugees, Macedonia, concerned about pre-existing tensions with its own ethnic Albanian minority, refused to allow the Kosovar refugees to enter its territory. In the absence of international commitments to share Macedonia's refugee burden, Macedonia declared that it could not uphold its obligation to *non-refoulement* and closed its borders.

In the first week of April 1999, some 65,000 Kosovar Albanian refugees were left stranded at the Blace border crossing into Macedonia, leading to concerted international efforts to "unblock Blace".³³⁶ Similar to the international response to the refugee crisis in Southeast Asia, negotiations led to a *quid pro quo*: Macedonia agreed to allow the refugees to enter its territory on a temporary basis, to allow for either their evacuation to third countries or their transfer to Albania. In addition, Macedonia received an emergency credit of US\$40 million from the World Bank.³³⁷

Two programmes were devised to share Macedonia's physical refugee burden. The first was the Humanitarian Evacuation Programme (HEP), which resulted in the emergency

³³⁴ UNHCR, *State of the World's Refugees*, 2000, 234.

³³⁵ Suhrke *et al*, 2000, 6.

³³⁶ Suhrke *et al*, 2000, 36 – 39.

³³⁷ Suhrke *et al*, 2000, 36.

resettlement, on either a permanent or temporary basis, of some 92,000 refugees to 29 different host countries.³³⁸ According to Barutciski and Suhrke, while there were numerous problems in its implementation, “overall, HEP contributed positively to the protection of the refugees by alleviating the burden on a reluctant host state that feared destabilization.”³³⁹ A more controversial burden sharing mechanism was the Humanitarian Transfer Programme (HTP), through which Albania and Turkey agreed to receive tens of thousands of refugees directly from the Macedonian border. By mid-May 1999, however, only 208 refugees had been transferred to Albania under the programme.³⁴⁰

Barutciski and Suhrke argue that “the combination of strategic and humanitarian concerns ensured that the Kosovo refugee crisis received extraordinary attention from the powerful Western states” which “rapidly resulted in a solution based on burden sharing.”³⁴¹ Having initiated the bombing campaign without UN Security Council approval, NATO members felt vulnerable to criticism if a humanitarian catastrophe resulted. At the same time, the refugee movement was one of the largest in modern European history. In the aftermath of the Bosnian refugee crisis in the early 1990s, European states were anxious to manage the Kosovo refugee crisis more proactively.

Lessons for burden sharing with Africa

The similarities between the responses to the Indochina and Kosovo crises hold important lessons for burden sharing with Africa. In both cases, countries of first asylum leveraged substantial burden sharing commitments from Western donor states by violating, or threatening to violate, the principle of *non-refoulement*. At the same time, Western states had specific strategic and foreign policy reasons for engaging in both refugee emergencies and for

³³⁸ UNHCR, *State of the World's Refugees*, 2000, 239.

³³⁹ Barutciski and Suhrke, 2001, 101.

³⁴⁰ International Crisis Group (ICG), “Macedonia: Toward Destabilization?: The Kosovo crisis takes its toll on Macedonia”, Skopje-Brussels: ICG, 18 May 1999.

³⁴¹ Barutciski and Suhrke, 2001, 101.

providing substantial burden sharing. Finally, in both cases, the primary means of sharing the burden of countries of first asylum was through the physical burden sharing.

Given the asymmetrical relationship between African states and the international donor community, it may be argued that African states are not in a position to leverage the same concessions from donor states as did either Macedonia or Southeast Asian states. This is likely for two reasons. First, African states do not have the same political significance of either Southeast Asia or Macedonia, especially since the end of the Cold War. Second, given the dependence of African states on donor countries and lending institutions, as detailed in the Introduction, it may be argued that African states cannot jeopardize their broader economic relations with the West by threatening to violate the principle of *non-refoulement*.

In this way, it may be argued that the nature of burden sharing in Africa may be partially explained by the peripheral place that African states occupy in the international system and the limited influence that African states can exert over the international donor community. This link will be examined in subsequent chapters of this thesis to consider the importance of including such political considerations in future considerations of burden sharing with Africa, and the potential benefits of setting the debate on burden sharing in Africa within the broader context of Africa's peripheral place within the international system.

It is also important to note that instead of seeking to build on the potential benefits of refugees, host countries have tended to focus on the negative impact of refugees on a host population and region. Over the past 25 years, African states have consistently advocated for compensation from the international community to address these negative impacts.³⁴² More generally, African states have highlighted these burdens at the local, regional and national level as a means of advocating for a dramatic increase in levels of financial burden sharing from donor states, and have made little, if any, reference to increased physical burden sharing. In contrast, donor states have, since ICARA, been reluctant to approach burden sharing as a

³⁴² See: Gorman, 1987, 113; and UNHCR, Africa Bureau, 14 December 2001.

means of compensating states for hosting refugees, and have earmarked financial burden sharing for areas and programmes they deem to be more important. Subsequent chapters of this thesis will also consider this dynamic, especially given the difficulties inherent in quantifying the refugee burden, to consider the extent to which the characterization of refugees as a burden by host states is influenced by broader political factors unrelated to the presence of refugees.

Conclusion

This chapter has critically examined the principle and practice of burden sharing with African host states. It has argued that while a substantial amount of burden sharing does take place, the practice of burden sharing in Africa has been donor-driven, with the interests of donor states determining the scale and nature of burden sharing with African host states. In contrast with other examples of burden sharing, such as the CPA and the Kosovo crisis, African states have not been successful in leveraging substantial burden sharing from donor states. Notwithstanding the problematic task of quantifying a host states refugee burden, this chapter has also argued for a more disaggregated understanding of burden sharing, including both a consideration of financial and physical burden sharing and a more general recognition of both the benefits and burdens associated with the presence of refugees.

A more disaggregated notion of burden sharing further highlights the significance of a number of concepts that need to be included in the analysis of the case studies of this thesis. In particular, it is important to consider the *scope* of burden sharing by examining the range of burdens that are shared and the various forms of burden sharing, both financial and physical. It is also important to examine the *scale* of burden sharing, namely the quantity of burden sharing with a given host state relative to other states in the region, and the *sustainability* of burden sharing over time, especially as the refugee situation becomes protracted. Finally, the dominant role played by the interests of donor states emphasises the need to consider what

factors will affect the *dependability* of burden sharing. These four aspects of burden sharing will be examined in each of the case studies in this thesis. At the same time, the case studies will consider another question raised by this chapter: how can the *benefits* of hosting refugees be understood in relation to the refugee burden?

These concepts will form the basis for examining the burden sharing concerns of Kenya, Tanzania and Kenya in subsequent chapters. Chapter 7 will then revisit this understanding of burden sharing and consider its effectiveness in disaggregating the burden sharing concerns of these host states, while considering the role that broader political factors play in the identification of refugee as exclusively a burden. Before considering these questions in the case studies, the next chapter considers the relationship between refugee movements and security in Africa.

Chapter 3

Host State Security and Refugee Movements in Africa

Introduction

The focus of this chapter is the relationship between refugee movements and host state security. Specifically, the chapter examines how refugee movements and the prolonged presence of refugees may cause security concerns for host states. While refugee movements as a *consequence* of insecurity may be evident, the objective of this chapter is to understand how refugee movements may be a *cause* of state insecurity. Such concerns are not new. As this chapter will highlight, the security implications of refugee movements were particularly evident during the Cold War, as so-called ‘refugee warriors’ played a significant role in proxy conflicts throughout the Third World. Since the end of the Cold War, however, responses to the security implications of refugee movements have changed. Host states, in both the global North and South, now cite a wide range of security concerns as a justification for placing limits on the asylum they offer.

This chapter will critically examine refugee movements as a cause of state insecurity, especially in Africa. The chapter argues that while the language of security may be abused, the hosting of refugees may result in a number of security concerns for African host states and governing regimes. These concerns may be divided into *direct security concerns* – resulting from the presence of armed elements within the refugee population, the spill-over of violence and the proliferation of small arms within the host country – and *indirect security concerns* – resulting from increased crime and insecurity within the refugee-populated area, grievances against refugees by the local population, and changes in the domestic political opportunity structure arising from the arrival and prolonged presence of refugees. While many of these concerns are not new, the vulnerabilities of many states in Africa, coupled with the changing nature of conflict and donor engagement in Africa, now lead a number of African states and regimes to portray refugee movements as threats to their security. In response, many have

adopted more restrictive asylum policies. This chapter argues that a critical understanding of security appropriate to the state in Africa is required to more fully understand this dynamic.

The goal of this chapter is to develop a more critical understanding of the relationship between refugee movements and host state security to be employed in the case studies of this thesis. This understanding will emphasise the need to adopt a conceptualization of security appropriate to contemporary African states, while also considering the range of direct and indirect security concerns perceived by the host state and governing regime. By applying this disaggregated understanding of security to the cases of Kenya, Tanzania and Guinea, subsequent chapters of this thesis will consider the extent to which the characterization of refugees as a security concern by host states is influenced by broader political factors unrelated to the presence of refugees.

This chapter has five sections. Section one highlights the significance of the relationship between refugees and security and its link to the principle of *non-refoulement*. Section two briefly outlines the security implications of refugee movements during and after the Cold War. Section three then considers changing understandings of security since the end of the Cold War and reviews the early scholarly literature on refugees and security. After considering the applicability of this literature to the security concerns of host states in Africa, section four develops an understanding of security appropriate to Africa. By assessing the role that vulnerabilities play in the perception of a phenomenon as a security concern by African states and regimes, section five develops a framework for understanding the security concerns that may arise as a result of the mass arrival and prolonged presence of refugees.

The significance of security concerns for refugee protection

Refugee movements had security implications for states throughout the twentieth century. The influx of refugees from Russia and the Balkans as a result of World War I exacerbated tensions between European states, prompting the League of Nations to take steps

to ensure that the refugee situation was effectively managed.³⁴³ Likewise, the United Nations created a number of refugee organizations, including UNHCR, and oversaw the drafting of the 1951 Convention in response to the threat posed to the fragile European state system by the displacement of some 12 million persons at the end of World War II.³⁴⁴ Goodwin-Gill emphasises how, as a result of this context, the drafters of the 1951 Convention were significantly influenced by security concerns, and consequently ensured that such concerns were reflected in the functioning of the Convention.³⁴⁵

Indeed, the 1951 Convention specifies that security concerns are the only “potential justifications for derogation” from the principle of *non-refoulement*.³⁴⁶ As detailed in Article 33(2) of the 1951 Convention, the benefit of *non-refoulement* may *not* be claimed by:

... a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.

Likewise, Article 1(F) of the 1951 Convention *excludes* from refugee status “any person with respect to whom there are serious reasons for considering” that s/he had “committed a crime against peace, a war crime, or a crime against humanity”, had “committed a serious non-political crime”, or had been “found guilty of acts contrary to the purposes of the United Nations.”³⁴⁷ In this way, it is important to begin this chapter by understanding that the identification of refugees as a threat to the host states’s security allows that state to legitimately derogate from its obligation to *non-refoulement*. In other words, international law recognizes that the security of the host state takes precedent over the protection of refugees.

Such considerations highlight the importance of the issue, and the need for a precise understanding of the relationship so as to not precipitate a further erosion of international

³⁴³ See: Claudena Skran, *Refugees in Inter-War Europe: The Emergence of a Regime*, Oxford: Clarendon Press, 1995; and Loescher, 2001, 22 – 28.

³⁴⁴ See: Holborn, 1975, 55 – 173.

³⁴⁵ For details of various state positions during the drafting of the 1951 Convention on the need to balance the protection needs of refugees with the security concerns of states, see: Goodwin-Gill, 1996, 139, note 103.

³⁴⁶ Goodwin-Gill, 1996, 139.

³⁴⁷ For a discussion of the application of these exclusion clauses, see: Goodwin-Gill, 1996, 95 – 116.

refugee protection. It has been argued that states may find instrumental value in portraying refugees as a security concern, thereby justifying restrictions that would be politically popular but not otherwise legally defensible.³⁴⁸ In this sense, Chimni cautions that “a broadened concept of security allows states to trump the obligation to respect the principle of *non-refoulement*,”³⁴⁹ which, he adds, is precisely why vague definitions of security are so “attractive to states.”³⁵⁰ To address these concerns, but mindful of the fact that refugee movements have resulted in legitimate security concerns for states, Weiner calls for an “analytical stance that, on the one hand, does not dismiss fears, and, on the other, does not regard all anxieties over immigration and refugees as a justification for exclusion.”³⁵¹ The objective of this chapter is to outline such an approach appropriate to the context of Africa.

Refugee movements and security during and after the Cold War

Refugee movements and security during the Cold War

While refugee movements continued to raise security concerns for states during the Cold War, they were largely approached as part of the geopolitics of the East – West struggle.³⁵² In addition to resettling refugees, Western powers provided support to so-called ‘refugee warriors’.³⁵³ These organized elements of exiled communities, typically intermingled with a refugee population and based in a country of asylum, were engaged in a wide range of armed campaigns against their countries of origin.³⁵⁴ During the 1970s and 1980s, examples

³⁴⁸ See: Jef Huysmans, “Migration and the Politics of Security”, in Sophie Body-Gendrot and Marco Martiniello (eds.), *Minorities in European Cities: The Dynamics of Social Integration and Social Exclusion at the Neighbourhood Level*, Basingstoke: Macmillan, 2000.

³⁴⁹ B. S. Chimni, “The Global Refugee Problem in the 21st Century and the Emerging Security Paradigm: A Disturbing Trend” in A. Anghie and G. Sturgess (eds.), *Legal Visions of the 21st Century: Essays in Honour of Judge Christopher Weeramantry*, the Hague: Kluwer Law International, 1998b, 290.

³⁵⁰ Chimni, 1998b, 287.

³⁵¹ Myron Weiner, “Security, Stability and International Migration”, in Weiner (ed.), 1993, 9.

³⁵² See: Loescher, 2001, 201 – 246.

³⁵³ The term ‘refugee warrior’ was first coined by Zolberg *et al.* See: Zolberg *et al.*, 1989, 275 – 278.

³⁵⁴ See: Howard Adelman, “Why Refugee Warriors are Threats”, *The Journal of Conflict Studies*, Vol. 18, no. 1, Spring 1998.

of refugee warrior communities could be found among Afghan *mujahidden* in Pakistan, the *Khmers Rouges* in Thailand, and the Nicaraguan *Contras* in Latin America.³⁵⁵ As part of the Cold War logic of international security, these groups received Western military and political support, as they “symbolized for the West the popular rejection of communist governments and served to legitimate the resistance movements.”³⁵⁶

Similar groups were also present in Africa.³⁵⁷ Some groups, like those associated with proxy wars in the Horn of Africa and in Southern Africa, received Western support as part of the logic of the Cold War. Others were linked to wars of national liberation, especially in Southern Africa. A third group of refugee warriors existed in Africa during this period, but were associated with neither proxy wars nor wars of national liberation. These groups, like the Rwandan exiles from the 1960s who formed the basis of the Rwandan Patriotic Front (RPF),³⁵⁸ raised a number of concerns for African states, as highlighted by the process leading to the drafting of the 1969 OAU Convention.

All regions of Africa were affected by refugee warrior communities between the 1960s and the end of the Cold War. Concerns about security dominated the treatment of refugee populations in the Horn of Africa, especially given the interplay between refugee populations in, and conflicts between, Ethiopia, Sudan and Somalia in the 1970s and 1980s.³⁵⁹ In Central Africa, UNHCR notes that “the failure to address the problems of the Rwandan refugees in the 1960s contributed substantially to the cataclysmic violence of the 1990s.”³⁶⁰ In addition to the problem of attacks on refugee camps and settlements in Southern Africa in the late 1970s, the militarization of the refugee population perpetuated the Angolan civil war long

³⁵⁵ For an overview of these groups and their activities, see: Zolberg *et al*, 1989; and Loescher, 2001.

³⁵⁶ Loescher, 2001, 11.

³⁵⁷ See: Karen Jacobsen, with Steven Wilkinson, “Refugee Movements as Security Threats in Sub-Saharan Africa”, in Weiner (ed.), 1993; and Matthews, 1972.

³⁵⁸ See: Gérard Prunier, “The Rwandan Patriotic Front” in Clapham (ed.), 1998; and Rachel van der Meeren, “Three Decades in Exile: Rwandan Refugees 1960 – 1990”, *Journal of Refugee Studies*, Vol. 9, no. 3, 1996.

³⁵⁹ See: Assefaw Bariagaber, “States, International Organisations and the Refugee: Reflections on the Complexity of Managing the Refugee Crisis in the Horn of Africa”, *The Journal of Modern African Studies*, Vol. 37, no. 4, December 1999.

³⁶⁰ UNHCR, *State of the World's Refugees*, 2000, 49.

after independence in 1975.³⁶¹ In West Africa, Guinea's decision to host Cabral's liberation movement resulted in the Portuguese attack on Conakry, as described in Chapter 6. During this period, however, a number of African states were willing to host these populations for political reasons. As argued above, liberation movements were frequently hosted as an expression of solidarity with the anti-colonial struggle, while armed exiled communities from independent African states were also hosted as an extension of the host country's interests in the conflict in the country of origin.³⁶²

Refugee movements and security in Africa after the Cold War

The end of the Cold War has not diminished the relevance of refugee warriors. UNHCR now recognizes that refugee movements often consist of "mixed movements of populations" which include not only refugees, but also "armed elements seeking sanctuary in neighbouring countries."³⁶³ In many cases, refugee warriors use refugee camps as a base for mobilizing against the country of origin, often regionalizing conflict.³⁶⁴ The actions of refugee warriors often lead to a breakdown of law and order in camps, and violate the rights of refugees, especially through forced recruitment, physical and sexual violence, and intimidation. Moreover, they frustrate attempts at identifying durable solutions and result in a general hostility towards refugees. Given the changing nature of conflict in Africa, and especially after the fall of the Mobutu regime, most African states appear less willing to host armed elements.

More generally, states in Africa have come to perceive a much wider range of security concerns to be associated with refugee movements since the end of the Cold War. This perception stems not only from the withdrawal of superpower support for regional conflicts

³⁶¹ See: Zolberg *et al*, 1989, 91 – 94.

³⁶² See: Jacobsen, 1993, 210 – 211.

³⁶³ UNHCR, Global Consultations, "The Civilian Character of Asylum: Separating Armed Elements from Refugees", EC/GC/01/5, 19 February 2001a, 1.

³⁶⁴ See: Lischer, 2005, 1 – 43.

on the continent, but also from a heightened sense of vulnerability on the part of many African regimes. Juma argues that this heightened sense of vulnerability, coupled with the lack of differentiation between refugees and those who should be excluded from refugee status, has contributed to a “tendency ... to collectively criminalize refugees and view them within a security prism.”³⁶⁵

At the same time, the range of security issues perceived by African states has multiplied, with environmental degradation, rising poverty, the spread of HIV/AIDS, the proliferation of small arms, the spread of crime, and conflict between local groups – all concerns claimed to be associated with refugee movements – addressed as national security concerns. In the context of the external and internal pressures now experienced by African states, many feel limited in their ability to respond. As a result of these pressures, “refugee protection is increasingly subsumed under the imperatives of security and strategic priorities of hosting states.”³⁶⁶

Changing notions of refugee movements and security

Changing notions of security after the Cold War

This proliferation in the perceived sources of insecurity has not been limited to African states. Indeed, the end of the Cold War resulted in a broad revisiting of the nature of security by states and academics alike, with a more diffuse range of issues being identified as ‘security concerns’. This process, described by Buzan *et al.* as a period of ‘issue-widening’, grew out of a frustration with the narrow Cold War understanding of security. For them, “this dissatisfaction was stimulated first by the rise of the economic and environmental agendas in international relations during the 1970s and 1980s and later by the rise in concerns with

³⁶⁵ Monica Kathina Juma, “Migration, Security and Refugee Protection: A Reflection”, Paper Prepared for the Conference “Refugee Protection in Africa: How to ensure security and development for refugees and hosts”, Entebbe, 10 – 14 November 2002, 2, on file with author.

³⁶⁶ Juma, November 2002, 23.

identity issues and transnational crime in the 1990s.”³⁶⁷ Part of this period of ‘issue-widening’ was the emergence of a distinct literature on refugee movements and security. As argued by Gibney:

The defusing of the major security threat of the post-War period – the threat of nuclear annihilation – provided academics, governments and military officials with a strong incentive to concentrate their energies on a range of new (and hitherto distinctly second rate) security concerns. The ‘threats’ posed by asylum seekers and refugees were simply one of a number of new non-state threats to be formulated in this period.³⁶⁸

Early literature on refugees and security

Loescher and Weiner were the first two authors to comprehensively examine the question of refugee movements and state security at the end of the Cold War.³⁶⁹ Their work made seminal contributions to this area of research by raising the issue of forced migration as both a potential consequence and cause of insecurity, developing a basic typology of migration flows and their related security concerns, and charting a cross-regional framework for future research in the area. Crucially, both authors illustrate the importance of the issue by emphasising the ‘high-politics’ aspects of international migration:

Loescher (1992, 3): “Refugee exoduses are commanding the attention of high-level policy-makers not only for humanitarian reasons and because of the increasing numbers involved, but also because of the serious consequences that mass displacements have for national stability, international security and the emerging new world order.”

Weiner (1993, 1): “Migration and refugee issues, no longer the sole concern of ministers of labor and immigration, are now matters of high international politics, engaging the attention of heads of state, cabinets, and key ministries involved in defence, internal security, and external relations.”

Given the importance of these works in defining this area of research, it is important to briefly review their arguments before considering their applicability to the study of asylum in Africa.

³⁶⁷ Barry Buzan, Ole Waever and Japp de Wilde, *Security: A New Framework for Analysis*, Boulder, CO: Lynne Rienner Publishers, 1998, 2. For early works on ‘issue widening’, see: Richard Ullman, “Redefining Security”, *International Security*, Vol. 8, no. 1, Summer 1983; Jessica Matthews, “Redefining Security”, *Foreign Affairs*, Vol. 68, no. 2, 1989; and Thomas Homer-Dixon, “On the Threshold: Environmental Changes as Causes of Acute Conflict”, *International Security*, Vol. 16, no. 2, Fall 1991.

³⁶⁸ Matthew J. Gibney, “Security and the ethics of asylum after 11 September”, *Forced Migration Review*, No. 13, June 2002, 40.

³⁶⁹ See: Loescher, 1992; and Weiner (ed.), 1993. While earlier works examined the linkages between refugee movements and international politics (See: Leon Gordenker, *Refugees in International Politics*, London: Croom Helm, 1987; and Loescher and Monahan (eds.), 1989), these two works were the first to specifically examine the link between refugee movements and security.

Loescher argues that, in light of the end of the Cold War, South-South refugee movements would present the West with “severe security challenges” in the future.³⁷⁰ His work proceeds to outline some of the significant policy challenges, including the concentration of large refugee populations in the world’s poorest and most fragile states, the role of the Cold War in generating these refugee situations, and the special significance of ‘refugee warriors’. Fundamentally, Loescher’s work argues that:

It is no longer sufficient to discuss the subject of refugees within a narrow national context or as a strictly humanitarian problem requiring humanitarian solutions. Too often, refugees are perceived as a matter for international charity organizations, and not as a political or security problem. Yet refugee problems are in fact intensely political: mass migrations create domestic instability, generate interstate tension and threaten international security.³⁷¹

Most relevant to this chapter is Loescher’s examination of the “strategic consequences of refugee movements.”³⁷² Here, he illustrates how “refugee movements can both create or exacerbate conflict between neighbouring states and challenge the integrity of the host state.”³⁷³ Loescher continues that the implications are particularly acute “in conflicts involving the spill-over of turmoil across national borders” and notes that “the activities and ambitions of refugees themselves, as well as those of the governments of asylum and of the guerrilla movements in both sending and receiving states, are additional significant factors in the prolongation and complexity of refugee problems.”³⁷⁴

While Loescher’s argument is informed by the tradition of international relations, Weiner seeks to locate the question of host state security within the migration literature. In particular, Weiner argues that a ‘security/stability’ framework should be considered when examining international migration, in addition to a purely economic view. Such a framework,

³⁷⁰ Loescher, 1992, 11.

³⁷¹ Loescher, 1992, 5.

³⁷² Loescher, 1992, 41 – 55.

³⁷³ Loescher, 1992, 41.

³⁷⁴ *Ibid.*

he argues, “complements rather than replaces an economic analysis by focusing upon the role of states in both creating and responding to international migration.”³⁷⁵

Weiner’s argument is based on a framework of five broad categories or instances in which “refugees or migrants may be perceived as a threat to the country that produces the emigrants, to the country that receives them, or to the relations between the sending and receiving states.”³⁷⁶ The first instance arises when the migrants are actively opposed to the regime in the country of origin, and this opposition, and actions motivated by this opposition, becomes a source of tension between the sending and receiving states. Second, Weiner outlines various ways, directly and indirectly, that migrants may come to be seen as a security or political concern for the host state, either through armed campaigns against the host country or through criminal activities of foreign elements within a host state. Third, the issue of immigrants as threats to the culture of a host community is addressed, before turning to the threats resulting from the social and economic pressures associated with migration. Finally, Weiner argues that security concerns may arise when “the host society uses immigrants as an instrument of threat against the country of origin.”³⁷⁷

Both works have made a significant contribution to the study of the relationship between refugee movements and security concerns, especially as the frameworks they introduced remain the dominant models for understanding the security implications of refugee movements, especially in the global South. There are, however, two limitations to these early works. First, neither work incorporates a critical conceptualization of ‘security’ appropriate to the study of refugee movements. Second, the nature of the security implications of refugee movements portrayed in these works focuses disproportionately on the ‘high politics’ concerns of states at the expense of ‘low politics’ concerns. While both works refer to concerns surrounding host community receptivity and questions of ethnic affinity, it is

³⁷⁵ Weiner, 1993, 5.

³⁷⁶ Weiner, 1993, 11.

³⁷⁷ Weiner, 1993, 19 – 21.

significant to note that domestic, 'low politics', security concerns have proven to be more pervasive and preoccupying for host states, especially in Africa, as outlined below.

Understanding security

The development of a more appropriate understanding of the relationship between refugee movements and security should begin with a more critical understanding of the concept of security. Given the relationship between security and *non-refoulement*, however, particular attention must be paid to the scope of the understanding of security employed in relation to refugee movements. As cautioned by Goodwin-Gill, there is a danger that an overly broad understanding of security could lead to seeing refugees themselves "as the threat" and putting "their lives and well-being and security as individuals at serious risk."³⁷⁸ Weiner acknowledges that "'security' is a social construct with different meanings in different societies."³⁷⁹ As such, "any attempt to classify types of threats from immigration quickly runs into distinctions between 'real' and 'perceived' threats."³⁸⁰ More generally, Buzan *et al* argue that conceptualizations of 'security' should be mindful of the fact that:

...the invocation of security has been the key to legitimizing the use of force, but more generally it has opened the way for the state to mobilize, or to take special powers, to handle existential threats. Traditionally, by saying 'security', a state representative declares an emergency condition, thus claiming the right to use whatever means are necessary to block a threatening development.³⁸¹

In this way, there has been resistance to an ever-expanding notion of security, and a desire to maintain a "narrow,"³⁸² or strictly defined understanding of security. For some, like Ayoob, the desire to increasingly broaden the concept of security during the period of issue-widening threatened "to make the concept so elastic as to render it useless as an analytical

³⁷⁸ Guy Goodwin-Gill, "Editorial: Refugees and Security", *International Journal of Refugee Law*, Vol. 11, no. 1, 1999, 3.

³⁷⁹ Weiner, 1993, 9.

³⁸⁰ *Ibid.*

³⁸¹ Buzan *et al*, 1998, 21.

³⁸² Buzan *et al*, 1998, 2.

tool.”³⁸³ Articulating a precise understanding of security is, however, as important as it is difficult. Indeed, while “few people would deny that security, whether individual, national, or international, ranks prominently among the problems facing humanity,”³⁸⁴ it remains a difficult concept to define.

Buzan argues that “the persistent underdevelopment of thinking about security,”³⁸⁵ especially during the Cold War, may be attributed to a number of factors. First, Buzan argues that the “the idea ... proved too complex to attract analysts”³⁸⁶ who seemed drawn to more tangible areas of study. Second, he points to the obfuscating overlap between the concepts of ‘security’ and ‘power’, and argues that the latter was given prominence during the Cold War. Finally, he points to deeper political motivations, and argues that:

The enduring cause of the neglect of security hinges on the argument that, for the practitioners of state policy, compelling reasons exist for maintaining its symbolic ambiguity... Because of the leverage over domestic affairs which can be obtained by invoking it, an undefined notion of national security offers scope for power-maximizing strategies to political and military elites.³⁸⁷

It is essential to highlight this tension: while a clear notion of security is central to dependable refugee protection, given its link to *non-refoulement*, it may be argued that a fluid notion of security is of greater instrumental value to governing regimes, especially vulnerable regimes such as those in Africa.

Notwithstanding the dangers of a fluid definition, however, Buzan argues that security is an ‘essentially contested concept’ and therefore cannot be effectively defined. He argues that such concepts are difficult to define and apply as they “contain an ideological element which renders empirical evidence irrelevant as a means of resolving the dispute.”³⁸⁸ Instead of providing a precise definition, argues Buzan, essentially contested concepts “delineate an

³⁸³ Mohammed Ayoob, “Defining Security: A Subaltern Realist Perspective” in Keith Krause and Michael C. Williams (eds.), *Critical Security Studies: Concepts and Cases*, London: UCL Press, 1997, 121.

³⁸⁴ Buzan, 1991, 1.

³⁸⁵ Buzan, 1991, 7.

³⁸⁶ *Ibid.*

³⁸⁷ Buzan, 1991, 11.

³⁸⁸ Richard Little, cited in Buzan, 1991, 7.

area of concern” and that they therefore “require theoretical analysis in order to identify the boundaries of their application, the contradictions which occur within them and the significance for them of new developments.”³⁸⁹ Accordingly, this chapter does not seek to define ‘security’. Instead, its aim is to develop a framework for analysing the security implications of refugee movements for states in Africa.

Understanding security in the Third World

Such a framework should be premised on an understanding of ‘security’ appropriate for the Third World, generally, and Africa, specifically. Job argues that “the diagnosis commonly agreed upon by analysts as a central feature of the Third World states’ insecurity dilemma is the ‘weak state’ syndrome.”³⁹⁰ Similarly, Ayoob argues that any application of security to the Third World must begin with an understanding of the conditions and histories of Third World states. Ayoob consequently takes as his point of departure a critical consideration of the applicability of traditional Cold War notions of security, which, he argues, were dominated by “two major assumptions: one, that most threats to a state’s security arise from outside its borders and two, that these threats are primarily, if not exclusively, military in nature and require a military response.”³⁹¹ Ayoob argues that “the applicability of this historically conditioned definition of security to the analysis of the Third World situation has created major intellectual and conceptual problems.”³⁹² Indeed, Ayoob outlines how “despite the rhetoric of many Third World leaders, the sense of insecurity from which [Third World states] suffer emanates largely from within their own borders rather than outside.”³⁹³

The questionable relevance of traditional conceptions of security is illustrated by the changing nature of conflict in the Third World. The end of the Cold War brought significant

³⁸⁹ Buzan, 1991, 8.

³⁹⁰ Job, 1992, 19.

³⁹¹ Ayoob, 1995, 5.

³⁹² Ayoob, 1995, 6.

³⁹³ Ayoob, 1995, 7.

changes in the nature of conflict on the periphery of the international system, with a marked proliferation in the number of conflicts and a shift in their focus. In fact, of the 96 armed conflicts recorded between 1989 and 1996, 91 were intra-state, nearly all in the Third World.³⁹⁴ To this must be added an understanding of the regionalisation of conflict, with intra-state conflicts in the Third World having the demonstrated ability to engulf whole regions and become “inter-state conflicts because of the spill-over effect into neighbouring, often similarly domestically insecure, states.”³⁹⁵

As outlined in the Introduction, Ayoob argues that the security concerns of Third World states and their particular predicament can be characterised by a shared weakness and vulnerability. The state’s primary objective, therefore, becomes the reduction of the deep sense of insecurity from which Third World states and regimes suffer, both domestically and internationally. While stressing “the primacy of the political realm in the definition of security,” Ayoob adds that such a focus “does not mean the political realm can or should be totally insulated from other realms of human and social activity.”³⁹⁶ As Ayoob argues:

Although it retains its primacy in the definition of security, the political realm must be informed by other realms of human activity. However ... when developments in other realms – ranging from the economic to the ecological – threaten to have immediate political consequences or are perceived as being able to threaten state boundaries, political institutions or governing regimes, these other variables must be taken into account as part of a state’s security calculus.³⁹⁷

For refugee movements to constitute a security concern for a host state, it would therefore be necessary to demonstrate that their presence may affect the political realm resulting in “political outcomes” and that these outcomes “either affect the survivability of state boundaries, state institutions, or governing elites or weaken the capacity of states and regimes to act effectively in the realm of both domestic and international politics.”³⁹⁸

³⁹⁴ See: Amitav Acharya, “Developing Countries and the Emerging World Order: Security and Institutions” in Fawcett and Sayigh (eds.), 1999. For an overview of this trend in Africa, see: Stephen John Stedman and Terrence Lyons, “Conflict in Africa”, in Gyimah-Boadi (ed.), 2004.

³⁹⁵ Ayoob, 1995, 7.

³⁹⁶ Ayoob, 1995, 8.

³⁹⁷ *Ibid.*

³⁹⁸ Ayoob, 1995, 9.

Security in Africa: State versus regime versus individual security

While this characterization of security appears to fit the African context, additional considerations must be taken into account. As outlined in the Introduction, the ability of many states and regimes in Africa to ‘act effectively in the realm of both domestic and international politics’ has been affected by a number of external and internal constraints. Internally, states and regimes have been constrained by the effects of democratization and economic liberalization. Externally, they are constrained by the power imbalance between African states and the donor community. Along with the historical constraints identified by Ayoob, these new constraints, which have coalesced since the early 1990s, have increased the sense of vulnerability experienced by many states and regimes in Africa. As argued by Clapham, these constraints have heightened concerns about the survival of a number of African states.³⁹⁹ The significance of such constraints needs to be reflected in any framework that considers the security implications of refugee movements.

Such considerations, however, also raise the important question of “*whose* survival: the state’s or the ruler’s?”⁴⁰⁰ This is especially relevant given Buzan’s caution about the expression of security concerns in weak states:

The weaker a state is, the more ambiguous the concept of national security becomes in relation to it. To use the term in relation to a weak state, as if such a state represented the same type of object as a strong state, simply paves the way for the wholesale importation of national security imperatives into the domestic arena, with all the dangers of legitimized violence that this implies. *The security of governments becomes confused with the security of states, and factional interests are provided with a legitimacy which they do not merit.*⁴⁰¹

While the fall of the Mobutu regime appears to counter Suhrke’s assertion that refugee movements “rarely represent a threat that even a small and weak state cannot handle on its own by applying some military force,”⁴⁰² it is important to ask to what extent refugee

³⁹⁹ See: Clapham, 1996, 4 – 7.

⁴⁰⁰ Clapham, 1996, 4.

⁴⁰¹ Buzan, 1991, 102. Emphasis added.

⁴⁰² Suhrke, 1998, 6. In fact, it has been argued that “as a threat to peace and security, the imposition of refugees on other states falls under Chapter VII of the UN Charter and therefore legitimates enforcement action.” Alan Dowty and Gil Loescher, “Refugee Flows as Grounds for International Action”, *International Security*, Vol. 21, no. 1, Summer 1996, 45.

movements, coupled with the constraints placed on African states, tend to have greater security implications for governing regimes rather than states.

It is also important to consider the extent to which ‘state survival’ versus ‘regime survival’ is at the core of the security calculus of African states. As Jackson argues, “in a real sense there is no problem of national security in African states, which enjoy an unusual form of external protection.”⁴⁰³ He notes, however, that while “African states are externally secure, there is in many of them a persistent and widespread – in some a horrendous – problem of internal security.”⁴⁰⁴ Many of these internal security concerns challenge the survival of the regime, not the state.

Similarly, it is important to assess the balance between individual and state security. In some instances the state and governing regime have become one of the greatest sources of insecurity for citizens. Such an understanding, and a desire to escape this condition, has given rise to the notion of ‘human security’. In reflecting on the implications of ‘issue-widening’ for the international refugee regime, UNHCR points to the “growing recognition of the intimate relationship that exists between the security of states and the welfare of the citizens who populate such political and territorial entities”⁴⁰⁵ before arguing that “forced displacement of people is a clear indication that the web of rights and obligations which links the citizen to the state has broken down.”⁴⁰⁶ In this way, UNHCR argues for a ‘human security’ approach when considering the relationship between refugees and security.⁴⁰⁷ Such an approach takes the individual as the focus and emphasises two characteristics of security: safety from chronic

⁴⁰³ Robert H. Jackson, “The Security Dilemma in Africa”, in Job (ed.), 1992, 89.

⁴⁰⁴ Jackson, 1992, 90.

⁴⁰⁵ UNHCR, *The State of the World's Refugees: A Humanitarian Agenda*, Oxford: Oxford University Press, 1997, 12.

⁴⁰⁶ UNHCR, *State of the World's Refugees*, 1997, 13.

⁴⁰⁷ For an examination of UNHCR’s motivation for adopting such an approach, see: Howard Adelman, “From Refugees to Forced Migration: The UNHCR and Human Security”, *International Migration Review*, Vol. 35, no. 1, Spring 2001; and Anne Hammerstad, “Whose Security? UNHCR, Refugee Protection and State Security After the Cold War”, *Security Dialogue*, Vol. 31, no. 4, December 2000.

threats such as disease and repression, and protection from sudden and hurtful disruptions in the pattern of daily life.⁴⁰⁸

In contrast with the human security approach, this thesis takes the state and the governing regime as the referent objects in its consideration of security. This is in recognition of the fact that “forced migration is not simply a consequence of conflict and violence; it is also a primary cause.”⁴⁰⁹ While a human security approach highlights the significant implications of refugee movements and restrictions on asylum for individual refugees, it does explain how refugee movements can cause insecurity and therefore does not address the security concerns of host states and consequently their asylum policies.

The importance of taking the host state and governing regime as the referent object is further highlighted by the importance of the state in the granting of asylum. The granting of asylum is tied to access to a territory where the individual fleeing persecution may benefit from international protection to compensate for the lost national protection of the country of origin. While local communities play a significant role in extending this protection, especially in the initial stages of mass influx situations, and while the porousness of borders in Africa makes the prevention of such mass influxes difficult for states, over time it is the state that determines asylum policies, as outlined in the Introduction.

At the same time, as “one of the primary roles of the state is to provide peace and security for its citizens within the national territorial boundaries as well as to ensure their protection against threats from outside”,⁴¹⁰ states may be said to have a security imperative. Given this imperative, states are likely to choose security over asylum. As illustrated by the limitations on *non-refoulement* contained in the 1951 Convention, security is a priority for states; the granting of asylum is not. For this reason High Commissioner for Refugees

⁴⁰⁸ See: UN Development Programme (UNDP), *Human Development Report 1994*, Oxford: Oxford University Press, 1994, 22.

⁴⁰⁹ UNHCR, *State of the World's Refugees*, 1997, 33.

⁴¹⁰ Tiyanjana Maluwa, “The Refugee Problem and the Quest for Peace and Security in Southern Africa”, *International Journal of Refugee Law*, Vol. 7, no. 4, 1995, 654.

Sadako Ogata argued in the aftermath of the crisis in the Great Lakes region that the challenge remains to demonstrate that “the *protection of refugees* can [be] reconciled with the *security of states*,”⁴¹¹ not that the security of states can be reconciled with the protection of refugees.

While other understandings of security would be appropriate for other areas of enquiry, this thesis adopts a state-centred understanding of security. This approach is the result not only of the link outlined above, but also given the focus of this thesis. As this thesis seeks to develop a more comprehensive understanding of the range of factors that affect the asylum policies of African states, and given that states have highlighted their security as a consistent concern, a state-centred approach to security is deemed to be the most appropriate for this thesis.

A state-centred approach, however, does not negate the importance of the security of the individual, but argues that the security of the individual is best ensured by addressing the security of the state as a whole. As Buzan argues:

The relevance of individual security ... lies in the network of connections and contradictions between personal security and the security of the state. The state is a major source of both threats to and security for individuals. Individuals provide much of the reason for, and some of the limits to, the security-seeking activities of the state. Given that human beings are the prime source of each other's insecurity, the question of individual security quickly takes on broader societal and political dimensions.⁴¹²

These societal and political dimensions are filtered through the state. The argument follows that “security is primarily about the fate of human collectivities, and only secondly about the personal security of individual human beings” and that “in the contemporary international system, the standard unit of security is thus the sovereign territorial state.”⁴¹³

Understanding refugee movements and security in Africa

Before presenting a framework for understanding the relationship between refugee movements and host state security, it is useful to consider the contribution of three other

⁴¹¹ Ogata, in OAU and UNHCR, May 1998, 1. Emphasis in original.

⁴¹² Buzan, 1991, 35.

⁴¹³ Buzan, 1991, 19

works. In considering the political and security context of refugee-populated areas, Jacobsen argues that refugee movements result in two types of threats: military threats and non-military threats. She argues that “military threats occur when camps or refugees are directly attacked by being shelled or subjected to raids by rebel forces or regular (government) forces of the host or sending state.”⁴¹⁴ In contrast, she argues that “non-military threats refer to the violence, crime and intimidation that occurs in the [refugee-populated area], usually in camps, resulting from the absence or breakdown of law and order, or simply as a result of poor planning or policy.”⁴¹⁵

Although Jacobsen’s framework is focused on the security concerns of refugees, not on refugee movements as a security concern for the state, her framework makes three important contributions to the objectives of this thesis. First, it highlights the need to separate security concerns into broad types, each with different causes and therefore calling for different responses. Second, it points to the importance of disaggregating the state when considering security concerns. The threats identified by Jacobsen are limited to refugee-populated areas, typically on the periphery of the state. This distinction suggests that different threats and concerns may be experienced and perceived in other parts of the host state. Third, it emphasises the importance of considering the broader political and security context of the refugee-populated area when considering the specific security implications of refugee movements.⁴¹⁶ Such broader considerations include the historical background to the influx, domestic political and economic factors at play in the host state, regional political forces, and the interests of donors and relief organizations.

In her consideration of “refugee-related violence”, Lischer focuses on the implications of Jacobsen’s ‘military threats’ for host states and states in the region.⁴¹⁷ Her objective is to

⁴¹⁴ Jacobsen, 2000, 5.

⁴¹⁵ *Ibid.*

⁴¹⁶ Jacobsen, 2000, 13 – 17.

⁴¹⁷ See: Lischer, 2005, 11 – 15.

understand how refugee crises can cause violent conflict, a more specific category than insecurity. She argues that such conflict is better explained by “the political context of the crisis,” such as the “origins of the refugee crisis, the policy of the receiving state and the influence of external state and non-state actors,” rather than socio-economic aspects of the refugee population.⁴¹⁸

Central to Lischer’s work is the argument that the militarization of refugee populations is not inevitable. To this end, she presents a disaggregated understanding of various types of refugee populations to argue which populations are more likely to become militarized and why. Lischer argues that in instances where refugee populations exist as part of a strategy of an exiled political organization and instances where host governments are either unwilling or unable to prevent militarization, refugee populations are very likely to be engaged in violent conflict. In contrast, in instances where refugees have fled generalized violence, and where the host state is both willing and able to exercise its responsibilities towards the security of the refugee population, the potential for violence is very low.⁴¹⁹

Crucially, however, Lischer’s work does not consider whether individuals engaged in these types of violence would be excluded from refugee status, as outlined above. In particular, ‘refugees’ engaged in attacks against the host or sending state are not, according to the 1951 Convention and the 1969 OAU Convention,⁴²⁰ refugees. In fact, it is important to differentiate between security concerns arising from individuals or elements within the refugee population as distinct from those arising from refugees themselves. As highlighted by Juma, failure to distinguish between refugees and foreign nationals engaged in activities that would exclude them from refugee status frequently leads to an unnecessary securitization of the refugee population as a whole.⁴²¹ Likewise, Nowrojee argues that this lack of

⁴¹⁸ Lischer, 2005, 10.

⁴¹⁹ Lischer, 2005, 18 – 43.

⁴²⁰ Article I(5) of the 1969 OAU Convention contains the same exclusion clauses as Article 1(F) of the 1951 Convention.

⁴²¹ Juma, November 2002.

differentiation may be a deliberate strategy on the part of the host state to facilitate the securitization of the entire refugee population for political purposes.⁴²²

In contrast with Lischer and Jacobsen, whose works draw from examples in the global South more generally, Maluwa roots his consideration of the security implications of refugee movements exclusively in an African context. Taking the state as his referent object, Maluwa highlights how changing notions of security since the end of the Cold War have led a number of states in Southern Africa to perceive the presence of refugees as a security concern in various ways. Maluwa emphasises that refugee movements may result in both ‘high politics’ and ‘low politics’ security concerns for states. First, the militarization of refugee populations and the presence of armed elements within the refugee population may “exacerbate and influence relations between states in many ways.”⁴²³ Similarly, “the presence of refugees ... can exacerbate domestic political tensions.”⁴²⁴ Maluwa cautions, however, that “feelings of resentment and suspicion” towards refugees may be fanned by unrelated political and economic forces, and may lead to a point where “poverty, unemployment, scarcity of resources, and even crime and disease, are suddenly attributed to the presence of these refugees.”⁴²⁵

*Security framework: Direct and indirect security concerns*⁴²⁶

Drawing from these frameworks, the early works of Loescher and Weiner, and the understanding of security developed above, this thesis argues that the security concerns of host states in Africa may be divided into direct and indirect security concerns. *Direct security concerns* address the ‘high politics’ concerns of states, and stem from the presence of armed

⁴²² Binafir Nowrojee, “In the Name of Security: Erosion of Refugee Rights in East Africa”, *World Refugee Survey*, Washington: USCR, 2000.

⁴²³ Maluwa, 1995, 656.

⁴²⁴ Maluwa, 1995, 657.

⁴²⁵ *Ibid.*

⁴²⁶ An earlier version of this security framework originally appeared in the author’s MPhil thesis.

elements within the refugee population, the spill-over of violence, and the potential regionalization of conflict. In contrast, *indirect security concerns* address the ‘low politics’ concerns of states, and stem from the exacerbation of previously existing tensions within the host state, whereby the protracted presence of refugees alters the levels of grievance and affects the political opportunity structure within the host state.

Differentiating security concerns in this way not only highlights the security implications of neighbouring a refugee-producing state, by ‘accident of geography’, as opposed to the hosting of refugees, but also helps identify those instances where the presence of refugees poses a legitimate security concern to the host state as opposed to instances where the host state securitizes the presence of refugees for broader political reasons. This framework will form the basis for examining the security concerns of Kenya, Tanzania and Guinea in subsequent chapters. Chapter 7 of this thesis will then revisit this framework and consider its effectiveness in disaggregating the security concerns of these three host states, while considering the role that broader political factors play in the identification of refugees as a security concern, as suggested by Maluwa.

Direct security concerns

The direct security concerns faced by the host state, posed by the spill-over of conflict and the presence of ‘refugee warriors’, is by far the strongest link between refugee movements and insecurity. Here, there are no intervening variables between refugee movements and insecurity, as elements associated with the refugee movement are actively engaged in armed campaigns typically, but not exclusively, against the country of origin. Such campaigns have the potential of regionalizing the conflict and dragging the host state into what was previously an intra-state conflict. As highlighted by Dowty and Loescher, the presence of armed elements in contentious border regions makes their presence especially

salient as “raids and guerrilla activity across the border may drag the host state into an existing conflict and, in fact, this may be the deliberate strategy of the armed exile group.”⁴²⁷

As outlined above, the security implications of such activities for host states are real. They may include cross-border attacks on refugee-populated areas, the proliferation of small arms within the host state, a breakdown of relations with neighbouring states, and the expropriation of humanitarian resources by armed groups. Such activities may be perceived by a range of host states as infringements on their sovereignty, especially given the varying control many host states have over their border regions. While many African states hosted such groups and were previously willing to endure such security concerns during the wars of national liberation, it is likely that the range of constraints now faced by states would make them increasingly unwilling to expose themselves to such security concerns today.

Indirect security concerns

Refugee movements may also result in indirect security concerns, which are more difficult to identify, but just as significant as the direct concerns. This is a key concept that has been largely overlooked in both academic and policy considerations of the security implications of refugee movements. In these cases, refugees alone are a necessary but not a sufficient cause of host state insecurity. It is not refugees that are the source of insecurity, but the context within which they exist that results in their securitization. Indirect concerns may arise when the presence of refugees exacerbates previously existing inter-communal tensions in the host country, shifts the balance of power between communities, or causes grievances among local populations. Local and national grievances are particularly heightened when refugees compete with local populations for scarce resources, jobs and social services, including healthcare, education and housing. Refugees are sometimes seen as a privileged group in terms of services and welfare provisions, or as the cause of low wages in the local

⁴²⁷ Dowty and Loescher, 1996, 49.

economy and inflation in local markets. Refugees are also frequently scapegoats for a breakdown in law and order, both in refugee-populated areas and in urban centres.

Indirect security concerns are largely affected by shifts in the political opportunity structure and by an increase in grievances towards refugees. ‘Political opportunity’ can be understood as the “consistent dimensions of the political environment that provide incentives for people to undertake collective action by affecting their expectations for success or failure.”⁴²⁸ According to this understanding, when groups hold an advantage in the area of resources, alignments, elite support and potential allies, they will act against the holders of power, based on the belief that their likelihood of success has been increased.⁴²⁹ Two key features of political opportunity structures must be emphasised. First, they are relative, with a group’s opportunity is measured in relation to competing groups. Therefore, political opportunity can be seen as a zero-sum game, where a gain in resources or allies by one side represents a relative loss for another. Second, political opportunity structures change. Groups are motivated to act when the balance is perceived to be in their favour.

This notion relates to the security concerns of host states in two ways. First, it has been argued that “in countries which are divided into antagonistic racial, ethnic, religious or other groupings, a major influx can place precariously balanced multi-ethnic societies under great strain and may even threaten the political balance of power.”⁴³⁰ Indeed, such concerns are specifically linked to the understanding that the presence of refugees has been demonstrated to accelerate “existing internal conflicts in the host country.”⁴³¹ Such concerns were central to Macedonia’s decision to close its border to the arrival of Kosovar Albanian refugees, as outlined in Chapter 2, but it is important to consider the extent to which similar concerns are present in Africa.

⁴²⁸ Sidney Tarrow, *Power in Movement: Social movements, collective action and politics*, Cambridge: Cambridge University Press, 1994, 85.

⁴²⁹ Tarrow, 1994, 81 – 88.

⁴³⁰ Loescher, 1992, 42.

⁴³¹ Weiner, 1993, 16.

Second, and especially in the context of externally-imposed democratization, understandings of political opportunity structure illustrate how competition arising from such constraints limits the space within which the state can make policy decisions. Rutinwa notes that the rise in xenophobia against refugees and foreigners in Africa has “emerged at a time when most of Africa is democratizing and governments are compelled to take into account public opinion in formulating various policies.”⁴³² Indeed, just as “government leaders found themselves facing more and more pressures to restrict entry” as “asylum became part of the cut and thrust of domestic politics”⁴³³ in Western Europe in the 1980s, Gibney emphasises that “the rise of multiparty democracy in Africa ... has arguably diminished the autonomy of state elites in determining the security agenda.”⁴³⁴

It is, however, important to note that recent work on democratization, especially in Africa, has not problematized the process and its consequences for a state’s social and humanitarian policy. On the whole, the literature sees democracy as having only positive benefits, and prioritizes its expansion and consolidation as quickly as possible.⁴³⁵ In contrast, the case of asylum policies would appear to indicate that democratization does not bring exclusively positive results, and may have a negative impact on refugee protection. This issue runs through the remainder of this thesis, and will be considered in more detail in Chapter 7.

Notions of political opportunity structures also help explain the dynamics of internal competition between the core and periphery of a state, and how the presence of refugee camps typically in the “hinterland”⁴³⁶ of a state influences this dynamic. The presence of large

⁴³² Rutinwa, 1999, 2.

⁴³³ Matthew J. Gibney, “The State of Asylum: Democratization, judicialization and evolution of refugee policy”, *New Issues in Refugee Research*, Working Paper No.50, Geneva: UNHCR, October 2001, 7.

⁴³⁴ Gibney, 2002, 40.

⁴³⁵ See, for example: Brendalyn P. Ambrose, *Democratization and the Protection of Human Rights in Africa*, London: Praeger Publishers, 1995; Michael Bratton and Nicolas van de Walle, *Democratic Experiments in Africa: Regime Transitions in Comparative Perspective*, Cambridge: Cambridge University Press, 1997; Earl Conteh-Morgan, *Democratization in Africa: The Theory and Dynamics of Political Transitions*, London: Praeger Publishers, 1997; Gyimah-Boadi, (ed.), 2004; and Jonathan Hyslop (ed.), *African Democracy in the era of Globalisation*, Johannesburg: Witwatersrand University Press, 1999.

⁴³⁶ Herbst, 2000, 3.

numbers of refugees on the periphery of a state may give that region significance that it did not previously have. This is particularly true when the political geography of the African state is considered. Herbst argues that “states are only viable if they are able to control the territory defined by their borders” and that such control is “assured by developing an infrastructure to broadcast power and by gaining the loyalty of citizens.”⁴³⁷ Herbst argues that African states have concentrated power in economic centres and have very limited control over the periphery of the state. The presence of large refugee populations in these ‘hinterlands’, where the regime typically does not exercise effective control, may come to constitute a serious concern for the governing regime.

Herbst concludes that, “unlike the situation in the 1960s where the government had all the guns,” recent movements on the periphery of the state have demonstrated the ability to “procure weapons on the international market, especially after Central European countries began to dump their stocks when the Cold War came to an end.”⁴³⁸ This fact, combined with the an understanding that “rule by the centre” in many African states is so weak that there is “space for challengers to form large and sophisticated rebel armies”⁴³⁹ in the periphery, clearly adds to an understanding of why African states are increasingly concerned about the security implications of large, insecure refugee camps and settlements in their hinterland. This gives rise to concerns about the ‘politics of the border’,⁴⁴⁰ and the need to consider the dynamics between areas of the state in the formulation of asylum policies.

Somewhat paradoxically, however, most states have kept refugee camps and settlements on the periphery of the state,⁴⁴¹ possibly in an attempt to minimise the effect that refugees can have on the opportunity structure at the economic and political core of the state. As Crisp has observed, “one of the most evident characteristics of Africa’s protracted refugee

⁴³⁷ *Ibid.*

⁴³⁸ Herbst, 2000, 255.

⁴³⁹ *Ibid.*

⁴⁴⁰ Clapham, 1996, 215 – 222.

⁴⁴¹ See: Jamal, 2003.

situations is that they are usually to be found in peripheral border areas of asylum countries: places which are insecure, where the climate and conditions are harsh, which are not a high priority for the central government and for development actors, and which are consequently very poor.”⁴⁴² As such, the location of refugee camps, and the motivation behind their location, is a question that will be considered through the case studies of this thesis.

Another important characteristic of refugee camps highlighted by Crisp is the prevalence of “high levels of material and psychological deprivation” among refugees who inhabit them.⁴⁴³ In many states in Africa, refugees are required to remain in refugee camps and are prohibited from engaging in economic activity outside the camp, making them fully dependent on international assistance to meet their basic needs. When this assistance is interrupted or reduced, refugees may turn to coping mechanisms that are not legal. These coping mechanisms may range from leaving the camp illegally, which would result in a statistical increase in crime rates, to theft of local food crops, prostitution and banditry. These are many of the ‘non-military threats’ identified by Jacobsen that are associated with the interplay between asylum policies and levels of international assistance to encamped refugees.

Crucially, however, not all refugees are perceived as threats. The question of which refugees are seen as threats, and why, may be partially explained by understanding whether they are perceived as members of the local political community or as outsiders. As Maluwa argues, “unwanted migrants and refugees may cause ... intercommunal tensions within a receiving state”⁴⁴⁴ due to either antagonistic ethnic, cultural, religious or linguistic forces within the host population or where refugees are seen as being in competition for scarce resources. In this sense, the importance of affinity and shared group identity cannot be overstated. If a host community perceives the incoming refugee as ‘one of us’, then positive

⁴⁴² Crisp, January 2003, 6.

⁴⁴³ Crisp, January 2003, 16.

⁴⁴⁴ Maluwa, 1995, 672.

and generous conceptions of distributive justice will apply. The empirical evidence is overwhelming. As Loescher argues,

... in the Third World, the remarkable receptivity provided to millions of Afghans in Pakistan and Iran, to ethnic kin from Bulgaria in Turkey, to Ethiopians in the Sudan, to Ogadeni Ethiopians in Somalia, to southern Sudanese in Uganda, to Issaq Somali in Djibouti and to Mozambicans in Malawi has been facilitated by the ethnic and linguistic characteristics they share with their hosts.⁴⁴⁵

Conversely, if the refugees are seen as members of an ‘out-group’, they are likely to receive a hostile reception. In cases where there is a division along ethnic, linguistic or religious lines, “a major population influx can place precariously balanced multi-ethnic societies under great strain and may even threaten the political balance of power.”⁴⁴⁶

Indeed, refugees, “as an out-group, can be blamed for all untoward activities.”⁴⁴⁷ Maluwa also argues that the “presence of massive numbers of refugees” can “create feelings of resentment and suspicion, as the refugee population increasingly, and often wrongly, gets blamed for the economic conditions that may arise within the domestic population.”⁴⁴⁸ The increasing perception of refugees as an ‘out-group’ has been reinforced as a result of economic liberalization and democratization in two ways. First, economic liberalization and the imposition of structural adjustment programmes now means that the local population must pay user fees for services that refugees continue to receive for free within refugee camps. Second, democratization has reinforced boundaries between nationals and foreigners in many African countries, as “it suddenly matters a great deal who can and cannot vote.”⁴⁴⁹ How these dynamics have affected the securitization of refugees and the introduction of more restrictive asylum policies is also a question that will be traced through this thesis.

⁴⁴⁵ Loescher, 1992, 42.

⁴⁴⁶ *Ibid.*

⁴⁴⁷ UNHCR, ExCom, 6 January 1997.

⁴⁴⁸ Maluwa, 1995, 657.

⁴⁴⁹ See: Jeffrey Herbst, “The Role of Citizenship Laws in Multiethnic Societies: Evidence from Africa”, in Joseph (ed.), 1999, 267. The link between citizenship and democratization will be considered in Chapter 7.

Such considerations emphasise the importance of the “scapegoat strategy” employed by many regimes in Africa as a means of ensuring their survival. Job notes that a common security strategy of regimes in weak states is to “focus upon external enemies ... to try to create a common national concern and mobilize support around the state (i.e., regime) and its efforts against this threat.”⁴⁵⁰ Such a strategy is often deployed when the regime is under pressure and seeks to either divert attention from its inability to respond to popular demands or to rally the support of the population by emphasising a common objective against an outside group. In this way, Crisp highlights that “politicians have an interest in mobilizing electoral support on the basis of xenophobic and anti-refugee sentiments,” especially in the context of the range of internal and external pressures faced by African states.⁴⁵¹ As the case studies will show, Kenya, Tanzania and Guinea have all employed the tactic of scapegoating refugees in response to such pressures.

Conclusion

The scapegoating of refugees and the identification of *bone fide* refugees as security concerns, thereby justifying exclusion, has led a number of commentators to express concern about the linking of refugees and insecurity in academic research. Chimni notes that the increase in research on the links between refugee movements and security “presents a disturbing trend in international refugee law.”⁴⁵² Highlighting the need to approach such research with caution, he argues that “the growing presence of this trend in refugee studies literature is only matched by the absence of its critique.”⁴⁵³ While Chimni concedes that refugee flows may have security implications for host states and for the international community, he emphasises that “it is one thing to address the legitimate security concerns and

⁴⁵⁰ Job, 1992, 29.

⁴⁵¹ Crisp, January 2003, 4.

⁴⁵² Chimni, 1998b, 284.

⁴⁵³ *Ibid.*

another to define and articulate humanitarian interests in the matrix of an elastic concept of security eminently manipulable by states.”⁴⁵⁴

Mindful of these concerns, this chapter has critically examined notions of security as they apply to the relationship between refugee movements and security in Africa. It has argued that refugee movements had security implications for states, both in Africa and elsewhere, throughout the twentieth century. While refugees may be scapegoated for political reasons and the language of security abused, this chapter has argued that refugee movements may result in legitimate security concerns for host states in Africa. Based on an examination of the notion of ‘security’ relevant to Africa and of past literature on refugees and security, this chapter proposed a framework for understanding the security concerns of states as either direct or indirect security concerns. This framework differentiates between the security concerns caused by refugees as opposed to other elements within or associated with the refugee population. At the same time, this framework helps distinguish the various causes of insecurity experienced at different levels of the state, and highlights the linkages between the securitization of refugees and the rise in internal and external constraints on the state in Africa, especially arising from economic liberalization, democratization and declining donor engagement in protracted refugee situations.

The remainder of this thesis considers the framework understandings of burden sharing and security, developed in Chapters 2 and 3, in the context of three major African asylum countries. The cases of Kenya, Tanzania and Guinea will be used not only to test these frameworks, but to highlight the full range of issues that affect a state’s asylum policies. The lessons drawn from these cases will lead to a more comprehensive understanding of the politics of asylum in Africa, as detailed in Chapter 7.

⁴⁵⁴ Chimni, 1998b, 286.

Chapter 4

Somali refugees in Kenya: Abdication and containment

Introduction

Kenya's asylum policy was profoundly affected by the arrival of over 400,000 refugees from Somalia in 1991 and 1992. After initially trying to prevent their arrival, Kenya opened its borders and allowed hundreds of thousands of refugees to enter its territory, a move that won praise from the international donor community for the regime of President Daniel arap Moi. At the same time, however, Kenya placed significant restrictions on the quality of asylum it extended to refugees. Claiming that the sheer number of new arrivals had caused the collapse of Kenya's previously open asylum policy, the government ceased to conduct individual status determination interviews of new asylum seekers. Refugee affairs were transferred almost exclusively to UNHCR, who became responsible for the establishment and running of camps in government-designated areas. Finally, Kenya imposed restrictions on access to employment and freedom of movement for refugees, stipulating that refugees live in designated camps.

This chapter asks why Kenya adopted this dual policy of abdication and containment in the early 1990s, and why the policy has continued, notwithstanding the stabilization of the refugee population since 1995. It will argue that the protracted nature of the refugee situation, diminishing donor support and a multiplicity of security concerns have been highlighted by the government to justify its continued policy of containment, but that additional factors have also played a significant role in the formulation and continuation of Kenya's policy towards Somali refugees. In particular, the chapter will argue that historical factors, including memories of the *Shifita* wars and the securitization of Kenyan politics by the Moi regime after the attempted *coup* in 1982, resulted in the construction of all Somalis, both Kenyan and

Somalian,⁴⁵⁵ as threats. The chapter will also argue that domestic and international factors, including the suspension of aid to Kenya in 1991, externally-imposed democratization and Kenya's role in the US-led 'war on terror' since 11 September 2001, have further served to limit the space within which Kenyan asylum policies for Somali refugees have been formulated.

Although Kenya hosts refugees from more than ten countries,⁴⁵⁶ this chapter focuses on the question of Somali refugees in Kenya. While reference is made to other refugee populations, the Somali refugee population is generally viewed as the group of greatest concern for three reasons. First, the Somali population remains the largest refugee group in Kenya. Second, the arrival of Somali refugees precipitated the change in Kenyan policy in 1991/1992. Third, many Kenyan policy-makers continue to see the Somali refugees as the most problematic refugee population in Kenya. As explained by a senior UNHCR official in Nairobi, Somali refugees have consistently been the greatest concern to Kenya, and consequently if the approach to the Somali refugees could be understood then the Kenyan approach to refugees would be understood.⁴⁵⁷

This chapter has five parts. Section one briefly examines Kenya's approach to refugees prior to 1991. Section two outlines the nature of the Somali emergency, and traces the Kenyan government's response to the mass influx of refugees. Section three outlines Kenya's new approach to refugees, focused on containing the Somali refugee population in the North Eastern Province (NEP), while simultaneously distancing itself from management of the refugee programmes. The justifications for this policy are then critically examined in section

⁴⁵⁵ This chapter uses the term 'Somali' to refer to the Somali ethnic group, and 'Somalian' to refer to the nationality. This distinction is important as a significant portion of Kenya's population is ethnically Somali. See: Marc Antoine Pérouse de Montclos and Peter Mwangi Kagwanja, "Refugee Camps or Cities? The Socio-economic Dynamics of the Dadaab and Kakuma Camps in Northern Kenya", *Journal of Refugees Studies*, Vol. 13, no. 2, 2000, 220, note 1.

⁴⁵⁶ The primary countries of origin of refugees in Kenya (and their total in 2003) are: Somalia (154,800), Sudan (63,300), Ethiopia (11,500), Uganda (4,500), Rwanda (2,500), and the Democratic Republic of Congo (1,200). UNHCR, *Global Report 2003*, 2004.

⁴⁵⁷ Interview with Rossella Pagliuchi-Lor, Assistant Representative (Protection), UNHCR Branch Office for Kenya, Nairobi, 11 March 2004.

four by employing the understandings of burden sharing and security developed in Chapters 2 and 3. The final section illustrates how a number of historical, domestic and international factors, unrelated to the presence of refugees, have played a significant role in Kenya's response to Somali refugees, pointing to the need to understand Kenya's asylum policy within a broader context.

Kenya's asylum policy prior to 1991

Almost every country in East Africa witnessed some period of civil conflict in the second half of the twentieth century, which, in turn, produced large numbers of refugees. In particular, conflict, violence and revolution in the Sudan, Uganda and Ethiopia from the 1960s to the late 1980s resulted in significant numbers of refugees fleeing to neighbouring countries. Countries of origin became countries of asylum, as the web of displacement became entangled in regional and global alliances, which, in turn, fuelled the cycle of violence.⁴⁵⁸

Kenya shares borders with all three of these states, but was largely isolated from the refugee flows that accompanied these conflicts. It was not until 1987 that the number of refugees in Kenya exceeded 10,000.⁴⁵⁹ The majority of these refugees were from Uganda, and from more distant conflicts in Rhodesia (now Zimbabwe) and Rwanda. Many refugees brought skills as doctors and teachers that contributed to Kenya's development and relative prosperity. Recognizing the benefits of hosting refugees, Kenya pursued an open asylum policy. Individual status was granted by a government agency, and refugees enjoyed freedom of movement, access to employment markets, and the benefits of many of the social rights detailed in the 1951 Convention.

⁴⁵⁸ See: Zolberg *et al*, 1989, 37 – 71 and 103 – 125.

⁴⁵⁹ In the early 1980s, Kenya hosted between 3,400 and 6,800 refugees. In 1985, Kenya hosted 8,800 refugees. In 1987, that figure reached 10,200. Since then, the refugee population in Kenya has not gone below 10,000. See: UNHCR, *State of the World's Refugees*, 2000, 311 – 312.

While the literature on Kenya's refugee policy in the 1970s and 1980s is limited,⁴⁶⁰ it is striking how fondly senior policy-makers in Nairobi remember the period. When asked to reflect on Kenya's approach to refugees prior to the Somali influx in 1991, senior government officials began by remembering that many of their teachers at school were refugees from Uganda, and how the 1970s and 1980s was a period when refugees made a significant contribution to the development of the modern Kenyan state.⁴⁶¹ Indeed, "the pre-1990 relief system in Kenya can be described as hospitable."⁴⁶² During this period, the refugee population in Kenya was relatively small, and many refugees possessed technical skills that they were allowed to practice to benefit the Kenyan economy. As outlined by Kagwanja:

Those with employable skills and talents were absorbed into the economy as shopkeepers, artisans, professionals and as high school and university teachers... Subsequently, these groups contributed to the economic growth of Kenya and tempered hostility against asylum seekers.⁴⁶³

During this period, the government cooperated closely with the National Council of Churches of Kenya (NCCCK) to facilitate the reception, status determination and integration of successful asylum seekers.⁴⁶⁴ Newly arrived asylum seekers were accommodated in the Thika Transit Centre, north of Nairobi, until their status had been determined by the government's refugee status determination procedures.⁴⁶⁵ Interviews were conducted by representatives of the Ministry of Home Affairs, the Immigration Department and the Police, with UNHCR observing. The Eligibility Committee typically heard individual cases and applied the refugee definition contained in the 1951 Convention. Those recognized as refugees were provided with identity documents and granted freedom of movement and the right to seek employment.

⁴⁶⁰ The only works found that contain a detailed discussion of Kenya's refugee policy during the 1970s and 1980s are: Zarjevski, 1988; and Peter Mwangi Kagwanja, "Strengthening Local Relief Capacity in Kenya: Challenges and Prospects" in Monica Kathina Juma and Astri Suhrke (eds.), *Eroding Local Capacity: International Humanitarian Action in Africa*, Uppsala: Nordiska Africa Institute, 2002.

⁴⁶¹ Interview with Silvester Mwaliko, Permanent Secretary, Ministry of Home Affairs, Nairobi, 18 March 2004; and interview with Peter ole Nkuraiya, Permanent Secretary, Ministry of Foreign Affairs, Nairobi, 26 March 2004.

⁴⁶² Kagwanja, 2002, 98.

⁴⁶³ *Ibid.*

⁴⁶⁴ Interview with Bwibo Adieri, Director, Social Services Delivery, National Council of Churches of Kenya, Nairobi, 15 March 2004. See also: Zarjevski, 1988, 145 – 148.

⁴⁶⁵ Zarjevski 1988, 145.

Skills training, self-sufficiency grants and a number of scholarships were available to refugees and administered by the NCKK. The priority in this period was “to help get refugees on their feet as quickly as possible, and get them into Kenyan society.”⁴⁶⁶ There was, however, no formalized refugee policy or national refugee legislation, and, prior to 1991, Kenya’s liberal refugee policy was “acknowledged and operated on a *de facto* basis.”⁴⁶⁷

The Somali emergency and system collapse: 1989 – 1993

This approach to refugees and asylum seekers changed dramatically with the arrival of the first Somali refugees in 1989. In late September 1989, 3,000 Somali refugees crossed into Kenya at Liboi, in the North Eastern Province. This was the third large group of Somalis to cross into Kenya in 1989, and they received the same treatment as previous groups.⁴⁶⁸ They received no medical or material assistance, and many died as a result of injury or starvation. The refugees were beaten and harassed by Kenyan police, and eventually forced back into Somalia. In addition, the government prevented humanitarian agencies from accessing the Somalis, from providing assistance, and from determining their refugee status.⁴⁶⁹

From 1989 until the fall of the Barre regime, the Kenyan military maintained a large presence at the border and off the Kenyan coast to prevent the arrival of Somali refugees. With the exception of former government officials and military officials associated with the Barre regime, who “fled Mogadishu by air and took up residence in Nairobi hotels,”⁴⁷⁰ thousands of Somalis were prevented from entering Kenya, through forcible return at the

⁴⁶⁶ Interview with Adieri, 2004.

⁴⁶⁷ Interview with Darius Ellis Kenyatta and Anne Muthoni Wambugu, HIAS Refugee Trust of Kenya, Nairobi, 12 March 2004. See also: Kagwanja 2002, 98.

⁴⁶⁸ See: Africa Watch, “Kenya: Forcible return of Somali refugees and Government repression of Kenyan Somalis”, London: Africa Watch, 17 November 1989, 1.

⁴⁶⁹ See: Africa Watch, 1989, 1.

⁴⁷⁰ USCR, *World Refugee Survey*, 1992, 43.

border and by ‘push-backs’ of boats carrying Somalis.⁴⁷¹ Then, in early 1991, “the dam burst.”⁴⁷² In March 1991, there were an estimated 16,000 refugees in Kenya. That number rose to 39,000 by July, and to 92,200 by December 1991.⁴⁷³ The rate of arrival continued to climb the following year, as the refugee population in Kenya reached an estimated 246,000 in May 1992 and peaked at 427,278 by the end of 1992.⁴⁷⁴ The refugee population in Kenya had grown by 430,000 in just two years.

Kenya’s *ad hoc* refugee system was overwhelmed. President Moi appealed to the international community to come to Kenya’s aid. He lifted the state of emergency in the North Eastern Province⁴⁷⁵ and requested UNHCR to respond to the refugee crisis. It was clear that a new approach was required and that “UNHCR and international NGOs were needed ... since the large numbers of arrivals far outstripped the government’s ability.”⁴⁷⁶ Seven new refugee camps were opened in 1992,⁴⁷⁷ stretching from Mandera and El-Wak in the extreme north-east corner of Kenya to Utange and Hatimy, practically suburbs of Mombasa, Kenya’s second largest city and an important port on the Indian Ocean. Refugees were transferred to the camps, and the government transferred responsibility for camp management to UNHCR.

As UNHCR later reported, however, its capacity in Kenya was not able to fully respond to the scale of the challenge:

⁴⁷¹ USCR reported that a number of boats carrying Somalis attempted to land at the Kenyan port of Mombasa, but were allegedly towed back to sea and cut adrift by the Kenyan Navy. See: USCR, *World Refugee Survey*, 1992, 43.

⁴⁷² Interview with Kigole Monde, Acting Director of Operations, Office of the Commissioner of Police, Nairobi, 26 March 2004.

⁴⁷³ USCR, *World Refugee Survey*, 1992, 44.

⁴⁷⁴ UNHCR, Kenya, “Information Bulletin”, January 1993.

⁴⁷⁵ As outlined below, the state of emergency had been imposed on the Northern Frontier District of Kenya (which includes the current North Eastern Province) thirteen days after Kenyan independence in 1964 in response to a secessionist movement by Kenyan-Somalis.

⁴⁷⁶ Alison Parker, *Hidden in Plain View: Refugees living without protection in Nairobi and Kampala*, New York: Human Rights Watch, 2002, 34.

⁴⁷⁷ USCR, *World Refugee Survey*, 1993, 63.

UNHCR's staff in Kenya was small at the time, and geared toward addressing the protection needs of a relatively small, urban caseload... Support, in terms of human resources and material, was often slow in coming. When it did arrive, it was frequently inadequate.⁴⁷⁸

As a consequence of a limited and delayed relief effort, death and malnutrition rates among the refugee population soared through 1992, while cross-border raids by Somali elements posed a significant security threat to refugees and aid workers. Malnutrition rates were recorded as high as 54% among refugee children in some camps, reported to be “one of the worst results in years anywhere in Africa.”⁴⁷⁹ Death rates reached 100 a day per 100,000 refugees, five times higher than ‘normal’ levels. It was reported that Liboi camp, “where epidemics of pneumonia, tuberculosis, and malaria, night gun fights, and an acute water shortage, endangered up to 60,000, is all that a refugee camp should not be.”⁴⁸⁰ In an attempt to reduce the extremely high levels of morbidity and mortality in the camps, UNHCR introduced a range of programmes in 1992 to respond to the needs of vulnerable populations. To support these activities, UNHCR issued an appeal for an additional US\$37.5 million in donor support on 15 May 1992. Within the first month, US\$14.7 million was pledged, of which US\$8.5 million was from the US.

The international response to the refugee crisis was not, however, limited to financial burden sharing through UNHCR. In April 1992, the UN Security Council passed Resolution 794, stating that the “magnitude of human suffering in Somalia” constituted a threat to international peace and security and authorizing the deployment of an additional 3,500 personnel of the United Nations Operation in Somalia (UNOSOM) to help ensure the safety of humanitarian personnel in Somalia.⁴⁸¹ Benefiting from this international presence, UNHCR

⁴⁷⁸ UNHCR, Inspection and Evaluation Service, “A review of UNHCR’s Women Victims of Violence project in Kenya”, Geneva: UNHCR, March 1996, 6. It should, however, be noted that the number of UNHCR staff in Kenya rose from 40 in July 1991 (13 international staff and 27 national staff) to 162 in July 1992 (56 international staff and 106 local staff). See: UNHCR, Kenya, “Information Bulletin”, July 1992.

⁴⁷⁹ USCR, *World Refugee Survey*, 1993, 63.

⁴⁸⁰ *Ibid.*

⁴⁸¹ UN Security Council (UNSC), “Resolution 794 (1992) Granting the Secretary-General Discretion in the Further Employment of Personnel of the United Nations Operation in Somalia”, UN Doc. S/RES/794 (1992), 3 December 1992.

initiated a Cross-Border Operation and a wide range of Quick-Impact Programmes (QIPs) in Southern Somalia designed to stabilize the population in Somalia, prevent further influxes, and “establish in Somalia conditions conducive to the voluntary repatriation of refugees.”⁴⁸² At its peak in 1993, the Cross-Border Operation had a budget of over US\$35 million. 65 international staff and 30 national staff were deployed in Southern Somalia⁴⁸³ to implement almost 300 QIPs in a range of rehabilitation and assistance projects.⁴⁸⁴

In June 1993, UNHCR reported that the emergency was “over.”⁴⁸⁵ The number of arrivals had fallen dramatically, from 900 refugees a day entering Kenya in late 1992 to less than 50 a day by May 1993.⁴⁸⁶ At the same time, some 10% of the refugee population was estimated to have returned to Somalia. Finally, UNHCR had succeeded in consolidating those refugees remaining in Kenya into ten refugee camps and, working with almost thirty implementing partners, had begun to shift from an emergency operation to a ‘care and maintenance’ programme.

The stabilization in the number of refugees was not, however, mirrored in the stabilization of their security. Bandits, collectively referred to as *shiftas*, attacked refugees and relief workers seemingly at will, targeting the camps in search of food and money. Refugee women and girls were especially victims of this rise in insecurity.⁴⁸⁷ For many, it was clear that UN presence in Southern Somalia had simply displaced the warring groups into Kenya, resulting in a spill-over of the violence. It was reported that “lethal modern weapons smuggled into Kenya from Somalia’s war placed firepower into the hands of Kenyan and

⁴⁸² UNHCR, Central Evaluation Section, “Review of UNHCR’s Kenya-Somalia Cross-Border Operation”, Geneva: UNHCR, EVAL/CROS/14, December 1994, 2. See also: Loescher, 2001, 302 – 305; and John Kirkby, Ted Kliet, Georg Ferks, Wiert Flikkema and Phil O’Keefe, “UNHCR’s Cross-Border Operation in Somalia: The Value of Quick Impact Projects for Refugee Resettlement”, *Journal of Refugee Studies*, Vol. 10, no. 2, 1997.

⁴⁸³ UNHCR, Central Evaluation Section, December 1994, 2.

⁴⁸⁴ UNHCR, Kenya, “Information Bulletin”, October 1993.

⁴⁸⁵ UNHCR, Kenya, “Information Bulletin”, June 1993.

⁴⁸⁶ *Ibid.*

⁴⁸⁷ See: Jeff Crisp, “A State of Insecurity: the political economy of violence in refugee-populated areas of Kenya”, *New Issues in Refugee Research*, Working Paper No. 16, Geneva: UNHCR, December 1999; and UNHCR, Inspection and Evaluation Service, March 1996.

Somali bandit gangs.”⁴⁸⁸ With the subsequent collapse of the US and UN presence in Somalia, a vacuum of authority was created in Somalia, which further aided the cause of the *shiftas*. Numerous human rights organizations reported that former government soldiers and other armed groups routinely staged raids into North Eastern Kenya and then “retreated over the border, eluding capture by Kenyan security forces.”⁴⁸⁹ Accordingly, the location of the refugee camps, just a few miles from the Kenya-Somali border, significantly compromised the security of refugees.⁴⁹⁰

Kenya’s new asylum policy: Abdication and containment

Kenya’s response to these events was striking. Instead of increasing its presence in the border areas in response to these violations of its sovereignty, or moving the camps away from the border to reduce threats to its national security, Kenya pursued a new refugee policy centred on two principles: ‘abdication’ of responsibility for refugees to UNHCR⁴⁹¹ and the containment of the refugee population on the periphery of the state. While the government has kept its borders open to new arrivals, both during the 1991-1993 emergency and subsequently,⁴⁹² it has placed increasing limits on the quality of asylum it offers to these refugees, by insisting on their containment in isolated camps. In stark contrast to the government’s approach prior to 1991, which actively promoted the integration of refugees, these two priorities continued to drive refugee policy in Kenya, certainly until the election of a new government in 2002, and consequently require particular consideration.

⁴⁸⁸ USCR, *World Refugee Survey*, 1993, 63 – 64.

⁴⁸⁹ Human Rights Watch, “Somali Refugees in Kenya” in *The Human Rights Watch Global Report on Women’s Human Rights*, New York, HRW, 1995, 37; and USCR, *World Refugee Survey*, 1994.

⁴⁹⁰ UNHCR, Central Evaluation Section, December 1994, 2.

⁴⁹¹ This term was coined by Kagwanja, who argues that the Kenyan government “adopted a remarkably abdicationist policy in regard to refugees” during this period. Kagwanja, 2002, 102.

⁴⁹² According to UNHCR in 2002, “as a matter of general practice, asylum seekers appear to be generally admitted in the country at the main land border points...” UNHCR, Kenya, “Kenya 2002 Annual Protection Report”, internal, Nairobi, undated (likely March 2003), 7, on file with author.

Abdication

The first feature of Kenya's post-1991 approach to refugees is the abdication of responsibility for refugees from the government to UNHCR. Notwithstanding the principle that the primary responsibility for refugees lies with the host state, and in contrast to its engagement prior to 1991, Kenya has withdrawn "from active management of refugee affairs, leaving matters practically entirely in the hands of UNHCR."⁴⁹³ In response, UNHCR has "taken on a number of responsibilities that would more properly fall within the government's area of responsibility, *de facto* monopolizing refugee administration in Kenya."⁴⁹⁴ As Helton argues, "a deliberate choice was made by Kenyan government officials in the 1990s to largely cede refugee affairs to UNHCR."⁴⁹⁵ Or, in the words of one government official, the state bureaucracy now holds the view that "refugees are the UNHCR's responsibility, not ours."⁴⁹⁶

As Kenya has neither national refugee legislation nor a written national refugee policy, the motivation for the government's lack of direct involvement with the refugee issue can only be inferred from its actions or, more precisely, its inaction. The Moi regime's desire to distance itself from responsibility for refugee affairs is most clearly illustrated by comparing its approach to refugee legislation and administration with the approach of NARC, elected in late 2002. First, it is important to note that the Moi regime had drafted national refugee legislation in 1990, which would have formalized its *ad hoc* approach to refugees, but did not take steps to have the Bill pass through Parliament following the influx of Somali refugees. The draft Refugees Bill (1990) included proposals for appointing a refugees coordinator and establishing a Committee on Refugee Status and a National Council on Refugees, and details on the rights and duties of those recognized as refugees by the Committee.⁴⁹⁷ While the Bill

⁴⁹³ UNHCR, Kenya, March 2003, 1.

⁴⁹⁴ UNHCR, Kenya, March 2003, 10.

⁴⁹⁵ Helton, 2002, 161.

⁴⁹⁶ Interview with Monde, 2004. This echoes the findings of Kagwanja who outlines how, in the 1990s, "the state began to regard refugees as 'UNHCR's problem'..." Kagwanja, 2002, 105.

⁴⁹⁷ Government of Kenya, Office of the Attorney General, "Draft – The Refugees Bill, 1990", Nairobi: Government of Kenya, 1990.

would have provided the legal basis for government responsibility for refugee affairs, it was not brought before Parliament by the Moi regime. In contrast, the NARC government made refugee legislation a priority shortly after its election, and had carried the 2003 Refugees Bill, based largely on the 1990 draft, through two readings in Parliament within the first year of being in power.⁴⁹⁸

The Moi government also placed a low priority on direct involvement with the administration of refugee affairs, as evidenced by the limited number, and junior status, of civil servants assigned to the refugee portfolio. Pending the passing of the 2003 Refugee Bill, the National Refugee Secretariat (NRS), remains “the only Government structure for refugee affairs in Kenya.”⁴⁹⁹ The post of Director of the NRS is classified as a Deputy Secretary, and is supported by two junior staff, all of whom complained of a lack of training.⁵⁰⁰ The NRS has no representation in the refugee camps, where refugee affairs are the responsibility of the District Officer who, during the 1990s, “interpreted their duties in a strict sense as ensuring the security of the Kenyan citizens while refugees were the responsibilities of UNHCR and partner NGOs.”⁵⁰¹

In contrast, the NARC government took steps in 2003 towards establishing a Refugee Status Determination Committee and an Office of the Commission for Refugee Affairs, both to be staffed at a senior level. Significantly, NARC has also discussed creating the Office of Camp Managers, to oversee operations in refugee camps.⁵⁰² There was evidence in 2004 to suggest that these proposals were likely to be implemented, as facilities for Camp Managers were being constructed in the Dadaab refugee camps and office space was being prepared in

⁴⁹⁸ As of April 2006, however, the Bill had not passed its final reading. This is largely due to the constitutional impasse in Kenya. See: BBC News Online, “Kenya rejects new constitution”, 22 November 2005.

⁴⁹⁹ UNHCR, Kenya, “Kenya 2001 Annual Protection Report”, internal, Nairobi, undated (likely March 2002), 15, on file with author.

⁵⁰⁰ Interview with Peter Kimanthi, Director, National Refugee Service, Robert Kikwau, Under Secretary, and Kenneth Rono, Assistant Secretary, Ministry of Home Affairs, Government of Kenya, Nairobi, 17 March 2004.

⁵⁰¹ Kagwanja, 2002, 102.

⁵⁰² Interview with Judy Wakahiu, Director, Refugee Consortium of Kenya, Nairobi, 16 March 2004.

Nairobi to house the Office of the Commission for Refugee Affairs. In response, UNHCR appealed for an 11% increase in its capacity building project budget to support these initiatives. As explained by UNHCR:

For the first time in a decade, the authorities would assume their critical responsibilities for refugee affairs, particularly in the field of protection. This has been an objective UNHCR has strongly pursued over the years and would resolve the situation whereby the Office currently bears responsibility for virtually every aspect of refugee management and coordination, including those which belong fundamentally to the State.⁵⁰³

Containment

Containment was the second and more clearly defined policy choice made by the Moi regime. Since 1991, Kenyan policy has been to contain refugees in camps, located in isolated and insecure border regions. According to the Refugee Consortium of Kenya (RCK), “the government implements a refugee encampment policy” whereby refugees “are obliged to reside in a camp while awaiting a durable solution.”⁵⁰⁴ Refugees must reside in camps to qualify for assistance, and those refugees found outside the camps are classified as illegal aliens and subject to deportation. This stands in contrast to its pre-1991 policy of allowing freedom of movement for refugees to facilitate their self-sufficiency and local integration.

There are very few official exceptions to this regulation.⁵⁰⁵ In reality, however, a significant number of refugees reside outside the camps without official permission. In her research, Horst has found that many Somali refugees reside in Eastleigh, a predominantly Somali suburb of Nairobi, for a variety of reasons.⁵⁰⁶ Some leave the camps to seek employment to support family members in the camps or possibilities for onward migration from Kenya, legal or illegal. Others leave the camps because they find the harsh and insecure

⁵⁰³ UNHCR, Kenya, “Country Operations Plan: Kenya: Planning Year 2004”, Nairobi, undated (likely March 2003), 4.

⁵⁰⁴ Refugee Consortium of Kenya (RCK), “Refugee Management in Kenya”, *Forced Migration Review*, No. 16, January 2003, 17.

⁵⁰⁵ Interview with Pagliuchi-Lor, 2004.

⁵⁰⁶ Cindy Horst, “Vital links in social security: Somali refugee in the Dadaab camps, Kenya”, *Refugee Survey Quarterly*, Vol. 21, no. 1 and 2, 2002.

environment of the camps too difficult, and would rather take the chance of a clandestine existence in Nairobi.

While encampment has been one of the hallmarks of Kenya's approach to refugees,⁵⁰⁷ it is equally important to examine the location of the camps. Since the stabilization of the refugee population in 1995, the government has sought to situate the refugee 'problem' as far as possible from the political core of the state and to insulate the regime from the presence of refugees. This has been accomplished by closing refugee camps close to urban areas, especially Nairobi and Mombasa,⁵⁰⁸ and relocating refugees to camps in the border areas, on the political and physical periphery of the state. To reinforce this encampment policy, the police have conducted regular raids in urban areas to apprehend refugees residing there illegally since at least 1996.⁵⁰⁹ The clear objective of these operations has been to keep refugees out of cities, especially Nairobi. Ironically, this is one area of refugee policy where the government has been actively engaged.

Further to this policy, there were four refugee camps in Kenya in 2004 (see Map 1). Three refugee camps were close to the town of Dadaab, in the northeast of Kenya, 80km from the border with Somalia. These camps, Ifo, Dagahaley and Hagadera, together had a population of just over 135,000 refugees, 98% of whom were Somalian. Kakuma Camp, in the northwest of Kenya and close to the border with Sudan and Uganda, had a population of approximately 71,000 refugees, of whom 80% (56,580 persons) were Sudanese and almost 15% (10,337 persons) were Somalian. Over 85% of Somali refugees in Kenya live in the Dadaab camps.

⁵⁰⁷ See: Howard Adelman and Awa Abdi, "How long is too long? Durable Solutions for the Dadaab Refugees", report prepared for CARE Canada, Toronto: Centre for Refugee Studies, York University, 30 June 2003; and Jennifer Hyndman and Bo Viktor Nylund, "UNHCR and the Status of Prima Facie Refugees in Kenya", *International Journal of Refugee Law*, Vol. 10, no. 1 and 2, 1998.

⁵⁰⁸ The Thika Processing Centre, north of Nairobi, was closed in 1994. Three camps around Mombasa (Marafa, Hatimy and Utange), housing almost 83,000 refugees in February 1994, were progressively closed between 1995 and 1998. See: UNHCR, Kenya, "Last Coast Province Refugee Camp Closes", Press Release, Nairobi: UNHCR, 22 December 1998.

⁵⁰⁹ See: Parker, 2002. USCR reported regular police sweeps targeting refugees in urban areas in 1997, 1998, 1999, 2000, 2001 and 2002. See: USCR, *World Refugee Survey*, annual.

Justifications for the new approach

Over the past decade, Kenya has consistently highlighted three justifications for its approach to refugees. First, the government has claimed that the sheer magnitude of the refugee influx in the early 1990s overwhelmed its refugee procedures, and that the numbers remain too high to reverse its encampment policy. Second, many government sources point to a lack of burden sharing as a justification for keeping refugees in camps, stating the presence of refugees has placed a strain on the environment and public services, that it has carried a significant refugee burden for too long, and that a solution to the refugee problem should therefore be found outside Kenya. Finally, the government has blamed the presence of refugees for a rise in crime and insecurity, both in refugee-populated areas and in urban areas, in addition to the proliferation of small arms in Kenya.

It is striking how these three concerns have been consistently upheld by the government over the span of a decade. In January 1993, the Kenyan government asked UNHCR to repatriate all refugees, arguing that “the number of refugees in Kenya has not only seriously compromised the security of this country, but greatly overstretched the infrastructure and medical services.”⁵¹⁰ Many of these concerns were echoed by the Minister of State for the Office of the Vice President when she addressed the Kenyan Parliament in November 2003, arguing that:

The influx of refugees in the early 1990s has had its adverse effects on the economy and security of this country. It has also had an effect on the environment ... The proliferation of small arms may be indirectly linked to the presence of these aliens in our country.⁵¹¹

While these are only two of hundreds of statements made by the government relating to refugees in Kenya, it is important to note that these justifications have been upheld both by the Moi government (pre-2002) and the NARC government (post-2002). In 2001, Bernadette Musundi, Permanent Secretary in the Ministry of Home Affairs under the Moi regime, explained that the government’s approach to refugees was the result of the mass influx in

⁵¹⁰ Richard Carver, “Kenya: Aftermath of the Elections”, *Refugee Survey Quarterly*, Vol. 13, no. 1, 1994, 53.

⁵¹¹ Parliament of Kenya, *Hansard*, 20 November 2003, 3981.

1991 and the inability of the government to respond.⁵¹² She argued that as a result of the influx, Kenya faced a number of challenges associated with hosting refugees. Paramount among these concerns was the insecurity experienced “within and outside refugee-populated areas, and which has spilt-over into urban areas, especially Nairobi” and the associated proliferation of small arms. She argued that refugees had “overstretched the security capacity of the Government of Kenya, especially in the border areas.” Second, Musundi highlighted environmental concerns related to access to land and scarce natural resources, including water and wood, arguing that “refugees have brought insecurity and environmental degradation to Kenya.” Finally, she claimed that diminishing support to UNHCR and lack of international engagement to resolve the conflict in Somalia had compounded the burdens faced by Kenya. Musundi concluded that Kenya “has done what it can for refugees, but has pressing domestic problems and cannot address the problems of Kenyans and the problems of refugees at the same time.”

Three years later, the government had changed, but many of these concerns persisted, as illustrated by interviews in 2004 with Silvester Mwaliko,⁵¹³ Permanent Secretary in the Ministry of Home Affairs, and with Peter Kimanthi,⁵¹⁴ Director of the NRS. Kimanthi outlined how the open and porous nature of Kenya’s border with Somalia, coupled with the lack of government in Somalia, made the provision of security in the border area an almost impossible task. When asked about levels of international support for the refugee programme in Kenya, he argued that donor fatigue has become a significant concern for the government, as funding levels have dropped while at the same time, “the international community expects the Government of Kenya to uphold [international] standards but does not give us the support we need.” Mwaliko emphasised that Kenya had “shouldered a refugee burden since before independence” but that the seemingly unending burden of the Somali refugee population was

⁵¹² Interview with Bernadette Musundi, Permanent Secretary, Ministry of Home Affairs, Nairobi, 4 December 2001.

⁵¹³ Interview with Mwaliko, 2004.

⁵¹⁴ Interview with Kimanthi, 2004.

of particular concern. He added that the international commitment to sharing this burden is diminishing. Mwaliko felt that the donor community understood the needs of refugees in Kenya, but was faced with competing demands, especially with operations in Iraq and Afghanistan, which prevented it from fully supporting the Kenyan refugee programme.

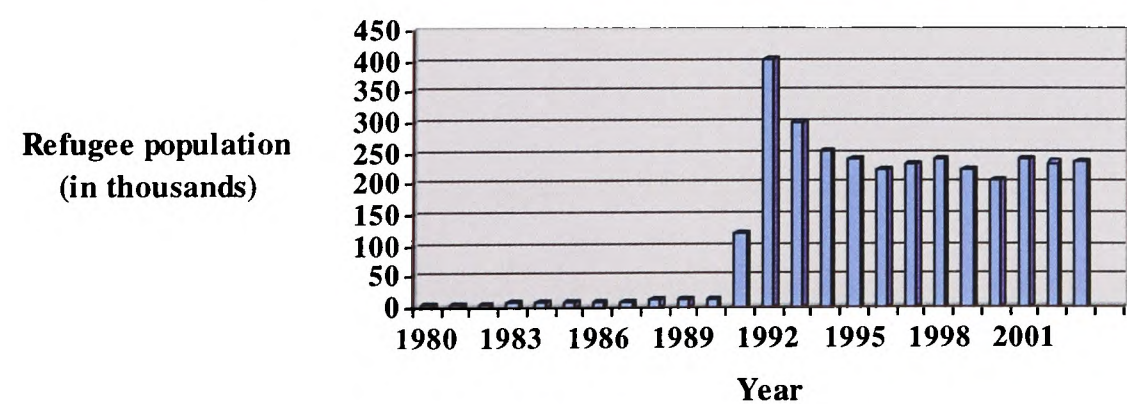
It is clear that, over time and governments, the scale and protracted nature of the refugee presence in Kenya, coupled with the security concerns of the state and burdens associated with the hosting of refugees, have been highlighted by Kenya to justify its restrictive, camp based, asylum policy. Given the consistency of this argument, it is now important to critically examine these justifications to ask to what extent they can fully explain Kenya’s asylum policy.

Examining the elements of the justification

Numbers

The sheer number of refugees arriving in Kenya at the height of the 1991-1993 emergency was a “flood of refugees, unprecedented in Kenya’s history.”⁵¹⁵ As outlined above, the refugee population in Kenya increased by 430,000 between 1991 and 1992. As Figure 4.1 illustrates, however, the number of refugees in Kenya fell below 250,000 by 1995, and has remained relatively stable ever since.

Figure 4.1: Refugee population in Kenya (1980 - 2003)



Source: UNHCR, *State of the World’s Refugees*, 2000;
UNHCR, *UNHCR Statistical Yearbook* 2003, 2003.

⁵¹⁵ USCR, *World Refugee Survey*, 1993, 63.

Given that the refugee population has been stable for the past 10 years, between 225,000 and 245,000, it is important to ask how the number of refugees in Kenya may continue to be used to justify a restrictive asylum policy. The stability of the refugee population has not been viewed positively by Kenya. Instead, it has been viewed with great concern, and demonstrates that the Somali refugee situation in Kenya is a protracted refugee situation. As a result, the on-going concern about numbers revolves not only around the size of the refugee population, but the seemingly unending nature of their stay. There is a general consensus within the government that Kenya has hosted too many refugees, for too long, and with no prospects of a solution in the foreseeable future. Any specific issue relating to hosting refugees in Kenya is, consequently, seen through this lens. As argued by Musundi, “the indefinite future of refugee populations [in Kenya] is the greatest concern of the government.”⁵¹⁶

Burden sharing

Compounded by the protracted nature of the refugee situation, there is a generally held view that the hosting of refugees is a burden, both on the refugee-populated area and the country as a whole. The scale of the burden was repeatedly highlighted by Members of Parliament during the debate following the third reading of the 2003 Refugee Bill.⁵¹⁷ Drawing on the framework of Chapter 2, this section critically examines the question of refugees as a burden to Kenya, and the extent to which the international community has shared Kenya’s refugee burden.

It is generally held that there was a great deal of financial burden sharing with Kenya during the refugee emergency of the early 1990s, but that support subsequently waned.⁵¹⁸ In

⁵¹⁶ Interview with Musundi, 2001.

⁵¹⁷ See: Parliament of Kenya, 2003, 3978 – 4045.

⁵¹⁸ According to the Head of the UNHCR Sub-Office Dadaab, “the needs of the refugees [in Dadaab] remain the same as they were in 1991, but the interest of the donors has decreased.” Interview with Toshiro Odashima, Head of UNHCR Sub-Office Dadaab, Dadaab, 22 March 2004.

2004, there was concern among government, NGO and UNHCR officials that the donor community was no longer focused on the needs of the refugee population in Kenya, but on higher profile emergencies such as Iraq and Afghanistan. Some officials believed that it was consequently much harder to convince donors of the importance of funding the refugee programme in Kenya.⁵¹⁹

In fact, the refugee programme in Kenya has faced significant funding crises since the late 1990s, as “international aid on behalf of Somali (and other) refugees in Kenya is small and shrinking.”⁵²⁰ This has resulted in dramatic shortfalls in funding to UNHCR’s Kenya programme, leading to a number of cuts to education, shelter, sanitation and protection activities in the Dadaab camps.⁵²¹ For example, UNHCR reported in 2003 that, “a 10 percent gap between identified needs and the available budget caused the services delivered to refugees to be below the established minimum standards.”⁵²² As a result, the primary objective for UNHCR activities in Kenya in 2003 was to “maintain minimum standards of emergency humanitarian assistance whilst ensuring that refugees have access to essential services.”⁵²³ It should be emphasized that UNHCR was still striving to provide ‘emergency humanitarian assistance’ a decade after it declared the emergency to be ‘over’.

Similar shortfalls have been experienced in the feeding of refugees. According to WFP, the budget for food assistance in the Dadaab camps was successively reduced by 20% in 1999, 2000 and 2001. Several critical interruptions in the food supply to Dadaab have been matched by a dramatic rise in severe malnutrition rates.⁵²⁴ This has been a significant and recurring problem. In 2001, UNHCR reported that:

⁵¹⁹ Interview with Mwaliko, 2004; and interview with Tariq Awan, Head of Sub-Office Dadaab, WFP Kenya, Dadaab, 22 March 2004.

⁵²⁰ ECRE and USCR, *Responding to the Asylum and Access Challenge: An Agenda for Comprehensive Engagement in Protracted Refugee Situations*, Washington: USCR and ECRE, August 2003, 75.

⁵²¹ UNHCR, *Global Report 2003*, 2004, 193.

⁵²² *Ibid.*

⁵²³ UNHCR, *Global Report 2003*, 2004, 191.

⁵²⁴ See: ECRE and USCR, 2003, 75.

Problems experienced by WFP in the food pipeline have caused refugee food rations to drop... As a result, the refugees have been receiving 1,399 kilocalories instead of 2,100 kilocalories per person per day.⁵²⁵

Likewise, in February 2004, it reported that:

Thousands of refugees in northern Kenya face food shortages in the coming months unless [WFP] gets immediate assistance. WFP ... warned that 'if further donations are not made immediately', by April the agency would run out of cereals and by June would have no food supplies for refugees.⁵²⁶

According to the Head of WFP's Sub-Office in Dadaab, these recurring shortfalls are symptomatic of the nature of the refugee population in Kenya and have resulted in a particular set of coping strategies on the part of refugees.⁵²⁷ In 2004, the average food distribution in the camps was 1,800 kilocalories per refugee per day, below the internationally-recognized minimum of 2,100 kilocalories per person per day, and did not include any meat or vegetables, notwithstanding UNHCR's target of providing 60g of fresh vegetables per person per day.⁵²⁸ To cope with the lack of food diversity, and given that the residents of the Dadaab camps have very few external coping mechanisms, refugees resorted to selling a portion of their food rations to meet some of their other needs. Post-distribution monitoring conducted by WFP in the Dadaab camps between 2001 and 2003 found that refugees were selling off approximately 9% of both their maize and wheat-flour distribution.⁵²⁹

The shortfalls in food distribution have also caused insecurity in the Dadaab camps. Members of the Refugee Security Committee in Dagahaley camp explained that while the general security situation in and around the camp has improved in recent years, shortages of food are a recurring cause of insecurity.⁵³⁰ They explained that problems typically arise at the end of the 15-day distribution cycle when food is running low and shortages are more acute. As a result, refugees start stealing food from other refugees, and the situation can often turn

⁵²⁵ UNHCR, *Mid-Year Progress Report*, 2001, 72.

⁵²⁶ IRIN, 25 February 2004.

⁵²⁷ Interview with Awan, 2004.

⁵²⁸ UNHCR, Dadaab, "Dadaab Operations in Brief", undated (likely 5 March 2004), on file with author.

⁵²⁹ Interview with Awan, 2004.

⁵³⁰ Interview with Members of the Security Committee, Dagahaley Camp, Dadaab, 23 March 2004.

violent. According to the Committee, arguments over food had already resulted in three murders in Dagahaley camp alone in the first two months of 2004. In this sense, problems with burden sharing, coupled with a lack of coping mechanisms, can be linked to a cause of insecurity in the Dadaab camps as refugees resort to non-legal means to ensure their survival when food distributions are reduced.

In addition to difficulties related to sharing the financial burden, the sharing of Kenya's physical burden through the resettlement of refugees to third countries has also posed significant challenges in recent years. Resettlement was an important component of the international response to the 1991-1993 refugee crisis. In October 1993, UNHCR reported that 5,972 refugees had already been accepted for resettlement.⁵³¹ Of these, 3,657 were resettled to the US, of which 2,751 (75%) were Somali. While these numbers may seem limited, they are significant when compared to global resettlement activities out of Africa in the early 1990s. During this period, resettlement out of Kenya accounted for over 75% of resettlement out of Africa. Between 1991 and 1998, almost 35,000 refugees were resettled to third countries from Kenya,⁵³² an average of 5,000 refugees a year. This trend continued as "more refugees were resettled from Kenya in 2000 than from any other country in Africa."⁵³³

The scale of resettlement activities in Kenya was, however, dramatically affected by a corruption scandal in 2001. In January 2002, the UN Office of Internal Oversight Services (UNOIOS) reported how "a 'criminal enterprise' allegedly infiltrated the refugee status determination and resettlement process in Nairobi in the late 1990s to force bribes from people seeking resettlement to third countries."⁵³⁴ According to the UNOIOS report, the investigation resulted in the arrest of three UNHCR staff members, two members of an

⁵³¹ UNHCR, Kenya, "Information Bulletin", October 1993.

⁵³² UNHCR, Kenya, Press Release, 1998.

⁵³³ ECRE and USCR, 2003, 77.

⁵³⁴ UNHCR, "Press Release: UNHCR receives report on Nairobi investigation", 25 January 2002.

affiliated NGO, and four others.⁵³⁵ The investigation also led to a suspension both in the processing of active resettlement files and in the identification of new resettlement cases, pending review and the full implementation of the conclusions of the report.⁵³⁶

The suspension of resettlement activities was a significant cause for concern for many resettlement countries, many of whom had committed themselves to significant resettlement programmes in Kenya.⁵³⁷ As a likely consequence of this concern, recent resettlement activities in Kenya have shifted from identifying individuals and families in need of resettlement to identifying larger groups in need of resettlement. As a result, a group of almost 5,000 Sudanese ‘Lost Boys’ have been resettled to the US. Likewise, a group of some 12,000 Somali Bantu were resettled to the US between 2002 and 2004. Combined with the estimated 6,000 other refugees resettled from Kenya in 2004,⁵³⁸ approximately 10% of Kenya’s refugee population will have been resettled, almost exclusively to the US, in less than five years.

Two points should, however, be highlighted about these developments. First, the emphasis on group processing has necessarily come at the expense of the identification and submission of individuals or families in need of resettlement for protection reasons. Pressure from donor and resettlement countries has meant that scarce human resources have been devoted to the relatively efficient process of group resettlement as opposed to the more labour-intensive, but protection-oriented, processing of individual cases.⁵³⁹ Second, only a limited number of Somali refugees are being submitted for resettlement. The group of 12,000

⁵³⁵ See: UN Secretary General, “Report of the Secretary-General on the activities of the Office of Internal Oversight Services: Investigation into allegations of refugee smuggling at the Nairobi Branch Office of the Office of the United Nations High Commissioner for Refugees”, New York: United Nations General Assembly, Fifty-sixth session, Agenda item 130, 21 December 2001.

⁵³⁶ ECRE and USCR, 2003, 77.

⁵³⁷ Interview with James McAnulty, Refugee Coordinator, US Embassy, Nairobi, 2 December 2001; and interview with Nathalie Smolyneć, First Secretary (Immigration), Canadian High Commission, Nairobi, 27 November 2001.

⁵³⁸ See: UNHCR, Resettlement Section, June 2003.

⁵³⁹ Interview with Bill Lipsit and May Foo Cheng, Regional Resettlement Officers, UNHCR Regional Office for East and Central Africa, Nairobi, 25 March 2004.

Somali Bantu refugees resettled between 2002 and 2004 were resettled precisely because they were not ‘Somali’. This group traced their origins to Mozambique, and were thought to have been brought to Somalia as slaves more than 200 years ago. As opposed to the pastoral and nomadic existence generally practiced by non-urban Somalis, the Somali Bantu were agrarian and settled. Their identification for resettlement was a result of the levels of discrimination they faced in the refugee camps from ethnic Somali Somalians.⁵⁴⁰

In contrast, the resettlement opportunities for the remaining 135,000 Somali refugees in Dadaab seem bleak. The USRP has decided to no longer undertake resettlement selection missions to Dadaab.⁵⁴¹ The other two significant resettlement programmes, the Canadian and Australian programmes, recently resettled 1,400 individuals from Dadaab, but they were all Sudanese males.⁵⁴² Of the 6,000 refugees that were resettled from Kenya in 2004, only 800 (13%) were Somali refugees from Dadaab.⁵⁴³ This is a dramatic fall from the levels of resettlement for Somali refugees in the early 1990s. According to UNHCR, this reluctance to resettle Somali refugees is not due to a lack of resettlement need, but due to perceived difficulties associated with resettling Somali refugees, including their low levels of literacy, their ‘harmful traditional practices’ (namely female circumcision and polygamy), their poor record of integration in resettlement countries, and US-led security concerns about the Dadaab refugee population, especially since the events of 11 September 2001, as discussed below.⁵⁴⁴ In the interest of ensuring high resettlement numbers, resettlement countries appear to be leaving behind the Somali refugees in Dadaab. As a result, physical burden sharing with Kenya is not addressing the refugee population viewed with the greatest concern by the government.

⁵⁴⁰ Interview with Pagliuchi-Lor, 2004.

⁵⁴¹ Interview with Craig White, Refugee Coordinator, US Embassy, Nairobi, 27 March 2004.

⁵⁴² Interview with Andrew Ginsberg, Resettlement Officer, UNHCR Sub-Office Dadaab, Dadaab, 22 March 2004.

⁵⁴³ UNHCR, Resettlement Section, June 2003.

⁵⁴⁴ Interview with Ginsberg, 2004.

The burdens and benefits of hosting refugees

While the protracted presence of refugees in Kenya has resulted in financial and physical burdens, it is also important to recognize the extent to which their presence has brought benefits, especially to refugee-populated areas. As argued by Pérous de Montclos and Kagwanja, “there is no doubt that the establishment of infrastructure and social amenities” by NGOs and UNHCR “can be valuable for economic development and benefit both refugees and indigenous populations.”⁵⁴⁵ Likewise, a UNHCR evaluation found that:

The presence of refugees is both an economic asset to the local Somali community, as well as a source of competition for scarce resources. However, of the two, the resources provided by the presence of UNHCR and its implementing partners to the area – in terms of employment and commercial opportunities, healthcare, services, the digging and maintenance of boreholes among other things – largely outweigh the costs to the local population.⁵⁴⁶

As highlighted by UNHCR’s implementing partner in Dadaab, CARE Kenya, both the costs and benefits should be taken into consideration when discussing the presence of Somali refugees in Kenya. In CARE’s view, “the Government of Kenya paints a picture of the burden borne by Kenya and that they would be better off if the refugees went home, but there is need for a more balanced view.”⁵⁴⁷ In fact, the benefits of the refugee presence have been experienced at the national level, especially through the large amount of foreign currency brought into Kenya as a result of humanitarian activities,⁵⁴⁸ and at the local level, through contributions to the local economy, job creation, and local infrastructure.

Many of the UN and NGO staff who have served in Dadaab since the early 1990s explain that, as a result of the refugee programme, the town of Dadaab has been

⁵⁴⁵ Pérous de Montclos and Kagwanja, 2000, 206. Hyndman and Nylund argue that “in a back-handed and perhaps ironic way, the refugee camps in Kenya’s North Eastern Province have stimulated economic and social development in the form of jobs and the increased availability of commodities, primary education and medical services which are offered in the camps.” Hyndman and Nylund, 1998, 28.

⁵⁴⁶ UNHCR, Evaluation and Policy Analysis Unit, “Evaluation of the Dadaab firewood project, Kenya”, Geneva: UNHCR, EPAU/2001/08, June 2001, 20.

⁵⁴⁷ Interview with Dennis O’Brien, Country Director, and Jalal Bhuyian, Project Manager, Refugee Assistance Project (Dadaab), CARE Kenya, Nairobi, 18 March 2004.

⁵⁴⁸ O’Brien estimates that since the late 1980s, Operation Lifeline Sudan, the Somalia emergency and the Great Lakes Operations have brought billions of US dollars into Kenya, playing a significant role in stabilizing the Kenyan Shilling during the turbulent years of the 1990s. Interview with O’Brien and Bhuyian, 2004.

transformed.⁵⁴⁹ They explain that the population increased five-fold – from an estimated 3,000 inhabitants in 1993 to approximately 15,000 inhabitants in 2004 – newspapers now arrive from Nairobi on the day of publication, the variety of goods available in the market has increased dramatically, the roads have improved, and employment opportunities for the local population have transformed a previously under-developed and largely ignored corner of Kenya. As the ultimate indication of Dadaab's development, *SafariCom*, Kenya's largest mobile telephone network, extended coverage to the region in February 2004. Such an investment in the region, unimaginable 15 years ago, is attributed largely to the presence of the refugee programme.⁵⁵⁰

In addition, specific programmes have been implemented to support the local population. A significant component of the refugee programme in Dadaab is the Local Assistance Project (LAP), managed by CARE Kenya.⁵⁵¹ This programme grew out of a realization in the mid-1990s that the gap in livelihoods between refugees and the local population was large, growing and a significant source of conflict between the two groups.⁵⁵² As a result, CARE proposed that their programme in Dadaab should include both local and refugee assistance as a means of reducing grievances within the local population and demonstrating the tangible benefits of hosting refugees. Between 1994 and 2004, CARE projects benefiting the local population in and around Dadaab totalled over US\$13 million. The bulk of this contribution (US\$9,881,964) was for drought relief, rehabilitation and recovery projects to assist the local population in North Eastern Province affected by drought in the mid-1990s. A wide range of donors have contributed to local educational, water, and

⁵⁴⁹ This section is based on interviews with long-serving UNHCR and CARE staff in Dadaab, conducted between 22 and 24 March 2004. Staff were deemed to be long-serving if they had been with the refugee programme in Dadaab for ten or more years.

⁵⁵⁰ The arrival of *SafariCom* coverage is believed to have been the direct result of UNHCR and CARE jointly lobbying the Provincial Commissioner. Interview with Odashima, 2004.

⁵⁵¹ Information for this section is drawn from CARE Kenya and UNHCR programme documents and interviews with programme staff in Dadaab, March 2004.

⁵⁵² Interview with Marangu Njogu, Programme Manager, Local Assistance Project, CARE Kenya, Dadaab, 22 March 2004.

healthcare projects. Training programmes and apprenticeships are offered to the local population to gain qualification as auto-mechanics, administrators, community healthcare workers and in the maintenance of water and sanitation infrastructure, including boreholes and latrines. The largest collaborative project was the construction of a laboratory and library for the Dadaab Secondary School in 2000-2002.

UNHCR also runs a number of programmes designed to support the local community and authorities in Dadaab. In addition to providing monthly monetary incentives, equipment and transportation to the local police, UNHCR has constructed 14-room barracks in each of the camps and in Dadaab town, an 80-room administrative block for the District Office – complete with water and electricity, canteen and compound fencing. UNHCR has invested more than US\$440,000 since 1995 to rehabilitate and improve roads and airstrips in the Dadaab region. Since 1992, it has constructed and maintained almost 30 water boreholes for the local population, installed water and electricity to the Dadaab Primary School, rehabilitated livestock boreholes, and provided water-tanks for the local population. UNHCR has also provided free medical care to the local population since 1992. Finally, UNHCR has been involved in a range of environmental projects, contributing over US\$4 million to environmental rehabilitation projects. This is in addition to the US\$789,000 in local contracts awarded annually in relation to the Firewood Project, as outlined below.

It is, however, important to note that it is the burdens of hosting refugees and the shortfalls in donor assistance that are highlighted at a national level in Kenya, not the benefits. According to UNHCR, Kenyan Members of Parliament “continuously raise the question of refugees as a burden and the negative aspects of hosting refugees as a way of advocating for greater support from the international community.”⁵⁵³ In contrast, interviews in Dadaab indicated that local officials have a more nuanced view of the implications of hosting refugees. The District Officer for Dadaab noted that while the initial arrival of the

⁵⁵³ Interview with Odashima, 2004.

refugees in the early 1990s caused problems for the local area, “over time, there has been a positive effect for the area as a result of the presence of refugees.”⁵⁵⁴ Likewise, local community and business leaders noted that the presence of refugees has brought development to the area. They recognized the contribution UNHCR and CARE have made to health and education facilities, water and sanitation, and improvements in communication. While they noted the negative consequences of the arrival of refugees, especially the rise in violent crime, they believe that the presence of refugees has been “good for business.”⁵⁵⁵ Finally, they estimated that between 25% and 40% of the local population are directly employed by the refugee programme.

While there is evidence that the presence of refugees in Kenya has caused burdens on the host state and host community, and that burden sharing with Kenya has been problematic in recent years, it should also be stressed that, as a result of the refugee programme, the protracted presence of refugees in Dadaab has contributed to local development. The fact that the balance between burdens and benefits are expressed differently in Nairobi and in Dadaab is an indication of different priorities at different levels of the state, and different perceptions of the nature of the refugee issue.

Security Concerns

Different perceptions at the local and national level are also present in the understanding of the security implications of hosting Somali refugees, the third justification posited by Kenya for its change in refugee policy. In addition to the scale and nature of the insecurity in and around the refugee camps in Dadaab in the mid-1990s, as outlined above, issues of small arms proliferation and terrorism have come to be blamed on Somali refugees, and cited as a justification for their containment. As this section will argue, however, the

⁵⁵⁴ Interview with John Kyovi, District Officer, Dadaab Division, North Eastern Province, Dadaab, 22 March 2004.

⁵⁵⁵ Meeting with Dadaab community and business leaders, Office of the District Commissioner, Dadaab, 24 March 2004.

nature and causes of security and insecurity relating to the presence of refugees are experienced in very different ways at the core and on the periphery of the state.

Direct security concerns: terrorism and small arms

At the national level, the presence of Somali refugees is perceived to have resulted in direct security concerns for the Kenyan state and the governing regime. These direct concerns relate to the flow of small arms into Kenya and the threat of terrorism, exacerbated by its long and porous border with Somalia which facilitates “the uncontrolled flow of arms ... but also the spill-over effects of the conflicts themselves.”⁵⁵⁶ As a result of these perceived threats, the Somali refugee population has been collectively viewed as a security concern by the Kenyan state, thereby reinforcing the encampment policy.

There is no doubt that Kenya has faced a number of significant security concerns in recent years. In early August 1998, the US Embassy in central Nairobi was attacked by a car bomb. Over 250 people were killed, and some 5,000 injured, mostly Kenyans.⁵⁵⁷ Likewise, on 28 November 2002, coordinated attacks took place in Mombasa. Almost simultaneously, three suicide bombers attacked the Paradise Hotel, killing 16, while two surface-to-air missiles narrowly missed their target of an Israeli charter plane during take-off.⁵⁵⁸ Both attacks were blamed on Somali-based Islamic organizations with links to the al-Qaeda network. Shortly after the Mombasa attack, it was reported that US intelligence sourced believed that a group known as al-Ittihad al-Islamiya, “a prominent militant group in the Horn of Africa with links to Osama bin Laden’s al-Qaeda network”,⁵⁵⁹ was responsible for the attacks.

⁵⁵⁶ IRIN, 29 October 2003.

⁵⁵⁷ See: Alan Rake, “Kenya: Recent History” in *Africa South of the Sahara*, 33rd Edition, London: Europa Publications, 2004, 552.

⁵⁵⁸ See: Rake, 2004, 552; BBC News, “Kenya terror strikes targets Israelis”, 28 November 2002.

⁵⁵⁹ BBC News, “Kenya inquiry targets Somali militants”, 30 November 2002.

Investigations into the activities of al-Ittihad al-Islamiya eventually led to the Dadaab refugee camps. Investigators believed that Kenya's long porous border with Somalia and the presence of large refugee camps in a remote corner of the country provided the ideal cover for the operations of a terrorist organization, while the disaffected and desperate camp population provided a fertile base for recruitment.⁵⁶⁰ They also believed that there was a direct link between al-Ittihad al-Islamiya and the al-Haramain Islamic Foundation, which provided some religious training in the camps. In March 2002, the US Treasury Department blocked the funds of the Somalia branch off al-Haramain, claiming that it was linked to al-Ittihad al-Islamiya and that "over the past few years, al-Haramain Somalia has funnelled money to al-Ittihad al-Islamiya by disguising funds as if they were intended for orphanage projects or Islamic school and mosque construction."⁵⁶¹ As a result, a connection, albeit tenuous, has been drawn between the terrorist attacks on Kenya and the presence of refugees.

Likewise, a connection has been drawn between the presence of refugees and the flow of small arms into Kenya. While precise figures on small arms in general are "sketchy at best,"⁵⁶² it has been argued that "small arms are so easily accessible in Kenya that they have greatly contributed to the deterioration of security in the country."⁵⁶³ An increase in the supply of small arms has resulted in a significant fall in their price. As reported by IRIN, in the 1960s, an AK-47 assault rifle cost 60 head of cattle in northern Kenya, but "today the same rifle costs as little as the price of a chicken."⁵⁶⁴ The easy availability of such weapons in the northeast of Kenya has "served to intensify deadly bandit attacks and clan rivalries."⁵⁶⁵ As

⁵⁶⁰ See: Danna Harman, "In a dire Kenyan camp, links to Al Qaeda", *Christian Science Monitor*, 18 December 2002.

⁵⁶¹ Government of the United States of America, Department of the Treasury, "Fact Sheet: Designation of Somalia and Bosnia-Herzegovina Branches of Al-Haramain Islamic Foundation", 11 March 2002.

⁵⁶² Brad Knickerbocker, "Biggest terror threat is from small arms", *Christian Science Monitor*, 4 December 2002. In fact, the Permanent Secretary for the Ministry of Foreign Affairs has "no idea how many illegal firearms are circulating in Kenya." Interview with ole Nkuraiya, 2004.

⁵⁶³ Interview with ole Nkuraiya, 2004.

⁵⁶⁴ IRIN, 29 October 2003.

⁵⁶⁵ *Ibid.*

a result of the increased insecurity, more people are arming themselves, thus fuelling the spiral of violence.

The Kenyan Police perceive a link between the presence of Somali refugees in Kenya, the spread of small arms into Nairobi, and the rise in gun-related crime. According to the Director of Operations:

the main problem with the Somali refugees is that they bring their conflict into Kenya. Somalis come and go across the border, they can do what they want. They bring their arms and their conflict [into Kenya]. As a result, there is a lot of crime in the cities in Kenya, not committed by the refugees, but committed as a result of the guns and tensions they bring.⁵⁶⁶

Austin has argued that the link is much clearer, and that “the [Dadaab] camps were used for sheltering the weapons, facilitating the arms deals, and for security transport.”⁵⁶⁷

While there is no doubt that the small arms problem and the consequences of terrorism are legitimate concerns for the Kenyan state, and that many of these concerns do originate in Somalia, it is difficult for those with extended experience in the Dadaab camps to see a causal link between the refugee population and these threats. According to the UNHCR officer responsible for security in Dadaab, the link between terrorism and the refugee camps is spurious.⁵⁶⁸ For him, the conditions and location of the camps would both make terrorist activities easy to detect and make the camps a poor choice for a base for terrorist groups. According to a long-serving UNHCR protection officer in the Dadaab camps, the real problem is that “there is a public perception that lumps all Somalis together, be they Kenyan Somali, Somali or a refugee. As a result, everyone crossing the border from Somalia is called a refugee.”⁵⁶⁹ It is on the basis of this association, and the fact that terrorism in the region and

⁵⁶⁶ Interview with Monde, 2004.

⁵⁶⁷ Kathi Austin, “Armed Refugee Camps as a Microcosm of the Link between Arms Availability and Insecurity”, Draft Case Study for Discussion, SSRC Workshop on International Law and Small Arms Proliferation, Washington DC, 6 February 2002, 3, on file with author.

⁵⁶⁸ Interview with Alexander Kishara, Associate Field Safety Advisor, UNHCR Sub-Office Dadaab, Dadaab, 22 March 2004.

⁵⁶⁹ Interview with Jervas Musau, Field Assistant (Protection), UNHCR Sub-Office Dadaab, Nairobi, 13 March 2004.

small arms proliferation do have roots in Somalia, that Somali refugees are perceived as direct security threats.

In this way, the most significant implication of these direct security concerns is the securitization of the Somali refugee issue at the national level. As argued by Adelman and Abdi, while there is no proof of the link between refugees and either terrorism or the proliferation of small arms, there is a public perception that the two are linked. They argue that media reporting on the issues, especially after the Mombasa attacks, “has influenced public perception at the national and international levels, reinforcing the allegations that the Somali refugees in Dadaab are criminals, thus reducing sympathy Kenyans and others have for the plight of the Dadaab refugees.”⁵⁷⁰

Indirect security concerns: local grievances and banditry

For those working in and around the refugee camps, the indirect security concerns relating to the protracted presence of the Somali refugees are much more significant. These concerns include conflict between refugees and the local population resulting from competition over scarce resources, which are exacerbated by diminishing international support to the camps, and levels of banditry and violent crime in and around the camps.

The Dadaab camps are located in a semi-arid region of Kenya with a long history of competition over scarce resources. Indeed, “conflict over resources between a number of local Ogadeni clans was a feature of the area prior to the arrival of the refugees.”⁵⁷¹ These delicate clan relations were challenged, and the potential for conflict increased, with the arrival of the refugees from a number of other clans and sub-clans who “brought to the area and the refugee camps a history of clan rivalries from Somalia.”⁵⁷² In his 1999 study, Crisp found that this

⁵⁷⁰ Adelman and Abdi, 2003, 60 – 61.

⁵⁷¹ UNHCR, Evaluation and Policy Analysis Unit, June 2001, 19.

⁵⁷² *Ibid.*

mixture of rival clans and sub-clans with the increasingly scarce resources was a significant cause of insecurity in and around the camps.⁵⁷³

An interesting finding from interviews in Dadaab in 2004 was the changing relationship between an individual's clan identity and their nationality. According to members of the Somali refugee community in Nairobi, there are no distinctions between Kenyan Somalis and Somalian Somalis; physically, linguistically and religiously they are the same. They argued that "the only differences that are noticed are the differences of clan."⁵⁷⁴ Past research suggests that a similar situation should have been expected in Dadaab. As Crisp explains, "in Dadaab, the distinction between 'refugees' and the 'local population' is in many ways a fuzzy one, as most of the people living in and around the three camps share a common language and culture, and belong to clans which straddle the border between Kenya and Somalia."⁵⁷⁵ In fact, some believe that the distinction between 'refugee' and 'local' is so blurred that as much as 10% of the camp population is, in fact, Kenyan.

It would, however, appear that this shared group identity, central to peaceful relations between a host community and refugees, has changed in Dadaab. Representatives of the refugees in Dagahaley camp explained that relations between the refugees and the local population have faced many challenges in recent years, and that distinctions between the two communities are now felt. Likewise, community and business leaders in Dadaab distinguish between the two groups. As one leader explained, "they are Somali. We are Kenyan. We are different."⁵⁷⁶

This perception of difference may be explained by the grievances felt by the local population towards the refugees, exacerbated by local politicians:

⁵⁷³ Crisp, December 1999, 10.

⁵⁷⁴ Meeting with Abdullahi Aden Jama and Abdirizak Mohamed Hassan, Somali Community Leaders, Eastleigh, Nairobi, 17 March 2004.

⁵⁷⁵ Crisp, December 1999, 12.

⁵⁷⁶ Meeting with community and business leaders, Dadaab, 2004.

The local population perceives the refugees as a privileged group and a threat to the fragile economy of the region. Local hostility, not fully assuaged by the access that some locals have gained to camp-provided services, has furthermore been exploited by local politicians seeking election.⁵⁷⁷

When combined with the chronic and acute resources scarcity characteristic of the area around Dadaab, it is easy to see how this perception of refugees receiving more than ‘their fair share’ can provoke conflict. Indeed, as explained by the Chief of Police in Dadaab, the most common crime outside the refugee camps has been assault, mostly as a result of competition over scarce resources like water between refugees and the local population.⁵⁷⁸

Coupled with the tremendous levels of physical insecurity experienced by refugees during the 1990s, the rising grievances of the local population and the increase in conflict between the host community and refugees became significant concerns for local authorities and UNHCR. A series of programmes were designed and implemented in the late 1990s, with the primary objective of reducing levels of physical insecurity for refugees, but with the secondary objective of addressing local grievances and the perception of refugees as a local security concern. The most significant programmes to be introduced were: the ‘security package’, designed to reinforce the capacity of the Kenyan police to enforce law and order in and around the refugee camps by providing them with additional equipment, facilities, and incentives; the mobile court, designed to enhance access to the judicial process for victims of crime in Dadaab by facilitating the sitting of the district court in Dadaab; and, third, the Firewood Project, designed to reduce levels of sexual violence against refugee girls and women during firewood collection by directly providing 30% of their firewood needs.⁵⁷⁹ Of these three, many point to the Firewood Project as the most significant in addressing both refugee security and local security concerns.

⁵⁷⁷ UNHCR, Kenya, 2003, 21.

⁵⁷⁸ Interview with Chief Inspector Nicholas Musilu, OCS (Officer in Charge of Station) Dadaab, Police Station, Dadaab, 22 March 2004.

⁵⁷⁹ For more details of these programmes, see: Crisp, December 1999.

The Firewood Project was initiated “primarily to address issues of rape and violence against women and girls. A second objective of environmental rehabilitation was added, and later a third objective of reducing resource-based conflicts between refugees and local communities.”⁵⁸⁰ A subsequent evaluation of the project noted that “one of the most positive features of the Firewood Project ... has been the economic benefit to local entrepreneurs and refugee workers of firewood supply, in an area where few economic opportunities of any kind exist.”⁵⁸¹

The Firewood Project was launched in 1998, with the German agency, *Gesellschaft für Technische Zusammenarbeit* (GTZ), designated as UNHCR’s implementing partner. Under the project, GTZ awards contracts to local communities in a band from 50-100km from the camps for the gathering and transporting of firewood. The Project Manager in Dadaab explained that both the local community and refugees benefit from this system, as refugees are often informally sub-contracted by the local communities as their labour is much cheaper.⁵⁸² Between 1998 and 2004, the project supplied 8-10,000 metric tones of firewood a year to the refugees, which translated into average earnings of KSh. 48,000,000 (approximately US\$600,000) to the local population and refugees.

While discussing the benefits of the project, the Project Manager noted that tensions between refugees and the local population over scarce resources in the Dadaab region used to be a significant concern, but that the Firewood Project has mitigated that conflict. Mohamed explained that “there used to be a lot of conflict because refugees were taking all the benefits, with no benefits to the local population resulting from the presence of refugees. Now, it is much better. Now, there is little or no conflict. Now, everyone needs the other.”⁵⁸³ At the

⁵⁸⁰ UNHCR, Evaluation and Policy Analysis Unit, June 2001, 1.

⁵⁸¹ UNHCR, Evaluation and Policy Analysis Unit, June 2001, 7.

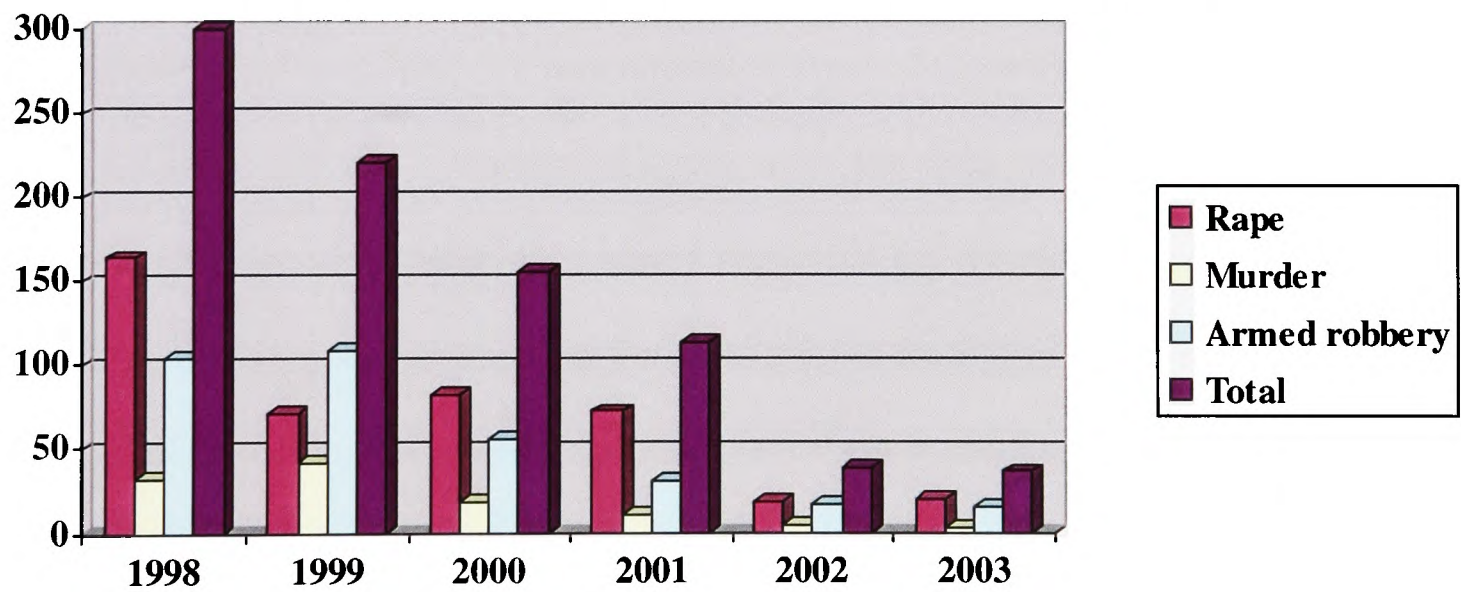
⁵⁸² Interview with Abdi Mohammed, Project Manager, GTZ – Rescue, Dadaab, 24 March 2004. In addition, Mohammed explained that as the deadwood collected in the bush is brought to the roadside by donkey carts, and as 95% of the donkey carts are owned by refugees. As such, it is estimated that the earnings from the project are divided 50% to the local community and 50% to the refugees.

⁵⁸³ Interview with Mohammed, 2004.

same time, Mohammed believed that the project has improved security in the region by creating employment opportunities for those young men who used to be involved in banditry. Finally, he believed that there have been political benefits, as the local population and local politicians have started to see the presence of refugees as a benefit, not only through the employment opportunities created across the region, but also through the tax revenues generated by the project. The Government of Kenya levies a tax of KSh. 250 per metric ton of firewood distributed in the camps, resulting in total tax revenue of KSh. 2.5-3 million (US\$37,000) a year.

The most significant benefit credited to the Firewood Project has been a ten-fold reduction in levels of violent crime in and around the Dadaab camps since 1998.⁵⁸⁴ As illustrated by Figure 4.2, the total instances of violent crime fell from 300 in 1998 to 36 in 2003, with instances of rape, murder and armed robbery also falling proportionally.

Figure 4.2:
Instances of violent crime in Dadaab refugee camps (1998 – 2003)⁵⁸⁵



According to UNHCR, while other programmes played an important role in reducing violent crime, especially the mobile courts and the security package, the introduction of firewood distribution in 1998 had an almost immediate effect.⁵⁸⁶ In fact, many NGO workers now

⁵⁸⁴ Interview with Kishara, 2004.

⁵⁸⁵ UNHCR, Dadaab, “Assessment of the security situation in Dadaab from 1998 to 2002”, Dadaab: UNHCR, December 2002. 2003 statistics provided by Kishara.

⁵⁸⁶ UNHCR, Dadaab, December 2002.

believe that Dadaab, once infamous for its violence, is now safer than Nairobi and the safest region in the North East Province.⁵⁸⁷ Accordingly, many in Dadaab believe that the protracted presence of refugees, and the associated presence of international agencies, has made Dadaab safer than it was prior to the arrival of the refugees. In short, the presence of refugees has been good for local security.

Security of what? Perceptions of security at the core and periphery

This discussion of the security concerns relating to the presence of refugees suggests different perceptions of refugee-related insecurity at different levels of the state. In Nairobi, there is a view that refugees remain a significant cause of insecurity, associated with the proliferation of small arms and links to terrorism. There is also a perception in the capital that levels of violent crime in and around the camps, especially banditry, remain at pre-1998 levels. It is felt that refugees are a real security threat, and consequently need to be contained on the periphery of the state. In the refugee-populated area, however, there is a different view. Local leaders in Dadaab have a more nuanced view of the security implications of the presence of refugees. While acknowledging security concerns related to their presence, especially pertaining to competition over scarce resources and banditry resulting from local grievances, there is also a recognition that the situation has improved since 1998. There is a view that targeted interventions, such as the Firewood Project and Local Assistance Projects, can play a significant role in mitigating that sense of grievance and addressing indirect security concerns.

As with considerations of refugees as burdens or benefits, these diverging perceptions highlight the importance of disaggregating the state. Differing perceptions of insecurity at the national and local level reflect different understandings of security and of the ‘referent object’ in the security debate. In other words, there are different understandings of whose security is

⁵⁸⁷ Meeting with long-serving CARE workers in Dadaab, NGO compound, Dadaab, 23 March 2004.

at stake. In Dadaab, the priority, and consequently the referent object, is local security. In contrast, the security concerns expressed in Nairobi reflect an understanding of security where the state or the regime is the referent object. As argued below, this was especially true during the Moi regime.

Coupled with these different understandings of the referent object are different understandings of the source of the threat. In Nairobi, there is a lack of differentiation between Kenyan Somalis, Somalian Somalis, and Somali refugees. Compounded by the lack of legal status for refugees,⁵⁸⁸ and fuelled by a strong association between Somalis and criminality, especially in the wake of the terror attacks on Nairobi and Mombasa, this lack of differentiation has led to the securitization of all Somalis. As a result, all Somali refugees are seen to be a threat, thereby justifying actions to contain that threat. In contrast, the differentiation between Kenyan Somali and Somali refugee in Dadaab, where 98% of the local population are Kenyan Somalis, appears to be growing, and the division between local Somali and refugee becoming more significant. As a result, there is greater differentiation between the two groups and a more precise understanding of the sources of insecurity.

Taking a broader view

The important role that perception plays in the identification of the prolonged presence of Somali refugees as a threat to the Kenyan state suggests that factors beyond numbers, burdens and security concerns have motivated the government in Nairobi to first adopt and then maintain its policy of encampment and abdication. In an effort to better explain the motivations of the Kenyan government in this area, this section considers a number of broader historical and political factors, unrelated to the presence of refugees, that have defined the political space within which the Kenyan government, and specifically the Moi regime, has formulated its response to the protracted presence of Somali refugees in Kenya.

⁵⁸⁸ See: Hyndman and Nylund, 1998.

Historical factors

A significant colonial inheritance for post-independence Kenya has been a conflictual relationship between the government in Nairobi and the North Eastern Province of Kenya, formerly the Northern Frontier District. The region has seen a long history of underdevelopment and repression of its ethnic-Somali inhabitants, driven by fears of irredentism and threats to the territorial integrity of modern Kenya.⁵⁸⁹ It is these practices, rooted in colonialism, and the subsequent history, which not only preclude the integration of Somali refugees in Kenya, but result in Somali refugees being viewed as a threat by the Kenyan state.

The pastoral Somalis were one of many groups to be separated by European colonial borders during the 'scramble for Africa'. The Somali people were divided into five parts at the Berlin Conference of 1884: French Somalia (now Djibouti), British Somaliland, Italian Somaliland, Ogaden (now part of Ethiopia) and the Northern Frontier District (NFD) of British East Africa (now the North Eastern Province of Kenya). As argued by Turton, early evidence of political activity by Somalis in each of these territories was motivated by a desire for Somali unification under a single state.⁵⁹⁰ Indeed, by 1951, the Somali National League had emerged as an organized movement in British East Africa. Their objectives included the unification of the Somali people and territories.⁵⁹¹ Such irredentist ambitions and anti-colonial sentiments of the Somali pastoralists in the NFD won them no favours with the British administration. The colonial powers maintained the NFD as a closed district, restricting entry

⁵⁸⁹ See: Said S. Samatar, "The Somali Dilemma: Nation in search of a State", in A.I. Asiwaju (ed.), *Partitioned Africans: Ethnic Relations across Africa's International Boundaries, 1884 – 1984*, London: Hurst and Company, 1984; John Drysdale, *The Somali Dispute*, London: Pall Mall Press, 1964; E.R. Turton, "Somali Resistance to Colonial Rule and the Development of Somali Political Activity in Kenya 1893 – 1960", *The Journal of African History*, Vol. 13, no. 1, 1972; I.M. Lewis, "Pan-Africanism and Pan-Somalism", *The Journal of Modern African Studies*, Vol. 1, no. 2, 1963; and Katete Orwa, "Foreign Policy, 1963 – 1986" in W.R. Ochieng' (ed.), *A Modern History of Kenya: 1895 – 1980*, Nairobi: Evans Brothers (Kenya) Limited, 1989.

⁵⁹⁰ See: Turton, 1972.

⁵⁹¹ See: Lewis, 1963, 149.

and exit from the region. In addition, the region was politically and administratively isolated, with negligible development or investment occurring during the colonial period.

By the early 1960s, however, the cause of the Somalis in the NFD was taken up in the Somali National Assembly, which passed a motion in 1961 in support of the integration of the NFD into the Somali Republic.⁵⁹² This was consistent with the broader priorities of the new republic. Reunification was such a driving force in early Somali politics that it was represented in the Somali flag: the five points of the white star on the Somali flag represent the five ‘Somali territories’ – including most of northern Kenya.⁵⁹³ Somalia was also the only country in the region that did not sign the OAU Charter, which, at its core, agreed to maintain the national borders drawn by the colonial powers. Finally, the 1960 Somali constitution “gave Somali citizenship to all the Somali living outside the country, entitling them to the same rights as those living inside.”⁵⁹⁴

The future of NFD was a point of contention in the run-up to Kenyan independence in 1963.⁵⁹⁵ Prior to final negotiations with the Kenyan Nationalists at Lancaster House in London, a commission of enquiry was sent to determine if the estimated 200,000 Somali of the NFD wished to remain within an independent Kenya or be ceded to Somalia. The commission found that “the vast majority of the Somali of the Province desired secession and union with the Republic.”⁵⁹⁶ Despite these findings, secession was not granted. Instead, the NEP was created within an independent Kenya, with an almost exclusively Somali population. In response, violence erupted across the NEP as groups of rebels attacked outposts of the newly-independent Kenyan government. By Christmas 1963, the scale of the violence was such that the Kenyan government declared a state of emergency in the region,

⁵⁹² See: Lewis, 1963, 155.

⁵⁹³ See: Lewis, 1963 ; and Samatar, 1984.

⁵⁹⁴ Marc-Antoine Pérouse de Montclos, “Elections Among the Kenya Somali: A Conservative but Marginalised Vote” in Marcel Rutten, Alamin Mazrui and François Grignon, *Out for the Count: The 1997 General Elections and Prospects for Democracy in Kenya*, Kampala: Fountain Publishers, 2001, 298.

⁵⁹⁵ See: Orwa, 1989, 232.

⁵⁹⁶ Cited in Lewis, 1963, 158.

just 13 days after achieving independence. The state of emergency retained the colonial prohibition on travel in and out of the area, but also included broader powers of detention without charge and significant restrictions on the pastoral communities. This state of emergency remained in effect until 1991.

What followed, between 1963 and 1967, is commonly referred to as the *shifta* war.⁵⁹⁷ Somalis in the NEP waged a guerrilla campaign of secession for almost four years, allegedly supported and supplied by the Somali government in Mogadishu. In response, the newly-independent government of Jomo Kenyatta, “afraid of an invasion by Somalia”⁵⁹⁸ and determined to preserve the territorial integrity of the Kenya state, “spent US\$70 million in unplanned for military expenditure between 1964 and 1967 in a war of attrition with the *shiftas*.”⁵⁹⁹ During this period, the Kenyan army “grew from about 6,500 at independence to 16,000 in 1967.”⁶⁰⁰ By 1967, the *shifta* movement had been defeated, and Kenya and Somalia signed a non-aggression and co-operation agreement in Arusha in October 1967.

Concerns over the threat of Somali expansion, however, remained a significant foreign policy concern for the regime in Nairobi, especially after the *coup* in Mogadishu that brought Siad Barre to power in 1969. In particular, Barre’s commitment to the restoration of a Greater Somalia, demonstrated by his invasion of the Ogaden region of Ethiopia in 1977, reinforced the view in Nairobi that the greatest threat to the Kenyan state was the irredentist sentiments remaining with the population of the NEP. As a result, police and army presence mounted, the Somali population was collectively viewed as a threat to national security, and increasingly draconian measures were taken against the Kenyan Somali population.

These concerns were compounded by the attempted *coup* against President Moi in 1982. In August 1982, a section of the Kenyan Air Force attempted to take control while Moi

⁵⁹⁷ According to Africa Watch: “*Shifta* carries two meanings: it is the official term of reference for political opposition in the NFD; and it is a derogatory term, literally translated as bandit.” Africa Watch, *Kenya: Taking Liberties*, New York: Africa Watch, July 1991, 284.

⁵⁹⁸ Pérouse de Montclos, 2001, 299.

⁵⁹⁹ Orwa, 1989, 232.

⁶⁰⁰ *Ibid.*

was out of the country. The *coup* failed, and led to an estimated 3,000 arrests and the disbanding of the Air Force. A much greater consequence, however, was the securitization of all aspects of domestic affairs in Kenya. As argued by Widner, the *coup* demonstrated to Moi that he was on a “political island” surrounded by Kikuyu supporters of Kenyatta.⁶⁰¹ In response, he implemented radical policies to ensure the rise of members of his Kalenjin ethnic group to support his Presidency.⁶⁰² More generally, there was a total change to state security after the *coup* as the President became ‘paranoid’ about his position.⁶⁰³ He responded by implementing measures to protect his regime which led to the mass violation of human rights.

In addition to the repression of social and political rights at the core of the Kenya state,⁶⁰⁴ the securitization of Kenyan politics led to an escalation of security activities in the NEP. Kenyan security forces carried-out a number of campaigns to eliminate any remaining *shifita* elements in the early 1980s. The largest of these campaigns occurred in Wajir in February 1984, when 5,000 men were arrested on suspicion of being *shifitas*. They were reportedly taken to the local airstrip, forced to strip naked, and lie on the burning tarmac. Those who refused were shot, while the rest were denied food and water for several days. Many were beaten, while others were reportedly burned alive. In the end, an estimated 2,000 were believed to have been killed.⁶⁰⁵ There was no opposition to these activities in the Kenyan Parliament. On the contrary, in response to the policy of repression of Somalis in the NEP, the Minister of Internal Security was reported in the daily press to have said “the only good Somali is a dead one.”⁶⁰⁶

⁶⁰¹ Jennifer Widner, *The Rise of the Party-State in Kenya: From ‘Harambee!’ to ‘Nyayo!’*, Berkley: University of California Press, 1992, 163.

⁶⁰² Widner, 1992, 164 – 175.

⁶⁰³ Interview with Wakahiu, 2004.

⁶⁰⁴ Howard argues that “the post-coup detentions followed a pattern that suggested that the government was strongly worried by the emergence of an articulate, professional elite that had not been and could not be co-opted by the spoils of office.” Rhoda Howard, “Repression and State Terror in Kenya: 1982 – 1988” in Timothy Bushnell (ed.), *State Organized Terror: The case of violent internal repression*, Boulder, CO: Westview Press, 1991, 83.

⁶⁰⁵ See: Africa Watch, 1991, 273 – 277.

⁶⁰⁶ See: Africa Watch, 1991, 273.

National security continued to justify a series of actions against the Somali community through the 1980s, right up to the arrival of the Somali refugees in the early 1990s. In 1988, the securitization of Somalis in Kenya was extended to the public campaign against poaching, when “the government called the poaching crisis a ‘security problem’ and blamed it on ethnic Somalis, with no clear distinction between the participation of illegal Somali nationals and Kenya’s own ethnic Somali population.”⁶⁰⁷ All Somalis were portrayed as a threat, and their repression was justified on grounds of national security. It is in this context that the government’s restrictive response to the arrival of the first thousand Somali refugees near Liboi in 1989 can best be understood.

Domestic factors

While such historical factors help explain the securitization of Somali refugees, a number of other factors shed light on the Moi regime’s response to the initial arrival of Somali refugees and the policy responses that followed. It should be noted that when the Somali crisis erupted in 1991, the Moi regime was facing a number of simultaneous crises. In November 1991, the international community suspended aid to Kenya, citing the need for democratization and improved human rights. Kenya’s economy was heavily dependent on aid,⁶⁰⁸ and the Moi regime had little choice but to comply. In late 1991, the Kenyan ruling party, KANU, revised the Constitution and legalized political parties. As a further concession to donors, the first multi-party elections were scheduled for late 1992.⁶⁰⁹ At the same time as these reforms, violence erupted in the Western and Rift Valley Provinces, as Kalenjin youths displaced Kikuyu farmers from their land. While it was later argued that the ‘land clashes’ were state sponsored, and intended to disrupt opposition strong-holds in the run-up to the

⁶⁰⁷ Africa Watch, 1991, 289 – 290.

⁶⁰⁸ Kenya’s economy has been dependent on foreign aid and investment since independence. See: Orwa, 1989, 226.

⁶⁰⁹ See: David Throup and Charles Hornsby, *Multi-Party Politics in Kenya*, Oxford: James Curry Ltd, 1998, 54 – 172.

elections,⁶¹⁰ the result was nonetheless the internal displacement of an estimated 300,000 Kenyans. Responding to this displacement posed a significant challenge to the Moi regime.⁶¹¹

In the midst of these events, and sustained pressure from the donor community, the challenges posed by the arrival of over 400,000 Somali refugees was almost a blessing in disguise. Some believe that with the combined pressure of the land clashes and democratization, “it was good for the regime to have refugees in the country, as having refugees allowed the regime to show the international community that they were doing something for human rights by hosting the refugees.”⁶¹² Indeed, the generous quantity of asylum afforded by the Moi regime in 1991 and 1992, in stark contrast to its approach in 1989, prior to the suspension of aid, won praise from the donor community, and resulted in the release of urgently-needed assistance to Kenya.⁶¹³

While an arguable lack of alternatives resulted in a generous quantity of asylum, security concerns relating to the influx of Somalis led to the policy of containing the refugees in the NEP. As argued by Pérouse de Montclos, “the North of Kenya is a peripheral region, a space of relegation where, since colonial times, opponents have been sent.”⁶¹⁴ It is an arid and sparse region, where the government has invested little since independence and which, in turn, has contributed little or nothing to the national economy. Finally, it has been “placed on the periphery of a very centralized state” to the extent that “the province lacks autonomous power to allow its local elites to manage local affairs without the supervision of the

⁶¹⁰ See: Binaifer Nowrojee and Bronwen Manby, “Divide and Rule: State-sponsored Ethnic Violence in Kenya”, New York: Human Rights Watch, 1993.

⁶¹¹ See: Government of Kenya, National Assembly, “Report of the Parliamentary Select Committee to investigate Ethnic Clashes in Western and Other Parts of Kenya, 1992”, Nairobi: Government of Kenya, September 1992.

⁶¹² Interview with Musau, 2004.

⁶¹³ Hyndman and Nylund, 1998, 24.

⁶¹⁴ Marc-Antoine Pérouse de Montclos, “Le poids de l’histoire et le choc des cultures: les réfugiés somaliens du Kenya confrontés à la raison d’État” in Véronique Lassailly-Jacob (ed.), *Communautés déracinées dans les pays du Sud*, autrepart / Les Cahiers des sciences humaines, Paris: Orstom, 1998, 168, author’s translation.

government in Nairobi.”⁶¹⁵ It is, in fact, geographically, economically and politically far from the core of power in Nairobi, and therefore a suitable place to contain a perceived threat.

More recently, the process of democratization since 1992 has witnessed the entrenchment of anti-refugee sentiments and stigmatization of the Somali community within Kenyan politics. As argued by the Refugee Consortium of Kenya:

Experience has shown that in the run-up to elections many politicians will not hesitate to manipulate the refugee situation as an electioneering gimmick. Members of Parliament have been known to distort facts and stereotypes and vilify refugees as the sole source of increased crime and insecurity, proliferation of illegal arms and scarcity of resources. They have even been known to point to humanitarian assistance to refugees in the camps as evidence that refugees allegedly enjoy a better lifestyle than the locals. Blaming refugees detracts attention from their own responsibilities towards their constituents.⁶¹⁶

In a similar way, Juma argues that refugees have become “caught in the cross-fire” in the context of “increased domestic fragility and instability” as ruling parties find themselves under increasing pressure from opposition groups and as “competition for political space increases.”⁶¹⁷ These dynamics have been displayed with particular force since the first change of government in Kenya’s post-colonial history in December 2002. These pressures have combined with other international factors to place increased restrictions on the political space within which refugee policy may be formulated.

International factors

As a victim of two significant terrorist attacks in recent years, and neighbour to a ‘failed state’ seen as a possible base for international terrorist networks,⁶¹⁸ Kenya has become a key partner in the US-led ‘war on terror’. As argued by Juma, the willingness of East African states generally to jump on the anti-terror bandwagon is partially motivated by their very real concerns about terrorism, but also by their desire to negotiate benefits from abroad

⁶¹⁵ Pérous de Montclos, 2001, 297.

⁶¹⁶ Refugee Consortium of Kenya, January 2003, 17 – 18.

⁶¹⁷ Juma, 2002, 7.

⁶¹⁸ See: Ken Menkhaus, *Somalia: State Collapse and the Threat of Terrorism*, Adelphi Paper 364, Oxford: Oxford University Press for The International Institute for Strategic Studies, 2004

to help them cope with challenges at home. Juma argues that “undergoing political transitions to democracy and faced with poverty and fiscal difficulties, East African governments have readily embraced the global coalition against terrorism in the hope that Western countries will support incumbent regimes and intervene favourably with the international financial institutions.”⁶¹⁹ In the case of Kenya, it has been argued that Moi’s eagerness to support the war on terror after 11 September 2001 was partly an attempt to gain support from the US for the KANU regime ahead of the December 2002 elections, in exchange for access rights to Kenyan territory for US anti-terror activities in the region.⁶²⁰

An important aspect of the rise of terrorism on the Kenyan agenda has been a further retrenchment of anti-Somali sentiments, especially in Nairobi, and increased justifications for restrictions on Somali refugees. It has been reported that the Kenyan police used the November 2002 terror attacks in Mombasa to justify a crackdown on refugees in Nairobi.⁶²¹ This link has been reinforced by concerns regarding the role of Islam in recent politics in Kenya, the radicalization of the Kenyan coast, the alleged links between al-Qaeda and the Dadaab camps, and the rise in xenophobic sentiments. While the perceived link between al-Qaeda and the Dadaab camps is questionable, as outlined above, the link has been made in the minds of many Kenyan officials and re-enforced by the media.⁶²² Compounded by “suspicion and resistance to radical Islamic ideology among sections of refugees”, states like Kenya approach the question of Somali refugees motivated by a desire to “stave off militant nationalism and irredentism, which are inspired and often supported by global pan-Islamic

⁶¹⁹ Juma, 2002, 6.

⁶²⁰ See: Joel Barkan and Jennifer Cooke, “US Policy Toward Kenya in the Wake of September 11: Can New Antiterrorist Imperatives Be Reconciled with Enduring US Foreign Policy Goals?”, *Africa Notes*, Number 4, Centre for Strategic and International Studies, Washington, December 2001.

⁶²¹ See: Human Rights Watch, “Kenya: Crackdown on Nairobi’s Refugees After Mombasa Attacks”, New York, 6 December 2002.

⁶²² Interview with Pagliuchi-Lor, 2004.

groups.”⁶²³ As a result, refugee advocates in Kenya see the ‘war on terror’ as a convenient cover for a long awaited ‘war on refugees’.⁶²⁴

It is, however, important to emphasise that while international engagement has allowed Kenya to justify restrictions on refugees in the name of the ‘war on terror’, continued international engagement continues to limit the extent to which Kenya can act with a free hand on refugee issues. According to Peter ole Nkuraiya, Permanent Secretary in the Ministry of Foreign Affairs, it is not possible to approach the question of refugees without considering the foreign policy implications. Specifically, “if we [the Government of Kenya] mishandle the question of refugees, it will have a negative impact on relations not only with neighbours, but also with donor countries.”⁶²⁵ The result is a frustration that “the donors put pressure on Kenya to favour the rights of refugees over our own security, but the donors at the same time do not give the support Kenya requires” to address these concerns within the bounds of international refugee law.⁶²⁶ At the same time, however, the government believes that it cannot take the unilateral steps that it may want to take for fear of generating an international outcry, and jeopardising relations with the donor community, upon whom it is dependent.

Conclusion

This chapter has examined Kenya’s response to the mass arrival and prolonged presence of Somali refugees. It has argued that Kenya’s decision to adopt a dual policy of ‘abdication and containment’ was due initially to the scale of the influx and its desire to seek concessions from an otherwise restrictive donor community. Over time, however, Kenya has justified the continuation of this policy by pointing to the scale of the refugee population, its

⁶²³ Juma, 2002, 10.

⁶²⁴ See: Refugee Consortium of Kenya, “Refugee Rights in the Context of the War Against Terrorism”, *Refugee Insights*, April 2003.

⁶²⁵ Interview with ole Nkuraiya, 2004.

⁶²⁶ *Ibid.*

impact on refugee-populated areas, declining donor engagement to share Kenya's refugee burden, and a range of direct and indirect security concerns. While findings from Dadaab highlight the significance of a number of these concerns, this chapter has argued that a number of other historical, domestic and international factors have contributed to Kenya's asylum policies. In particular, the history of the *shifita* wars and the vulnerability of the Moi regime, compounded by the suspension of international aid to Kenya in November 1991, led Kenya to grant asylum to the Somali refugees on the condition that they be contained on the periphery of the state. While the presence of refugees has resulted in a number of benefits for the local population, the perceived vulnerability of the regime in Nairobi, notwithstanding the election of the NARC government, has led to a continuation of the policy of 'abdication and containment'.

Chapter 5

Refugees in Tanzania: Sea change or status quo?

Introduction

Soon after achieving independence in 1962, Tanzania established a reputation as one of the most hospitable countries of asylum in Africa. Through the 1960s and 1970s, it hosted tens of thousands of refugees fleeing both wars of national liberation in Southern Africa and post-colonial conflict and repression in neighbouring states. Tanzania provided refugees with land, and refugees were encouraged to achieve self-sufficiency, with many entering the country's workforce. The government's 1980 decision to naturalize some 36,000 Rwandan refugees is frequently highlighted as just one example of the quality of Tanzania's hospitality.

This reputation changed dramatically in the context of renewed conflict and genocide in the Great Lakes region of Central Africa. Tanzania received hundreds of thousands of refugees from Burundi and Rwanda in 1993 and 1994. This influx resulted in a number of pressures on refugee-populated areas in Western Tanzania, including increased crime and insecurity, environmental degradation, and shocks to the local economy. In response, and in advance of the country's first multi-party Presidential elections, Tanzania ended its long-standing 'open-door' asylum policy, and closed its border with Burundi on 31 March 1995 to prevent the arrival of additional refugees. Then, in December 1996, Tanzania forcibly returned the overwhelming majority of the Rwandan refugee population back to Rwanda.

The expulsion of Rwandan refugees did not, however, lead to a return to Tanzania's previously open asylum traditions. Instead, the period 1997 to 2004 witnessed the formulation and implementation of a series of increasingly restrictive asylum policies by the government. The combined effect of these policies are seen to have made conditions in the camps hosting Burundian refugees so unbearable that many refugees felt compelled to repatriate to Burundi, notwithstanding the prevailing insecurity there. More generally, these

restrictions prevented refugees from engaging in economic activity, leading some to turn to illegal coping mechanisms in response to declining donor assistance to UNHCR's Tanzania programme. Such activities further reinforce Tanzania's sense of vulnerability, leading to a greater application of restrictive measures.

This chapter examines Tanzania's response to the arrival and continued presence of refugees in light of the country's tradition of asylum in the 1960s and 1970s, and in the aftermath of the Great Lakes crisis of the mid-1990s. The particular focus is the treatment of Burundian refugees in Kibondo District, which many identify as the refugee population of greatest concern to the government.⁶²⁷ The chapter argues that the treatment of refugees in Tanzania, from independence to 2004, has been determined by a range of political and economic considerations, and that the recent policy restrictions are not the result of a new logic, but the result of changes largely unrelated to the presence of refugees. Indeed, the logic behind Tanzania's refugee policy has, since independence, remained rooted in economic, political, strategic and ideological considerations. By tracing the history of refugees in Tanzania in light of the country's political and economic challenges, this chapter will argue that, in addition to the changing scale and nature of refugee movements in the last forty-five years, the changes in Tanzania's approach to refugees are best understood as a result of the pressures of economic collapse in the 1980s and democratization in the 1990s, the changing 'idea' of the Tanzanian state since Nyerere, and the changing relationship between Tanzania and donor countries.

This chapter has five sections. Section one critically examines Tanzania's asylum policies under the leadership of Nyerere, from 1962 to 1985. Section two argues that these policies became unsustainable in light of the economic crisis which gripped Tanzania in the mid-1980s. Section three examines the impact of conflict in the Great Lakes in the mid-1990s,

⁶²⁷ Interviews with: Oscar Mundia, Desk Officer, Tanzania, Africa Bureau, UNHCR, Geneva, 14 August 2003; Caroline van Buren, Senior Protection Officer, UNHCR Branch Office for Tanzania, Dar es Salaam, 30 March 2004; Duane Poppe, Country Director, Tanganyika Christian Refugee Service (TCRS), Dar es Salaam, 30 March 2004; H. Mseke, Assistant Director (Operations), Refugee Services Department, Ministry of Home Affairs, Government of Tanzania, Dar es Salaam, 31 March 2004.

as outlined in Chapter 1, and the factors which prompted the forced return of Rwandan refugees in 1996. Section four reviews the increasingly restrictive policies adopted by the Tanzanian government between 1997 and 2004, before outlining its justifications for these restrictions. Section five then critically examines these justifications by employing the understandings of burden sharing and security presented in Chapters 2 and 3, while considering the extent to which broader factors, unrelated to the presence of refugees, have also contributed to the increasingly restrictive asylum policies adopted by Tanzania.

Asylum policies under Nyerere: 1962 – 1985

Tanzania had been hosting forced migrants long before obtaining independence.⁶²⁸ In particular, thousands of Africans fled coerced colonial labour in Portuguese Mozambique as early as 1899 and high population density in Ruanda-Urundi from the 1920s. Tanzania's experience with refugees, however, became more complex in the early days of independence. By the end of 1966, Tanzania was hosting thousands of Tutsi refugees from Rwanda and a similar number of refugees fleeing the war of national liberation in Portuguese Mozambique.⁶²⁹ Thus began Tanzania's hosting of two separate types of refugees: those fleeing conflict in neighbouring independent African states and those fleeing wars of national liberation. It is generally agreed that the reception and settlement of these various groups of refugees was motivated substantially by the ideologies and policies of the Tanzanian President, Julius Nyerere.⁶³⁰ It is therefore necessary to outline these principles before turning to Tanzania's response to the arrival of these diverse groups of refugees.

⁶²⁸ See: Sreeram Sundar Chaulia, "The Politics of Refugee Hosting in Tanzania: From Open Door to Unsustainability, Insecurity and Receding Receptivity", *Journal of Refugee Studies*, Vol. 16, no. 2, 2003, 148 – 154.

⁶²⁹ See: Zolberg *et al*, 1989, 45 – 49 and 81; and Holborn, 1975.

⁶³⁰ According to Chaulia, "the imprint of Julius Nyerere's personality and ideals on the postcolonial state's refugee policy is overwhelming." Chaulia, 2003, 154. According to Holborn, "Tanzanian policy has been dominated by the spirit and philosophy of one man: Julius K. Nyerere." Holborn, 1975, 1148.

According to Zarjevski, “from the start, the settlement of refugees in Tanzania was guided by the concepts of permanence and productivity, stemming, no doubt, from the principles on which the President, Julius Nyerere, hoped to develop his country.”⁶³¹ These principles, collectively known as *ujamaa na kujitegemea* (socialism and self-reliance)⁶³² were adopted as Tanzania’s national policy on 5 February 1967 through the Arusha Declaration.⁶³³ Among other provisions, the Declaration called for the establishment of ‘*ujamaa*’ farming collectives to encourage self-reliance and the re-organization of the education system “in order to serve the mass of the population rather than to train a privileged elite.”⁶³⁴ It also placed particular emphasis on the free provision of social services – health care, clean water, and especially standardised and nationalist education – throughout the country.⁶³⁵

To put *ujamaa* into practice, Nyerere issued an agricultural policy on 13 September 1967 calling for a ‘nation of *ujamaa* villages’,⁶³⁶ to be designed around the principle of mutually-dependent blocks of ten huts, cooperatively farming both subsistence food crops and cash crops. Voluntary implementation of the policy was slow, until Nyerere announced a ‘villagization’ policy whereby “the whole rural population should live in villages” by the end of 1976.⁶³⁷ This policy was implemented by force, and many cases of Tanzanians being forcibly relocated were reported in the mid-1970s.⁶³⁸ By the end of 1976, 13 million Tanzanians, 75% of the mainland Tanzanian population,⁶³⁹ were living in *ujamaa* villages.⁶⁴⁰

⁶³¹ Zarjevski, 1988, 137.

⁶³² See: Thomas P. Ofcansky and Rodger Yaeger, *Historical Dictionary of Tanzania*, Second Edition, African Historical Dictionaries, No. 72, London: The Scarecrow Press, Inc., 1997.

⁶³³ See: Andrew Coulson, *Tanzania: A Political Economy*, Oxford: Clarendon Press, 1982, chapter 19.

⁶³⁴ Graham Matthews, “Tanzania: Recent History” in *Africa South of the Sahara 2004*, 33rd Edition, London: Europa Publications, Taylor and Francis Group, 2004, 1114.

⁶³⁵ See: Coulson, 1982, chapter 21.

⁶³⁶ See: Coulson, 1982, chapter 22.

⁶³⁷ Coulson, 1982, 249.

⁶³⁸ See: Coulson, 1982, 250 – 262. See also: Hanne Christensen, *Refugees and Pioneers: History and Field Study of a Burundian Settlement in Tanzania*, Geneva: United Nations Research Institute for Social Development, 1985, 77.

⁶³⁹ According to the 1978 Tanzanian Census, the total mainland population was 17,036,499. See: <http://www.tanzania.go.tz/census/census/tables.htm>

Another aspect of *ujamaa* was the establishment of a centralised administration “intended to link the smallest ten-house cell with the central government in Dar es Salaam.”⁶⁴¹ According to Landau, “depending on whom you believe, such measures were either intended to structure democratic participation or to control the population for the ruling party’s benefit.”⁶⁴² It is important to note that this tradition of control, and its mechanisms, still exists in Tanzania, notwithstanding democratization in the 1990s.⁶⁴³

The external dimension of Nyerere’s philosophy was Pan-Africanism, centred on a belief in African solidarity and the objective of ending minority and white-rule throughout Africa. In 1963, Dar es Salaam became home to the OAU’s Liberation Committee. In 1964, Tanzania initiated “a strategy of encouraging and supporting armed struggles by the African populations of these colonized and otherwise oppressed countries.”⁶⁴⁴ By the end of 1966, Tanzania hosted a wide range of liberation movements.⁶⁴⁵

Taken together, these internal and external policy priorities of *ujamaa* and Pan-Africanism came to form the ‘idea’ of the Tanzanian state under Nyerere. They also clearly informed Tanzania’s approach to both refugees from independent states, who were received and settled into settlements adhering to the *ujamaa* model, and to freedom fighters from wars of national liberation, who were “a slightly different and more exalted refugee.”⁶⁴⁶ It is against this background that the arrival and reception of key refugee populations will now be considered.

⁶⁴⁰ Coulson, 1982, 249.

⁶⁴¹ Loren Landau, “The humanitarian hangover: transnationalization of governmental practice in Tanzania’s refugee-populated areas”, *Refugee Survey Quarterly*, Vol. 21, no. 1 and 2, 2002, 267.

⁶⁴² *Ibid.*

⁶⁴³ Interview with Faustine Rwambali, Reporter, *The East African*, Dar es Salaam, 29 March 2004.

⁶⁴⁴ Okwudiba Nnoli, *Self-Reliance and Foreign Policy in Tanzania: The Dynamics of the Diplomacy of a New State*, London: NOK Publishers, 1978, 80.

⁶⁴⁵ These movements included: Front for the National Liberation of Mozambique (FRELIMO), the African National Congress of South Africa (ANC), the South West People’s Organization of Namibia (SWAPO), the Zimbabwean African National Union (ZANU), and the People’s Movement for the Liberation of Angola (MPLA). See: Nnoli, 1978, 81.

⁶⁴⁶ Chaulia, 2003, 156.

Refugees from independent African states

As highlighted by Rutinwa, “Tanzania began grappling with refugee crises almost at the same time that the country gained its independence.”⁶⁴⁷ As a result of pre-independence violence in Rwanda, Tutsi refugees began arriving in Ngara, in Tanzania’s Northwestern Kagera Region, as early as 1959. By 1962, refugees were arriving in Ngara at the rate of 50 to 100 a day as part of a wider exodus of some 130,000 refugees from Rwanda.⁶⁴⁸

The government “initiated a plan to disperse the refugees” into settlements.⁶⁴⁹ Two main settlement sites were identified: Kimuli and Bushubi. The establishment of the Kimuli settlement, in Karagwe, has been described as “a complete success”⁶⁵⁰ as refugees were assigned 10-acre plots and participated in the planning and construction of their settlement. In stark contrast, the establishment of Bushubi was problematic. According to Rutinwa, “the choice of the Bushubi area was dictated by a government desire to clear the bushes that harboured tsetse flies, lions, wild pigs and antelopes, and which had led to serious depopulation and consequent absence of economic activity in the area.”⁶⁵¹ When the refugees resisted relocating to the new site, food rations were withdrawn from refugees who refused to relocate and refugee leaders who opposed the relocation were arrested and deported.⁶⁵² Such coercion, while not as openly practiced in other refugee settlements, was not dissimilar to the forced used by Tanzanian officials to relocate nationals during the viligization programmes of the 1970s.⁶⁵³

⁶⁴⁷ Bonaventure Rutinwa, “The Marginalization of Local Relief Capacity in Tanzania”, in Juma and Suhrke (eds.), 2002, 74.

⁶⁴⁸ Zolberg *et al*, 1989, 46. Mendal explains that “precise figures are difficult to obtain, in part because many of the migrants were absorbed by ethnically similar communities in the rural areas, but tens of thousands of refugees entered Tanzania between 1959 and 1964.” Toby Mendal, “Refugee Law and Practice in Tanzania”, *International Journal of Refugee Law*, Vol. 9, no. 1, 1997, 38.

⁶⁴⁹ Rutinwa, 2002, 75.

⁶⁵⁰ Rutinwa, 2002, 74.

⁶⁵¹ Rutinwa, 2002, 77.

⁶⁵² Charles Gasarasi, “The Mass Naturalization and Further Integration of Rwandese Refugees in Tanzania: Process, Problems and Prospects”, *Journal of Refugee Studies*, Vol. 3, no. 2, 1990, 91.

⁶⁵³ Saskia van Hoyweghen, “Mobility, territoriality and sovereignty in post-colonial Tanzania”, *Refugee Survey Quarterly*, Vol. 21, no. 1 and 2, 2002, 317.

A number of authors have linked Tanzania's willingness to host refugees from Rwanda during this period to its view that refugees were "a human resource whose settlement in sparsely populated regions could be instrumental in sparking future economic development."⁶⁵⁴ This view, coupled with a desire to buttress regional security, was largely responsible for Tanzania's agreement in 1964 to resettle 10,000 Rwandan refugees from the Congo, and settle them in Mwesi, "an area ... already earmarked for development."⁶⁵⁵ To realise the development benefits of hosting refugees, however, mechanisms were required to keep refugees in designated settlements and secure external support for the settlements until they achieved self-sufficiency. These requirements were met through the Refugees (Control) Act of 1965 and the Tripartite Partnership Model of refugee settlements.

Rutinwa notes that the Refugees (Control) Act of 1965 is "one of the most oppressive laws on the Tanzanian status book."⁶⁵⁶ Passed four months after Nyerere was re-elected as President,⁶⁵⁷ Rutinwa argues that the Act was "introduced not to provide refugee with rights, but to control them..."⁶⁵⁸ A central feature of the Act was "the facility for a general classification of whole populations as refugees by the Minister of Home Affairs."⁶⁵⁹ The Act also granted the government wide powers to deport refugees, and provided for the detention of refugees who are believed to have "prejudiced peace, order or foreign relations, or who are believed to have committed offences outside Tanzania."⁶⁶⁰ Crucially, the Act also required all refugees to reside in either a designated reception area or in a refugee settlement, and

⁶⁵⁴ Holborn, 1975, 1145. See also: N. R. T. Tunga, "Ujamaa Socialism and Rwandese Refugees' Settlement in Mwesi, Tanzania", paper prepared for the Conference on the Management of Planned and Spontaneous Refugee Settlements in Africa, Dar es Salaam, April 1987, on file with author; and van Hoyweghen, 2002, 313.

⁶⁵⁵ Jacques Cuénod, "Refugees: Relief or Development?" in Loescher and Monahan (eds.), 1990, 223. For details of the resettlement operation, see: UNHCR, *State of the World's Refugees*, 2000, 49 – 51.

⁶⁵⁶ Bonaventure Rutinwa, "The Tanzanian Government's Response to the Rwandan Emergency", *Journal of Refugee Studies*, Special Issue, Vol. 9, no. 3, 1996, 292.

⁶⁵⁷ The general election was held on 3 September 1965. The Bill was passed by the National Assembly on 23 December 1965. See: Government of the United Republic of Tanzania, "Refugees (Control) Act, 1965", Dar es Salaam, 1966.

⁶⁵⁸ Rutinwa, 1996, 292.

⁶⁵⁹ Patricia Daley, "Refugees and Underdevelopment in Africa: The case of Barundi refugees in Tanzania", DPhil Thesis, Faculty of Anthropology and Geography, University of Oxford, 1989, 111 – 112.

⁶⁶⁰ Tanzania, Refugee (Control) Act, 1965, Article 10.

provided sweeping powers to the “competent authority”⁶⁶¹ to control and manage refugee settlements.⁶⁶² As a result of these provisions, the government was able to retain a high degree of control over the refugee population, leading Holborn to note in the early 1970s that “there are fewer ‘free livers’ outside refugee settlements [in Tanzania] than in any other host country [in Africa].”⁶⁶³

While the Refugee (Control) Act, 1965, provided the mechanism to ensure that refugees remained in settlements, the Tripartite Partnership Model ensured that the costs associated with the settlements were not borne exclusively by Tanzania.⁶⁶⁴ In 1964, Tanzania entered into a tripartite agreement with UNHCR and the Tanganyika Christian Refugee Service (TCRS) for the management of the Mwesi settlement, established to accommodate the Rwandan refugees resettled from the Congo. Under this agreement, Tanzania provided the land for the settlement, staff support, basic tools, access to community services and a waiver on import duty for goods related to the settlement. In turn, TCRS assumed responsibility for managing the settlement, while UNHCR provided the necessary funding and technical advice.⁶⁶⁵ In the following years, similar tripartite agreements were concluded for settlements to accommodate refugees from Rwanda, Burundi, Mozambique, and elsewhere. Between 1963 and 1979, 13 settlements were managed through such tripartite agreements, hosting an estimated 182,000 refugees.⁶⁶⁶

As a financial burden sharing mechanism, the tripartite approach appeared to have been successful. Gasarasi estimates that UNHCR contributed over US\$11 million to the 13

⁶⁶¹ Tanzania, Refugee (Control) Act, 1965, Article 2, defines the ‘competent authority’ as the Regional Commissioner, or, in some cases, the Area Commissioner, both appointed by the Office of the President.

⁶⁶² Tanzania, Refugee (Control) Act, 1965, Article 13.

⁶⁶³ Holborn, 1975, 1150.

⁶⁶⁴ For a detailed overview of the Tripartite Partnership Model, see: Charles Gasarasi, *The Tripartite Approach to the Resettlement and Integration of Rural Refugees in Tanzania*, Research report no. 71, Uppsala: The Scandinavian Institute of African Studies, 1984; and Charles Gasarasi, “The Tripartite Approach to the Resettlement and Integration of Refugees in Tanzania”, in Rogge (ed.), 1987.

⁶⁶⁵ See: Rutinwa, 2002, 79.

⁶⁶⁶ See: Gasarasi, 1987, 103.

settlements between 1963 and 1979.⁶⁶⁷ In contrast, Tanzania was responsible for a much smaller share of the financial costs. In speech to the National Assembly during the 1972/73 budget session, the Minister for Home Affairs acknowledged that “Tanzania incurs expenses for refugee assistance” but emphasised that “the larger part of these expenses” was incurred by UNHCR, TCRS and WFP.⁶⁶⁸ The Minister reported that the combined value of commitments from UNHCR, TCRS and WFP for the period 1972/73 was TSh. 5,532,140. For its part, the Minister asked the National Assembly for TSh. 821,000, meaning that the government was expecting to contribute some 14% of the total cost of the settlements in 1972.⁶⁶⁹

The link between the tripartite model and Tanzania’s *ujamaa* policies were strengthened in 1973 with the announcement of Nyerere’s villagization policy, coupled with the arrival of thousands of refugees fleeing the ‘selective geonocide’ in Burundi.⁶⁷⁰ For some authors, the government’s response to the arrival of these refugees indicates that the settlement of refugees in remote areas was “a strategy of the Tanzanian government to develop and exploit these new areas.”⁶⁷¹ Daley argues that the creation of these settlements served two functions. First, they contributed to regional security by containing the refugee population. Second, they were designed to “utilize the labour resource of a ‘captive’ peasantry to increase the exploitation of peripheral areas of the country.”⁶⁷² She subsequently argues that:

⁶⁶⁷ Gasarasi, 1987, 103.

⁶⁶⁸ Government of the United Republic of Tanzania, Ministry of Home Affairs, “Speech by the Minister for Home Affairs during 1972/73 Budget Session”, Dar es Salaam, undated (likely 1972), on file with author.

⁶⁶⁹ Tanzania, Ministry of Home Affairs, 1972, 2.

⁶⁷⁰ See: René Lemarchand and David Martin, “Selective Genocide in Burundi”, Report No. 20, London: The Minority Rights Group, 1974; and Zolberg *et al.*, 1989, 47.

⁶⁷¹ Van Hoyweghen, 2002, 317.

⁶⁷² Daley, 1989, 200.

The sudden influx of huge numbers of landless peasants in the form of refugees could be seen as a blessing by the state as it has sought to intensify the productivity of peripheral areas. Not only could peasant commodity production be under state control, but the capital for land settlement could be acquired via the less competitive and more accessible route of humanitarian aid... The presence of refugees also offers the opportunity to attract long-term development aid to remote areas and to fill rural casual labor demands.⁶⁷³

In fact, Daley describes how refugee settlement were organized not only to produce subsistence crops but also export-earning crops, such as coffee and tobacco, which were sold through parastals, gaining valuable foreign currency for Tanzania.⁶⁷⁴

Refugees from wars of national liberation

While this approach to refugees from Burundi and Rwanda illustrates Nyerere's willingness to use refugees as a tool of domestic policy, his approach to refugees fleeing wars of national liberation illustrates his willingness to also use them as a tool of foreign policy. As outlined above, support for liberation movements in Southern Africa was a central element of Tanzania's foreign policy under Nyerere. Not only was the OAU Liberation Committee headquartered in Dar es Salaam, but Tanzania also hosted many refugees fleeing wars of national liberation. For example, Tanzania received approximately 6,000 South Africans affiliated with either the ANC or the PAC. While recognized as a country that had been "most hospitable to South African refugees", it was added that Tanzania was "primarily interested in South African refugees who [fell] into the category of 'freedom fighters'".⁶⁷⁵ Matthews emphasises that only refugees who were members of one of the South African movements based in Tanzania were granted asylum by the government.⁶⁷⁶ In fact, "if a

⁶⁷³ Patricia Daley, "The Politics of the Refugee Crisis in Tanzania" in Horace Campbell and Howard Stein (eds.), *Tanzania and the IMF: The Dynamics of Liberalization*, Boulder, CO: Westview Press, 1992, 138 – 139.

⁶⁷⁴ Daley, 1992, 140 – 142. According to the figures reported by Daley, tobacco production in the Katumba Settlement increased from 24,714 kg in 1975/76 to 351,000 kg in 1986/87, indicating that refugees settlements were increasingly geared towards cash crops.

⁶⁷⁵ Z. K. Matthews, "Refugees from Southern Africa", in Brooks and El-Ayouty (eds.), 1970, 165.

⁶⁷⁶ See: Matthews, 1970, 168.

refugee [was] not a ‘freedom fighter’, or [ceased] to be one ... he [was] liable to be declared a prohibited immigrant and deported from the country or repatriated to his country of origin.”⁶⁷⁷

Similar restrictions were placed on Mozambican refugees who fled to Tanzania to escape the war of national liberation waged by FRELIMO against the Portuguese from 1964 to 1974. As the war progressed, the number of Mozambican refugees in Tanzania steadily climbed from 10,000 in 1966, to 29,400 in 1969, and peaked at 50,000 in 1972.⁶⁷⁸ These refugees were also settled through tripartite arrangements, but unlike the Rwandan and Burundian settlements, internal administrative control of the settlements was retained by the liberation movements. In turn, FRELIMO was based out of these settlements and, with the support of Tanzania, waged a guerrilla war in northern Mozambique for over a decade.⁶⁷⁹

The fact that the refugee settlements in southern Tanzania became bases for liberation movements had implications for Tanzanian security. Camps for South African refugees in Tanzania were “regularly attacked by South African armed forces”,⁶⁸⁰ while “Portugal made punitive incursions against Tanzania and heavily mined the Mozambique-Tanzania border” in retaliation for Tanzania’s support to FRELIMO.⁶⁸¹ It is important to emphasise that Nyerere was willing to endure the costs associated with these security implications because he viewed supporting the liberation movements to be central to his ‘idea’ of the Tanzanian state, as noted in the Introduction. For Nyerere, “Tanzania was not free until all of Africa was free”, and he consequently believed that “no price was too high to pay in the fight against colonialism in Africa.”⁶⁸²

This review of Tanzania’s refugee policy in the 1960s and 1970s is not intended to detract from the fact that Tanzania hosted tens of thousands of refugees during this period

⁶⁷⁷ Matthews, 1970, 165.

⁶⁷⁸ Zolberg *et al.*, 1989, 81.

⁶⁷⁹ *Ibid.*

⁶⁸⁰ Loescher, 2001, 161 – 162.

⁶⁸¹ Loescher, 2001, 116.

⁶⁸² Interview with Joseph Butiku, Executive Director, Mwalimu Nyerere Foundation, Dar es Salaam, 3 April 2004. Note: Butiku was Nyerere’s Private Secretary between 1972 and 1984.

while simultaneously developing strategies to meet the significant needs of its own population. While refugees were primarily received and settled in a manner guided by Nyerere's domestic and international priorities, these refugees lived, for the most part, without fear of *refoulement* from Tanzania for two decades. In fact, the mass naturalization of 36,000 Rwandan refugees in December 1980 is an important reminder of the extent to which Tanzania practiced an open asylum policy during this period. Significantly, "Tanzania and Botswana remain the only sub-Saharan African countries ... which have granted permanent residency and citizenship to some of their refugees..."⁶⁸³ As expressed by the government representative to the refugees participating in the naturalization ceremony at the Mwesi settlement:

We are 120 tribes in Tanzania and you are constituting the 121st. We welcome you whole-heartedly to participate in our political life... to be together with us to build the nation to defend our country.⁶⁸⁴

As outlined in the next section, however, this hospitality proved difficult to sustain as the economic underpinnings of *ujamaa* began to erode.

Economic decline and changes in Tanzania's asylum policy in the 1980s

Rutinwa notes that, "by Tanzanian standards, the 1980s were relatively uneventful years in relation to the refugee problem."⁶⁸⁵ In stark contrast, however, the 1980s was a turbulent decade for Tanzania's economic and political landscape. As with many other African states during this period, Tanzania's balance of payments began to suffer in the early 1980s as the global price of important cash crops – including coffee, sisal and tobacco – began to fall relative to the cost of imports. The resulting diminishment of Tanzania's terms of trade made basic consumer goods more expensive and per capita income decline. As outlined by Campbell and Stein, "the drop in living standards was seen in the negative growth of the

⁶⁸³ John Rogge, "Repatriation of Refugees", in Tim Allen and Hubert Morsink (eds.), *When Refugees Go Home*, London: James Currey, 1994, 20.

⁶⁸⁴ Cited in Tunga, 1987, 1.

⁶⁸⁵ Rutinwa, 2002, 84.

economy from 1981 to 1985.”⁶⁸⁶ Tanzania’s economic performance in 1985 was its worst since independence.

In the early 1980s, Nyerere tried to sustain *ujamaa* while addressing the economic crisis. The National Economic Survival Programme (NESP) was launched in 1981 with the objective of boosting exports, but “the evidence demonstrates that the plan was not based on a realistic view of the economic capacity of society.”⁶⁸⁷ The NESP was abandoned in 1982 in favour of a Structural Adjustment Programme. Publicly, Nyerere opposed the involvement of the IMF, knowing that its involvement would bring an end to *ujamaa*, but the government “quietly attempted to meet the conditionalities” as a means of stimulating economic recovery.⁶⁸⁸ This constituted, however, a near impossible balancing act:

Essentially, the Structural Adjustment Programme embraced the contradiction of trying to meet the requirements of the Fund and the World Bank while holding defensively to the official ideology of socialism and self-reliance. This balancing act was taking place in a situation of deteriorating social services in education and sanitation and decreased delivery of healthcare and those material goods on which the hegemony of *ujamaa* was predicated.⁶⁸⁹

In the end, the balancing act could not be sustained, and Nyerere stepped down as President. Ali Hassan Mwinyi was elected President on 1 November 1985, leading to Nyerere’s resignation four days later. Six months later, Mwinyi launched the Economic Recovery Programme (ERP), leading to further currency devaluations, removal of import restrictions, increases in producer prices for food and export crops and an intensive campaign against corruption and inefficiency.⁶⁹⁰ In response, the IMF announced US\$800 million in stand-by credits in July 1986, followed by additional loans in 1987. Increased IMF involvement in the Tanzanian economy through the late 1980s was associated with a range of austerity measures aimed at reducing public spending. The result was an erosion of the

⁶⁸⁶ Horace Campbell and Howard Stein, “Introduction: The Dynamics of Liberalization”, in Horace Campbell and Howard Stein (eds.), *Tanzania and the IMF: The Dynamics of Liberalization*, Boulder, CO: Westview Press, 1992, 6.

⁶⁸⁷ Campbell and Stein, 1992, 7.

⁶⁸⁸ Campbell and Stein, 1992, 8.

⁶⁸⁹ Campbell and Stein, 1992, 9.

⁶⁹⁰ See: Ofcansky and Yeager, 1997, 72 – 73.

“material underpinnings” of *ujamaa*, especially in the areas of education, healthcare and the provision of clean water.⁶⁹¹

These changes also affected the provision of services in the refugee settlements. The ultimate objective of the tripartite model was to make refugees living in settlements self-sufficient, at which point the international agencies would withdraw and return control of the settlements to the Tanzanian government. The government would then be required to provide public services to the settlement in exchange for taxes paid by the inhabitants, as with any other Tanzanian village. By the time of Tanzania’s economic crisis, all 13 of the refugee settlements had been handed over to the government.⁶⁹² If the Tanzanian government was unable to provide basic services to its own nationals, concern was raised as to its ability to fulfil its obligations to the refugees. To investigate this concern, UNHCR deployed a team of consultants to the settlements to assess the impact of the economic crisis on the refugee population. The consultants concluded that “the severity and duration of the economic crisis [raised] a number of specific issues on the economic viability of the refugee communities.”⁶⁹³

At the same time, the government’s public position on the hosting of refugees began to change. In a range of speeches, Ministers ceased to refer to refugees as Tanzania’s ‘121st tribe’, and began to draw attention to “the refugee problem as it may necessarily affect, in a multiple of ways, the socio-economic, political and cultural aspects” the host country.⁶⁹⁴ Similarly, Ministers began to call for greater burden sharing with Tanzania, emphasising that

⁶⁹¹ Mahmood Messkoub, “The Social Impact of Adjustment in Tanzania in the 1980s: Economic Crisis and Household Survival Strategies”, *Internet Journal of African Studies*, No. 1, April 1996, <http://www.bradford.ac.uk/research/ijas>

⁶⁹² Gasarasi, 1987, 103.

⁶⁹³ Jim Antoniou, Brian Shorter and Trevor Sweetman, *Tanzania: Burundi Refugee Settlements: A planning mission report*, Basingstoke: Scott Wilson Kirkpatrick and Partners, July 1987, 23 – 24.

⁶⁹⁴ “Opening Speech by the Hon Deputy Minister for Home Affairs, Honourable Hamad Rashid Mohammed” in Antony Ayok Chol and Shayo Conrad (eds.), “Final Report on the International Conference on the Management of Planned and Spontaneous Refugee Settlements in Africa”, Dar es Salaam: Faculty of Commerce and Management, University of Dar es Salaam, 1987, 8, on file with author.

“given the current economic decline facing many developing countries, Tanzania being no exception, assistance from the donor communities becomes more important.”⁶⁹⁵

In the midst of these concerns, but not necessarily as a result, Tanzania undertook a number of operations involving the detention or expulsion of refugees, clearly indicating a shift in asylum policy. In early April 1987, Tanzania began to round-up Burundian “irregulars” from the Kigoma Region under the provisions of the 1965 Refugee (Control) Act. Those detained were either sent to refugee settlements or forcibly repatriated.⁶⁹⁶ According to Malkki, some 5,000 Burundian refugees were expelled during this operation.⁶⁹⁷ The operation was suspended on 7 April 1987 “under pressure from the Government of Burundi, the UNHCR in Kigoma and Tanzania, and ‘several embassies’.”⁶⁹⁸ By 1990, Amnesty International reported a “hardening of attitudes towards refugees from Burundi” by the Tanzanian authorities.⁶⁹⁹ This change in attitude was most clearly articulated in February 1990 when President Mwinyi, in his bid for re-election, “called for the immediate deportation of immigrants from Burundi and Rwanda who had entered the country without official permission since 1986”⁷⁰⁰ notwithstanding their *prima facie* recognition as refugees by the Minister of Home Affairs.

This brief overview illustrates the scale of the economic crisis facing Tanzania in the 1980s, and the resulting structural changes in the national economy. There were also a number of domestic political changes, most notably the resignation of Nyerere and the erosion of services central to the maintenance of *ujamaa*. The government’s position towards

⁶⁹⁵ Government of the United Republic of Tanzania, Ministry of Home Affairs, “Opening speech by the Minister for Home Affairs, Hon. Nalatla L. Kiola, MP, to a Symposium Organized by Africa Refugee Study Centre in Arusha”, 30 July 1990, para. 4.

⁶⁹⁶ See: Daley, 1989, 118 – 119.

⁶⁹⁷ Liisa H. Malkki, *Purity and Exile: Violence, Memory and National Cosmology among Hutu Refugees in Tanzania*, Chicago: Chicago University Press, 1995, 220.

⁶⁹⁸ *Ibid.*

⁶⁹⁹ Amnesty International (AI), “Tanzania: Burundi Nationals Detained in Tanzania”, AI Index: AFR 56/07/90, September 1990, 1.

⁷⁰⁰ AI, 1990, 1.

refugees also began to change during this period, as illustrated not only in government speeches but also in increasingly restrictive policies aimed at rounding-up and sometimes expelling refugees. It was against this backdrop that Tanzania received hundreds of thousands of refugees from Burundi and Rwanda in the 1990s.

The Great Lakes crisis and further changes in the 1990s

As a result of the maelstrom of violence that gripped Rwanda, Burundi and Zaire, the mass arrival of refugees into Tanzania “reared its ugly head again in the 1990s.”⁷⁰¹ The first mass arrival was in the last week of October 1993 with the arrival of some 250,000 refugees from Burundi “after the turmoil that followed the assassination of the first elected president in the country.”⁷⁰² These refugees did not all arrive in the same area, but were spread along the 500km shared border between Burundi and Tanzania. According to UNHCR, access to the refugees was a significant challenge, with “virtually insurmountable logistics problems.”⁷⁰³ UNHCR had only a small office in the region, and no international assistance arrived until mid-November. The response was further hampered by the fact that the emergency “received little international publicity and donor attention, and was [consequently] seriously underfunded.”⁷⁰⁴ Reflecting on the effectiveness of the response to the influx, UNHCR later concluded that “goodwill and hard work alone cannot respond effectively to a refugee emergency.”⁷⁰⁵ This lesson would be reinforced by the mass influx to Tanzania as a result of the genocide in Rwanda.

Tanzania received hundreds of thousands of refugees as a result of civil war and genocide in Rwanda. The scale of this movement was staggering: between 28 and 29 April

⁷⁰¹ Rutinwa, 2002, 84.

⁷⁰² *Ibid.*

⁷⁰³ Maureen Connely, “The International Response to the Refugee Emergency in Tanzania: October 1993 – July 1994”, Paper presented to the International Workshop on the Refugee Crisis in the Great Lakes Region, Arusha, 16 – 19 August 1995, paragraph 2.1, on file with author.

⁷⁰⁴ Connely, 1995, paragraph 2.5.

⁷⁰⁵ Connely, 1995, paragraph 2.7.

1994 alone, some 250,000 Rwandan refugees crossed the Rusumo bridge into Ngara, Western Tanzania. It was “the largest and fastest movement of refugees in modern history.”⁷⁰⁶ Eventually, there were approximately 700,000 Rwandan living in camps in the Kigoma and Karagwe regions of Tanzania. According to UNHCR, Tanzania’s refugee population climbed from 292,100 at the end of 1992 to 883,300 at the end of 1994.⁷⁰⁷

As with the situation in Eastern Zaire, outlined in Chapter 1, conditions in both the camps and in the surrounding regions were marked by increasing instability by mid-1994. Within the camps, it was reported that suspected perpetrators of the genocide and members of the FGoR “mingled freely with genuine refugees.”⁷⁰⁸ Tanzania concluded that insecurity in the border regions had reached “unacceptable levels.”⁷⁰⁹ Environmental degradation also reached alarming levels, and the local population watched “with increasing frustration as large tracts of forest and agricultural land were destroyed.”⁷¹⁰ Shortly thereafter, Tanzania’s long-standing ‘open-door’ refugee policy changed dramatically.

Tanzania’s change in policy

Tanzania’s first change in policy came on 31 March 1995 when, almost a year after the initial influx, and in the lead-up to the country’s first multi-party elections, the government closed its border with Burundi to prevent additional Rwandan refugees from fleeing renewed conflict in Burundi. Then, “apparently encouraged by the failure of the international community to criticise the repatriation from Zaire,”⁷¹¹ Tanzania decided to expel the Rwandan

⁷⁰⁶ UNHCR, “Great Lakes Chronology”, in *Refugees*, special issue, “Crisis in the Great Lakes: Anatomy of a tragedy”, No. 110, Winter 1997, 8.

⁷⁰⁷ UNHCR, *State of the World’s Refugees*, 2000, 312. In contrast, the Government of Tanzania cites a much higher figure of 1.5 million for 1994.

⁷⁰⁸ Augustine Mahiga, “A Change of Direction for Tanzania”, *Refugees*, No. 110, Winter 1997, 15.

⁷⁰⁹ Jonathan Lwehabura, “A Short Brief on the Refugee Problem and Security along the Tanzania-Rwanda-Burundi Borders”, Report to the Prime Minister’s Office, United Republic of Tanzania, 31 August 1995, on file with author.

⁷¹⁰ Mahiga, 1997, 15.

⁷¹¹ Amnesty International (AI), “Rwanda: Human rights overlooked in mass repatriation”: AI Index: AFR/47/02/97, January 1997, 1.

refugee population in December 1996. The Tanzanian government and UNHCR issued a joint statement on 6 December, stating that all Rwandan refugees were expected to repatriate by 31 December urging “all refugees make preparations to return before that date.”⁷¹²

Many refugees requested a delay in the deadline to determine for themselves the viability of return to Rwanda, but as it became clear that the deadline would not be reconsidered “Rwandans sought other methods to avoid repatriation.”⁷¹³ During the night of 11 December, an estimated 35,000 refugees left the camps and started moving further into Tanzania. This movement continued the following day. On 13 December, the Tanzanian army intervened “forcing as many as 200,000 fleeing refugees to turn around and retrace their steps.”⁷¹⁴ At the same time, the camps were closed and the Rwandan refugees were “herded down the road toward the border”⁷¹⁵ with the first refugees crossing back into Rwanda on 14 December. This mass exodus in reverse caused “widespread dismay in the humanitarian world”⁷¹⁶ and numerous human rights organisations were quick to criticise the repatriation.⁷¹⁷

Explaining the change in policy: 1995 - 1996

Numerous authors have considered Tanzania’s decision to both close its border with Burundi and expel the Rwandan refugees.⁷¹⁸ Most explanations highlight a range of factors, including multi-partyism and the changes in Tanzanian political culture in the 1990s, consequent changes in foreign policy, the magnitude of the Rwandan and Burundian refugee populations, the nature of the populations, external and internal security, and the lack of international support. This section briefly outlines these arguments.

⁷¹² Cited in: UNHCR, *State of the World’s Refugees*, 2000, 265.

⁷¹³ Beth Elise Whitaker, “Changing priorities in refugee protection: the Rwandan repatriation from Tanzania”, *Refugee Survey Quarterly*, Vol. 21, no. 1 and 2, 2002a, 328.

⁷¹⁴ Whitaker, 2002a, 329.

⁷¹⁵ *Ibid.*

⁷¹⁶ Mahiga, 1997, 16.

⁷¹⁷ AI, January 1997; and HRW “Press Release: Human Rights Watch/Africa Calls on Tanzanian Government and UNHCR to Respect International Law”, New York, 17 December 1996.

⁷¹⁸ See, in particular: Rutinwa, 1996; and Mahiga, 1997.

First, it is important to emphasise that Tanzania's change in policy came in the context of domestic political changes within Tanzania, not only as a result of economic liberalization, as outlined above, but also in the run-up to the country's first multi-party elections. In February 1992, a special congress of Tanzania's ruling party, CCM,⁷¹⁹ endorsed the principle of a multi-party system of government, partially as a result of pressure from donor institutions. The first multi-party elections were scheduled for October 1995. In February 1995, the former Minister of Home Affairs and Deputy Prime Minister under Myinyi, Augustine Mrema, resigned from CCM and joined the opposition National Convention for Construction and Reform (NCCR). Given his strong views on national security, he was a popular candidate for NCCR, and received the party's nomination as Presidential candidate in mid-March 1995, just days before the closure of the border with Burundi.⁷²⁰

In July 1995, the CCM selected Benjamin Mkapa as their presidential candidate. During the ensuing campaign, "the politicians of all parties ... decided to play to popular sentiments by promising to send all the refugees back."⁷²¹ CCM portrayed itself as "the party of nationalism, peace and stability," claimed that a vote for NCCR would lead to ethnic divisions in Tanzania, and "lost no time in ... suggesting that to abandon CCM would be to invite disaster."⁷²² The final results gave CCM 186 of 232 seats in the National Assembly. Mkapa won 62% of the presidential vote, compared to Mrema's 28%, and was sworn-in as Tanzania's third president on 23 November 1996.⁷²³ On 17 December, in one of his first acts as President, Mkapa announced that the Tanzanian-Burundian border would remain closed

⁷¹⁹ *Chama Cha Mapinduzi*, Party of the Revolution, was formed in 1977 as a result of the merger of the ruling party of the mainland, TANU, and the ruling party of Zanzibar, ASP. CCM remained the only legal party in Tanzania until May 1992.

⁷²⁰ See: Ofcansky and Yeager, 1997, 133.

⁷²¹ Rutinwa, 1996, 299.

⁷²² Tim Kelsall, "Continuity and change in the Tanzanian political system: the 1995 election", Paper presented at the Political Studies Association Annual Conference, Glasgow, April 1996, 11 – 12. According to Kelsall and others, CCM campaigners, including Nyerere, "played videos of the Rwandan crisis" to villagers as a way of emphasising their message. Kelsall, 1996, 13. See also: Geir Sundet, "Democracy in Transition: The 1995 Elections in Tanzania", *Human Rights Report*, No. 8, Oslo: Norwegian Institute of Human Rights, June 1996.

⁷²³ Ofcansky and Yeager, 1997, 80.

until peace was established in Burundi.⁷²⁴

With the advent of multi-partyism came changes in Tanzania's foreign policy. As outlined above, Tanzania's foreign policy under Nyerere was guided by Pan-Africanism and support for liberation movements. Consequently, Nyerere was willing to host a number of refugee populations actively opposed to oppressive regimes in their country of origin, often at the expense of friendly regional relations and sometimes at the expense of Tanzanian security. Unlike Nyerere, the new regime in Tanzania "pursued an active policy of maintaining good relations with all neighbours..."⁷²⁵ By the time of the Rwandan emergency, Tanzania had adopted a regional policy of cooperation and conciliation, making regional relations a higher priority. This policy carried through to the Rwandan expulsion, as the government did not want to exacerbate tensions between Kigali and Dar es Salaam.

The relationship between the changing approach to refugees and changes in the 'idea' of the Tanzanian state under Mwinyi and Mkapa may best be understood in this way. For Nyerere, "the policy towards refugees was a manifestation of Tanzania's broader sense of itself and its place in Africa."⁷²⁶ Similarly, it has been argued that "the 'problem' of refugees is still the same, it is just that they are approached ... from a different perspective – not as part of a greater challenge to Africa but as a narrow challenge to Tanzania."⁷²⁷ Simply put, as a result of the changes in the 'idea' of the Tanzanian state in the context of multi-partyism, Tanzania has come to see its relations with neighbouring states as a priority, at the expense of refugees.⁷²⁸

While these political changes in Tanzania were *necessary* for the change in hosting policy, they alone were not, however, *sufficient*. Attention must also be paid to specific features of the Rwandan refugee population. First, the scale of the Rwandan influx must be

⁷²⁴ Ofcansky and Yeager, 1997, xxxi.

⁷²⁵ Rutinwa, 1996, 299.

⁷²⁶ Interview with Butiku, 2004.

⁷²⁷ *Ibid.*

⁷²⁸ Interview with Yves Horent, Programme Officer, ECHO, Dar es Salaam, 3 April 2004.

appreciated, with some 700,000 refugees arriving in Tanzania in less than a year. By 1995, Benaco refugee camp became Tanzania's second largest 'city' after Dar es Salaam with a population of roughly 500,000.⁷²⁹ Second was the perception that, unlike the Mozambican refugees, who mostly repatriated after peace in the country of origin had been concluded, a solution for the Rwandan and Burundian refugees "remained elusive ... [a fact which] began to fuel Tanzanian frustrations."⁷³⁰ A third factor was the widely-held suspicion that the camps were harbouring FGoR elements who were not fleeing persecution, but justice. These elements maintained a strong influence over the population within the camps, as "*bona fide* refugees were held hostage, intimidated and even killed when they expressed the wish to return home."⁷³¹ The activities of these elements also extended beyond the camp boundaries, leading to more general concerns of law and order in the surrounding areas.⁷³²

A number of other concerns also arose as a result of the burdens associated with the influx.⁷³³ Indeed, the physical and environmental damage brought by the influx was "dramatic."⁷³⁴ During the initial influx, crops were destroyed, and doors and window frames from schools and medical centres were used as firewood. Over time, water sources and forests were depleted through overuse and the indiscriminate felling of trees.⁷³⁵ Local markets were also affected as the flood of aid into the region drove down the prices of some locally produced goods, thereby decreasing income, while driving up the cost of staple consumables,⁷³⁶ leading to "increased volatility in the prices of basic commodities."⁷³⁷ While

⁷²⁹ Rutinwa, 1996, 295.

⁷³⁰ Mahiga, 1997, 14.

⁷³¹ Salim Ahmed Salim, "Opening Statement" in OAU and UNHCR, May 1998.

⁷³² Issa Kaboko Musoke, "From Hospitality to Total Hostility: Peasant Response to the Influx of Rwandan and Burundian Refugees in the Kagera and Kigoma Regions of Tanzania", paper presented at the Annual Seminar on the Problem of Refugees in Eastern and Central Africa, Demographic Training Unit, University of Dar es Salaam, 5 – 6 June 1997a, 1.

⁷³³ See: Musoke, 1997a.

⁷³⁴ UNHCR, ExCom, 3 August 1998.

⁷³⁵ See: R. H. Green, "That They May be Whole Again: Off-setting Refugee Influx Burdens on Ngara and Karagwe Districts", Dar es Salaam: UNICEF, September 1994.

⁷³⁶ See: Whitaker, 2002.

it has been argued that the initial response to the emergency was impressive,⁷³⁸ this support waned over time leaving the local authorities to supplement food aid, and leaving the local environment and population vulnerable.⁷³⁹ This led Rutinwa to conclude that the “failures of the international community to give adequate assistance to Tanzania was the main reason for the closure of the border” with Burundi, marking the change in Tanzania’s refugee policy.⁷⁴⁰

Even before the 1996 expulsion of the Rwandan refugees, government Ministers cited these concerns as adequate justification for a change in asylum policy. Speeches from the Ministries of Foreign Affairs and Home Affairs around the time of the border closure in 1995 suggest significant agreement between government departments on the nature of the problem. Citing the strain on the environment, local economy, infrastructure, and concerns relating to internal and external security, Ministers claimed that “the problem has reached saturation point and can no longer be sustained.”⁷⁴¹ Reflecting on Tanzania’s history of hosting large numbers of refugees, it was argued that “though traditionally the local population has always been sympathetic to refugees, all this is now changing under the strain of the current load.”⁷⁴² The Ministers of Home and Foreign Affairs both claimed that “experience has shown that measures such as the granting of permanent asylum and citizenship to the refugees are not a panacea for a permanent solution to the refugee crisis” and that “the solution lies in the

⁷³⁷ See: UNHCR, ExCom, 3 August 1998.

⁷³⁸ See: Augustine Mahiga, “The International and United Nations High Commissioner for Refugees Humanitarian Response to the Rwandan Emergency”, Paper presented to the International Workshop on the Refugee Crisis in the Great Lakes Region, Arusha, Tanzania, 16 – 19 August 1995.

⁷³⁹ See: Green, 1994; Issa Kaboko Musoke, “The Negative Environmental Impacts of the Influx of Refugees in the Kagera and Kigoma Regions of Tanzania”, Paper presented at the Demographic Training Unit, University of Dar es Salaam, 5-6 June 1997b.

⁷⁴⁰ Rutinwa, 1996, 298.

⁷⁴¹ Government of the United Republic of Tanzania, Ministry of Foreign Affairs and International Cooperation, “Speech delivered by Hon. Joseph Rwegasira, Minister for Foreign Affairs and International Cooperation when opening an international workshop on the refugee crisis in the Great Lakes region held on 16th to 19th August, 1995 in Arusha”, Arusha, 16 August 1995, 3.

⁷⁴² Government of the United Republic of Tanzania, “Statement by Hon. Judge E. Mweisumo, Deputy Minister for Home Affairs (Tanzania) to the UNHCR Executive Committee, Forty-Sixth Session, October 1995”, Geneva, October 1995, para. 5.

countries of origin rather than the countries of asylum.”⁷⁴³ There was agreement on repatriation as the only viable solution for refugees in Tanzania,⁷⁴⁴ and early calls for the establishment of safe zones in countries of origin as a substitute for asylum. Significantly, both Ministries also accused the international community of ‘double standards’ when condemning Tanzania for its policies, in light of restrictive policies in the West:

There is a tendency by the International Community when dealing with the refugee crisis to impress upon the weaker countries of asylum to live up to their humanitarian obligations at the expense of their national rights and interest. The primary duty of a state is to preserve itself and to protect its citizens and their rights. Countries of asylum, be they weak or strong, poor or rich, have a sovereign right to exercise this duty. *The international community must respect this right without bias or double standards.*⁷⁴⁵

Given the range of challenges stemming from the Rwandan influx, and based on the government position articulated in the speeches cited above, it seems clear that Tanzania’s position on the refugee question changed as a result of the influx of refugees in the early 1990s. The emphasis on self-sufficiency and local settlement was replaced by a focus on repatriation, while the integration of refugees into the Tanzanian political community was replaced by a desire to exclude them. Most significantly, refugees are no longer characterized as an asset to Tanzania, but as a burden.

The state of asylum in Tanzania: 1997 – 2004

For some long-time observers of Tanzanian refugee policy, the 1995/96 change in policy can “only be described as a sea-change.”⁷⁴⁶ In the years following the expulsion of the Rwandan refugees, however, it was clear that the objective of the government was not to return to a *status quo ante*. Instead, the period 1997 to 2004 witnessed the formulation and implementation of a series of increasingly restrictive refugee policies. This section will

⁷⁴³ Tanzania, Ministry of Foreign Affairs, 1995, 6; and Tanzania, 1995, para. 9.

⁷⁴⁴ According to the Minister of Foreign Affairs, “the ultimate solution to the [refugee] problem is, in other words, the return of all the refugees to their original countries.” Tanzania, Ministry of Foreign Affairs, 1995, 6. Likewise, the Deputy Minister of Home Affairs states that “the only viable and durable long term solution to the refugee problems is repatriation to their country of origin.” Tanzania, October 1995, para. 6.

⁷⁴⁵ Tanzania, Ministry of Foreign Affairs, 1995, 7; and Tanzania, 1995, para. 10. Emphasis added.

⁷⁴⁶ Interview with Poppe, 2004.

outline these policies, highlight their impact on refugee protection, and detail the government's justification for these policies, then examine these justifications in the context of Burundian refugees in Kibondo.

By December 1997, one year after the expulsion of the Rwandan refugees, Tanzania continued to host approximately 295,000 refugees, 230,000 of whom were from Burundi.⁷⁴⁷ This number continued to climb as thousands of Burundian refugees continued to flee to Tanzania throughout 1997, with 20,000 – 30,000 arriving in the first three months of the year, and a similar number arriving in May-June.⁷⁴⁸ While USCR indicated that “humanitarian conditions at the camps were generally fair,” it added that “political factions among the refugee population created tensions and occasional violence” leading to the death of some ten camp residents in early 1997.⁷⁴⁹ As a result of these security concerns, the Tanzanian government “expelled more than 100 Burundian refugees in January 1997,”⁷⁵⁰ most of whom were “killed within hours of their forced return to Burundi.”⁷⁵¹

These expulsions did not, however, diminish security concerns. In response to rising security concerns within the camps and in the refugee-populated areas, “the Tanzanian government ordered the army to round-up all foreigners living outside the refugee camps, asserting that this was necessary to protect Tanzanian citizens living close to the border with Burundi.”⁷⁵² At the core of the operation was a “presumption that all refugees [posed] a security threat and [could] therefore be indiscriminately rounded up and confined in camps.”⁷⁵³ The new policy, of “rounding-up *all* refugees on the grounds that *some* may pose a

⁷⁴⁷ USCR, *World Refugee Survey*, 1998.

⁷⁴⁸ *Ibid.*

⁷⁴⁹ *Ibid.* This description does not reflect the scale of sexual and domestic violence in the camps during 1998, as later detailed by Human Rights Watch. See: Human Rights Watch, *Seeking Protection: Addressing Sexual and Domestic Violence in Tanzania's Refugee Camps*, New York: HRW, October 2000.

⁷⁵⁰ USCR, *World Refugee Survey*, 1998

⁷⁵¹ *Ibid.*

⁷⁵² Human Rights Watch (HRW), “In the Name of Security: Forced Round-Ups of refugees in Tanzania”, Vol. 11, no. 4, July 1999b, 1.

⁷⁵³ *Ibid.*

security threat,”⁷⁵⁴ reflected a new blanket approach to refugees, especially to Burundian refugees. This approach was largely in response to Burundian government allegations that rebel groups were active in Western Tanzania, and that the ensuing threat was best addressed by confining all Burundians to camps. This lack of differentiation between Burundians engaged in armed activities and Burundian refugees was further reinforced by the *prima facie* refugee status given to all Burundians, as the lack of individual status made it easier to paint all Burundian refugees with the same brush.⁷⁵⁵ As a result, the entire Burundian refugee population in Western Tanzania was securitized in the course of the round-ups.

This increasingly securitized view of refugees motivated the passing of more restrictive refugee legislation in 1998.⁷⁵⁶ In response to regional and domestic fears that the Tanzanian government was not in control of the refugee situation, Kamanga argues that the 1998 Refugees Act had two objectives. Its first objective was to “signal disengagement from the Open Door policy of the Nyerere administration, with a view to making Tanzania a less attractive destination for asylum seekers.”⁷⁵⁷ The second objective was to “assure the populace” that the government was “determined to address the problem of seemingly endless refugee influxes,”⁷⁵⁸ thereby demonstrating that it had not lost control.

Government restrictions on refugees, especially Burundian refugees, continued after the coming into force of the Act in February 1999. The Tanzanian military issued an order in late 1999 that all Burundian refugees should move to refugee camps, even those who had arrived in the 1970s.⁷⁵⁹ As a result of the ensuing round-ups, and the consequent increase in camp

⁷⁵⁴ HRW, July 1999b, 3. Emphasis in original.

⁷⁵⁵ HRW, July 1999b, 3.

⁷⁵⁶ See: Government of the United Republic of Tanzania, “The Refugees Act, 1998”, Dar es Salaam, 1999; Khoti Kamanga, “The (Tanzania) Refugees Act of 1998: Some legal and Policy Implications”, *Journal of Refugee Studies*, Vol. 18, no. 1, 2005; and Khoti Kamanga, “International Refugee Law in East Africa: An Evolving Regime”, *Georgetown Journal of International Affairs*, Winter/Spring 2002.

⁷⁵⁷ Kamanga, 2005, 104.

⁷⁵⁸ *Ibid.*

⁷⁵⁹ Amnesty International, “Great Lakes Region: Refugees denied protection”, AI Index: AFR 02/02/00, May 2000, 1.

populations, coupled with funding shortfalls to the refugee programme, “refugee camps suffered overcrowding and short-term food shortages” in 1999 and 2000.⁷⁶⁰ This, in turn, led to an increase in crime in and around the camps as some refugees turned to illegal activities to cope with the shortfall in assistance. It was reported that “local residents in western Tanzania complained that some among the refugees committed ... robberies, crop theft, and poaching in national game reserves.”⁷⁶¹ At the same time, UNHCR reported that “forced repatriations occurred ‘more or less daily’ in the first half of the year as authorities prepared for a presidential election in October.”⁷⁶² On 29 October 2000, Mkapa was re-elected President with 71.7% of the vote, while CCM returned to government with 244 seats. Both results represent significant electoral gains for the ruling party over the 1995 elections.

Security concerns, food shortages and increased government restrictions continued to cause concern for UNHCR and refugee advocates in 2001 and 2002. Tanzanian concerns were frequently raised about the levels of crime in refugee-populated areas, and Burundi continued to accuse Tanzania of allowing rebels to be based in and around the refugee camps. As a result of declining donor engagement, food assistance to refugees was reduced “by 20% for most of 2001,” leading to an increase in “domestic violence and theft in and around refugee camps.”⁷⁶³ In response to this insecurity, Tanzanian officials “strictly enforced its policy restricting refugees from travelling more than 2.5 miles (4km) outside the camp perimeters.”⁷⁶⁴ Refugees were consequently no longer able to seek wage-earning employment in neighbouring villages and towns. Indeed, practically all economic activity between refugees and the local population ceased. This led UNHCR to conclude that “the Government’s continued refusal to allow refugees to live a normal and integrated existence

⁷⁶⁰ USCR, *World Refugee Survey*, 2000. In 2001, USCR reported that “budget shortfalls for UNHCR and about 15 other humanitarian agencies forced curtailment of numerous assistance programs besides food. By October [2000], UN agencies received less than half of the funding they requested.” USCR, *World Refugee Survey*, 2001.

⁷⁶¹ USCR, *World Refugee Survey*, 2000.

⁷⁶² Cited in USCR, *World Refugee Survey*, 2001

⁷⁶³ USCR, *World Refugee Survey*, 2002.

⁷⁶⁴ USCR, *World Refugee Survey*, 2003.

seems to be exacerbating the problems of crime and rebel activity.”⁷⁶⁵

At the same time, the refugee population climbed to over 500,000 by the end of 2001, including 350,000 Burundian refugees, confirming Tanzania as the country with the highest refugee population in Africa.⁷⁶⁶ In response to what it perceived as a seemingly unending refugee problem, Tanzania began to press for the repatriation of Burundian refugees. During a meeting of the Tripartite Commission for Voluntary Repatriation to Burundi in early April 2002, the governments of Burundi and Tanzania, along with UNHCR, agreed that the number of repatriations from Tanzania would be tripled. Given the prevailing insecurity in many regions of Burundi, however, UNHCR representatives did not agree to promote repatriation, and agreed only to facilitate the return of refugees wishing to return.⁷⁶⁷ According to UNHCR “both the Burundi and Tanzania governments condemned UNHCR’s position” and “delegations were sent to UNHCR Headquarters to urge the High Commissioner to reverse the situation.”⁷⁶⁸ The politics of repatriation have subsequently been a recurring point of tension between UNHCR and the governments of Burundi and Tanzania.⁷⁶⁹

According to USCR, some 85,000 refugees repatriated from Tanzania to Burundi in 2003, including approximately 37,000 who returned with UNHCR assistance.⁷⁷⁰ Given that these returns coincided with sustained crime and insecurity, additional reductions in food rations, and increased restrictions on refugees’ freedom of movement and economic activity, a number of refugee advocates questioned the voluntary nature of the repatriations, suggesting that conditions in the camps had become so unbearable that many refugees felt

⁷⁶⁵ UNHCR, Tanzania, “Tanzania 2001 Annual Protection Report”, internal, Dar es Salaam, undated (likely March 2002), 3, on file with author.

⁷⁶⁶ USCR, *World Refugee Survey*, 2002.

⁷⁶⁷ UNHCR, Tanzania, “Tanzania 2002 Annual Protection Report”, internal, Dar es Salaam, undated (likely March 2003), 4, on file with author.

⁷⁶⁸ UNHCR, Tanzania, 2003, 4.

⁷⁶⁹ Informally, UNHCR has even been accused by some members of the Tanzanian government of wanting to keep refugees in Tanzania so that the UNHCR workers do not lose their jobs and international salaries. Interview with van Buren, 2004.

⁷⁷⁰ USCR, *World Refugee Survey*, 2004.

compelled to repatriate to Burundi, notwithstanding the prevailing insecurity there.⁷⁷¹ There was a general feeling that while Tanzania could not expel the Burundians as it had the Rwandans in 1996, for fear of damaging relations with the donor community, it could pursue the same objective by placing additional pressure on refugees to return. To this end, an increased police presence in the camps further heightened tensions within the refugee population.⁷⁷² According to one repatriating Burundian refugee: “I know the war is not over yet and the country is not safe yet, but we have no life in Tanzania.”⁷⁷³

The government’s push for repatriation increased in February 2003, when the Deputy Minister of Home Affairs reported that Burundian refugees from 1972 would also be expected to repatriate.⁷⁷⁴ This statement most clearly illustrates the government’s change in policy in recent decades. As outlined above, when the Burundian refugees arrived in 1972, they were received and settled on underdeveloped land as part of Nyerere’s *ujamaa* development strategy. The objective was for them to become self-sufficient and integrate into Tanzanian society, with settlement leading to naturalization being the preferred solution. Thirty years after their arrival, the official government position had clearly changed. As articulated by Tanzania’s 2003 National Refugee Policy, the government has come to view repatriation as “the best solution” for refugees.⁷⁷⁵

While the 2003 National Refugee Policy codified a number of the restrictive elements of Tanzanian asylum policy, including restrictions on freedom of movement, it also repeated calls, first made in 1995, for the international community to create ‘safe-zones’ in countries

⁷⁷¹ See: IRIN, 8 May 2002. Agencies to have raised concerns about the repatriations include the International Council of Voluntary Agencies, Refugee Council USA, Amnesty International, Refugees International, Human Rights Watch and TCRS. See: IRIN, 4 April 2002; IRIN, 5 May 2002; and IRIN, 15 May 2003.

⁷⁷² See: IRIN, 8 May 2002.

⁷⁷³ Cited in IRIN, 10 October 2003.

⁷⁷⁴ Speaking to IRIN, John Chiligati, the Deputy Minister of Home Affairs said: “There are Burundians that have been in Tanzania for over 30 years, but they are still refugees. They have been fearing the situation at home, but we are hoping that the situation in Burundi will improve and they can be convinced to go back.” Cited in: IRIN, 27 February 2003.

⁷⁷⁵ Government of the United Republic of Tanzania, Ministry of Home Affairs, “The National Refugee Policy”, Dar es Salaam, September 2003, 7.

of origin as a substitute for asylum.⁷⁷⁶ While the UN High Commissioner for Refugees, Ruud Lubbers, “appealed to the government of Tanzania to continue its tradition of hospitality to refugees by reviewing its new policy,”⁷⁷⁷ Tanzania aggressively sought regional support for its ‘safe-zones’ proposal. In September 2003, Tanzania hosted a regional conference to discuss the international dimensions of its new refugee policy, including calls for greater burden sharing and the creation of safe-zones in countries of origin.⁷⁷⁸ While the Conference did not endorse the principle of safe zones,⁷⁷⁹ the proposal indicates the extent to which Tanzania had distanced itself from its open asylum policies of the 1960s and 1970s. With this contrast in mind, it is important to now consider how the current policy is justified by Tanzanian government officials.

*Justifying the shift in policy*⁷⁸⁰

Beatus Magayane, the Member of Parliament for Buyungu Constituency in Kibondo District, home of three of Tanzania’s largest refugee camps, cited the scale and nature of the refugee population in Tanzania as the primary justifications for the government’s change in policy.⁷⁸¹ According to Magayane, the number of refugees in Tanzania was very low during the period of settlement and integration in the 1960s and 1970s. He also argued that the refugees hosted by Tanzania in the past were freedom fighters fleeing wars of national liberation, and that it had been Tanzania’s duty to host them. In contrast, Magayane argued that the post-1993 refugees in Tanzania were bringing poverty, disease and insecurity into the country, with 87% of crime in his constituency caused by refugees. For Magayane, the

⁷⁷⁶ See: Tanzania, Ministry of Home Affairs, September 2003.

⁷⁷⁷ IRIN, 11 November 2003.

⁷⁷⁸ IRIN, 15 September 2003.

⁷⁷⁹ IRIN, 19 September 2003.

⁷⁸⁰ For a comprehensive review of the justifications given by Tanzania for its restrictive asylum policy, see: Bonaventure Rutinwa and Khoti Kamanga, “The Impact of the Presence of Refugees in Northwestern Tanzania,” Report by the Centre for the Study of Forced Migration, University of Dar es Salaam, September 2003, 4 – 9.

⁷⁸¹ Interview with Beatus R. Magayane, Member of Parliament for Buyungu Constituency, Kibondo District, Kigoma Region, Dar es Salaam, 1 April 2004.

security concerns with hosting refugees are real, and have resulted in “a genuine fatigue on the part of the local population.” Finally, he pointed to dwindling support from the international community, arguing that “there is a prevailing assumption that the hospitality of a state like Tanzania will be open ended.”

Many of these views were shared by Laurean Tibansana, Tanzania’s Commissioner for Police, who had actively advocated for greater restrictions on the movement of refugees.⁷⁸² Tibansana agreed that refugees hosted by Tanzania during the 1960s and 1970s were fleeing wars of national liberation, and Tanzania therefore had an obligation to support them. During the 1990s, however, he argued that “refugees flowed into Tanzania like a river.” The sheer number of refugees in Tanzania, coupled with the rise in violent, gun-related, crime, and a lack of international support to address these concerns, left Tanzania with no option but to be more restrictive with refugees. While recognizing that the international community, through UNHCR, has tried to support Tanzania, Tibansana believes that “the level of international cooperation does not meet our requirements.”

In contrast, those who worked on the refugee question in an operational capacity appeared to have a more nuanced position, emphasising both the burdens and the benefits of hosting refugees. According to H. Mseke, Assistant Director of the Refugee Services Department, based in Dar es Salaam, local grievances towards refugees had fuelled the restrictive national policy, and “insecurity [had] been the underpinning factor in the lack of tolerance for refugees.”⁷⁸³ While the presence of refugees had brought benefits to the refugee-populated areas in the form of increased employment opportunities, increased markets and improvements in health care, Mseke believed that the insecurity caused by their presence had been the greatest justification for restrictive policies.

B. Machimu, the Kibondo Representative of the Ministry of Home Affairs, shared many

⁷⁸² Interview with Laurean Tibansana, Commissioner for Police, Tanzania Police Force, Police Headquarters, Dar es Salaam, 2 April 2004.

⁷⁸³ Interview with Mseke, 2004.

of Mseke's views.⁷⁸⁴ For Machimu, the restrictions on refugees resulted from increased violent crime and environmental degradation in the refugee-populated area. While recognizing that the international community had helped to some extent with environmental programmes, the construction of roads and improvements to local health facilities, Machimu felt that the benefits had not outweighed the costs. Machimu also described many tangible examples of donor fatigue in Kibondo, and explained that local expectations for benefits from the refugee programme had been increasing. The result was a local sense of grievance, and calls for more restrictive policies.

Common to these views in the argument that the number of refugees in Tanzania, coupled with the length of their stay, the burdens they impose, especially in the form of insecurity, and the lack of sufficient international engagement to share these burdens, resulted in Tanzania's decision to adopt a more restrictive asylum policy. As summarised by Tanzania during the UN General Assembly in 2000:

Tanzania finds itself in a very difficult situation of hosting more than 800,000 refugees, most of whom are products of the crisis in the Great Lakes region. This is a huge burden for a poor country like Tanzania. Besides, refugees pose many problems relating to security and environmental degradation. There is an urgent need for the international community to increase support to the refugees as well as the refugee-hosting countries. In the same vein, we reiterate our call for international burden sharing and responsibility in refugee situations.⁷⁸⁵

Against this background, this chapter now examines the basis of these justifications.

Examining the elements of the justification

Numbers

Tanzania has been among the top five African asylum countries for as long as asylum statistics have been available.⁷⁸⁶ Although Tanzania's refugee population was relatively fluid

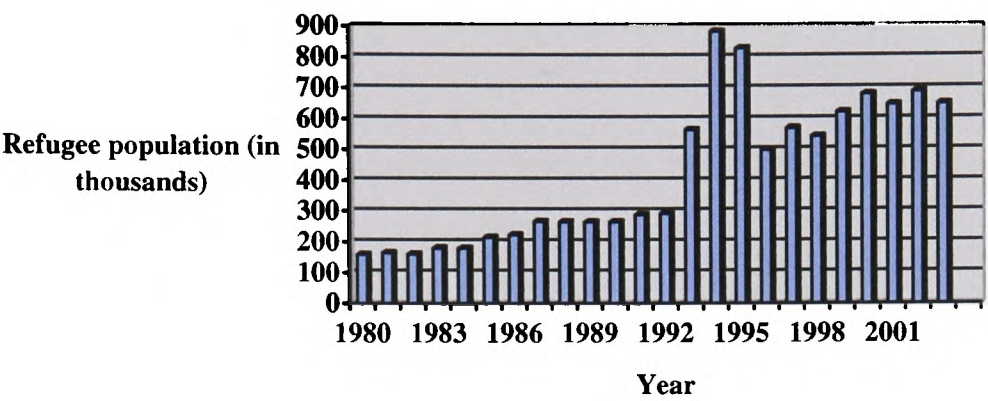
⁷⁸⁴ Interview with B. Machimu, Kibondo Representative, Ministry of Home Affairs, and MHA Representative for Kanembwa Camp, Kibondo, 6 April 2004.

⁷⁸⁵ Government of the United Republic of Tanzania, Permanent Mission to the United Nations, "Statement by Ambassador Hassan Kibelloh, Permanent Secretary, Ministry of Foreign Affairs and International Cooperation of the United Republic of Tanzania in the General Debate of the 55th Session of the United Nations General Assembly", New York, 22 September 2000, 6.

⁷⁸⁶ See: UNHCR, *State of the World's Refugees*, 2000.

between 1997 and 2003, with an average of some 55,000 refugees repatriating each year compared with an average of some 80,000 new arrivals,⁷⁸⁷ the total number of refugees in the country remained above 500,000 in the same period, peaking at 689,373 in 2002. In 2003, it hosted the largest refugee population in Africa.

Figure 5.1: Refugee population in Tanzania (1980 - 2003)



Source: UNHCR, *State of the World’s Refugees*, 2000; UNHCR, *UNHCR Statistical Yearbook* 2003, 2003.

In addition to these UNHCR statistics, the government would add the approximately 180,000 Burundian refugees who are not registered by UNHCR and who do not reside in UNHCR-managed camps. Accordingly, the government claims that Tanzania hosts over 800,000 refugees.⁷⁸⁸ To these figures must be added an understanding of the lack of solutions for these refugees, and the recurrence of refugee influxes over many decades. In this sense, it may be understood why “the Tanzanian government sees no end to the question of refugees, but sees them as an endless wave; no sooner is one situation resolved than another emerges.”⁷⁸⁹

Burden sharing

A number of concerns have been raised in recent years about diminishing donor engagement in the refugee assistance programme in Tanzania and levels of financial burden

⁷⁸⁷ Calculations based on: UNHCR, *Statistical Yearbook* 2003, 2005, 358.

⁷⁸⁸ When President Mkapa addressed the UN General Assembly in September 1999, he claimed that Tanzania was hosting “over 800,000 refugees.” This figure was said to include refugees in camps, settlement and urban refugees, and is the figure that the government has used ever since. See: IRIN, 21 September 1999.

⁷⁸⁹ Interview with Chrysantus Ache, Representative, UNHCR Branch Office for Tanzania, Dar es Salaam, 29 March 2004.

sharing. UNHCR has consistently reported since 2000 that its programme in Tanzania has been “adversely affected by the unpredictability of funding and budget cuts.”⁷⁹⁰ In 2001, UNHCR’s Tanzania programme was forced to reduce its budget by some 20%.⁷⁹¹ In 2002, it was reported that “UNHCR struggled financially to implement its programmes” in Tanzania, and that “donor nations provided fewer contributions, forcing the agency to implement critical budget cuts, including US\$1 million each in the months of June and November” out of a total budget of approximately US\$28 million for 2002.⁷⁹² Again, in 2003, UNHCR reported that it “struggled to maintain a minimum level of health care, shelter and food assistance to the refugees in the face of reduced budgets.”⁷⁹³ These funding constraints have been most acutely felt in the field. In 2004, UNHCR’s Sub-Office in Kibondo reported that it could “hardly maintain the quality of services rendered to the refugees at the expected standard.”⁷⁹⁴

Similar shortages have also affected food distribution in the camps. Dwindling support for WFP has led to a reduction in the amount of food distributed to refugees on numerous occasions in recent years. Lack of donor engagement resulted in interruptions to food distributions in July and again in September 2000.⁷⁹⁵ More recently, WFP was forced to significantly reduce food distribution to refugees in November 2002 and again in February 2003, resulting in a distribution of only 50% of the normal ration.⁷⁹⁶ In the midst of these cuts, the government reported that food shortages in the camps resulted in an increase in crime in the refugee-populated area.⁷⁹⁷ According to IRIN, the Minister of Home Affairs responded to the cuts by stating that the government was:

⁷⁹⁰ UNHCR, *Global Report 2000*, Geneva: UNHCR, 2001, 121.

⁷⁹¹ UNHCR, *Global Report 2001*, Geneva: UNHCR, 2002, 137.

⁷⁹² USCR, *World Refugee Survey*, 2003.

⁷⁹³ UNHCR, *Global Report 2003*, 2004, 165.

⁷⁹⁴ UNHCR, Kibondo, “Briefing Note”, April 2004, 5.

⁷⁹⁵ See: IRIN, 19 July 2000; and IRIN, 11 September 2000b.

⁷⁹⁶ See: UNHCR, “Press Release: WFP and UNHCR call for urgent aid for refugees in Africa”, 14 February 2003.

⁷⁹⁷ UNHCR, 14 February 2003.

... afraid that we may have riots in the refugee camps because of hungry refugees. They might then leave their camps and run rampant in the villages. We have said that we would not be prepared to be put in such a situation, and the alarm has been sounded. Should things deteriorate to this extent, we may have to consider the possibility of repatriating the refugees forcefully.⁷⁹⁸

Sensitive to these recurring shortfalls in donor support, the government has frequently stated that it will only continue hosting refugees if the international community provides the necessary support. According to some, this is a very fine balance which the donor community is not adequately maintaining, with the 2003 shock to the food supply implying that the deal had been broken.⁷⁹⁹ As Mkapa reportedly told a meeting of foreign diplomats in Dar es Salaam, Tanzania's "sympathy in assisting refugees should be supported by the international community because it was its responsibility."⁸⁰⁰

According to some, donors have a different view, believing that Tanzania must fulfil its obligations before they will make additional contributions to the refugee programme.⁸⁰¹ As a result, donor engagement in sharing Tanzania's burden remains limited. Given the increasingly restrictive policies of the government of Tanzania, it is also striking that more physical burden sharing has not taken place. Although UNHCR's resettlement activities in Tanzania are increasing,⁸⁰² fewer than 500 refugees were resettled to third countries in 2003.⁸⁰³ This level of resettlement engagement, however, pales in comparison to resettlement activities in Kenya, from whence over 7,000 refugees were resettled in 2003.⁸⁰⁴ Given this apparently limited engagement in financial and physical burden sharing with Tanzania, it is ironic that the most recent and innovative form of donor engagement with Tanzania was a

⁷⁹⁸ IRIN, 19 February 2003.

⁷⁹⁹ Interview with Horent, 2004.

⁸⁰⁰ IRIN, 10 January 2001.

⁸⁰¹ Interview with Ache, 2004.

⁸⁰² Interview with van Buren, 2004.

⁸⁰³ UNHCR, *Statistical Yearbook 2003*, 2005, 358.

⁸⁰⁴ UNHCR, *Statistical Yearbook 2003*, 2005, 210. This differentiation in resettlement activity may be largely explained by a differentiation in US engagement in the refugee populations in Kenya relative to those in Tanzania. Interview with White, 2004.

proposal to transfer failed Somali asylum seekers from the UK to Tanzania, in essence a form of ‘burden shifting’, as discussed in Chapter 2.⁸⁰⁵

The burdens and benefits of hosting refugees

To highlight these limitations in the sharing of Tanzania’s burden by the donor community should not, however, lead to the conclusion that the protracted presence of refugees in Tanzania has had only negative implications for the refugee-populated areas. In fact, as Landau has argued, “the longer-term economic and physical impact of the humanitarian influx has been two-sided, providing opportunities for some while further impoverishing others.”⁸⁰⁶ Research by Whitaker has further illustrated how the influx of humanitarian agencies into rural Western Tanzania has created significant economic opportunities for those within the local population with the mobility and capital to take advantage of them.⁸⁰⁷ In both Kagera and Kigoma regions, the arrival of refugees attracted a range of humanitarian agencies, creating employment in an area otherwise offering few economic opportunities.⁸⁰⁸

For a town like Kibondo, the arrival of the humanitarian agencies has resulted in an economic boom. One NGO worker explained that when he arrived in Kibondo in 1997, only two buses a week passed through the town, there were very few consumer goods for sale in the local shops, and there was only one telephone line out of the town.⁸⁰⁹ Seven years later, there were three or four bus services a day, each bringing a wide range of fresh consumer goods into town, and two companies providing coverage for mobile telephones.

⁸⁰⁵ Ewen MacAskill, and Alan Travis, “Tanzania camp plan for refugees refused UK home”, *The Guardian (UK)*, 25 February 2004.

⁸⁰⁶ Landau, 2002, 275.

⁸⁰⁷ See: Whitaker, 2002.

⁸⁰⁸ Landau argues that refugee-populated areas are “now becoming a major destination for Tanzanians from all over the country seeking waged employment with the international and non-governmental organizations. In a country where the minimum wage is officially US\$30-40 per month, but in practice often much lower, even a night-watchman’s monthly salary of US\$110 offered by these agencies is a powerful draw.” Landau, 2002, 278 – 279.

⁸⁰⁹ Jesse Kamstra, Coordinator, Refugee Programme, TCRS, Kibondo, 6 April 2004. See also: IRIN, 28 June 2002.

Research undertaken on behalf of the Prime Minister's Office in 1997 tried to capture a broad picture of the impacts of refugees on the Kigoma region.⁸¹⁰ The study identified a number of positive impacts stemming from the presence of refugees, including increased attention paid to the region by the international community, job creation, an increase in income generating activities, improved access to services, and an inflation in the price of food products, which benefited local producers. It concluded, however, that the negative impact on physical infrastructure, the environment, social services, schools, health services, food security, utilities, security and the administrative system were of far greater concern.

In an attempt to mitigate these negative impacts, and as a means of countering local resistance to hosting refugees, UNHCR launched a series of programmes in the late-1990s specifically designed to target the needs of the local population. These programmes, collectively known as Special Programmes for Refugee Affected Areas (SPRAAs), have targeted the environment, roads, schools, health, water, security, and support to local administration.⁸¹¹ Supported largely by special contributions from Denmark, the US, the EU, and private groups such as the Gates Foundation, SPRAAs have resulted in the investment of over US\$3.3 million in Kibondo District alone since 1997.⁸¹²

Under the auspices of the SPRAAs in Kibondo, UNHCR has, for example, reconstructed the main trunk road between Nyakanazi and Kibondo, rehabilitated the Kibondo water system, expanded local schools, built a football pitch for Kibondo Town, and undertaken tsetse fly control in the surrounding area. Other NGOs have built wells and water-points for villages close to the refugee camps, assisted local farmers, constructed a local police station, refurbished local government offices, planted tens of thousands of seedlings in the areas around refugee camps, and provided support to local schools and hospitals. Similar

⁸¹⁰ See: Government of the United Republic of Tanzania, Prime Minister's Office, "Programming Mission for Rehabilitation of Refugee Affected Areas and Development Programme in Kigoma Region", Dar es Salaam, April 1997.

⁸¹¹ See: UNHCR, Tanzania, *Milestone 2002*, "Focus on Refugee Affected Areas", 2002.

⁸¹² Totals provided by UNHCR, Kibondo, on file with author.

programmes have also been undertaken in Kasulu, Kigoma and Ngara in an effort to provide additional support to all local populations living in refugee-populated areas in Western Tanzania.⁸¹³

Mindful of the scale of these contributions, and concerned by the apparently limited impact these interventions have had on the government's anti-refugee rhetoric in recent years, the Centre for the Study of Forced Migration at the University of Dar es Salaam undertook an impact assessment of the presence of refugees in northwestern Tanzania.⁸¹⁴ The objective of the study was to assess the extent to which the conditions in Western Tanzania matched the claims being made by the government to justify restrictive asylum policies, as outlined above. On the question of the environment, the report concludes that "while a lot has been done to remedy the environmental impact of the presence of refugees, a lot more still needs to be done in the coming years."⁸¹⁵ In considering the impact on infrastructure such as roads and transportation, the report notes that as a result of SPRAAs, "the road infrastructure has improved significantly,"⁸¹⁶ but that "the infrastructure works done have not always reflected the priorities of the local people."⁸¹⁷ The benefits are more clearly defined in the area of health, as the report concludes that "one can easily say that the benefits of the presence of refugees to the health sector far outweigh its negative impact" to the extent that "some of the local beneficiaries do not want to dare think of the day when these services would be withdrawn."⁸¹⁸ Similarly, the refugee programme has positively affected educational services, as indicated by improvements in school facilities and an increased enrolment rate of school-aged children.⁸¹⁹ Likewise, the report illustrates the positive contribution made by the refugee

⁸¹³ Interview with Ache, 2004.

⁸¹⁴ Rutinwa and Kamanga, 2003.

⁸¹⁵ Rutinwa and Kamanga, 2003, 23.

⁸¹⁶ Rutinwa and Kamanga, 2003, 25.

⁸¹⁷ Rutinwa and Kamanga, 2003, 27.

⁸¹⁸ Rutinwa and Kamanga, 2003, 31.

⁸¹⁹ Rutinwa and Kamanga, 2003, 34.

programme to access to clean water⁸²⁰ and the “fair balance between the negative and positive impact of the presence of refugees” on local administration.⁸²¹

From this analysis, it may be argued that the prolonged presence of the refugee programme in refugee-populated areas like Kibondo has had a number of advantages for the local population. Daley emphasises how western Tanzania “emerged from the colonial period as a backward, underdeveloped area relative to other parts of the country”⁸²² and how this status continued well into the 1980s. Regions like Kibondo, on the geographic and political periphery of the state, have not been a priority of the central government, and have consequently received little in the way of investment, especially since the economic crisis of the mid-1980s. Consequently, the arrival of the refugee programme has brought investment into the region that would likely have not otherwise been made. Such a positive evaluation of the refugee presence, however, does not take into account the government’s concerns relating to security.

Security concerns

According to one observer of the refugee situation in Tanzania, events of the last decade illustrate that “concerns relating to the security of Tanzania far outweigh the government’s human rights obligations.”⁸²³ Indeed, in defending many of its actions against refugees in the mid-1990s, a number of government Ministers have emphasised that “the primary duty of a state is to preserve itself and to protect its citizens.”⁸²⁴ As detailed in the report from the Centre for the Study of Forced Migration, the link between the presence of refugees and internal and external security concerns for the Tanzanian state is not only the most frequently

⁸²⁰ Rutinwa and Kamanga, 2003, 36 – 40.

⁸²¹ Rutinwa and Kamanga, 2003, 42.

⁸²² Daley, 1989, 142.

⁸²³ Interview with Pip Smith, Political Officer, British High Commission, Dar es Salaam, 1 April 2004.

⁸²⁴ Tanzania, Ministry of Foreign Affairs, 1995, p. 7; and Tanzania, 1995, para. 10.

cited justification for restrictions against refugees, but also constitutes the most significant refugee-related burden for Tanzania.

As outlined above, the influx of refugees from Rwanda in the mid-1990s constituted a number of direct and indirect security concerns for Tanzania, many of which continued after the forced return of the Rwandan refugees in 1996. Indeed, significant security concerns have been documented in recent years. There have been a number of direct concerns, relating to allegations of the presence of armed elements in and around the refugee camps in Kibondo and the link between refugees and the flow of small arms into Tanzania. There have also been a number of indirect concerns, relating to the rise in crime, especially in the context of reductions in assistance to refugees, and tensions between refugees and the local population. This section will now examine Tanzania's direct and indirect security concerns.

Direct Security Concerns: armed elements and small arms

The direct security concerns faced by Tanzania relate to allegations that Burundian armed elements are based in and around the camps, and the belief that the presence of refugees has facilitated the flow of small arms into Tanzania. Neither of these concerns are new to Tanzania, especially given its active support of liberation movements in the 1960s and 1970s. Given that these security concerns are no longer tied to support for liberation struggles, however, and given that they have been a source of regional and international frustration, not pride, for Tanzania, they are of increasing concern to the government.

The presence of Burundian refugees and armed elements led to attacks on Tanzanian territory by Burundian forces as early as the 1970s.⁸²⁵ According to the International Crisis Group (ICG), the 1972 Burundian refugee population "spawned the first organized Hutu armed groups, Palipehutu and Frolina, which launched cross-border incursions against

⁸²⁵ See: Daley, 1989; Malkki, 1995; and Jacobsen, with Wilkinson, 1993, 218.

Burundi beginning in the 1980s.”⁸²⁶ It is believed that both groups drew support not only from Hutu refugees living in towns like Kigoma, but also from those refugees transferred to settlements. It is also reported that these groups “carried-out active training and small-scale cross-border attacks from the bush not far from their Tanzanian encampments.”⁸²⁷

In the aftermath of the conflict in the Great Lakes region in the 1990s, and in particular the eruption of conflict in eastern Zaire in 1996, the presence of Burundian refugees, and allegations of support to Burundian rebel groups, have been a sustained security concern for Tanzania. ADFL-led attacks on refugee camps in Zaire in late 1996 disrupted the bases of a number of Burundian rebel groups. Seeking somewhere to regroup, it is believed that a number of them travelled to Tanzania.⁸²⁸ Tanzania’s decision to close its border with Burundi in March 1995 was partially in response to allegations that rebel groups had crossed into Kigoma Region along with Hutu refugees in 1993. Tanzanian troops were deployed to the border in May 1995, owing to “concern over Burundian troop pursuits of refugees” and by July 1995, “both Tanzania and Burundi had deployed significant numbers of troops along their mutual border.”⁸²⁹ Such movements did not, however, prevent the Burundian government from claiming that Tanzania was providing shelter to rebel groups. Frustration with these allegations may partly explain why Tanzania launched the 1997 round-up operations.

These allegations were, however, supported by the ICG when, in 1999, it reported that “Western Tanzania is the central, external base of the Hutu rebellion against the Buyoya regime” in Burundi.⁸³⁰ The ICG claimed that while “most of the more militant activities [occurred] outside the domain of the camps,” there was convincing evidence that “Western

⁸²⁶ International Crisis Group (ICG), “Burundian Refugees in Tanzania: The Key Factor to the Burundian Peace Process”, ICG Central Africa Report No. 12, Nairobi: ICG, 30 November 1999, 2.

⁸²⁷ *Ibid.*

⁸²⁸ ICG, November 1999, 4. See also: Judith Matloff, “Next Crisis in Central Africa: The Tanzania-Burundi border”, *Christian Science Monitor*, 12 December 1996.

⁸²⁹ ICG, November 1999, 4.

⁸³⁰ ICG, November 1999, 10.

Tanzania [was] a focal point for key activities of the rebellion, including: military mobilization, recruitment, training, fund-raising, political strategizing, communications, arms trafficking, resource distribution, medical treatment, naval operations and the launching of cross-border attacks.”⁸³¹ In response to these activities, the Burundian army “created a 5 kilometre buffer zone on its side of the border,”⁸³² effectively placing Tanzanian villages close to the border in a military zone. Several cases of Tanzanians being injured or killed by Burundian forces in this zone were documented. For example, in 2002, it was reported that three Tanzanian villages close to the border had been shelled by the Burundian army.⁸³³

While it is generally agreed that there are no rebel groups actively based within the Burundian refugee camps in Western Tanzania, there is strong evidence that a number of other activities are carried out in the camps, including recruitment, fundraising and political activities. A number of cases have been documented between 2002 and 2004 of groups of young male refugees leaving the camps to fight in Burundi⁸³⁴ in addition to cases of recruitment.⁸³⁵ A number of refugees in Kanembwa camp also reported that they were taxed by some of the rebel groups, claiming that representatives would visit refugees who were known to have either received remittances from abroad or who had recently earned cash from either employment or through trading.⁸³⁶ Finally, it is clear that members of the political

⁸³¹ *Ibid.*

⁸³² ICG, November 1999, 20.

⁸³³ BBC News, “Tanzania protests Burundi shelling”, 4 January 2002.

⁸³⁴ Interview with Brownie Samukai, UN Field Security Coordinator, UNSECOORD, Tanzania, Dar es Salaam, 3 April 2004. In June 2000, some 165 Burundian refugees were found guilty of leaving their camps illegally after having been stopped as they travelled to the border in two trucks to “attend military training which was allegedly being offered by the rebel Conseil national pour la defence de la democratie-Forces de defense pour la democratie (CNDD-FDD)”. IRIN, 23 June 2000.

⁸³⁵ See: IRIN, 13 February 2001b. According to Samukai, there was a period when the CNDD/FDD would impose taxes on the residents of the camps. The policy followed that if the household could not pay the tax they were required to send a member of the household to fight with the rebels.

⁸³⁶ Interviews in Kanembwa Camp, Kibondo, April 2004. Refugees indicated that the rebel representatives were well informed about economic activity in the camps, often arriving within hours of a financial transaction to demand a tax of 10%. One story was told of a refugee who sold a pig for TSh. 150,000. By the time he returned to his hut, a representative of CNDD/FDD was waiting for them to demand TSh. 15,000. Many refugees point to these events as evidence that the rebel groups have a strong network within the camps.

branches of the various groups are also present in the camps, in addition to the family members of rebel fighters.⁸³⁷

In light of these activities, UNHCR identified “maintaining the civilian and humanitarian character of the refugee camps” as one of main protection problems affecting refugees in Tanzania.⁸³⁸ Since 1998, UNHCR has received special US funding of approximately US\$1.4 million a year to support a “security package.” The purpose of the package is to provide material and monetary support to some 287 policemen and women active in the refugee camps in Western Tanzania. While the package has been generally successful in improving law and order within the refugee camps,⁸³⁹ it was found to have had little discernable impact on security in the refugee-populated area as a whole.⁸⁴⁰

A second direct security concern affecting the refugee-populated area as a whole which has been tied to the presence of refugees, is the proliferation of small arms.⁸⁴¹ In 2003, President Mkapa stated that “the truth is that the proliferation of small arms is a result of refugees entering our country, a problem which is beyond our capacity to solve.”⁸⁴² Small arms proliferation is certainly a growing concern in Tanzania, especially in refugee-populated areas,⁸⁴³ with a marked tendency to link this problem to the presence of refugees. According to Rutinwa and Kamanga, “it is often asserted that even if locals commit crime, it is because

⁸³⁷ Based on interview with Samukai, 2004; and interview with Romy Catagin, Country Director, Jesuit refugee Services, Kibondo, 6 April 2004.

⁸³⁸ UNHCR, Tanzania, 2003, 6.

⁸³⁹ See: Jeff Crisp, “Lessons learned from the implementation of the Tanzania security package”, Geneva: UNHCR, Evaluation and Policy Analysis Unit, EPAU/2001/05, May 2001a; and UNHCR, Emergency and Security Service, “Tanzania Refugee Security Package: Emergency and Security Service Mission Report”, Geneva, 23 March 2004.

⁸⁴⁰ Crisp, May 2001a, 2.

⁸⁴¹ See: Edward Mogire, “Refugee Militarization in Tanzania: Past and Present Situation”, paper presented at the Roundtable Discussion on Refugee Camp Militarization in Africa, Small Arms Survey, Geneva, December 2004, on file with author.

⁸⁴² Cited in: IRIN, 1 September 2003.

⁸⁴³ See: Clare Jefferson and Angus Urquhart, “The Impact of Small Arms in Tanzania: Results of a Country Survey”, Monograph No. 70, Institute for Strategic Studies, Johannesburg, March 2002.

they use weapons, which they buy cheaply from refugees.”⁸⁴⁴ Some members of the government have argued “that *every* refugee has brought a gun into Tanzania.”⁸⁴⁵

Mogire argues that the small arms question may be linked to refugees in two ways.⁸⁴⁶ First, refugee-populated areas are the regions most affected by small arms. Given that refugee-populated areas are also close to countries in conflict, separated only by a porous border, this is not a surprising conclusion. More importantly, Mogire reports that a total of 3,055 sub-machine guns, 3,280 guns, 22 home-made guns and 2,960 rounds of ammunition were seized from refugees in Tanzania between 1994 and 2003.⁸⁴⁷ As argued by Rutinwa and Kamanga, however, these figures must be placed in a historical perspective. The majority of these weapons were seized in 1994 and 1995, at the height of the Rwandan crisis, and were not seized from refugees, but from individuals within the refugee camps who would not have qualified for refugee status had they been individually screened.⁸⁴⁸ This evidence would therefore seem to indicate that refugees and small arms flows are both the result of conflict and porous borders, not the other way around. While the evidence against linking refugees to the flow of small arms is strong, this has done little to affect the perception that a link does exist, especially after the President’s public declaration in 2003 which scapegoated the refugees.⁸⁴⁹ Given the authority of the President in Tanzanian politics, stemming from the time of Nyerere, Mkapa’s declaration linking refugees and small arms has made the link ‘true’ for government representatives, from Dar es Salaam⁸⁵⁰ to Kibondo,⁸⁵¹ notwithstanding the evidence to the contrary.

⁸⁴⁴ Rutinwa and Kamanga, 2003, 16.

⁸⁴⁵ Interview with Magayane, 2004.

⁸⁴⁶ Mogire, 2004, 17.

⁸⁴⁷ *Ibid.*

⁸⁴⁸ See: Lawyers Committee for Human Rights (LCHR), *Refugees, Rebels and the Quest for Justice*, New York: LCHR, 2002.

⁸⁴⁹ Interview with Smith, 2004.

⁸⁵⁰ Interview with Mseke, 2004; and interview with Magayane, 2004.

⁸⁵¹ Interview with Machimu, 2004.

Indirect Security Concerns: crime, grievances and local tensions

There are, however, a number of instances where refugees have caused indirect security concerns in Tanzania. The first is the link between refugees and illegal activities such as theft and prostitution, especially in the context of reductions in food rations in the camps. As noted above, government policies have practically eliminated the possibility for refugees to engage in legal, wage-earning employment, making them almost fully dependent on international assistance. When this assistance is interrupted or reduced, as with food distribution on several occasions in recent years, refugees must turn to coping mechanisms to survive. According to one UNHCR official, “when assistance is reduced, refugees turn to coping strategies to survive and these strategies are not always legal.”⁸⁵²

A 2004 study undertaken for WFP found that 98% of refugee households employ one or more coping mechanisms to deal with food shortages.⁸⁵³ Surveys conducted in all twelve camps in Tanzania found that most refugee households (81%) either limited portion sizes at meal times or reduced the number of meals eaten in a day to cope with reduced food rations. Fewer households (24%) answered that they sent a family member out to beg. Significantly, 8% of households admitted engaging in prostitution or theft as a coping mechanism. In keeping with these findings, an assessment mission visiting Kibondo in June 2003 found that the “food reduction of 50 percent in January and 28 percent in May had led to increased violence and robbery inside and outside the camps.”⁸⁵⁴ According to one refugee in Kanembwa camp, “there are now very few legal ways of supplementing what refugees receive to be able to feed their families.”⁸⁵⁵ Accordingly, it may be concluded that problems with burden sharing and reductions in international assistance to encamped refugees may cause a rise in illegal activities.

⁸⁵² Interview with van Buren, 2004.

⁸⁵³ See: Greg Collins, “The Coping Strategies Index (CSI) Baseline Survey: World Food Programme (WFP) Assisted Refugees in Western Tanzania”, prepared for WFP Tanzania, June – July 2004.

⁸⁵⁴ Cited in: IRIN, 6 June 2003.

⁸⁵⁵ Interview with ‘Yesinth’, Resident, Kanembwa Camp, April 2004.

There is, however, a danger of blaming all crime and insecurity in refugee-populated areas on refugees, especially in the context of decreased rations. In May 2001, *The Guardian (Tanzania)* reported that the police “did not have enough officers to control the refugees who had abandoned their camps because they did not have enough food.”⁸⁵⁶ Crime statistics from Kibondo did not, however support these claims. Between January and December 2000, 59 out of 232 cases of robbery (25%) in Kibondo were attributed to refugees. Given that the refugees account for 25% of the local population, however, “the proportion of refugee cases is almost the same as the proportion of refugees in relation to the total population.”⁸⁵⁷

The second way refugees may indirectly cause insecurity relates to tensions with the local population, especially when the local population perceives that the refugees are receiving preferential treatment. Evidence from Kibondo suggests that this kind of grievance was on the increase in 2004, notwithstanding cutbacks in the camps and the benefits Kibondo derives from the presence of the refugee programme. Landau outlines how relations between the Ha of modern Tanzania and the Hutu of Burundi were historically very close, to the extent that the two groups “were at one time indistinguishable.”⁸⁵⁸ As a result of various factors, including government policies, the two groups no longer recognise a common identity. According to Landau, “with the exception of a few elderly men ... few would admit the possibility that the two groups were once one.”⁸⁵⁹

This differentiation has become more significant in the context of competition over scarce resources, especially public services and food. A specific source of resentment is the need for Tanzanians to now pay for services like health care and education, which were free under the *ujamaa* system, while refugees receive these services for free. Studies have recently highlighted the poor state of Tanzania’s social services as a result of economic decline and the

⁸⁵⁶ See: IRIN, 18 May 2001.

⁸⁵⁷ Rutinwa and Kamanga, 2003, 15 – 16.

⁸⁵⁸ Landau, 2002, 273.

⁸⁵⁹ Landau, 2002, 274.

pressures of structural adjustment.⁸⁶⁰ As a result, Tanzanians are now receiving a lower level of services at a higher cost to the user. In addition, UNICEF surveys found that the malnutrition rate among children in villages near refugee camps has been up to five times higher than in the camps themselves.⁸⁶¹ Coupled with the relatively high levels of services in the refugee camps, “people get angry when they see refugees getting services for free that they, as citizens, now need to pay for.”⁸⁶²

Landau, however, emphasises that “while there are claims that members of the local population were mobilizing politically on the basis that refugees were entitled to better services, free food and the like, it is not clear to what extent this indeed occurred.”⁸⁶³ The presence of SPRAAs, coupled with a policy of allowing local residents to access hospitals and feeding centres in refugee camps, has seemed to mitigate much of the local frustration towards refugees. In fact, SPRAAs have been implemented in a manner specifically intended to address the grievances of the local population.⁸⁶⁴

This brief overview of the security concerns perceived by the government in relation to the presence of refugees reveals a number of important features of the government’s construction of refugees collectively as a threat to Tanzanian security. First, it is interesting to note what the government is seeking to secure. As outlined by Daley, crime and insecurity have long been features of Western Tanzania.⁸⁶⁵ Now that “the concerns of Western Tanzania are stating to come to Dar, there is a rising intolerance that stems from a heightened sense of

⁸⁶⁰ See: Samuel M. Wangwe and Brian Van Arkadie, *Overcoming Constraints on Tanzanian Growth: Policy Challenges Facing the Third Phase Government*, Dar es Salaam: Mkuki na Nyota Publishers, for the Economic and Social Research Foundation, 2000; and Andrew Temu and Jean Due, “The business environment in Tanzania after Socialism: challenges of reforming banks, parastatals, taxation and the civil service”, *Journal of Modern African Studies*, Vol. 38, no. 4, 2000.

⁸⁶¹ See: IRIN, 14 September 1999; and IRIN, 17 September 1999.

⁸⁶² Interview with Helen Kijo-Bisimbi, Director, Legal and Human Rights Centre, Dar es Salaam, 2 April 2004.

⁸⁶³ Landau, 2002, 276.

⁸⁶⁴ Interview with Annette Nyekan, Head of Sub-Office, UNHCR Sub-Office Kibondo, Kibondo, 5 April 2004. This was, however, difficult to verify during fieldwork in 2004 as the Kibondo District Commissioner did not give the author permission for meetings with local community and business leaders.

⁸⁶⁵ See: Daley, 1989.

insecurity. This is what makes the government really nervous.”⁸⁶⁶ While the state has traditionally been able to effectively broadcast its power to the periphery in Tanzania, its sense of insecurity has been heightened as the problems of the periphery, especially small arms, have worked their way to the core.

Second, the perception that all refugees are a security threat has justified restrictive actions against all refugees. As indicated by the 1997 round-ups, little effort appears to be taken to screen those refugees detained to determine if containment in a camp is necessary. The feeling now is that “refugees are directly or indirectly blamed for almost every violent incident in Tanzania.”⁸⁶⁷ While it is generally believed that much of the violence in Western Tanzania is caused by non-refugee elements crossing from Burundi, there is a sense that the government will never differentiate between illegal immigrants and refugees because it is not in their political interest to do so. In fact, the government continues to find the use of *prima facie* refugee status to be politically useful, as it serves to blur the lines between ‘Burundian in Tanzania’ and ‘Burundian refugee’. While these lines are blurred, it is easier for the government to scapegoat an outside factor that it is taking active steps to contain.

Third, while the rhetoric in Tanzania constructs all refugees as a real or potential security concern, the state’s response to different nationalities of refugees has not been consistent. For example, many of the restrictive measures being imposed on the Burundian refugees, including restrictions on freedom of movement and economic activity, are not being applied to the Congolese refugees in and around Kigoma.⁸⁶⁸ Likewise, urban refugees in Dar es Salaam have not been subjected to any systematic sweeps or round-ups. While they exist on the edges of society,⁸⁶⁹ and are not able to claim any of the material benefits provided to refugees in camps, urban refugees felt that they could generally work undetected so long as

⁸⁶⁶ Interview with Smith, 2004.

⁸⁶⁷ *Ibid.*

⁸⁶⁸ Interview with van Buren, 2004.

⁸⁶⁹ See: Marc Sommers, *Fear in Bongoland: Burundian Refugees in Urban Tanzania*, Refugee and Forced Migration Studies, Volume 8, Oxford: Berghahn Books, 2001.

they spoke Swahili.⁸⁷⁰ The fact that the restrictive measures are not applied to all refugees would seem to suggest that not all refugees are seen as threats by the Tanzanian government, but that the scapegoating of some refugees as threats is of particular political utility.

Conclusion

This chapter has examined the various phases of Tanzania's asylum policy from 1964 to 2004. This review illustrates that while the nature of Tanzania's asylum policy has shifted from an open policy under Nyerere to a restrictive policy under Mkapa, the factors underlying the policy have remained constant. This chapter has argued that domestic, regional and international factors have played the dominant role in determining Tanzania's asylum policy for the 40 years following independence. Given the twin elements of the idea of the Tanzanian state under Nyerere – *ujamaa* and Pan-Africanism – refugees fleeing both conflict in neighbouring countries and wars of national liberation were welcomed in Tanzania. Tanzania perceived the presence of these refugees as an economic asset, in the case of Rwandan and Burundian refugees, and as a political asset, in the case of Mozambican and South African refugees. The twin pressures of economic liberalization and democratization, however, resulted in a change in the idea of the Tanzanian state, and a consequent change in its asylum policy. These changes were coupled with the mass arrival of Burundian and Rwandan refugees in the mid-1990s. Following the expulsion of the Rwandan refugee population in 1996, Tanzania came to perceive the prolonged presence of Burundian refugees as an unending burden and as a security concern. Notwithstanding the benefits experienced in refugee-populated areas like Kibondo, Tanzania has responded to various domestic, regional and international pressures by pursuing an increasingly restrictive asylum policy since 1997. This response highlights the significant role that broader political factors have played in the formulation of Tanzania's asylum policies.

⁸⁷⁰ Interview with Teddy Deo, Urban Refugee Officer, TCRS, Dar es Salaam, 31 March 2004.

Chapter 6

Liberian and Sierra Leonean Refugees in Guinea: Playing the refugee card

Introduction

For most of the 1990s, Guinea was an island of relative stability, as conflict and warlordism engulfed its southern neighbours, Liberia and Sierra Leone. From the first arrival of refugees from the Liberian civil war in January 1990, through the outbreak of the Sierra Leonean conflict in 1991, the 1997 *coup d'état* in Freetown and the resumption of the Liberian war in 1999, Guinea provided refuge for well over 500,000 refugees. Many of these refugees lived in a patchwork of settlements in Southern Guinea, and most became self-sufficient. The refugee programme in Guékédou, Southern Guinea, was UNHCR's largest refugee programme in Africa in 1999. For many, it was also the most successful.

This situation changed dramatically in 2000. In response to a series of seemingly-coordinated cross-border incursions from Liberia and Sierra Leone, the President of Guinea, Lansana Conté, called on all Guineans to round-up and expel the refugees, whom he blamed for the violence. In response, thousands of refugees were beaten and detained in the capital, Conakry. Refugees elsewhere in the country were also profoundly affected, both as a result of the popular frustrations fanned by the President's speech and as a result of the on-going conflict. By April 2001, a tenuous calm returned to Guinea, but the implications of the events of the previous year were significant. The conflict had left an estimated 1,500 Guineans dead and tens of thousands internally displaced. The country's refugee population was scattered, and the tradition of asylum had seemingly been irreversibly changed.

Given the scale of the violence in Guinea between September 2000 and April 2001, the fact that the President identified refugees as the cause of the violence, and limited donor engagement to deal with the aftermath of the incursions, it may have been reasonable to expect Guinea to adopt a restrictive asylum policy. Guinea has not, however, pursued this

course. In fact, Guinea has, since 2003, pursued an open asylum policy – extending to the local integration of remaining refugees from Sierra Leone – notwithstanding numerous direct and indirect security concerns and limited financial burden sharing.

This chapter asks why Guinea continues to pursue an open asylum policy. It argues that Guinea's decision to continue an open asylum policy can best be explained by placing the question of refugees within the context of broader domestic, international and historical factors. The chapter argues that Guinea is willing to continue pursuing an open asylum policy because it is seeking leverage against a restrictive international donor community, because the hosting of refugees has played a central role in Guinea's foreign policy and strategic objectives in the sub-region, and because the nature of the Guinean state, inherited from Sékou Touré, gives the President a monopoly on power and the ability to pursue policies objectives in the absence of any meaningful political opposition. In this way, the case of Guinea furthers the argument of this thesis: African states do not formulate their asylum policies in isolation, but within the context of broader political considerations.

Unlike the other case studies of this thesis, which primarily consider one group of refugees, this chapter examines the factors affecting Guinea's treatment of both Sierra Leonean and Liberian refugees. Given the inter-play between the conflicts in Liberia and Sierra Leone, the fact that the two refugee populations are settled in the same region, and have been considered as a common issue by the government, addressing one without the other would be problematic. That said, this chapter does not examine the government's response to refugees from Guinea-Bissau in the late 1990s, refugees from Côte d'Ivoire post 2002, Guinean returnees from Côte d'Ivoire, or Guinean IDPs.⁸⁷¹ While the origins of these groups are linked to the conflicts in the sub-region, they are treated as separate issues by the

⁸⁷¹ For an overview of these groups, see: USCR, *World Refugee Survey*, 2004.

government, represent a small proportion of the total refugee population, and are not seen to have had an impact on Guinea's asylum policy.⁸⁷²

This chapter has four sections. Section one briefly examines Guinea's approach to refugees prior to September 2000, outlining how Guinea allowed refugees to locally settle and pursue self-sufficiency, but how this approach became increasingly untenable by 1999. Section two traces the events of the cross-border incursions between September 2000 and April 2001, outlines the response from Guinea, UNHCR, regional actors and donor governments, and explains why UNHCR described 2000 as "the year in which the ideal of asylum generously being offered to its neighbours in flight was abandoned by the Government of Guinea."⁸⁷³ Section three then considers the state of asylum in Guinea in 2004 to argue that while the security situation for refugees in southern Guinea had improved substantially, more general concerns about levels of burden sharing and insecurity in the refugee-populated area remained. In light of these findings, the final section outlines how Guinea's open asylum policy is best understood in relation to broader historical, domestic and international factors.

Guinea's asylum policy pre-September 2000

According to UNHCR, there were no refugees in Guinea before 1990.⁸⁷⁴ This is not to say, however, that Guinea did not host refugees before the mass influx of Liberians in 1990. Before examining the international response to the Liberian influx, this section briefly considers Guinea's approach to refugees before 1990 to highlight how the country's early asylum policy was linked to the regional priorities of the Sékou Touré regime.

⁸⁷² Interview with Louise Aubin, Assistant Representative (Protection), UNHCR Branch Office for Guinea, Conakry, 20 September 2004.

⁸⁷³ UNHCR, Branch Office for Guinea, "Guinea 2000 Annual Protection Report", internal, Conakry, undated (likely March 2001), 1.

⁸⁷⁴ See: UNHCR, *State of the World's Refugees*, 2000, 311 – 312.

Guinea's pre-1990 asylum policy

Little is known about Guinea's asylum policy between independence from France in 1958 and the end of the Sékou Touré regime in 1984.⁸⁷⁵ The limited existing literature suggests that Touré's refugee policy, like that of Nyerere of Tanzania, was guided by the spirit of African solidarity and support for regional wars of national liberation. For example, Guinea granted not only asylum but also the honorary title of 'Co-President' to Kwame Nkrumah of Ghana after he was deposed in March 1966.⁸⁷⁶ An unknown number of Ghanaians followed Nkrumah into exile in Guinea, and were reported to have been encouraged by Touré to "engage in activities to bring about a change in Ghana."⁸⁷⁷ This policy was sustained, notwithstanding a number of retaliatory actions on the part of Ghana.⁸⁷⁸ The Touré regime also provided support to Amílcar Cabral's *Partido Africano de Independência de Guiné e Cabo Verde* in their war for the independence of Guinea-Bissau from Portugal in the late 1960s and early 1970s by allowing Cabral to establish his headquarters in Conakry. In retaliation, Portugal invaded Conakry in November 1970 in an attempt to assassinate Cabral.⁸⁷⁹

Guinea was also a refugee-producing country during the Touré regime. In contrast to the optimism that characterized the early years of independence,⁸⁸⁰ the Touré regime

⁸⁷⁵ For background on Guinea's independence and the Sékou Touré regime (1958 – 1984), see: Victor Azarya and Naomi Chazan, "Disengagement from the State in Africa: Reflections on the Experience of Ghana and Guinea", *Comparative Studies in Society and History*, Vol. 29, no. 1, 1987; Sylvian Soriba Camara, *La Guinée sans la France*, Travaux et Recherches de science politique No. 44, Paris: Presse de la Fondation Nationale des Sciences Politiques, 1976; Lansine Kaba, "Guinean Politics: A Critical Historical Overview", *The Journal of Modern African Studies*, Vol. 15, no. 1, March 1977; Victor Le Vine, *Politics in Francophone Africa*, London: Lynne Rienner Publishers, 2004; Thomas O'Toole, *Historical Dictionary of Guinea (Republic of Guinea/Conakry)*, African Historical Dictionaries, No. 16, Netuchen: The Scarecrow Press, 1978; and Claude Rivière, *Guinea: The Mobilization of a People*, translated from French by Virginia Thompson and Richard Adloff, Ithaca: Cornell University Press, 1977.

⁸⁷⁶ O'Toole, 1978, xiv.

⁸⁷⁷ Thomas Hovet, "Boundary Disputes and Tensions as a Cause of Refugees" in Brooks and el-Ayouty, 1970, 25.

⁸⁷⁸ The most infamous retaliatory act by Ghana was the detention of Louis Lansana Beavogui, Guinea's Minister of Foreign Affairs, in October 1966 while Beavogui was transiting through Accra, en route to the OAU Conference in Addis Ababa. See: O'Toole, 1978, 10.

⁸⁷⁹ See: Le Vine, 2004, 222; Kaba, 1977, 33; and Rivière, 1970.

⁸⁸⁰ See: Camara, 1976.

undertook disastrous experiments with forms of socialism, including the prohibition on commercial trade and forced labour, coupled with authoritarianism, motivated by a perpetual fear of plots to overthrow the regime.⁸⁸¹ As outlined by O'Toole, "the increasingly repressive measures adopted by the Government of Guinea in the 1970s continued to swell the ranks of those who had already left the country for political and economic reasons in the 1960s."⁸⁸² Azarya and Chazan believe that more than 2 million Guineans were living outside their country in the early 1970s, primarily in states bordering Guinea.⁸⁸³ While estimates on the number of Guineans in exile vary considerably,⁸⁸⁴ it is generally believed that "almost every family had an émigré abroad."⁸⁸⁵ Many of these émigrés, especially Mandingo traders, went to Liberia to escape Touré's restrictive economic policies in the 1960s and 1970s, only to return to Guinea in 1990 to escape from the Liberian civil war.⁸⁸⁶

War in Liberia and the initial response: 1990

On 12 December 1989, the National Patriotic Front of Liberia (NPFL), led by Charles Taylor, crossed into Northern Liberia from Cote d'Ivoire, starting one of Africa's deadliest civil wars. The start of the Liberian civil war resulted in a mass influx of refugees into southern Guinea from January 1990 onwards, reaching 325,000 by year-end. The refugee population then peaked at roughly 670,000 refugees in 1996. By 1999, Guinea continued to host an estimated 450,000 refugees, making it the country with the largest refugee population in Africa that year.⁸⁸⁷ Given the response of Kenya and Tanzania to comparable mass influx

⁸⁸¹ See: Rivère, 1977, 121 – 140.

⁸⁸² O'Toole, 1978, 60.

⁸⁸³ Azarya and Chazan, 1987, 118 – 119.

⁸⁸⁴ The lowest estimate is provided by O'Toole, who reported that there were more than 600,000 "persons of Guinean origin living in exile" at the end of 1978. O'Toole, 1978, 60.

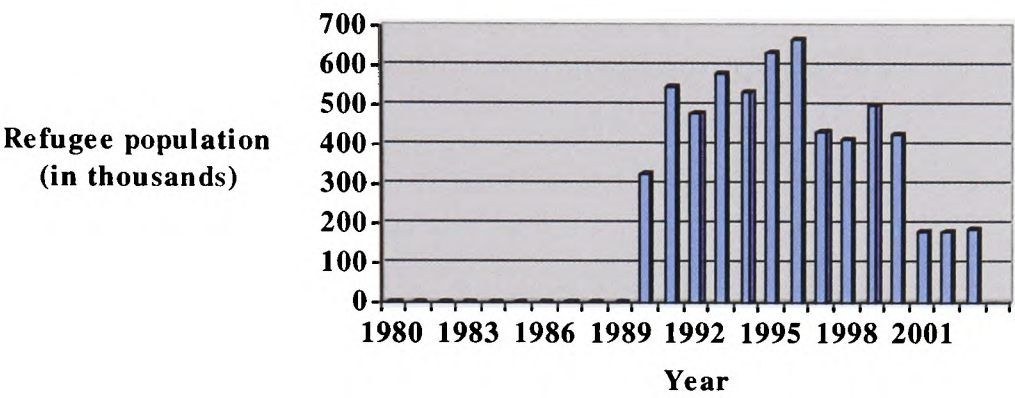
⁸⁸⁵ Interview with Moustapha Condé, Assistant Coordinator, *Bureau National des Réfugiés*, N'Zérékoré, 29 September 2004.

⁸⁸⁶ Win van Damme, "Field Reports: How Liberian and Sierra Leonean Refugees Settled in the Forest Region of Guinea (1990 – 1996)", *Journal of Refugee Studies*, Vol. 12, no. 1, 1999, 39.

⁸⁸⁷ USCR, *World Refugee Survey*, 2000.

situations, it is important to begin by emphasising that Guinea did not respond to this large refugee population by establishing refugee camps, but by allowing refugees to initially settle within the local population.

Figure 6.1: Refugee population in Guinea (1980 - 2003)



Source: UNHCR, *State of the World’s Refugees*, 2000;
UNHCR, *UNHCR Statistical Yearbook* 2003, 2003.

In early January 1990, 10,000 ethnic Mano Liberians fled to Guinea to escape the fighting in Northern Liberia. They settled in ethnic Mano Guinean villages, beginning the pattern of refugee settlement to be followed in Guinea. Whereas other African states in the 1990s responded to the arrival of refugees by establishing camps, Guinea allowed refugees to settle in and around villages whose population typically belonged to the same ethnic group as the refugees. This approach was in recognition of the long-standing social, economic and linguistic links across the border, and often resulted in the “creation of twin villages with one single name.”⁸⁸⁸ By March 1990, it was estimated that some 100,000 refugees had arrived in Guinea and that most had “spontaneously settled in approximately 60 villages.”⁸⁸⁹

While some attention has been paid to the local dynamics of this settlement pattern,⁸⁹⁰ it is also important to consider the government’s response to the influx. Unlike previous

⁸⁸⁸ Van Damme 1999, 37.

⁸⁸⁹ UNHCR, Technical Support Service, “Guinea: Emergency Assistance and Emergency Management – Liberian refugee emergency: 23 February – 23 March 1990”, TSS Mission Report 90/09, Geneva: UNHCR, undated (likely March 1990), 1990a.

⁸⁹⁰ See: van Damme, 1999.

relations between Guinea and the UN system,⁸⁹¹ Guinea appealed to UNHCR for assistance and cooperated closely with UNHCR in the early stages of the crisis. Indeed, UNHCR later noted that from the beginning of the emergency “the [Guinean] authorities ... welcomed the involvement of UNHCR in assisting as co-ordinator and facilitator of the emergency response.”⁸⁹² This collaboration was formalized through a number of agreements in the early days of the crisis, including the accreditation of the first UNHCR Chargé de Mission for Guinea in March 1990 and the signing of a UNHCR’s Branch Office agreement on 14 April 1990.⁸⁹³ These developments, in both practice and policy, highlight Guinea’s willingness to engage with the refugee question. It is important to also note that while this response may be partially explained by the scale of the influx, it may also be the result of political changes in Guinea since the end of the Touré regime in 1984, and the desire of its new President, Lansana Conté, to pursue a policy of “reconciliation between Guinea and the West.”⁸⁹⁴

Spirals of conflict and additional arrivals: 1991 – 1999

Van Damme outlines four major periods of refugee arrival in 1990 – 1991, bringing some 350,000 refugees to Guinea, and notes that each group followed a similar settlement pattern: “Rural refugees fled to rural areas, and urban dwellers settled mainly in the cities.”⁸⁹⁵ This pattern continued in the early 1990s, especially following the spill-over of the Liberian conflict into neighbouring Sierra Leone.⁸⁹⁶ These arrivals settled in the *Languette* region of Guinea, a sliver of territory south of Guékédou that juts into Sierra Leone and partially

⁸⁹¹ O’Toole noted in 1978 that while “Guinea [belonged] to most of the UN’s specialized agencies, it received missions of the World Health Organization, UNESCO and other agencies with so many restrictions that they seldom [were] able to offer much assistance to the country.” O’Toole, 1978, 74 – 75.

⁸⁹² UNHCR, Technical Support Service, 1990a, 2.

⁸⁹³ UNHCR and Government of Guinea, *Accord de coopération entre le HCR et le gouvernement de la République de Guinée*, Conakry, 14 April 1990.

⁸⁹⁴ Julie Fischer, “Tenure opportunities and constraints in Guinea: Resource management projects and policy dialogue”, *Land Tenure Centre Newsletter*, Number 72, Winter 1994/94, 1.

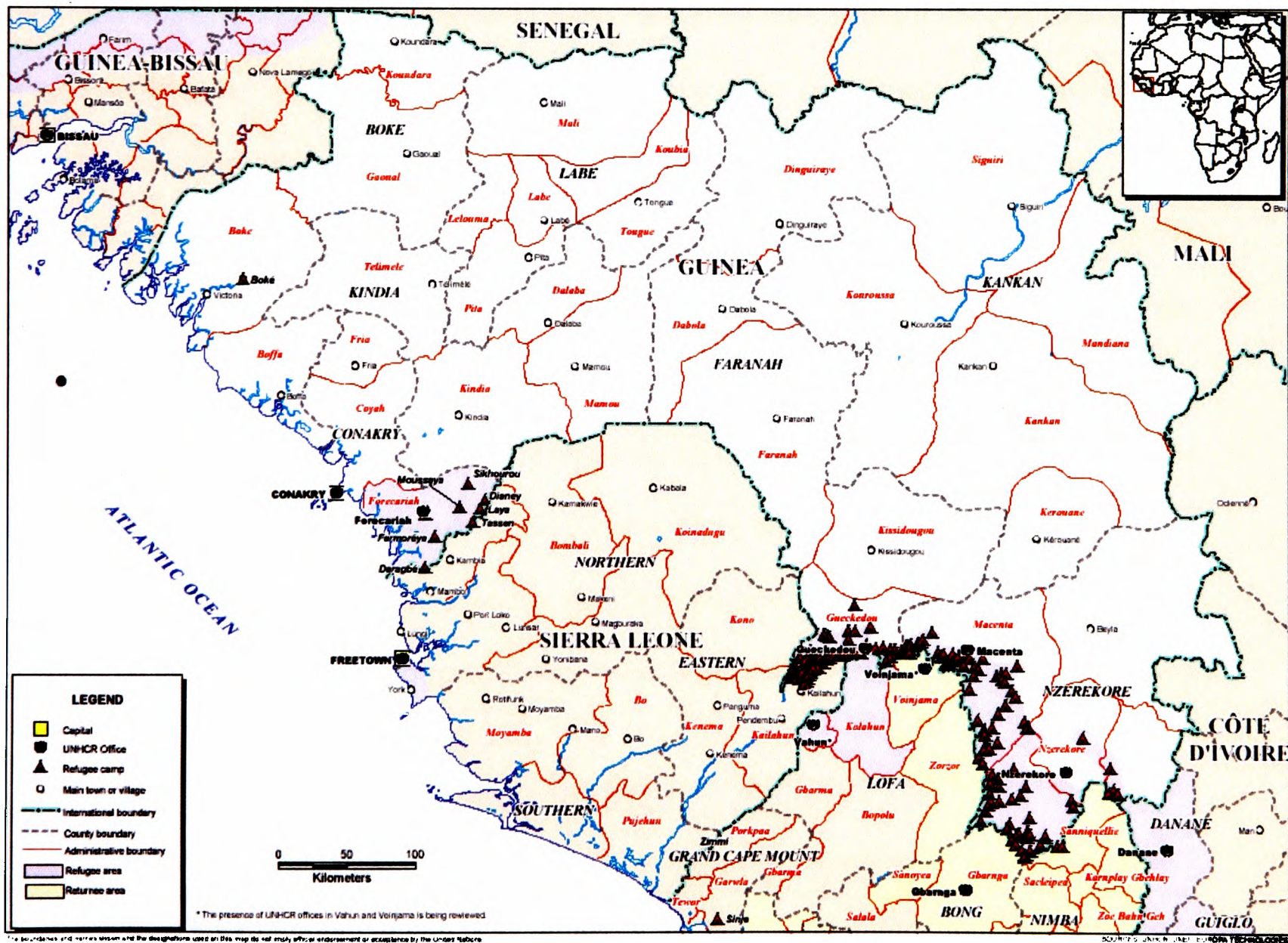
⁸⁹⁵ Van Damme, 1999, 36.

⁸⁹⁶ Van Damme, 1999, 40.

borders Liberia. Kissi refugees were able to self-settle in Kissi villages between Guékédou and Kissidougou. The Mende and Gbande, however, did not have links across the border, and the first ‘camp’ was established at Kouloumba to house approximately 26,000 refugees.⁸⁹⁷

Guékédou became the focus of the international response to successive waves of arrivals from both Sierra Leone and Liberia through the 1990s and the UNHCR Sub-Office in Guékédou grew to become UNHCR’s largest Sub-Office in Africa in 1999. The Guékédou Office was responsible for over 280,000 refugees in March 2000, 63% of Guinea’s total refugee population.⁸⁹⁸ These refugees, mostly Sierra Leonean, lived in 95 refugee settlements, ranging in size from 250 to 25,000 refugees, forming a patch-work of refugee settlement throughout southern Guinea, as illustrated in Map 6.1 (below).

Map 6.1: UNHCR Operations in Guinea (March 2000)



Source: UNHCR, Mapping Unit, “Guinea: As of 7 March 2000”, March 2000.

⁸⁹⁷ Van Damme, 1999, 42.

⁸⁹⁸ Statistics provided to UN-OCHA by the Préfet of Guékédou, 2003. On file with author.

During the 1990s, UNHCR's programme in Southern Guinea in general, and in Guéckédou, in particular, was seen by many to be a possible alternative to the refugee camps being established elsewhere in Africa. Instead of refugees being dependent on food distributions, UNHCR encouraged refugees to become self-sufficient by funding "a number of agricultural programmes to promote cultivation of rice and other crops by refugees to meet the goal of self-sufficiency."⁸⁹⁹ As early as 1992, 87% of refugees were found to be engaged in some form of economic activity, while 50% of refugees had achieved or were close to achieving self-sufficiency.⁹⁰⁰ On the basis of these findings, some asked if the settlement pattern in Guinea provided "an alternative to camps," pointing to the low-cost of providing health-care to refugees, the contribution to the local economy and the degree of self-sufficiency enjoyed by refugees.⁹⁰¹

By 1997, however, concerns were raised about the sustainability of this approach to refugee settlement. Examining the availability of land for the pursuit of self-sufficiency through agricultural production, Black and Sessay noted that the question of land use "is not determined by a straightforward relationship between supply and demand for land, but is mediated by local social and political institutions and changing economic circumstances in the region as a whole."⁹⁰² They highlighted how those responsible for these social and political institutions had a short-term economic interest in allowing large-scale access to land for refugees, which could lead to longer-term concerns about environmental sustainability. The immediate result of this large-scale access was "an increase in food production that ... led UNHCR to conclude that the refugees [were] capable of being self-sufficient."⁹⁰³ Black and

⁸⁹⁹ Richard Black and Mohamed Sessay, "Forced Migration, Land-Use Change and Political Economy in the Forest Region of Guinea", *African Affairs*, Vol. 96, no. 385, October 1997, 595.

⁹⁰⁰ Ali Oularé and Fodé Keita with Sadigou Tounkara, "Enquête socio-economic sur la situation des réfugiés libériens et sierra-leonais en Guinée Forestiere", Conakry, University of Conakry for UNHCR, Guinea, November 1992, 13.

⁹⁰¹ Win van Damme, "Do refugees belong in camps? Experience from Goma and Guinea", *The Lancet*, Volume 346, 5 August 1995, 361.

⁹⁰² Black and Sessay 1997, 604.

⁹⁰³ *Ibid.*

Sessay cautioned, however, that UNHCR and the Guinean government would eventually have to intervene to balance the short-term benefits of livelihoods for refugees and the local population with longer-term concerns about environmental sustainability.⁹⁰⁴

A system close to breaking: 1999 – 2000

By 1999, Guinea began to share these concerns, especially relating to the environmental sustainability of the pattern of refugee settlement.⁹⁰⁵ Following the visit of the UN Secretary-General to Conakry in early 1999, the UN Environment Programme (UNEP) was requested to undertake a review of the situation. UNEP's preliminary report noted that "high population densities in the rural areas and urban centres, mainly – but not solely – caused by the refugee influx, has resulted in a very high pressure on natural resources in southern Guinea" and that "the apportion of the resources is unsustainable, leaving increasingly less natural resources available for an increasing population."⁹⁰⁶ Crucially, the report noted that this situation was not the result of a lack of awareness of environmental issues, but highlighted instead the lack of burden sharing with Guinea to help mitigate the impact of refugees on the environment:

Now, after ten years, the situation seems to have become a permanent one, which according to many organizations present in Guinea and the Guinean Government cannot be sustained. The Guinean Government has called on the international community for appropriate and sustained assistance, as it is doing in refugee crises in Kosovo and East Timor.⁹⁰⁷

These concerns about dwindling international support and sustainability came to place the refugee programme under greater strain by the end of 1999. UNHCR's programmes for both Liberian and Sierra Leonean refugees in the region were under-funded by 30-50% in

⁹⁰⁴ Black and Sessay 1997, 605.

⁹⁰⁵ Some of these concerns had previously been considered by UNHCR. See: UNHCR, Environmental Unit, "Towards Sustainable Environmental Management Practices in Refugee-Affected Areas (TSEMPRAA): Country Reports: Côte d'Ivoire and Guinea", Geneva, August 1998.

⁹⁰⁶ UN Environment Programme (UNEP), "Environmental Impact of Refugees in Guinea: Report to the Secretary General on the findings and recommendations of the pre-assessment on the environmental impact of refugees in Guinea", Nairobi: UNEP Regional Office for Africa, March 2000, 3.

⁹⁰⁷ UNEP, 2000, 7.

1999, leading to cuts in the field.⁹⁰⁸ Indeed, UNHCR's Branch Office for Guinea later complained that its programme had been chronically under-funded, highlighting that "in 2000, the initial approved budget of US\$31.9 million was subsequently reduced to US\$19.7 million" resulting in the suspension of a number of activities in August 2000.⁹⁰⁹

According to a programme review conducted in 2000, this lack of donor engagement had a dramatic impact on the viability of the programme as a whole.⁹¹⁰ The review noted that the programme worked under a number of constraints, including low levels of staffing and a dwindling capacity to support the "relatively weak state structures with which UNHCR works."⁹¹¹ Indeed, it was found that these and other constraints, compounded by concerns relating to the environment first raised in 1997, had brought the whole premise of the programme into doubt as "food security remains, or has become, a key issue of concern for many refugees and Guineans even after such a protracted refugee stay in country."⁹¹²

The issue of insecurity also began to figure prominently in Guinea by the late 1990s, stemming largely from Guinea's involvement in the conflicts in Sierra Leone and Liberia. The May 1997 *coup d'état* in Freetown, Sierra Leone, which brought the Armed Forces Revolutionary Council (AFRC) to power, the ECOMOG intervention in February 1998 and the attack on Freetown in 1999 by the Revolutionary United Front (RUF) all brought successive waves of refugees not only into southern Guinea, but also into Conakry. As under the Touré regime, Conté granted asylum to a deposed friend as the President of Sierra Leone, Ahmed Tejan Kabbah, fled to Conakry after the AFRC *coup*.

⁹⁰⁸ UNHCR's regional budget for the Sierra Leone Operation had a budget of US\$7,072,068 in 1999, but received only US\$3,358,677 – a shortfall of 53%. Likewise, UNHCR's Liberian Repatriation and Reintegration Operation had a budget of US\$ 24,487,299 in 1999, but received only US\$17,022,926 – a shortfall of 31%. UNHCR, *Global Report 1999, 2000*, 111 – 124.

⁹⁰⁹ UNHCR, Guinea, "Briefing package for the mission of Ms. Erika Feller, Director of the Department of International Protection, UNHCR Branch Office for Guinea, 2 – 4 July 2001", internal, Conakry, undated (likely 1 July 2001), on file with author.

⁹¹⁰ Tania Kaiser, "A beneficiary-based evaluation of UNHCR's programme in Guinea, West Africa", Geneva: UNHCR, Evaluation and Policy Analysis Unit, EPAU/2001/02, January 2001.

⁹¹¹ Kaiser, 2001, 4.

⁹¹² Kaiser, 2001, 5.

In the following months, two groups coalesced around Conté, on the one hand, and President Charles Taylor of Liberia, on the other.⁹¹³ The first grouping consisted of the Presidents of Guinea and Sierra Leone, with the support of *Kamajors*⁹¹⁴ and members of the armed movement United Liberation Movement for Democracy (ULIMO).⁹¹⁵ The second consisted of Taylor, with the support of the RUF⁹¹⁶ and, to a lesser extent, the AFRC. Refugee protection and assistance became an important aspect of the struggle between these two groupings. The line between refugees and rebels became blurred, as *Kamajors* and ULIMO fighters helped the Guinean military patrol its borders and screen those seeking asylum in Guinea, and assistance to refugees was allegedly directed to support the campaigns of the two groups in Sierra Leone and Liberia.⁹¹⁷ In response, the RUF launched cross-border incursions into Guinea in September 1998, targeting Tomandou refugee camp, 80 km from Guékédou, and killing ten people, including seven refugees.⁹¹⁸

This overview indicates that two issues were of increasing concern to Guinea at the end of the 1990s: dwindling donor support and an increase in security concerns relating to the militarization of the refugee question. In fact, these two themes were the focus of Guinea's statement to UNHCR's Executive Committee in October 1999.⁹¹⁹ Guinea emphasised that it was "the largest asylum country in the world proportional to its population [and] continues to

⁹¹³ See: Tom Kamara, "Guinea: Confronting Insecurity in the Midst of Unstable Neighbours", WRITENET Paper No. 8/2000, UNHCR, February 2001, 3.

⁹¹⁴ The *Kamajors* were a pro-Kabbah militia operating in Northern Sierra Leone and Freetown, in opposition to the AFRC and the RUF. See: William O'Neill, "Conflict in West Africa: Dealing with Exclusion and Separation", *International Journal of Refugee Law*, Vol. 12, Special Supplementary Issue, 2000.

⁹¹⁵ ULIMO was founded in Freetown in 1991 by Liberians who had fled the advance of Charles Taylor. See: Stephen Ellis, "Liberia's Warlord Insurgency" in Clapham (ed.), 1998; and William Reno, *Warlord Politics and African States*, London: Lynne Rienner Publishers, 1998.

⁹¹⁶ For the origins of the RUF and their links with Charles Taylor, see: Ibrahim Abdullah and Patrick Muana, "The Revolutionary United Front of Sierra Leone" in Clapham (ed.), 1998.

⁹¹⁷ See: LCHR, 2002, 55 – 72.

⁹¹⁸ Amnesty International (AI), "Guinea and Sierra Leone: No place of refuge", AI Index AFR 05/006/2001, London, 24 October 2001.

⁹¹⁹ Government of Guinea, "Déclaration de S.E. M Mousa Solano, Ministre de l'Administration du Territoire et de la Décentralisation de la République de Guinée, devant la Cinquantième Session du Comité Exécutif du Haut Commissariat aux Réfugiés", Geneva, October 1999.

suffer the negative impact of the presence of a large refugee population.”⁹²⁰ It continued that Guinea’s greatest concern was security, warning that “if a solution is not found quickly that can guarantee our internal security, it is believed that the host population, already exhausted by the massive and prolonged presence of refugees, will not be able to suppress a feeling of rejection...”⁹²¹ Guinea also highlighted the perceived unequal treatment of African refugees, relative to refugees in the Balkans and East Timor, warning that “the humanitarian fatigue of which we speak in other areas risks spreading in Africa, especially in Guinea ... if this indifference of the international community is allowed to continue.”⁹²²

In contrast with other African host countries, however, Guinea did not announce its intention to enforce encampment policies, enact tougher domestic legislation or push for the early repatriation of refugees. Instead, it stated it would to enact legislation, “not only to codify the welcome and stay of refugees in Guinea, but also to ensure their protection and the reduction of all activities incompatible with their status.”⁹²³ In fact, Guinea adopted national refugee legislation on 10 August 2000.⁹²⁴ The new law entitled recognized refugees to rights equivalent with those of Guineans, including freedom of movement and the right to work. In fact, notwithstanding concerns about security and declining donor engagement, Guinea continued to pursue an open asylum policy – until the events of September 2000.

The cross-border incursions: 2000 – 2001

Between September 2000 and March 2001, Guinea suffered more than 30 cross-border armed incursions, resulting in an estimated 1,500 civilian deaths, the internal displacement of between 100,000 and 350,000 Guineans, and the dispersal of tens of thousands of refugees.

⁹²⁰ Guinea, October 1999, 3. Author’s translation.

⁹²¹ Guinea, October 1999, 4. Author’s translation.

⁹²² Guinea, October 1999, 7 – 8. Author’s translation.

⁹²³ Guinea, October 1999, 6. Author’s translation.

⁹²⁴ Government of Guinea, National Assembly, *Loi L/2001/012 relative au statut des réfugiés en Guinée*, 10 August 2000.

These events profoundly affected the protection of refugees in Guinea and the course of conflict in the sub-region, but have yet to be systematically examined. With the exception of some reporting by human rights NGOs⁹²⁵ and limited consideration of these events in the francophone literature,⁹²⁶ a detailed analysis of these events appears to be missing from the literature. One objective of this section is therefore to address this gap. Drawing from news wires, press releases and interviews, this section will chronicle the events of this important period and the responses from a range of actors before outlining the interventions of UNHCR and other actors to help Guinea address the security implications of the incursions.

Cross-border incursions: September 2000 – March 2001

Between 1 and 2 September 2000, the Guinea border town of Massadou, to the east of Macenta, was attacked, allegedly by pro-Taylor Liberian elements supported by the RUF. An estimated 47 Guineans were killed in the attack, which marked the start of a rapid chain of events.⁹²⁷ On 3 and 4 September, Madina Woula, on the border with Sierra Leone and south-east of the regional centre of Kindia, was attacked, resulting in another 40 deaths.⁹²⁸ On 6 September, Pamalap, the border-town near Forécariah and only 120km from Conakry, was attacked and held, allegedly by the RUF.⁹²⁹ The attack, which killed some 27 people and

⁹²⁵ See: AI, October 2001; Human Rights Watch (HRW), "Guinea: Refugees Still at Risk: Continuing Refugee Protection Concerns in Guinea", New York: HRW, Africa Division, Vol. 13, no. 5 (A), July 2001; HRW, "Liberian Refugees in Guinea: Refoulement, Militarization of Camps and Other Protection Concerns", New York: HRW, Vol. 14, no. 8 (A), November 2002; Kamara, February 2001; LCHR, 2002; and USCR, "Analysis and Opinion: Crisis in West Africa", Washington, 9 February 2001.

⁹²⁶ See: Dominique Bangoura, "La Guinée face aux rébellions au sud de son territoire", *Afrique contemporaine*, No. 200, 4e trimestre 2001; Stephen Ellis, "Les guerres en Africa de l'Ouest: le poids de l'histoire", *Afrique contemporaine*, No. 198, 2e trimestre 2001; International Crisis Group (ICG), "Guinée: Incertitudes autour d'une fin de règne", Freetown/Bruxelles: ICG Rapport Afrique no. 74, 19 December 2003; and Mike McGovern, "Conflit régional et rhétorique de la contre-insurgence: Guinéens et réfugiés en septembre 2000" *Politique Africaine*, no. 88, 2002.

⁹²⁷ See: Government of Guinea, "Déclaration du gouvernement de la République de Guinée", Conakry: *Horoya*, 5 September 2000; and USCR, "Press release: Sierra Leone and Liberia violence spills into Guinea: Backlash endangers hundreds of thousands of refugees", Washington, 13 September 2000.

⁹²⁸ USCR, 13 September 2000; and AI, October 2001, 3.

⁹²⁹ IRIN, 7 September 2000; IRIN, 8 September 2000b; and USCR, 13 September 2000.

targeted an army garrison, was “significant in that it marked the first attack in the border regions near Conakry” and threatened to strike at the very core of the Conté regime.⁹³⁰

These seemingly coordinated attacks, spanning the length of Guinea’s border with Sierra Leone and Liberia, caused panic in the capital. Local residents attacked Liberian and Sierra Leonean refugees and numerous anti-refugee demonstrations were held in Conakry in response to rumours that refugees were aiding the insurgents. Amidst this upheaval, UNHCR appealed to the international community to support what it identified as Guinea’s security concerns.⁹³¹ Likewise, in a meeting with foreign diplomats in Conakry on 7 September 2000, Moussa Solano, the Guinean Minister for Territorial Administration, blamed the attacks on Liberia and Burkina Faso, along with the RUF and Guinean dissidents, and called on the international community to condemn the attacks.⁹³² He reportedly received a sceptical response.

On 9 September 2000, President Conté addressed the nation on radio, saying:

I am giving orders that we bring together all foreigners ... and that we search and arrest all suspects... They should go home. We know that there are rebels among the refugees. Civilians and soldiers, let’s defend our country together. When you catch these people, these enemies, crush them. Wait for nothing. I order it!⁹³³

According to Amnesty International, “the President’s speech is widely seen as a decisive turning point in national policy but also as implicit permission to the military, and the Guinean public, to go on the offensive against refugees in Guinea.”⁹³⁴ Refugees in Conakry were particularly affected. UNHCR estimated that at least 5,000 refugees were detained in community centres and police stations around the capital in the days following the speech.⁹³⁵

⁹³⁰ AI, October 2001, 3.

⁹³¹ IRIN, 8 September 2000a.

⁹³² Sékouna, Keïta, “Le gouvernement aux diplomates: “La Guinée est victime d’un complot international”, *Horoya*, No. 5457, 8 September 2000, 3.

⁹³³ The President’s speech was unscripted, and no transcript of the speech appears to exist. This extract, by an unknown translator, has been cited by both LCHR and USCR. See: LCHR, 2002, 74; and USCR, 13 September 2000.

⁹³⁴ AI, October 2001, 3.

⁹³⁵ IRIN, 11 September 2000a. Note: UNHCR announced on 12 September 2000 that all refugees would be released. See: UNHCR, “UNHCR Briefing Notes: Timor, Guinea”, 12 September 2000.

Many more were evicted from their homes and subjected to harassment and abuse by their neighbours, the police, and youth militias who were reported to have interpreted the President's speech as "a call to militancy".⁹³⁶

The President's speech was not only an effort to scapegoat refugees for the violence, thereby deflecting attention from Guinea's role in the regional conflict,⁹³⁷ but reflected the feeling within the government that the Guinean army – lacking motivation, poorly trained and under-equipped – would not be able to repel the invasion without additional support. It found support in two groups. First, the alliance between Guinean forces and ULIMO fighters was reinforced, and ULIMO elements mobilized along with the Guinean army to defend Macenta and Guékédou.⁹³⁸ Many of these fighters had previously been refugees in Guinea, were drawn directly from the refugee population, or had family members within the refugee camps, especially Kouankan refugee camp, near Macenta.⁹³⁹ Second, thousands of young Guineans were recruited into local militias to reinforce the border defences. These youths, known as 'Young Volunteers', came primarily from Prefectures along the border; they were recruited by the local Prefects, armed, and sent to fight at the front-line with little or no training.⁹⁴⁰ No central registry was kept, so it is impossible to know how many Young Volunteers were recruited. Estimates range from 7,000⁹⁴¹ to 30,000.⁹⁴² According to the Prefect of N'Zérékoré, 4,500 Young Volunteers were recruited in his Prefecture alone.⁹⁴³ With the support of the Young Volunteers and ULIMO, the Guinean military waged a six month

⁹³⁶ IRIN, 11 September 2000a.

⁹³⁷ See: McGovern, 2002.

⁹³⁸ See: PANA, 16 January 2001; and IRIN, 19 January 2001.

⁹³⁹ UNHCR, "UNHCR Guinea Update 25 Jan 2001: Possible militia recruitment in Guinea camps seen as threat to refugees", 25 January 2001; IRIN, 26 January 2001.

⁹⁴⁰ Interview with René Bayo Kamano, Security Advisor, Ministry of Territorial Administration and Decentralization, Conakry, 27 September 2004; and interview with Madifing Diane, Inspector General, Office of the Inspector General for Security Services, Ministry of Security, Conakry, 8 October 2004.

⁹⁴¹ 7,000 is the planning figure used by UNICEF in its planning for demobilization activities for the Young Volunteers. See: UN-OCHA, "Guinea: Consolidated Inter-Agency Appeal 2002", Geneva, November 2001.

⁹⁴² Interview with Kamano, 2004.

⁹⁴³ Interview with Commandant Algassimou Barry, Préfet of N'Zérékoré, N'Zérékoré, 1 October 2004.

campaign against the incursions. This began on 12 September 2000, when an offensive was launched to retake Pamalp, which included an attack on the Farmoréya Camp near Forécariah.⁹⁴⁴

Expressions of solidarity from outside actors soon followed. On 14 September, the UNHCR Director for West and Central Africa, Abou Mousa, met Lansana Conté. Mousa “delivered a message in which the High Commissioner urged the Guinean authorities to continue providing protection to the refugees.”⁹⁴⁵ In return, Conté “assured UNHCR of the government’s willingness to [continue providing protection to refugees] and at the same time appealed to the international community to find a lasting solution to the crisis in Sierra Leone.”⁹⁴⁶ International support for Guinea was first publicly expressed on 15 September, when the US Department of State condemned the attacks and called on “all leaders of the region to respect their neighbour’s borders and desist from supporting armed incursions.”⁹⁴⁷

On 17 September 2000, the town of Macenta was attacked by elements from Liberia, resulting in many civilian casualties, including Mensah Kpognon, the Head of the UNHCR Macenta Office.⁹⁴⁸ A second UNHCR worker, Sapeu Laurence Djeya, was abducted and later released inside Liberia.⁹⁴⁹ During the attack, the UNHCR Office in Macenta was looted. In response, UNHCR announced increased security restrictions, ordering all non-essential staff to remain in their homes and withdrawing all dependents of international staff to Conakry.⁹⁵⁰

⁹⁴⁴ AFP, 14 September 2000; and AI, October 2001, 11.

⁹⁴⁵ UNHCR, “UNHCR Briefing Notes: Guinea, Pakistan”, 15 September 2000.

⁹⁴⁶ *Ibid.*

⁹⁴⁷ Government of the United States of America, Department of State, “Press Release: US Condemns Attack on Guinea Border Villages”, Washington, 15 September 2000.

⁹⁴⁸ UNHCR, “Press Release: UNHCR worker killed, one missing in Guinea attack”, 17 September 2000. For an account of the events of 17 September 2000, see: UNHCR, Inspector General’s Office, “Summary report of the inquiry into the death of one UNHCR Staff Member and the abduction of another in Macenta, Guinea, on 17 September 2000”, Geneva, 8 December 2000.

⁹⁴⁹ UNHCR, “Press Release: UNHCR worker released in Liberia”, 28 September 2000. The fact that Djeya was released in Liberia confirmed for many the involvement of Liberian forces in the Macenta attacks.

⁹⁵⁰ UNHCR, “UNHCR Guinea Update 18 Sep 2000”, 18 September 2000.

In fact, by 19 September 2000, all UNHCR international staff were reported to be in Conakry.⁹⁵¹

Additional attacks on Macenta⁹⁵² and Forécariah⁹⁵³ continued in September. In response, Guinean forces began shelling northern Liberia with heavy artillery on 22 September 2000.⁹⁵⁴ As Liberia claimed that Guinea's actions were "tantamount to a full-scale war," a ranking Guinean officer was reported to have said that the army had been instructed to pursue any rebels attacking Guinea, "even if it means entering Liberia and Sierra Leone."⁹⁵⁵ In October and November, the fighting continued in southern Guinea, with attacks on Koyama,⁹⁵⁶ Balezia,⁹⁵⁷ and on the outskirts of Macenta and Guékédou.⁹⁵⁸

A number of other related developments occurred in October. On 4 October, members of the ECOWAS Mediation and Security Council agreed, in principle, to send a military observer mission to patrol Guinea's borders with Liberia and Sierra Leone.⁹⁵⁹ As if to emphasise the need for such a deployment, Liberia announced on 10 October that an armed group "operating from inside Guinea" had attacked locations in Lofa County in Northern Liberia.⁹⁶⁰ At the same time, a delegation from the UN Security Council visited the sub-region to explore "ways to promote stability in the region."⁹⁶¹ The mission met with Conté, who both "denied that Guinea had ever supported Liberian dissidents" and "requested that the international community take steps to dissuade President Taylor from this course of action" of

⁹⁵¹ IRIN, 19 September 2000.

⁹⁵² UNHCR warehouses in Macenta were attacked on 29 September 2000. See: IRIN, 2 October 2000.

⁹⁵³ Fighting in Farmoreya on 30 September 2000 killed 10 people. AFP, 1 October 2000.

⁹⁵⁴ IRIN, 25 September 2000; and PANA, 25 September 2000.

⁹⁵⁵ IRIN, 25 September 2000.

⁹⁵⁶ IRIN, 3 October 2000.

⁹⁵⁷ AFP, 30 October 2000.

⁹⁵⁸ IRIN, 29 November 2000.

⁹⁵⁹ AFP, 5 October 2000a.

⁹⁶⁰ AFP, 10 October 2000.

⁹⁶¹ UN Department of Public Information (UNDPI), "In Guinea, Security Council members briefed on poor conditions facing refugees", 9 October 2000.

backing the incursions into Guinea.⁹⁶² During the same meeting, Conté “welcomed the decision in principle of ECOWAS to deploy troops on his borders, but noted that resource constraints would hamper the implementation” and therefore “suggested that the United Nations assist in their deployment.”⁹⁶³

In early November, Guinean troops began to bomb villages in northern Sierra Leone in an attempt to undermine RUF activities.⁹⁶⁴ By the end of November, RUF fighters pushed deeper into Guinea, and almost captured the important regional town of Kissidougou after holding the town of Yendé, south of Kissidougou, for one week. Refugee settlements were also targeted in the fighting. According to Amnesty International, “Katkama Camp, where the RUF reportedly attempted to recruit refugees to fight, was one of the camps particularly hard hit.”⁹⁶⁵

The fighting reached Guékédou on 6 December.⁹⁶⁶ RUF fighters attacked from the south and west, as pro-Taylor Liberian and Guinean dissident elements reportedly joined from the east. The UNHCR Sub-Office in Guékédou, the base for one of the largest refugee operations in Africa, was attacked, looted and partially burned. The fight for Guékédou lasted several weeks and resulted in the virtual destruction of the town. The government later reported that 86 people, including 54 civilians were killed,⁹⁶⁷ and that an estimated 100,000 Guineans fled the fighting and became internally displaced. The attack prompted condemnations from the UN Secretary-General⁹⁶⁸ and the US Department of State.⁹⁶⁹

⁹⁶² UN Security Council (UNSC), “Report of the Security Council mission to Sierra Leone”, S/2000/992, 16 October 2000, 8.

⁹⁶³ *Ibid.*

⁹⁶⁴ AFP, 9 November 2000.

⁹⁶⁵ AI, October 2001, 4.

⁹⁶⁶ UNHCR, “Press Release: UNHCR alarmed by deteriorating situation in Guinea”, 6 December 2000; and IRIN, 7 December 2000.

⁹⁶⁷ AFP, 8 December 2000.

⁹⁶⁸ UNSG, “Statement: Secretary-General expresses concern about situation on Guinea/Liberia/Sierra Leone borders”, SG/SM/7656, AFR/287, New York, 8 December 2000.

⁹⁶⁹ IRIN, 8 December 2000.

Fighting in the area continued through the first quarter of 2001 with attacks on Guékédou in mid⁹⁷⁰ and late January.⁹⁷¹ The last significant attack in the *Languette* was on 8 and 9 March, when RUF fighters attacked the Nongoa area, 30km west of Guékédou.⁹⁷² The government's announcement on 19 March 2001 that it had repelled the attack⁹⁷³ brought to a close months of localised fighting in the Forest Region of Southern Guinea – stretching from Kissidougou to N'Zérékoré – and in and around Forécariah. Government officials estimated that the conflict resulted in the death of some 1,500 Guineans and the internal displacement of well over 350,000.⁹⁷⁴

The conflict also had significant implications for the refugee population. First, tens of thousands were themselves displaced by the fighting. While UNHCR tried to gain accesses to approximately 92,000 displaced refugees in mid-December 2000, thousands more began to arrive spontaneously in Conakry seeking UNHCR assistance.⁹⁷⁵ In addition, the majority of the more than 90 refugee settlements in the *Languette* were destroyed, along with the refugees' livelihood. In the midst of the conflict, refugees were subjected to harassment, forced recruitment, physical and sexual abuse, arbitrary detention, and direct attacks by all sides of the conflict.⁹⁷⁶ Finally, the killing of the UNHCR Head of Office in Macenta resulted in the evacuation of all UNHCR staff from Forécariah, Guékédou, N'Zérékoré, and Macenta, and a consequent suspension of all UNHCR activities outside of Conakry, leaving some 400,000 refugees without assistance for months. Addressing the protection and assistance

⁹⁷⁰ Reuters, 15 January 2001; and UNHCR, "UNHCR Guinea Update 15 Jan 2001: Renewed fighting disrupts aid operation", 15 January 2001.

⁹⁷¹ IRIN, 30 January 2001; and PANA, 30 January 2001.

⁹⁷² IRIN, 12 March 2001.

⁹⁷³ AFP, 19 March 2001.

⁹⁷⁴ Interview with Alhousseine Thiam, Humanitarian Affairs Officer, Director of the *Bureau National pour la Coordination des Réfugiés* (BNCR), Ministry of the Interior, Conakry, 24 September 2004; Interview with Kamano, 2004. In contrast, USCR reported in 2002 that "aid workers widely considered" the Government's estimate "to be greatly inflated", and placed the number of displaced at the end of 2001 to be closer to 100,000. USCR, *World Refugee Survey*, 2002. The politics of numbers was a feature of the Guinea refugee programme prior to September 2000, as discussed in Chapter 7.

⁹⁷⁵ AFP, 19 December 2000a.

⁹⁷⁶ See: AI, October 2001; and HRW, 2002.

needs of these refugees, and reinforcing the institution of asylum in Guinea, became a significant priority for a number of actors in the aftermath of the incursions, especially UNHCR.

UNHCR's response: Relocation, facilitated return, and resettlement

As the violence subsided in early 2001, UNHCR began to chart its response to the upheaval. It developed a three-pronged strategy to restore stability to the refugee population and to address the protection needs of the refugees.⁹⁷⁷ First, a massive relocation exercise was planned to find refugees scattered throughout Southern Guinea and to transport them to new refugee camps in the Albadaria and Lola Prefectures, both more than 50kms from the borders with Sierra Leone and Liberia. Second, a series of options were considered to facilitate the safe return of Sierra Leonean refugees to Freetown. Third, a system was designed to identify and process the estimated 30,000 refugees in need of resettlement to a third country. This section will briefly outline the evolution of these initiatives before turning to the responses of other actors.

In October 2000, UNHCR drafted an initial plan to “move all refugees away from the border and from urban centres to new sites in the hinterland.”⁹⁷⁸ The budget for the emergency transfer and accommodation of 80,000 Sierra Leonean refugees in Kissidougou, 30,000 Liberian refugees in N’Zérékoré and 15,000 Sierra Leonean refugees from Forécariah in an unspecified new site was estimated at US\$11,398,000. Under-funding, insecurity and logistical problems caused delays, and a full-scale relocation exercise did not consequently begin until 27 April 2001.⁹⁷⁹ Between 27 April and the end of the relocation exercise on 27

⁹⁷⁷ UNHCR, Regional Directorate for West and Central Africa, “Operations Strategy for Sierra Leonean and Liberian Refugees in Côte d’Ivoire, Guinea, Sierra Leone and Liberia”, internal, Abidjan, undated (likely 24 May 2001), on file with author.

⁹⁷⁸ UNHCR, Guinea, “Emergency Relocation of 125,000 Refugees in Guinea”, internal, Conakry, undated (likely 15 October 2000), on file with author.

⁹⁷⁹ UNHCR, “UNHCR Briefing Notes: Iran/Afghanistan/Pakistan, Guinea, Sudan/Eritrea, Kenya/Tanzania”, 27 April 2001.

May 2001, some 57,000 refugees were moved from the *Languette* to the newly-established camps of Kountaya, Boréah and Telikoro near Kissidougou.⁹⁸⁰ Sembakounya camp, near Dabola, was established to accommodate refugees relocated from Forécariah and Conakry.⁹⁸¹ Starting in August 2001 and running into early 2002, Liberian refugees from Yomou and Diéké were relocated to the newly-established Kola and Lainé camps, north of N'Zérékoré. Kouankan Camp, established in March 2000 before the attacks, remained open.

Specific activities were incorporated into the relocation exercise to help promote refugee and regional security. First, the Guinean military, under the supervision of the *Bureau National pour la Coordination des Réfugiés* (BNCR), was involved in the exercise, responsible for screening refugees for weapons before the relocation. Second, military escorts for the relocation convoys ensured the security of refugees during the relocation.⁹⁸² Third, the new camps benefited from more proactive planning for refugee security. With the cooperation of the BNCR, a 'Mixed Brigade' (BMS) was formed from the police and gendarmerie to assume the responsibility of security in the camps. These efforts were formalised in November 2001 with a *Protocole d'Accord* between Guinea and UNHCR. According to one UNHCR official, "the key strategic decision that resulted in the most significant and overall improvement of the refugees' security in Guinea was the Government's authorization and joint implementation of UNHCR's relocation proposal."⁹⁸³

The second prong of UNHCR's response was to facilitate the return of refugees to Sierra Leone, either by boat from Conakry to Freetown or overland through the establishment of a humanitarian corridor through RUF territory and into southern Sierra Leone. Returns by

⁹⁸⁰ IRIN, 29 May 2001.

⁹⁸¹ UN-OCHA, November 2001, 21.

⁹⁸² UNHCR, 27 April 2001. This security was notwithstanding a number of events during the relocation. On 23 May 2001, Guinean authorities arrested seven refugees at a roadblock during a relocation exercise on suspicion of belonging to a rebel group. UNHCR expressed concern about the event which occurred "despite the agreement by Guinean military and local authorities that screening of baggage and refugees would take place before the departure of convoys from camps." UNHCR, "UNHCR Briefing Notes: FYR of Macedonia/Fed. Rep. of Yugoslavia, Guinea, Harmonisation of EU's asylum policies", 25 May 2001.

⁹⁸³ UNHCR, Emergency and Security Services, "Refugee Camp Security in Guinea: ESS Mission Report – February 2002", internal, Geneva, undated (likely 20 February 2002), on file with author.

ferry from Conakry had started in late 2000 with a Sierra Leonean-chartered vessel. IOM and UNHCR assumed responsibility for the operation on 9 January 2001, and facilitated the return of some 4,800 refugees by the end of the month.⁹⁸⁴ The concern about this approach, in the absence of reliable access to the *Languette*, was that it was forcing refugees to make the perilous 1,200 km journey to Conakry, subjecting themselves to abuse and extortion along the way, to make a relatively short trip across the border to Sierra Leone.

To address this concern, the newly-appointed High Commissioner for Refugees, Ruud Lubbers, made the establishment of a humanitarian corridor from Southern Guinea into Sierra Leone a priority during his visit to the region in February 2001. He received the support of Conté in Conakry⁹⁸⁵ and Kabbah in Freetown,⁹⁸⁶ while indications emerged that the RUF would also respect such a corridor.⁹⁸⁷ By the time Lubbers brought the proposal to the UN Security Council in March 2001, however, the support of key states had evaporated.⁹⁸⁸ The US stated that it “did not support the creation of safe corridors or safe passages through rebel territory” as “the risk to refugees’ lives was too great and the RUF was not trustworthy.”⁹⁸⁹ Concerns were also expressed at Sierra Leone’s ability to cope with large-scale return, and the amount of time required to prepare and deploy the necessary troops. Proposals for a humanitarian corridor were thereafter dropped, and small-scale returns by boat continued. By mid-2001, UNHCR estimated that some 55,661 persons of concern to UNHCR had returned to Sierra Leone, either by boat or spontaneously by foot.⁹⁹⁰

The third prong of UNHCR’s response was to refer vulnerable refugees for resettlement to a third country. A Resettlement Consultant was deployed to Guinea in March

⁹⁸⁴ IRIN, 30 January 2001.

⁹⁸⁵ Reuters, 12 February 2001.

⁹⁸⁶ AFP, 13 February 2001b.

⁹⁸⁷ IRIN, 14 February 2001.

⁹⁸⁸ UNSC, “Press Release: UN High Commissioner for Refugees asks Security Council to strengthen Mission in Sierra Leone”, SC/7029, New York, 8 March 2001.

⁹⁸⁹ *Ibid.*

⁹⁹⁰ UNHCR, Guinea, July 2001, 5.

2001 to assess resettlement need within the refugee population and to identify and process refugees in need of resettlement. Following missions to Kissidougou and N'Zérékoré in May and June 2001,⁹⁹¹ an update on resettlement activities and populations in need of resettlement was presented in Geneva on 20 June 2001.⁹⁹² The update argued that “increased stability within the refugee population, resulting from the relocation... will enable UNHCR – Guinea to more systematically identify refugees [for resettlement] in the coming months.”⁹⁹³ Key resettlement countries encouraged UNHCR to prepare a more detailed proposal for addressing the resettlement need in Guinea. In July 2001, UNHCR released a resettlement action plan to meet the “overwhelming” needs of refugees in need of resettlement from Guinea.⁹⁹⁴ The plan was presented to a mission of Refugee Council USA to Guinea in late July 2001 and to US government representatives in August 2001. During the presentations, UNHCR estimated that the total number of refugees in need of resettlement from Guinea could be as high as 30,000.

The plan was endorsed by representatives from significant resettlement countries, including the US, Canada and Australia. Four resettlement missions visited Guinea in 2001,⁹⁹⁵ but only 185 refugees were referred by UNHCR to these missions,⁹⁹⁶ in contrast with 6,000 family reunification cases considered by the US alone during the same period. Donor interest, however, continued to exceed UNHCR's willingness to commit the necessary staffing resources to a durable solution that was deemed by senior managers in Conakry to benefit only a limited number of refugees. As a result, the full potential of resettlement as a

⁹⁹¹ James Milner, “MEMO: Resettlement deployment to Guinea (March to September 2001): Final report”, internal, Conakry, 10 September 2001, 8, on file with author.

⁹⁹² UNHCR, Guinea, “Republic of Guinea: Update on resettlement activities and populations in need of resettlement”, Prepared for the Annual Tripartite Consultations on Resettlement, Geneva, 20 – 21 June 2001, undated (likely 17 June 2001), on file with author.

⁹⁹³ UNHCR, Guinea, 17 June 2001, 2.

⁹⁹⁴ UNHCR, Guinea, “UNHCR's resettlement action plan for Guinea (4th quarter 2001 – 3rd quarter 2002)”, internal, Conakry, undated (likely 25 July 2001), on file with author.

⁹⁹⁵ The following resettlement selection missions visited Guinea in 2001: Sweden (March), Canada (May/June), US (June/July), US (August/September) and Canada (September). See: Milner, 2001, 7.

⁹⁹⁶ Milner, 2001, 5.

component of UNHCR's response to the emergency, and as a mechanism of physical burden sharing with Guinea, was not realized.

Broader engagement in Guinea: 2001 – 2002

Offers of assistance and debt relief, both bilateral and multilateral, were extended to Guinea in late 2000 and throughout 2001 as a means of encouraging the government to keep hosting refugees and to keep its borders open to additional arrivals. The most significant contributions were made by the World Bank and IMF who, in the midst of the cross-border incursions, announced US\$800 million in debt relief for Guinea.⁹⁹⁷ This assistance was estimated to equal about one-third of Guinea's debt service obligations between 2000 and 2019. While the package was reported to be part of a comprehensive debt reduction package for Guinea under the enhanced Heavily Indebted Poor Country Initiative, the World Bank linked the assistance to the incursions, recognizing Guinea's effort to address "adverse external developments in the past eighteen months, including an increase in the frequency and the violence of rebel attacks from Sierra Leone and Liberia."⁹⁹⁸

A number of other contributions followed this announcement. On 18 January 2001, Japan granted debt relief to Guinea equivalent to just under US\$1.5 million.⁹⁹⁹ The US made a number of humanitarian contributions to Guinea in early 2001, including over US\$7 million of emergency assistance through the US Agency for International Development¹⁰⁰⁰ and an additional US\$5 million in emergency assistance from the US State Department.¹⁰⁰¹ Finally,

⁹⁹⁷ World Bank, "News Release No. 2001/193/S: The World Bank and IMF Support Debt Relief for Guinea under the Enhanced HIPC Initiative", 22 December 2000.

⁹⁹⁸ World Bank, 22 December 2000.

⁹⁹⁹ IRIN, 18 January 2001.

¹⁰⁰⁰ US Agency for International Development, "Guinea Fact Sheet #1 (FY) 2001", Washington, 5 February 2001.

¹⁰⁰¹ The funding was directed to UNHCR (US\$3.5 million), WFP (US\$1.25 million) and IOM (US\$250,000). Government of the United States of America, Department of State, "Press Release: US Contributes Additional \$5 Million to Humanitarian Emergency in Guinea", Washington, 8 February 2001.

ECHO contributed €4.5 million to Guinea, stipulating that “a significant portion of this new funding is reserved for ensuring the well-being of both refugees and the local population.”¹⁰⁰²

In addition to these financial contributions, representatives of the Guinean government and donor government missions in Conakry highlighted the importance of solidarity with the regime during the incursions. A senior official of the Ministry of Security noted in 2004 that he believed that Guinea felt encouraged by the “statements of solidarity” extended to it by the UN Secretary General, the President of the UN Security Council, the UN High Commissioner for Refugees, the OAU, and partner governments like the US, UK and France.¹⁰⁰³ Likewise, a US government representative in Conakry believed that the US’s “sympathetic rhetoric” was a source of comfort to the Guinean government.¹⁰⁰⁴ It is generally believed that this level of financial and diplomatic engagement with Guinea during the crisis, especially from the US government, provided the donor community with the leverage required to ensure that Guinea remained committed to the principle of *non-refoulement*, especially following the temporary closure of the Liberian border in May 2001 in response to an escalation of the conflict in Northern Liberia.¹⁰⁰⁵

In addition to these examples of financial burden sharing, a range of actors supported efforts to respond to a number of Guinea’s security concerns. These efforts targeted the security arrangements in refugee camps, training for the Guinean army, and the impact of armed elements remaining in Guinea after the incursions, including the Young Volunteers. The rest of this section provides an overview of some of these efforts, and illustrates that donor engagement has generally been limited to programmes benefiting refugee in camps,

¹⁰⁰² European Community Humanitarian Office (ECHO), “Press Release: La Commission accorde €4,5 millions d'aide humanitaire à la Guinée”, 8 May 2001. Author’s translation.

¹⁰⁰³ Interview with Diane, 2004.

¹⁰⁰⁴ Interview with Carl Rios, Political Officer, US Embassy, Conakry, 7 October 2004.

¹⁰⁰⁵ UNHCR, “Press Release: UNHCR urges Guinea to open borders to asylum seekers”, 17 May 2001. It was widely believed that the direct intervention of the US Ambassador convinced Conté to keep the border with Liberia open to new arrivals in 2001 and early 2002.

while support for programmes benefiting the wider refugee-populated area in Southern Guinea has been limited.

Camp security arrangements and the Canadian deployment

As noted above, the new refugee camps benefited from more proactive planning for refugee security strategies. An evaluation mission in February 2002 “quickly concluded that the general safety and security of the refugees in the six camps is incomparable to their situation in late 2000/early 2001.”¹⁰⁰⁶ The mission found that the new camp management strategies¹⁰⁰⁷ resulted in the general maintenance of law and order in the camps. In particular, it found that the formation of the BMS, along with the participation of elected Refugee Committees, helped ensure the civilian and humanitarian nature of the refugee camps.

To reinforce the work of the BMS, the Canadian government undertook an agreement with UNHCR to deploy two federal police officers (RCMP) to southern Guinea to train the BMS in basic policing and human rights principles and to ensure effective coordination between UNHCR, BMS and BCR (the local branch of the BNCR). A mid-term review of the programme in July 2003 concluded that the deployment had achieved “mixed results.”¹⁰⁰⁸ There was concern over the lack of previous training of the BMS, and the fact that the RCMP programme had to start with the most basic principles of policing. There was also a concern that the policy of rotating BMS officers out of the camps and back into regular duties meant that the benefits of the training were not retained in the camps. These concerns notwithstanding, fieldwork in 2004 found that the contribution of the Canadian deployment had raised the standards of camp security to a level unrecognizable from 2001. Most

¹⁰⁰⁶ UNHCR, Emergency and Security Services, February 2002.

¹⁰⁰⁷ See: UNHCR, Guinea, “Proposals for Camp Security Arrangements in Guinea, Final Draft”, internal, Conakry, 23 June 2001, on file with author.

¹⁰⁰⁸ See: Roy Herrmann, “Mid-term review of a Canadian security deployment to the UNHCR programme in Guinea”, Geneva: UNHCR, Evaluation and Policy Analysis Unit, EPAU/2003/04, October 2003.

significant was the improvement in relations between the BMS and refugees.¹⁰⁰⁹ In this way, the deployment made an important contribution to addressing some of Guinea's security concerns in the camps while also enhancing the protection of refugees. Significantly, however, similar efforts were not made in the refugee-populated areas, as outlined below.

US engagement and the Guinean armed forces

To address the limited capacity of the Guinean armed forces, as demonstrated by their inability to respond to the incursions in 2000, and to ensure that Guinea would not be drawn into the conflicts that had plagued the sub-region for a decade, the US military began to train members of the Guinean armed forces in October 2000.¹⁰¹⁰ Initially, ten US marines trained 60 Guinean officers.¹⁰¹¹ Later, the US provided training and equipment to one battalion of Army Rangers.¹⁰¹²

The US argued that this programme was linked to the protection of refugees. For the US Embassy in Conakry, it “seemed to make sense to maintain the security and protection of refugees while looking at the security of Guinea” in the midst of the incursions.¹⁰¹³ According to the US, the “involvement of [Liberian President Charles] Taylor in the September 2000 events was clear and action needed to be taken” to ensure that Guinea remained “the one remaining stable country in the region,” and willing to host refugees. The US, however, became frustrated when the Rangers were not deployed to the border region, but were deployed to the interior of the country to address internal security concerns identified by the Conté regime. The US subsequently decided to not support future requests for capacity building and assistance outside the refugee camps.

¹⁰⁰⁹ Interviews with Refugee Committees in Lainé and Kouankan Camps, 2 October 2004 and 4 October 2004.

¹⁰¹⁰ IRIN, 25 October 2000.

¹⁰¹¹ Interview with Mouctar Diallo, Political and Military assistant, US Embassy, Conakry, 22 September 2004.

¹⁰¹² Eric Berman, “Peacekeeping policies towards Africa”, *Security Dialogue*, Vol. 34, no. 2, June 2003.

¹⁰¹³ Interview with Rios, 2004.

Demobilization of the Young Volunteers

In the midst of the incursions, those who came forward to join the Young Volunteers were promised future integration into the Guinean Army as a reward for their service. In a country with massive unemployment and few economic opportunities for young people, this was likely a strong motivation for volunteering.¹⁰¹⁴ After March 2001, however, it became clear that not all Young Volunteers could be incorporated into the army. First, the army could not afford such an increase in its numbers, especially given concerns raised by donors. Second, it was found that not all Young Volunteers were fit for regular military service. As an alternative to full military service, the Guinean Army formed marching bands – *fanfare* – in N'Zérékoré, Yomou, Lola, Macenta, Guékédou, Kissidougou and Faranah and filled the ranks of these bands with Young Volunteers, regardless of their musical ability.¹⁰¹⁵

A large number of Young Volunteers, however, were never integrated into either the Army or the marching bands. As of the end of 2004, these Volunteers remained in the Forest Region. They were still armed, and believed to be responsible for the high levels of gun-related crime in the area.¹⁰¹⁶ This was especially true subsequent to the doubling of the price of rice, the staple food in Guinea, in mid-2004.¹⁰¹⁷ In the words of one humanitarian worker, the Young Volunteers “are suffering, they have a gun, and they are willing to use it.”¹⁰¹⁸

Given the presence of child soldiers among the Young Volunteers, UNICEF initiated a demobilization programme for the Young Volunteers in 2001.¹⁰¹⁹ The objective of the programme was to address the reintegration needs of 5,000 Young Volunteers, arguing that a

¹⁰¹⁴ Interview with Kamano, 2004.

¹⁰¹⁵ Based on the author's experience of hearing these *fanfare* perform in N'Zérékoré and Macenta, it may be concluded that they are truly awful!

¹⁰¹⁶ Interview with Hervé de Baillenx, Country Director, International Rescue Committee, Guinea Programme, Conakry, 20 September 2004.

¹⁰¹⁷ The price of a 50kg bag of rice almost doubled in the first six months of 2004, from 50,000 GNF (US\$25) to 90,000 GNF (US\$45). This rapid rise led to rice riots in Conakry in June 2004. See: IRIN, 15 July 2004.

¹⁰¹⁸ Interview with Laurent Saugy, Deputy Head of Delegation, ICRC, Conakry, 22 September 2004.

¹⁰¹⁹ Interview with Mohamed Azzedine Salah, Programme Coordinator, UNICEF – Guinea, Conakry, 7 October 2004.

failure to reintegrate the Young Volunteers would “represent a serious threat to the country’s stability.”¹⁰²⁰ There was limited donor response to this appeal, and UNICEF was only able to demobilize 350 Young Volunteers in 2002. Subsequent appeals for 2003¹⁰²¹ and 2004¹⁰²² received practically no donor support.¹⁰²³ While UNICEF believed that a failure to resolve the problem of Young Volunteers contributed to “a phenomenon of youth gangs who intimidate and threaten the population and show complete disregard for any authority,”¹⁰²⁴ and that remaining youth could provide a fertile base for recruitment into new armed groups, it was unable to secure sufficient donor support. As a result, UNICEF’s programmes for the Young Volunteers closed in June 2004.

Addressing the other armed elements in Guinea

Perhaps the most enduring consequence of the incursions, and Guinea’s response, is the lingering presence of foreign armed elements in Southern Guinea. In 2001, Kamara noted that the conditions in Southern Guinea, characterized by “large-scale displacement and non-existent economic opportunities, provided a reservoir of disaffected youths ready to be recruited into rebel armies and state-backed vigilante groups.”¹⁰²⁵ According to 2004 reports, Liberian armed elements remained in southern Guinea, especially around N’Zérékoré and Macenta, and were engaged in criminal and political violence.¹⁰²⁶ There were also persistent rumours that pro-Taylor, anti-Conté, groups were recruiting former Liberian combatants and Guinean youths for training in Southern Guinea, posing a potential challenge to the Conté regime.¹⁰²⁷ Combined with the potentially destabilizing presence of the Young Volunteers,

¹⁰²⁰ UN-OCHA, November 2001, 59.

¹⁰²¹ UN-OCHA, “Guinea: Common Humanitarian Action (CAP) 2003”, Geneva, November 2002.

¹⁰²² UN-OCHA, “Guinea: Consolidated Appeals Process (CAP) 2004”, Geneva, November 2003, 56.

¹⁰²³ Interview with Azzedine Salah, 2004.

¹⁰²⁴ UN-OCHA, “Guinea: Consolidated Appeals Process (CAP) 2004”, Geneva, November 2003, 56.

¹⁰²⁵ Kamara, October 2001, 12.

¹⁰²⁶ See: IRIN, 20 June 2004; and IRIN, 15 July 2004.

¹⁰²⁷ See: ICG, December 2003; and IRIN, 22 September 2004.

the presence of these foreign fighters remains one of the most potent legacies of conflict in the sub-region, leading many to view Southern Guinea as a “powder-keg.”¹⁰²⁸

The largest armed group active in southern Guinea as of 2004 was Liberians United for Reconciliation and Democracy (LURD), which emerged as a mysterious replacement to ULIMO during the cross-border incursions. Many believe that LURD was closely linked to the Conté regime. According to HRW, Guinea “fuelled the Liberian conflict by providing logistical, financial and military support to the LURD rebels.”¹⁰²⁹ In particular, Guinea reportedly facilitated LURD’s access to arms and munitions, in violation of the UN Security Council’s arms embargo on Liberia.¹⁰³⁰ Many also pointed to the relationship between Conté and Sekou Conneh, the leader of LURD. According to IRIN in 2003, Conneh was “based in Guinea for most of the past 13 years and enjoys close links with Guinean President Lansana Conté.”¹⁰³¹ Conneh’s wife, Aisha, was Conté personal clairvoyant, and Conneh was consequently “invited to become chairman of LURD because of his high-level contacts with the Guinean government”.¹⁰³² Significantly, when Conneh returned to Liberia in late 2003 to participate in the formation of a transitional government “he travelled in a four-wheel drive jeep with darkened windows and Guinea government license plates” and was accompanied by “a fleet of Guinea government cars.”¹⁰³³

LURD’s activities also had an impact on refugee protection in Guinea. HRW reported in 2002 that a significant number of Liberian asylum seekers were stopped at border towns by

¹⁰²⁸ Interview with Beavogui Tolo, Professor of History, University of Conakry, Conakry, 8 October 2004. See also: International Crisis Group (ICG), “Stopping Guinea’s Slide”, Dakar: ICG Africa Report no. 94, 14 June 2005; and UN-OCHA, IRIN, “Guinea: Living on the edge”, IRIN Web special, January 2005, <http://www.irinnews.org/webspecials/Guinea/default.asp>

¹⁰²⁹ Human Rights Watch (HRW), “Weapons Sanctions, Military Supplies, and Human Suffering: Illegal Arms Flows to Liberia and the June-July 2003 Shelling of Monrovia”, New York: HRW Briefing Paper, 3 November 2003, 15.

¹⁰³⁰ Shipments of 81 mm and 60 mm mortar rounds shipped to Guinea from the United Arab Emirates and Iran were reportedly transferred to LURD forces in Liberia and used in attacks on civilian targets, including the August 2003 shelling of Monrovia. See: HRW, 2003, 17 – 25.

¹⁰³¹ IRIN, 25 September 2003.

¹⁰³² See: IRIN, 24 September 2003.

¹⁰³³ IRIN, 25 September 2003.

Guinean officials and handed over to LURD commanders.¹⁰³⁴ These asylum seekers were then forced to carry arms, ammunition and supplies across the border to LURD bases in northern Liberia. Many reported collecting the weapons from Guinean military trucks and being forced to make the return journey into Liberia up to 20 times before being allowed to seek asylum in Guinea.¹⁰³⁵ HRW also reported that LURD elements were present in the Kouankan refugee camp in 2002, and benefited from the material assistance distributed to refugees.¹⁰³⁶ These findings were supported by USCR, who reported in 2003 that LURD rebels “based in southern Guinea, routinely entered Kouankan camp, harassed refugees, confiscated relief items, and reportedly engaged in forced conscriptions.”¹⁰³⁷

The rise and fall of the ECOWAS plan

Given Guinea’s concerns about the porousness of its southern border, especially its border with Liberia, it is important to understand why the ECOWAS plan to deploy an ECOMOG force along the border was never implemented, notwithstanding Conté’s initial support. In fact, when the ECOWAS observer mission was first announced on 4 October 2000, at the height of the incursions, it appeared to be the most effective way of stopping the attacks.¹⁰³⁸ In considering the rise and fall of the ECOWAS plan in light of the role that refugees played in the LURD supply chain, as outlined above, this section begins to highlight how the Conté regime’s use of foreign armed elements to further its foreign policy and strategic objectives in the sub-region had an impact on Guinea’s asylum policy.

¹⁰³⁴ HRW, 2002, 15 – 17.

¹⁰³⁵ *Ibid.*

¹⁰³⁶ HRW, 2002, p. 19 – 21. As reported by HRW, “numerous refugees gave detailed descriptions of the presence of armed LURD combatants in the refugee camp of Kouankan, where often uniformed and sometimes armed LURD rebels moved freely in and out of the camp.” HRW, 2002, 10. LURD used the camp as a base for their families, as a destination for rest and relaxation, and as a source for supplies, especially food and medicine. USCR reported that in 2002, “UNHCR urged Guinean officials to remove rebels from the camp and threatened to withdraw from Kouankan entirely, unless the situation improved.” USCR, *World Refugee Survey*, 2003.

¹⁰³⁷ USCR, *World Refugee Survey*, 2004.

¹⁰³⁸ AFP, 5 October 2000a.

At the end of December 2000, ECOWAS announced that an ECOMOG force of 1,676 would be deployed to Guinea within a month.¹⁰³⁹ Meetings in mid-January to plan the deployment,¹⁰⁴⁰ however, coincided with renewed attacks on Guékédou.¹⁰⁴¹ Given the delays in deploying the force,¹⁰⁴² and concerns about its ability to fulfil its mandate if deployed,¹⁰⁴³ Conté grew impatient and pursued a dual strategy of artillery attacks on northern Sierra Leone and backing the LURD attacks on northern Liberia to create the buffer zone promised by ECOWAS. On 31 January 2001, it emerged that the Guinean army and air force had launched a series of attacks on RUF territory in northern Sierra Leone, with the tacit agreement of the Kabbah regime in Freetown.¹⁰⁴⁴ On 3 February 2001, the Liberian Defence Minister confirmed that Voinjama, the capital of Lofa County neighbouring Guinea, had been attacked by LURD forces based in Guinea.¹⁰⁴⁵

As Guinea's military successes, proxy and otherwise, increased in Sierra Leone and Liberia, Conté support for the ECOWAS deployment faded. In fact, a deployment of ECOWAS troops after March 2001 would have hindered Guinea's objectives in Liberia. By the time the Guinean army, supported by irregular and foreign elements, regained control of Southern Guinea in March 2001, Guinea ceased to support the ECOWAS plan, and pursued the defeat of the RUF and Charles Taylor through military means. This strategy seemed to work. The end to the incursions into Southern Guinea in March 2001 coincided with the LURD capture of Voinjama.¹⁰⁴⁶ In May 2001, reports emerged that the RUF had been forced into a ceasefire by the combined pressure of the Guinean attacks and the expansion of

¹⁰³⁹ ECOWAS, "Press Release: ECOWAS to deploy 1,676 monitors to Guinea/Liberia/Sierra Leone borders", No. 110/2000, 27 December 2000; IRIN, 27 December 2000.

¹⁰⁴⁰ ECOWAS, "Press Release: ECOWAS chairman opens meeting of troop-contributing countries to Mano River Union", No. 02/2001, 12 January 2001.

¹⁰⁴¹ Reuters, 15 January 2001.

¹⁰⁴² PANA, 31 January 2001.

¹⁰⁴³ IRIN, 12 January 2001.

¹⁰⁴⁴ AFP, 31 January 2001; and AFP, 5 February 2001.

¹⁰⁴⁵ AFP, 6 February 2001a.

¹⁰⁴⁶ AFP, 5 March 2001.

UNAMSIL activities.¹⁰⁴⁷ Finally, on 11 August 2003, Charles Taylor stepped down as President of Liberia, and went into exile in Nigeria.¹⁰⁴⁸ The following week, a peace agreement was signed in Accra, ending Liberia's civil war.¹⁰⁴⁹

The state of asylum in Guinea: 2004

The end of conflict in both Liberia and Sierra Leone had significant implications on the refugee populations in Guinea by the end of 2004. Most specifically, it led to the repatriation of tens of thousands of refugees to Sierra Leone, and created the possibility for future returns to Liberia. Conversely, while the end of the civil wars in its two southern neighbours certainly reduced the levels of insecurity in Southern Guinea, the region remained volatile. With a wide range of security concerns in the region, as outlined above, the continued presence of Liberian refugees, and the lack of donor support for reconstruction, it was surprising that Guinean officials, both nationally and locally, remained committed to an open asylum policy in 2004. Based on findings from fieldwork, this section examines some of the tensions in the refugee programme in Southern Guinea at the end of 2004, and argues that while many concerns relating to burden sharing and security first raised in the late 1990s had started to re-emerge, the government was pursuing an open asylum policy, as demonstrated by the freedom of movement enjoyed by refugees and Guinea's willingness to allow local integration.

Findings from 2004

Unlike Kenya or Tanzania, Guinea does not require refugees to reside in camps. In fact, it was estimated in 2003 that 40% of Guinea's refugees lived in urban areas without

¹⁰⁴⁷ Reuters, 3 May 2001.

¹⁰⁴⁸ Reuters, 11 August 2003. On 29 March 2006, Taylor was deported from Nigeria to face 17 charges of war crimes and crimes against humanity at the UN War Crimes Tribunal in Freetown. See: BBC News, "Nigeria returns ex-Liberia leader", 29 March 2006.

¹⁰⁴⁹ IRIN, 18 August 2003a.

UNHCR assistance.¹⁰⁵⁰ This policy of allowing refugees freedom of movement has, however, resulted in disagreement as to the size and location of the refugee population, especially as UNHCR, pressured by donors, only recognized those refugees residing in camps as the responsibility of the refugee programme. In August 2004, UNHCR finalized a verification exercise in Guinea's six remaining refugee camps and one transit camp, and reported that there were 78,318 UNHCR-assisted refugees in Guinea. To this total, the government added the tens of thousands of refugees it estimated to be outside the refugee camps. For example, the Prefet of N'Zérékoré stated that there were 44,000 refugees living in N'Zérékoré town in 2004.¹⁰⁵¹ None of these refugees were reflected in UNHCR's numbers. This led some NGOs to claim that it was UNHCR's preference, not the government's, to have refugees in camps.¹⁰⁵²

It is also striking that Guinea announced its intention to offer local integration as a solution for remaining refugees from Sierra Leone in 2004. The official repatriation programme for Sierra Leonean refugees, under which over 97,000 Sierra Leonean refugees repatriated from Guinea, ended in July 2004. A programme was subsequently developed for the local integration of the 2,111 remaining assisted Sierra Leonean refugees.¹⁰⁵³ In addition, hundreds, if not thousands, of Sierra Leonean nationals remain in Conakry and in other large urban areas.¹⁰⁵⁴ The continued presence of these Sierra Leoneans is generally tolerated by Guinean officials, who emphasise that, as ECOWAS citizens, Sierra Leoneans benefit from the right to move and work freely in any ECOWAS country.¹⁰⁵⁵

¹⁰⁵⁰ UN-OCHA, November 2003, 10.

¹⁰⁵¹ Interview with Barry, 2004.

¹⁰⁵² Interview with de Baillenx, 2004.

¹⁰⁵³ Interview with Thiam, 2004. See: UNHCR, "News Story: When going home is not an option: Local integration in Guinea", 20 July 2005.

¹⁰⁵⁴ Meeting with urban refugees, Conakry, 27 September 2004 and 8 October 2004.

¹⁰⁵⁵ Interview with Thiam, 2004. Under Article 3(2) of Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment, an ECOWAS citizen may reside in another ECOWAS country for 90 days without a visa. After 90 days, however, they no longer have special privileges. Guinea is therefore applying the spirit, not the letter, of the law.

Third, and in contrast with conditions in camps in Kenya and Tanzania, conditions in the camps for the remaining Liberian refugees in Southern Guinea were found to meet or exceed international standards in 2004. Visits to the camps during fieldwork in 2004, compared with experiences in the camps in 2001, supported the findings of Refugee International that “significant improvements have taken place in the quality of refugee’s lives over recent years.”¹⁰⁵⁶ In both Lainé and Kouankan, international standards for water, food, health and education were all met or surpassed. Refugees also enjoyed a wide range of other rights, including freedom of movement and the right to work outside the camps. In fact, many of the refugees in the camps indicated that they preferred their situation over the pre-2000 settlements.¹⁰⁵⁷ Significantly, conditions in the camps, especially Lainé, were significantly better than in the surrounding villages, and refugees enjoyed the freedom of movement necessary to pursue economic activity outside of the camps.¹⁰⁵⁸

Notwithstanding these positive conditions, a number of concerns remained about the refugee programme in Guinea, specifically the impact of refugees on the local environment and economy, limited engagement with financial and physical burden sharing, and a number of direct and indirect security concerns. Many of these concerns mirror those expressed in the late 1990s. This section now outlines these concerns before considering why Guinea maintains an open asylum policy, notwithstanding these concerns and the insecurity prevalent in the region.

¹⁰⁵⁶ Refugee International, “West Africa Mission Report”, 3 September 2003.

¹⁰⁵⁷ In a meeting with the Refugee Committee in Lainé Camp, all twelve Committee Members said that they would prefer to remain in the camp than live in the local community. Interview with Refugee Committee, Lainé Camp, 2004.

¹⁰⁵⁸ It is, however, important to emphasize that Ivorian refugees in Guinea live in very different conditions. Ivorians in the Nonah transit camp live in tents, housing up to 50 refugees. As a result, there are greater health concerns, which, coupled with uncertainties related to their liminal status, leads to greater psychological problems among the refugees. Interview with Damien Emonet, Divan Barutwanayo and Laura Knusli, MSF – Suisse, N’Zérékoré, 30 September 2004.

Burden sharing: A return to the concerns of 1999?

A number of concerns were raised in 2004 about the state of burden sharing in Southern Guinea. In particular, there were concerns that the change of circumstances in Liberia and Sierra Leone were beginning to negatively affect donor interest in the refugee programme in Guinea as aid dollars repatriate with the refugees. These changes reflected a feeling among donors that the situation in Guinea was changing, and that donor engagement should change with it. According to Philippe Beaulne, the Canadian Ambassador to Guinea in 2004, the basic needs of refugees were more than met. He believed that they were receiving a level of services above that which they would have enjoyed in their country of origin and which was enjoyed by the local population.¹⁰⁵⁹ Beaulne emphasised that donor engagement in the refugee issue had been consistently high since the incursions, and that funding requests were rarely turned-down, but that the new conditions, especially in Sierra Leone, had changed the donors engagement with the refugee issue in Guinea.

These pressures were felt by WFP and UNHCR in Guinea. Before the change of circumstances in Sierra Leone and Liberia, “the interest in supporting refugees was high because refugees were seen as a potentially destabilizing factor” in the region.¹⁰⁶⁰ As a result the WFP programme for Guinea was “funded or even over funded.”¹⁰⁶¹ With the new conditions in Liberia, however, donor interest had started to change: by September 2004, WFP had only received pledges to meet 72% of the overall 2004 budget. There were also concerns about prospects for future donor engagement, with donors asking why they should continue to provide assistance outside Liberia when the situation in Liberia was calm.

There was also a view that the refugee programme was more generally penalized as a result of the donor community’s disengagement from Guinea due to their continued frustration with the poor governance and human rights record of the Conté regime. For

¹⁰⁵⁹ Interview with Philippe Beaulne, Ambassador of Canada, Conakry, 21 September 2004.

¹⁰⁶⁰ Interview with Stefano Porretti, Country Director and Representative, WFP, Conakry, 23 September 2004.

¹⁰⁶¹ Interview with Porretti, 2004.

example, the European Union decided in 2004 to suspend a €300 million aid package for Guinea, citing corruption and poor governance.¹⁰⁶² As an extension of this frustration, donors appeared unwilling to fund programmes that benefited populations outside refugee camps.¹⁰⁶³ While UNHCR stated that it wanted to increase its support to local populations in refugee-populated areas, in ways similar to the LAPs in Kenya and the SPRAs in Tanzania, and rehabilitate those areas formerly hosting refugees and affected by the incursions, the donors were unwilling to contribute to any projects outside the refugee camps.¹⁰⁶⁴ Some feared that this was indicative of a new phase of donor engagement with Guinea, with likely consequences for future efforts to secure financial burden sharing.¹⁰⁶⁵

One area of burden sharing where donor interest has not diminished is resettlement. In fact, interest in resettlement from Guinea continues to exceed UNHCR's willingness or ability to engage. UNHCR's resettlement activities in Guinea have been reinforced in recent years with the addition of the post of Resettlement Officer in the Conakry Branch Office. This addition was not, however, a reflection of UNHCR's prioritization of resettlement activities, but the result of a special contribution from the US Department of State to reinforce UNHCR's resettlement capacity in Africa, as outlined in Chapter 2. Even with the increase in capacity, UNHCR reported that it was only be able to submit 1,700 refugees for resettlement in 2005.¹⁰⁶⁶ Given what they consider to be an inadequate response, resettlement countries started to experiment with other mechanisms for identifying refugees in need of resettlement. In August 2004, for example, the International Catholic Migration Commission (ICMC)

¹⁰⁶² See: PANA, 15 March 2004.

¹⁰⁶³ Interview with Stefano Severe, Representative, UNHCR Branch Office for Guinea, Conakry, 23 September 2004.

¹⁰⁶⁴ Interview with Sani Chaibou, Field Officer, Acting Head of Office, UNHCR Sub-Office, N'Zrekore, 28 September 2004.

¹⁰⁶⁵ There may, however, be some exceptions. On 16 August 2004, Japan extended assistance of US\$1,030,932 to support projects targeting local communities in refugee-populated areas and communities affected by the conflict in 2000 and 2001. See: Government of Japan, 16 August 2004. This support may, however, be related to the announcement on 20 October 2004 that Guinea had granted permission to a Japanese-backed company to build an alumina refinery in the northwest of Guinea, next to the biggest bauxite mining complex in the world. See: IRIN, 20 October 2004.

¹⁰⁶⁶ UNHCR, Resettlement Section, "Projected Global Resettlement Needs: 2005", Geneva, June 2004.

began a programme of case identification on behalf of the Australian government. The target of the programme was to prepare resettlement submissions for 2,000 refugees by March 2005.

In interviews in 2004, Guinean officials expressed frustration with the scope, scale and dependability of donor engagement. In particular, government officials wanted to see greater donor support to address security concerns in Southern Guinea, especially the proliferation of small arms.¹⁰⁶⁷ More generally, they were frustrated that donors were reluctant to fund programmes outside the refugee camps. They emphasised that refugees were living both within the camps and in the surrounding villages and towns, and noted that while all areas of Southern Guinea were affected by the presence of refugees, not all areas benefited from assistance.¹⁰⁶⁸

The burdens and benefits of hosting refugees

Notwithstanding these frustrations, a number of government officials recognized both the positive and negative impact of the refugee presence. Alhousseine Thiam, Director of the BNCR since the arrival of the first Liberian refugees in 1990, emphasised how the benefit of hosting refugees was mostly experienced at the local level.¹⁰⁶⁹ He noted, however, that much of the infrastructure that was built for the local population, especially hospitals and schools, was destroyed during the conflict in 2000. In the refugee-populated area, officials noted that the presence of refugees resulted in a substantial increase in employment opportunities for the local population with international NGOs, in addition to a token investment in local infrastructure, schools and health centres that would likely not have otherwise been made.¹⁰⁷⁰

Local officials also emphasised many of the negative impacts of refugees, including the

¹⁰⁶⁷ Interview with Kamano, 2004.

¹⁰⁶⁸ Interview with Thiam, 2004; and interview with Condé, 2004.

¹⁰⁶⁹ Interview with Thiam, 2004.

¹⁰⁷⁰ Interview with Mohammed Cherif Haïdara, Sous-Préfet, Lainé, Lainé village, 2 October 2004; interview with Charles Lotty, Secretary General of the Commune of Nzerkeore, Mohammed Soumah, 3rd Vice Mayor of Nzerkeore, and Matias Domas Blemou, Commune Counsellor, Office of the Mayor, N'Zérékoré, 29 September 2004; and interview with Guo-ouo Nonamou, Administrator, and Ménipélé Kpoyhomou, Assistant Administrator, BCR, Lainé refugee camp, Lola, 2 October 2004.

recurring concern of environmental degradation and the perceived rise in insecurity as refugees and the local population compete for certain scarce resources.

For the business leaders of N'Zérékoré, however, the presence of refugees had only been positive. According to Amadou Laldialle, the Administrator of the Central Market in N'Zérékoré, the presence of refugees and the refugee programme had no negative implications for commerce in the regional centre.¹⁰⁷¹ Laldialle stressed that there was no doubt that the presence of the refugee programme and international NGOs had a very positive impact on the local economy, most notably by creating a market for consumer goods and by increasing employment opportunities and wage scales. He also noted that refugees themselves also made a contribution either through their labour or their own commercial activities, emphasising that a significant number of the 5,600 stalls in the Central Market were either run by refugees or sold food traded by refugees. Such an observation supports the conclusions of Chambers and Kibreab that, when allowed to participate in the local economy, refugees can make a significant contribution, as outlined in Chapter 2.

In order to reinforce the positive aspects of the presence of refugees and to ensure that these benefits are more visible, a number of NGOs ran special programmes directly targeting the local population in 2004. For example, Action by Churches Together (ACT) specified that 20% of participants in its agricultural programmes should be from the local population.¹⁰⁷² In contrast, UNHCR's 2003 N'Zérékoré budget provided substantially less support for the local population. Out of a total budget of GNF 11,825,115,406 (approximately US\$ 5,912,557), only GNF 131,159,500 (approximately US\$ 65,579) – roughly 1% – was targeted at local projects, such as rehabilitating public buildings and health facilities, building new roads, and providing access to clean water. According to UNHCR, this level of funding was a reflection

¹⁰⁷¹ Interview with Amadou Laldialle, Administrator of the Central Market of N'Zérékoré, N'Zérékoré, 3 October 2004.

¹⁰⁷² Interview with Charles Agossou, Head of Office, ACT/LWF, N'Zérékoré, 30 September 2004.

of donor reluctance to contribute to local programmes, in stark contrast to such programmes in Kenya and Tanzania.¹⁰⁷³

Security concerns: new and old

Limited donor engagement in the refugee-populated area in 2004 had also started to reinforce renewed perceptions of the links between refugees and insecurity in Southern Guinea. While there was a view that “it is not the refugees who cause insecurity, but the environment in which they are found,”¹⁰⁷⁴ Guinean officials believed that donor policy towards Guinea was reinforcing many direct and indirect causes of insecurity. In addition to the direct security concerns relating to the spill-over of conflict and the presence of armed elements in and around the refugee camps, as outlined above, there was mounting concern about the proliferation of small arms in Southern Guinea. At the same time, there were a number of indirect security concerns relating to tensions between refugees and the local population.

Direct security concerns: Small arms

In stark contrast with previous levels of refugee camp militarization, there was a consensus in 2004 among representatives of the Guinean government, UN Agencies, NGOs, health practitioners, civil society and refugees themselves that refugee camp militarization was no longer an issue in Guinea.¹⁰⁷⁵ There was, however, general agreement that while the camps were demilitarized, the refugee-populated area was not.¹⁰⁷⁶ It was generally held that there was significant small arms proliferation in Southern Guinea, stemming from the

¹⁰⁷³ Interview with Chaibou, 2004.

¹⁰⁷⁴ Interview with Kamano, 2004.

¹⁰⁷⁵ During fieldwork in September and October 2004, all informants were asked: “Do you feel that the presence of small arms or armed elements in the refugee camps in southern Guinea is a cause for concern today?” In all 50 interviews, the answer was ‘no’.

¹⁰⁷⁶ For an overview of the prevailing security situation in the Forest Region of Southern Guinea, see: UN-OCHA, IRIN, January 2005; ICG, June 2005; and Paul Melly, “Guinea: Early Warning Analysis”, WRITENET Paper No. 19/2003, UNHCR, August 2003.

incursions and the continued presence of armed elements, as outlined above, but also from a number of other sources.

While specific numbers could not be provided, meetings with government officials gave some indication of the various sources of illegal small arms in Guinea.¹⁰⁷⁷ First, several officials pointed to the looting of the Conakry Armoury in March 2001 as the most significant source,¹⁰⁷⁸ as arms looted from the Armoury have been recovered in seizures throughout Guinea. Second, a number of arms officially issued by the Guinean military were not returned at the end of service. These weapons have subsequently either been sold to criminal elements or used by children of the retired servicemen to pursue criminal activities. Third, there is a significant local industry for the production of arms, mostly hunting rifles.

More prolific, however, was believed to be the traffic in weapons from Liberia to Côte d'Ivoire, fuelled by the differentiation between disarmament, demobilization and reintegration (DDR) programmes in the two countries. In 2004, DDR programmes in Liberia offered an initial payment of US\$150 for the surrender of a weapon and a further US\$150 when the participant reported for reintegration support in their home area. The programme in Northern Côte d'Ivoire was rumoured to offer two payments of US\$450. This created a traffic of arms from Liberia to Côte d'Ivoire, as ex-combatants in Liberia sought to collect an additional US\$150 in Côte d'Ivoire for surrendering a weapon without having to participate in the reintegration elements of the programme. This resulted in a steady traffic of ex-combatants through southern Guinea, especially N'Zérékoré, and a negative impact on local security as ex-combatants engaged in criminal activity during their journey.¹⁰⁷⁹

A common frustration was expressed that the donor community was not supporting Guinea in addressing this security concern. One official cited an urgent need for a much more comprehensive approach to the question of small arms and donor engagement on security

¹⁰⁷⁷ Interview with Kamano, 2004; interview with Diane, 2004; and interview with Barry, 2004.

¹⁰⁷⁸ See: IRIN, 5 March 2001.

¹⁰⁷⁹ Interview with Bangoura, 2004.

issues outside of refugee camps.¹⁰⁸⁰ As outlined above, however, this kind of donor support was not forthcoming.

Indirect security concerns: local grievances

For others, the indirect causes of insecurity were becoming more pressing. According to Moustapha Condé, the Assistant Coordinator of the BCR in N'Zérékoré, early signs that assistance in the camps would be reduced, coupled with the lack of support for refugees outside the camps, started to cause security concerns in 2004.¹⁰⁸¹ There were concerns that refugees could turn to coping mechanisms that were either illegal or put them into competition with the local population when assistance to the camps was reduced. Somewhat paradoxically, tensions had also been mounting between refugees and the local population over the assistance that the refugees continue to receive, which often far exceeded the means of the local population, especially following the dramatic escalation in the price of rice, as noted above.

According to Andrews, the ethnic similarity between the refugee population and the local population has played a significant role in mitigating conflict between the two groups in recent years.¹⁰⁸² Indeed, many believed that the line between 'refugee' and 'local' was often blurred as the refugees and the local population spoke common languages and originated from common ethnic groups. This similarity was not only a result of the artificial and porous nature of the border between Guinea, Sierra Leone and Liberia, but also due to the history of exiles from the Touré regime in the 1960s and 1970s, as outlined above. As a consequence of these movements, many Guineans have family links in either Liberia or Sierra Leone.¹⁰⁸³ This understanding would explain many of the 'solidarity networks' that have existed between

¹⁰⁸⁰ Interview with Kamano, 2004.

¹⁰⁸¹ Interview with Condé, 2004.

¹⁰⁸² See: Lacey Andrews, B., "When is a refugee not a refugee? Flexible social categories and host/refugee relations in Guinea", Geneva: UNHCR *New Issues in Refugee Research*, Working Paper No. 88, March 2003.

¹⁰⁸³ Interview with Tolo, 2004.

refugees and local populations,¹⁰⁸⁴ and would suggest that there should be significant affinity between refugees and the local population.

The targeting of assistance to the ‘refugee’ population and not the ‘local’ population, even those Guineans displaced by the incursions, however, appears to have possibly undermined this notion of solidarity, as forewarned by Kaiser in 2001.¹⁰⁸⁵ In fact, the Red Cross reported an increase in cases of refugees being attacked by the local population when outside the camps, especially when collecting firewood or engaging in agricultural activities.¹⁰⁸⁶ It was noted that these attacks were likely as a result of the worsening economic situation in the region given that they coincided closely with the dramatic rise in the price of rice during the summer of 2004. There was, however, insufficient evidence in 2004 to conclude the extent to which the affinity between refugees and the local community in Southern Guinea had been broken.

Continued willingness to host

In light of these concerns relating to burden sharing and security, it was striking that Guinea remained willing to host refugees, receive additional refugees in the future, and locally integrate those who could not return home. Thiam explained that the government’s openness towards refugees is first a result of the ethnic affinity between the refugees and the local population and recognition of the artificiality of borders in sub-region.¹⁰⁸⁷ Second, he highlighted the support of President Conté who, notwithstanding his anti-refugee statements on 9 September 2000, had become supportive of the cause of refugees and was responsible for the order to locally integrate the Sierra Leoneans. Third, Thiam explained that Guinea cannot insulate itself from the events of the sub-region. Given that Guinea cannot close its borders

¹⁰⁸⁴ See: Action Contre la Faim, Guinée, “Etude Sécurité Alimentaire: Les Réseaux de Solidarité entre les Réfugiés et les Populations Environnantes: Mars – Avril 2004: Camps de Kouankan, Nonah, Kola et Lainé”, N’Zérékore, May 2004, on file with author.

¹⁰⁸⁵ Kaiser, 2001, 47.

¹⁰⁸⁶ Interview with Dome Matho, Field Officer, IFRC, N’Zérékoré, 1 October 2004.

¹⁰⁸⁷ Interview with Thiam, 2004.

due to the pressure applied by donors, and given prevailing insecurity in the sub-region, Thiam explained that Guinea had little choice but to host the refugees of the future. To more fully understand the motivations for Guinea's open asylum policy, the final section of this chapter considers the role played by political factors unrelated to the presence of refugees.

Explaining Guinea's position: taking a broader view

Guinea's open asylum policy would appear to contradict the hypothesis that African countries are restricting asylum when confronted with protracted refugee situations, failures of burden sharing and security concerns. Guinea has faced all these concerns, and has arguably paid a heavy price for its 'accident of geography'. Given the findings from Kenya and Tanzania, it would seem likely that these countries would have increased the restrictiveness of their asylum policies, not the openness, if confronted with the insecurity faced by Guinea during the incursions. Guinea has not pursued a policy of abdicating responsibility for refugees, like Kenya, but has remained engaged through the work of the BNCR. In response to security concerns, Guinea has not sought to confine refugees to camps, like Tanzania and Kenya, but has allowed freedom of movement for refugees. In response to the protracted presence of refugees, Guinea has not pushed for early repatriation, but has allowed them to locally integrate.

For these reasons, the case of Guinea illustrates the importance of situating the asylum policies of African states within a broader historical and political perspective. States, like Guinea, do not formulate their refugee policies in a vacuum, but rather devise and carry them out within a particular historical and political context, and in relation to broader internal and external factors and objectives. This section will briefly draw from the information already presented in this chapter to highlight how broader historical, domestic and international factors have had played a predominant role in the formulation of Guinea's asylum policies.

The enduring legacy of Sékou Touré

The legacy of the Touré regime has influenced Guinea's approach to refugees in a number of ways. The first inheritance, and the one most often mentioned by Guineans, is the tradition of the Guinean exile under Touré. As outlined above, hundreds of thousands of Guineans fled the Touré regime, and many of these exiles were received into extended families and communities in neighbouring countries. It has been estimated that every Guinean family had a member who spent time in exile.¹⁰⁸⁸ Many of these exiles began to return to Guinea following the end of the Touré regime and the liberalization of the economy in 1985, and returned with stories of the hospitality they had received. When Guinea started to receive refugees only five years later, many felt obliged to return the hospitality. It should also be emphasised that the number of refugees in Guinea during the 1990s never exceeded even the most cautious estimation of the number of Guinean exiles under Touré of 600,000.

Second, Guinea remains a political community where the President holds significant, if not absolute, power, and where the mechanisms of the state are designed to ensure that this power can effectively be broadcast to the periphery of the state. While Conakry is still regarded as the centre of political power, and everything beyond the last check-point into the city, 36kms from the Presidential Palace, is considered to be the hinterland, the recruitment of Young Volunteers in 2000 demonstrated how effectively, quickly and thoroughly the President's orders can be followed. This feature is, for some, the inheritance of the structures Touré developed to facilitate mass mobilization.¹⁰⁸⁹ Through these structures, Touré's party, the *Parti Democratique de Guinée*, was present in all parts of Guinea through a "pyramid system of committees serving as 'points of articulation between the leadership and the masses'."¹⁰⁹⁰ This system, right down to the level of the *chef de quartier*, not only remain in Guinea, but retain the tradition of membership in the President's party and loyalty to the

¹⁰⁸⁸ Interview with Condé, 2004.

¹⁰⁸⁹ See: Le Vine, 2004; and Kaba, 1977.

¹⁰⁹⁰ Kaba, 1977, 29.

President. While many donors, especially the EU, see these structures as inhibiting good governance, they do, at least, ensure an open asylum policy when that openness is extended from the level of the President. As demonstrated by the events of 9-12 September 2000, however, these structures can equally harm refugees when the President sees it in his interest to pursue a restrictive asylum policy.

A third inheritance from Touré is the securitization of politics and the fear of the perennial plot.¹⁰⁹¹ According to Le Vine, “if anything epitomized the coercive atmosphere maintained by the Sékou Touré regime during most of its existence, it was the institutionalized paranoia of the ‘permanent plot’, developed as an argument by Touré himself to explain the crises of Guinean society and to justify permanent revolutionary vigilance and repression.”¹⁰⁹² From the first alleged assassination plot in April 1960 to the last in March 1984, Touré publicly claimed to have put-down over 20 plots and conspiracies, many involving exiled Guineans seeking to undermine his regime.¹⁰⁹³

In a similar way, and certainly since a failed *coup* in 1996, Conté has also adopted a prism of security, and justified a number of actions on the basis of countering the subversive activities of unknown, and somewhat mythical, ‘Guinean elements’ in the sub-region. In this sense, Conté seems willing to subjugate all other interests to the priority of the survival of his regime. According to LCHR, “the control and management of refugees in Guinea is viewed as inherently a matter of national security. Only the President can make final decisions on refugee matters; nothing is decided or acted upon without his personal approval.”¹⁰⁹⁴ If, as argued below, he has identified hosting refugees as one means of ensuring regime survival, then other considerations of the positive and negative impacts of the presence of refugees would not matter. As argued by Bangoura, confronted with challenges to his regime

¹⁰⁹¹ See: Rivère, 1977, 121 – 140.

¹⁰⁹² Le Vine, 2004, 222.

¹⁰⁹³ Le Vine, 2004, 222.

¹⁰⁹⁴ LCHR, 2002, 60.

throughout the late 1990s and magnified by the incursions, Conté clutched for every straw he could to remain in power. In doing so, he found great political utility in the presence of refugees.¹⁰⁹⁵

Domestic pressures and opportunities

Another distinction between Kenya and Tanzania, on the one hand, and Guinea on the other relates to the openness of domestic politics and the state of democratization. As argued in the case of Tanzania, the process of democratization has had a negative impact on the government's openness to host refugees. In the case of Kenya, domestic and international pressure on the Moi regime contributed to the formulation of the 'abdication and containment' strategy. In the case of Guinea, steps towards effective opposition and democratization have been tentative at best. The leading opposition figure, Alpha Condé, was jailed shortly before the 1998 general elections¹⁰⁹⁶ and the 2001 referendum seeking a constitutional amendment to allow Conté to stand for a third term as President "produced an implausible 98 percent majority in favour of the change."¹⁰⁹⁷ Likewise, "the 2002 election was widely regarded by donors as lacking credibility."¹⁰⁹⁸ Simply put, Conté does not find himself in a position where he faces meaningful domestic political opposition to his policies, and consequently need not restrict asylum in an attempt to gain electoral favour, as is the case elsewhere in Africa.

The sub-regional context: An enemy of my enemy is my friend

In response to the incursions, Conté appears to have entered into an alliance with ULIMO and subsequently LURD. This alliance, while reportedly reinforced through the personal ties between Conté and Conneh, may best be described as a marriage of

¹⁰⁹⁵ Bangoura, 2001, 17 – 18.

¹⁰⁹⁶ Amnesty International (AI), "Guinea: The Alpha Condé affair – a mockery of a trial", London: AI-Index AFR 29/002/2000, 12 December 2000.

¹⁰⁹⁷ Melly, 2003, 1.

¹⁰⁹⁸ *Ibid.*

convenience. Conté needed the support of LURD to stop the incursion. In turn, LURD needed Conté to support their war against Taylor. What held the two together was their common enemy in Charles Taylor. The presence of refugees in southern Guinea played an important role in the LURD campaign from late 2001. The refugee camps provided a secure home for LURD families, and a safe location for rest and relaxation. The assistance provided to the camps was known to have been redirected to LURD on a number of occasions. More importantly, as highlighted by Human Rights Watch, it appears as though the openness of the border and arrival of refugees also contributed to LURD's supply chain.

The granting of asylum was also an important political statement for Conté, not only with the hosting of Liberian refugees fleeing Taylor, thereby highlighting the failures of his regime, but also the hosting of Sierra Leonean refugees, and especially President Kabbah who was welcomed in Conakry following the 1997 AFRC *coup* in Freetown. This political dimension of hosting refugees – to provide shelter to friendly leaders and to refugees fleeing opposing regimes – has been repeated throughout Guinea's post-independence history, as has Guinea's intervention in the internal affairs of Sierra Leone and Liberia.¹⁰⁹⁹

In this sense, it is interesting to consider how the politics of asylum in Guinea in the late 1990s was similar to that in the late 1960s, when Conakry was the home of Cabral's liberation movement. In both cases, Guinea supported an armed group dedicated to the overthrow of a neighbouring regime Conakry considered to be unfriendly: for LURD it was Taylor, the warlord; for Cabral it was Portugal, the colonizer. The hosting of both groups resulted in attacks on Guinea, the hosting of Cabral likely being the primary cause of the invasion of Conakry on 22 November 1970.¹¹⁰⁰

¹⁰⁹⁹ See: Clapham 1996, 121 and 153.

¹¹⁰⁰ See: UNSC, "Resolution 289 (1970) of 23 November 1970", S/RES/289, 23 November 1970; and UNSC, "Resolution 290 (1970) of 8 December 1970", S/RES/290, 8 December 1970.

The international context: Playing the refugee card with donors

Finally, and most significantly, the presence of refugees in Guinea, and the government's willingness to host them, has been a point of leverage between donor countries and the Conté regime for several years. As the overview of the donor response to the incursions suggests, multilateral and bilateral assistance to Guinea in the first half of 2001 was used to ensure that the government maintained the institution of asylum in the midst of the incursions. During this time, the donor countries used aid as leverage against Guinea. It now appears as though Guinea is trying to use the presence of refugees as leverage against the donor countries. In much of the same way as Kenya allowed Somali refugees to enter its territory in 1991 to seek support from the donor community following the imposition of multiparty democracy, Guinea highlights its open asylum policy as a way of rebutting criticisms of its failures to combat corruption and promote good governance.

Throughout the 1990s, the Conté regime gave the donor community few reasons to remain engaged apart from the presence of one of Africa's largest refugee populations. As noted above, flawed elections in 1993, 1998 and 2002 demonstrated little progress towards democratization. Given the regime's intransigence, coupled with Conté's failing health, many donor governments appear to have adopted a 'wait and see' attitude to Guinea by suspending aid and waiting for the end of the Conté reign while preparing robust packages to facilitate the transition.¹¹⁰¹ The most significant example of this approach is the European Union who, in March 2004, announced that it had "frozen an aid package worth €300 million meant for Guinea, and made the implementation of political reforms by the regime in Conakry as condition for release of the new financial assistance."¹¹⁰² Quietly, the EU knows that these reforms will not take place before Conté's death.¹¹⁰³

¹¹⁰¹ See: ICG, 2003; Melly, 2003; and Englebert, 2003, 508.

¹¹⁰² PANA, 15 March 2004.

¹¹⁰³ Interview with Veerle Smet, Political Officer, Delegation of the European Union in Guinea, Conakry, 8 October 2004.

In response to this pressure, Guinea appears to be ‘playing the refugee card’ by using its open asylum policy as way of thawing the frosty donors. Many believe that Guinea has been using the presence of refugees as diplomatic currency, especially with the US government.¹¹⁰⁴ This engagement has also been linked to the change of regime in Monrovia, as “Guinea has been the way for the US to engage in the Liberian conflict without directly engaging in Liberia.”¹¹⁰⁵ Otherwise, Beaulne argues, “the nation has its own life outside the refugee issue” and only raises the question of refugees “when it sees it as politically useful to do so.”¹¹⁰⁶

Conclusion

This chapter has examined Guinea’s approach to refugees from Sierra Leone and Liberia against the backdrop of regional instability. The chapter has argued that Guinea’s asylum policy during the 1990s was guided predominantly by its engagement in the conflicts in the sub-region, leading to the politicization of asylum and the militarization of refugee camps. The chapter then chronicled the events surrounding the cross-border incursions of 2000-2001, which prompted Conté to blame refugees for the spill-over of conflict into Guinea. Given the scale of Guinea’s security concerns during this period, coupled with its renewed concerns about declining donor engagement, it is striking that Guinea has not pursued a restrictive asylum policy. Instead, Guinea has pursued an open asylum policy because it is seeking leverage against a restrictive international donor community, because asylum has played a central role in Guinea’s strategic objectives in the sub-region, and because the nature of the Guinean state, inherited from Sékou Touré, gives the President a monopoly on power and the ability to pursue policies objectives in the absence of any meaningful political opposition. In this way, this chapter has argued that historical, regional and international factors have played a significant role in the formulation of Guinea’s asylum policy.

¹¹⁰⁴ Interview with Beaulne, 2004.

¹¹⁰⁵ *Ibid.*

¹¹⁰⁶ *Ibid*

Chapter 7

The Politics of Asylum in Africa

Introduction

As illustrated by the cases of Kenya, Tanzania and Guinea, host states in Africa do not formulate their asylum policies in a political vacuum. Instead, asylum policies are affected by pressures that host states perceive from a range of domestic, regional and international sources. Building from these observations, the goal of this chapter is to outline a framework for understanding the politics of asylum in Africa. This framework will highlight the sources of pressure and the range of factors that influence the asylum policies of host states in Africa, and the extent to which some factors may be more significant than others in the formulation of asylum policies.

Drawing from the case studies of this thesis and the political history of the African state presented in the Introduction, this chapter argues that political factors unrelated to the presence of refugees tend to play a greater role in the formulation of asylum policies than refugee-specific factors. Given the vulnerability of states in African to internal and external pressures, this chapter argues that states like Kenya, Tanzania and Guinea have a tendency to incorporate decisions on asylum into a broader political calculus. For example, while the presence of refugees may, in a number of circumstances, constitute a burden, host states may see advantages in downplaying the benefits of hosting refugees as part of broader efforts to address external pressures from donor states. Likewise, host regimes may see benefits in portraying *all* refugees as security concerns, thereby justifying restrictive measures, as part of broader efforts to address internal pressures.

To support this argument, this chapter begins by emphasising the need to place the host state more directly at the centre of the study of asylum, and to focus on the characteristics of the particular state as the point of departure for understanding asylum policies. The chapter then reviews the responses of Kenya, Tanzania and Guinea to the presence of refugees,

highlighting their approach to both the quality and quantity of asylum, before presenting the elements of a framework for understanding the politics of asylum in Africa. This framework is based on a consideration of the broader range of factors that need to be incorporated into future research on African asylum policies. While it would be problematic to argue that the cases of Kenya, Tanzania and Guinea are representative of the continent of Africa as a whole, this chapter argues that the findings from these cases do provide insight into which factors need to be included in the examination of other refugee situations in Africa.

Asylum and the state in Africa

This thesis has focused on the response of states in Africa to the arrival and prolonged presence of significant refugee populations. As argued in the Introduction, this focus on the perspective of the host state, especially from a comparative perspective, has been lacking in scholarly work on the refugee problem in Africa. As argued by Harrell-Bond, this lack of engagement with the host state may be due either to the assumption that host government institutions are too weak to be a determining factor in the response to refugees or to the belief that the “main business [of the state is] to oppress and exploit the poor within their own societies,”¹¹⁰⁷ and that engagement with the state should consequently be avoided. Either way, the international response to refugee movements, by accident or design, has largely relegated the host state to a position of secondary importance in understanding the problem of refugees in Africa. This has recently led authors like Juma and Suhrke to argue that external actors have dominated the response to refugee situations in Africa, leading to an ‘erosion of local capacity’.¹¹⁰⁸

A similar view has been expressed in the literature on African international relations. In discussing the ‘de-stating of external relations with Africa’, Clapham argues that “several

¹¹⁰⁷ Barbara Harrell-Bond, *Imposing Aid: Emergency Assistance to Refugees*, Oxford: Oxford University Press, 1986, 13.

¹¹⁰⁸ See: Juma and Suhrke (eds.), 2003.

million Africans in refugee camps were effectively governed by the UNHCR, rather than by any state administration.”¹¹⁰⁹ While an initial review of the operational realities in Africa appears to support Clapham’s view,¹¹¹⁰ this should not be taken to mean that the host state should be excluded from any examination of asylum. On the contrary, as the cases of Kenya, Tanzania and Guinea illustrate, host states have played a significant role in determining asylum policies on their territory. It is therefore important to include the host state as a key variable in any consideration of the refugee problem in Africa.

Foundations of the politics of asylum in Africa: Reducing vulnerability

Given the importance of the state, any examination of asylum policies should begin by understanding the characteristics of the host state and governing regime, and those factors that influence state behaviour. Ayoob argues that in the context of Third World states, “state behaviour ... is largely determined by the insecurity that is aggravated by the overwhelming feeling of vulnerability, if not impotence, among its state elites.”¹¹¹¹ Given this condition, the primary objective of Third World regimes is to “reduce the deep sense of insecurity from which [they] suffer domestically and internationally.”¹¹¹² This is an important point of departure for understanding the politics of asylum in Africa.

In the case of Kenya, the history of conflict between the state and Somali irredentism, coupled with pressure from the international donor community, put pressure on the weakened Moi regime at the time of the arrival of the Somali refugees. In Tanzania, the introduction of multi-party elections in 1995, coupled with the end of the *ujamaa* model in 1985, resulted in challenges to the CCM regime and a rearticulation of the idea of the Tanzanian state in the midst of the refugee crisis in the Great Lakes region. In Guinea, the ailing Conté regime, with

¹¹⁰⁹ Clapham, 1996, 257.

¹¹¹⁰ See: Jamal, 2003.

¹¹¹¹ Ayoob, 1995, 2.

¹¹¹² Ayoob, 1995, 3.

its inheritance of the fear of the perennial plot, has clung to power by engaging in regional conflicts, limiting domestic opposition, and seeking concessions from an otherwise restrictive donor community in the midst of responding to the presence of Sierra Leonean and Liberian refugees. In all three cases, feelings of vulnerability have contributed significantly to the formulation and implementation of particular asylum policies.

In his consideration of the factors affecting asylum policies, Kibreab argues that states are more likely to host refugees if they perceive their presence as economically or politically beneficial.¹¹¹³ Similarly, Loescher argues that states are more likely to grant asylum when it is likely to increase their power relative to other actors who might otherwise challenge the regime.¹¹¹⁴ More generally, he argues that:

The formulation of refugee policy involves a complex interplay of domestic and international factors at the policy-making level and illustrates the conflict between international humanitarian norms and the sometimes narrow self-interest calculations of sovereign nation states.¹¹¹⁵

The vulnerability of African states plays a significant role in shaping these ‘self-interest calculations’, and largely defines the political space within which asylum policies may be formulated. Given this vulnerability, it may therefore be argued that, at minimum, African states will only be willing to implement open asylum policies when it is not to the detriment of the host state or governing regime. Conversely, African host states could be expected to adopt restrictive asylum policies in cases where the arrival and presence of refugees negatively affects state boundaries, state institutions, governing elites, or weakens “the capacity of states and regimes to act effectively in the realm of both domestic and international politics.”¹¹¹⁶ Such calculations have clearly affected the nature of the asylum policies of Kenya, Tanzania and Guinea.

¹¹¹³ See: Kibreab, 1985, 67 - 81.

¹¹¹⁴ Loescher, 1992, 42.

¹¹¹⁵ Loescher, 1989, 8.

¹¹¹⁶ Ayoob, 1995, 9.

State response to refugee movements

While states may be said to adopt an open or restrictive asylum policy, the case studies illustrate that policies rarely fall exclusively into one of these categories, but rather fall along a spectrum between open and restrictive. To add clarity to the description of asylum policies, it is useful to also describe their effect on the *quantity* and *quality* of asylum. The quantity of asylum relates to the approach of the host state to physical access to its territory by refugees and asylum seekers. In contrast, the quality of asylum relates to the rights afforded to those permitted to enter and remain in a host state. Disaggregating asylum policies into open and restrictive approaches to the quality and quantity of asylum may provide a clearer understanding of the specific ways in which a state responds to the arrival and prolonged presence of refugees.

Quantity of asylum

States may adopt a restrictive approach to the quantity of asylum in a number of ways. At the extreme, it may expel entire refugee populations, as in the case of Tanzania's expulsion of Rwandan refugees in 1996, or advocate for refugees to be contained in their country of origin as a substitute for seeking asylum, as in the case of Tanzania's 2003 proposal for the creation of safe zones within Burundi. A state can also close its borders to prevent the arrival of additional refugees, as Tanzania did with its border with Burundi in March 1995. Third, it can push for the repatriation of refugees on its territory in advance of the promotion of repatriation by UNHCR, as Tanzania has recently done with Burundian refugees.

In contrast, Kenya demonstrated an open approach to the quantity of asylum from 1992 onwards. While push-backs were carried-out in 1989 and 1990, and while smaller groups of Somali arrivals were returned to Somalia in 1990 and 1991, Kenya has generally allowed Somali refugees to enter its territory subsequent to the suspension of international aid in November 1991. Similarly, Guinea has demonstrated an open approach to the quantity of

asylum for much of its experience with Liberian refugees. It was only in the aftermath of the President's September 2000 speech and the closure of the Liberian border in late 2000 and early 2001 that Guinea placed limits on the quantity of asylum. As argued in Chapter 6, donor pressure on the Conté regime in the midst of the incursions appears to have played a significant role in ensuring that Guinea pursued this open approach to the quantity of asylum.

Quality of asylum

Host states may also adopt open or restrictive approaches to the quality of asylum they offer to refugees. As highlighted by the recent 'Anti-Warehousing' campaign by the US Committee for Refugees, a number of social and economic rights afforded to refugees by the 1951 Convention have been denied to refugees by a number of states, especially in the context of protracted refugee situations.¹¹¹⁷ These rights include the right to earn a livelihood¹¹¹⁸ and freedom of movement.¹¹¹⁹ As detailed by Crisp, it is by curtailing these rights that African states have been most restrictive in their asylum policies.¹¹²⁰

In concert with restrictions it has placed on the quantity of asylum, Tanzania has placed a number of restrictions on the quality of asylum it offers to refugees by prohibiting refugees from travelling more than 4kms from refugee camps, by denying refugees access to local markets and by rounding up refugees who had previously been settled outside the refugee camps. The containment of refugees in the Dadaab camps, thereby denying them freedom of movement, has been a hallmark of Kenya's approach to Somali refugees. This policy has been reinforced by regular police sweeps in Nairobi and other urban areas.

¹¹¹⁷ See: USCR, *World Refugee Survey 2005: Warehousing: Inventory of Refugee Rights*, Washington DC: US Committee for Refugees, June 2005.

¹¹¹⁸ For example, Article 17(1), 1951 Convention: "The Contracting State shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment."

¹¹¹⁹ For example, Article 26, 1951 Convention: "Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances."

¹¹²⁰ Crisp, January 2003, 11 – 13.

In contrast, Guinea has generally pursued an open approach to the quality of asylum. With the exception of the state-sanctioned backlash against refugees in September 2000 and the incorporation of Liberian refugees into the LURD supply chain, Guinea's official position has been to extend a high quality of asylum to refugees. Both during the pre-September 2000 settlement phase and subsequent to the relocation exercises, Guinea has generally allowed refugees freedom of movement and the right to work outside refugee camps. Unlike Kenya or Tanzania, Guinea also permits refugees to reside in Conakry, at the political core of the country. Finally, the local integration of Sierra Leonean refugees is a significant example of the degree to which Guinea has pursued an open approach to the quality of asylum.

The politics of asylum in Africa

Given these distinctions between open and restrictive approaches to the quantity and quality of asylum, how do states decide what form their asylum policy should take? This question illustrates the importance of developing a more rigorous conceptualization of the politics of asylum in Africa. At the core of such an approach is an understanding of the sources of pressure on a host state and the range of factors it considers when formulating its asylum policy. Given the primary objective of reducing vulnerability to internal and external pressures, host states both interpret the impact of refugees through the lens of these pressures and incorporate the question of refugees into a broader political calculus. As such, states formulate their response to refugees mindful of the furtherance of broader political objectives, with the paramount objective being the survival of the governing regime. It is, therefore, likely that asylum policies are primarily the product of an instrumental calculation of how to ensure regime survival and mitigate internal and external pressures. As a result, factors unrelated to the presence of refugees are not only likely to play a more influential role in the formulation of asylum policies, but are also likely to play a significant role in the characterization of refugees as either a burden or a security concern. To support this

argument, this chapter now examines the interaction between the sources of pressure on a host state and the factors at play in the formulation of asylum policies.

Sources of pressure

It is important to first identify the sources of pressure on the host state and governing regime. In her work on factors affecting asylum policies in the context of mass influx situations in Africa, Asia and Central America, Jacobsen argues that host states must contend with three sources of pressure: first, the international refugee regime, consisting of “those institutions and individuals in the international community which are concerned with the welfare of refugees”;¹¹²¹ second, the local community, “which first receives refugees and which is most affected by the influx”;¹¹²² and third, from refugees themselves. In addition to these sources of pressure, Jacobsen argues that four other broad categories may affect asylum policies: first, bureaucratic choices, stemming from the state’s previous experience with refugee populations; second, international relations, especially with the international refugee regime which “influences host governments for both practical and normative reasons”¹¹²³, but also with donor countries directly and with sending countries; third, the local absorption capacity of local communities, akin to the burden sharing concerns raised throughout this thesis;¹¹²⁴ and fourth, local and national security concerns.¹¹²⁵

Bariagaber argues that this full range of concerns played a significant role in responding to the interlinked refugee situations in the Horn of Africa between the 1970s and the 1990s.¹¹²⁶ This work outlines how the interests of various actors became increasingly evident in the course of repatriation exercises between Sudan, Ethiopia and Somalia. While

¹¹²¹ Jacobsen, 1996, 657.

¹¹²² *Ibid.*

¹¹²³ Jacobsen, 1996, 662.

¹¹²⁴ For an examination of the relationship between absorption capacity and burden sharing, see: Weiner, 1995, 75 – 110.

¹¹²⁵ See: Jacobsen, 1996, 660 – 674.

¹¹²⁶ See: Bariagaber, 1999.

arguing that asylum countries in the Horn of Africa were known to “inflate refugee numbers to attract more aid from governmental and non-governmental agencies, extract political capital internationally, and discredit refugee origin countries with which they are usually at odds,”¹¹²⁷ Bariagaber notes that host states must ultimately balance these interests against the potential response from international actors, other states in the region and from refugees themselves.¹¹²⁸

Callamard’s work on the response of the Malawian regime of Kamuzu Banda to the arrival and prolonged presence of more than 1 million Mozambican refugees highlights the significance of a similar range of factors in understanding the asylum policies of an individual African state.¹¹²⁹ Callamard argues that “Malawian refugee policy was historically produced; reflected the natural and structural economic constraints of the country; and resulted from the one-party regime’s desperate quest to ensure its survival in the midst of increasing domestic and international pressures for democratization.”¹¹³⁰ Callamard highlights how the links between the Banda regime, RENAMO and the *apartheid* regime in South Africa, coupled with the ethnic affinity between refugees and the local population, initially motivated an open asylum policy. With the end of the Cold War and political changes in South Africa, however, the Banda regime came to experience similar domestic and external constraints as other states in Africa. In response, Callamard argues that the continuation of an open asylum policy “constituted the only way for the Malawian government to counterbalance international criticisms and concerns regarding treatment of its own people, to improve Malawi’s international image in the West and to ensure that the flow of international aid into Malawi did not cease.”¹¹³¹

¹¹²⁷ Bariagaber, 1999, 603.

¹¹²⁸ Bariagaber, 1999, 608 – 617.

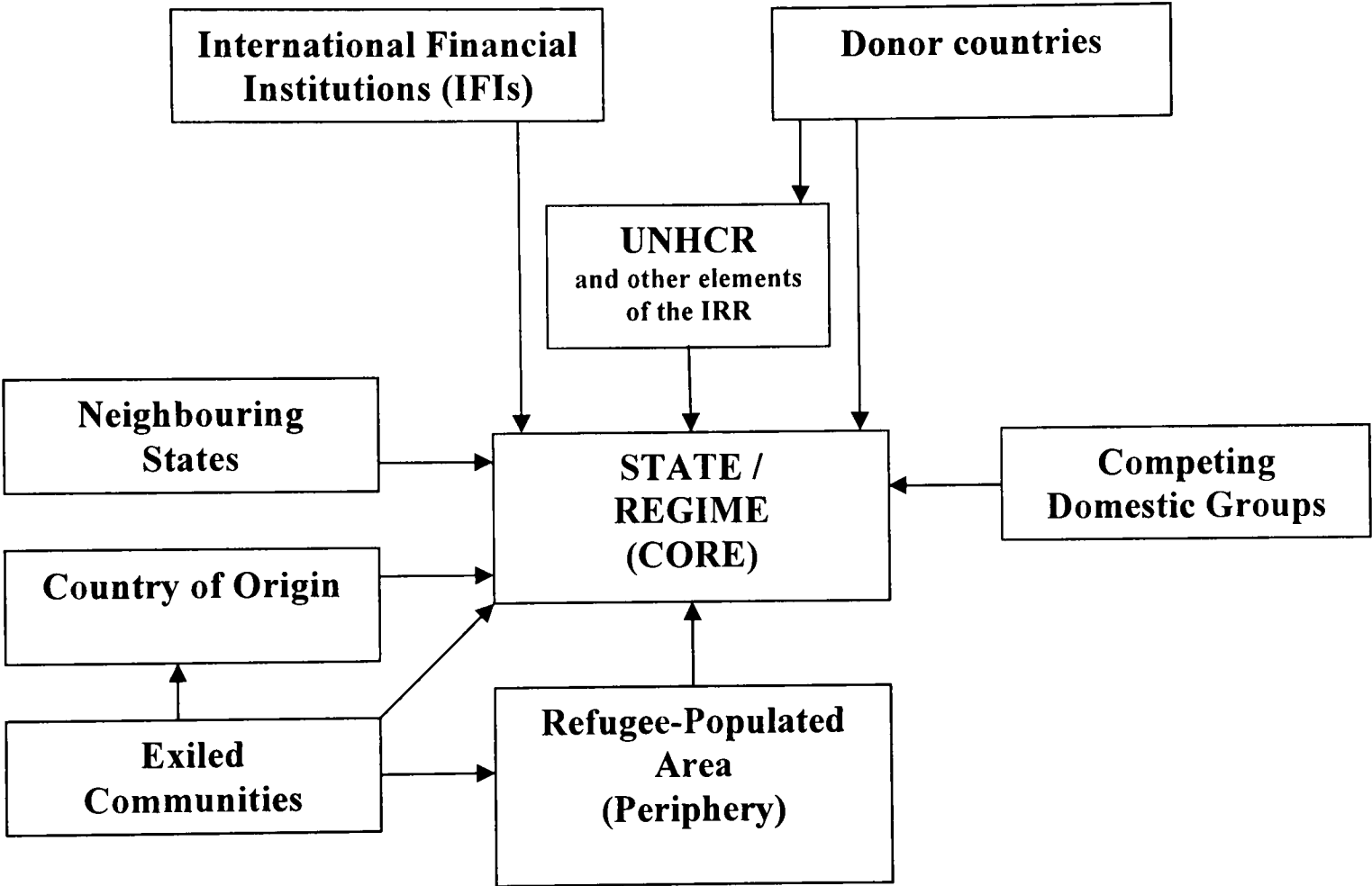
¹¹²⁹ Callamard, 1994.

¹¹³⁰ Callamard, 1994, 527.

¹¹³¹ Callamard, 1994, 552.

Building from these works, and drawing from the case studies of this thesis, Figure 7.1 maps the relationships between the host state/regime and the identified sources of pressure on the host state and regime. These sources are international, regional and domestic in origin, and interact with the state in different ways. While these sources may also interact with each other, thereby influencing the impact of any one source on the host state, the focus here is on their impact directly on the host state.

Figure 7.1
Sources of Pressure on Host States in Africa



First, IFIs may either pressure the state to adopt economic or political reforms by threatening to suspend foreign financial support, as in the case of Kenya, or may provide additional assistance as a means of pressuring the state to maintain an open asylum policy during a refugee crisis, as in the case of Guinea. Moreover, donor states may interact bilaterally with host states, as with the US and Guinea, or multilaterally through UNHCR and other elements of the international refugee regime (IRR). As this chapter will argue, many host states have a limited capacity to mitigate this source of pressure.

Second, regional actors may apply pressure on the host state. Most directly, countries of origin may pressure host states to adopt particular asylum policies through military, diplomatic or economic means. As highlighted by the relationship between Tanzania and Burundi, especially in contrast with the relationship between Tanzania and Portugal, if the host state places a higher priority on its relationship with the country of origin than the political and economic benefits it believes it can derive from the presence of refugees, then pressure from the country of origin may result in more restrictive asylum policies. Likewise, other neighbouring states may put pressure on the host state. As illustrated by the response of ECOWAS states to the incursions in Guinea, however, this pressure will not always affect the host state's asylum policies.

Third, the host state must address domestic sources of pressure arising from both the refugee-populated area and from other competing domestic groups. As argued in Chapter 3, the arrival of refugees may affect the political opportunity structure within a host state, altering the balance of power between the governing regime and either a region of the country or a group that is challenging the regime for control of the state. In this way, the Moi regime perceived the arrival of Somali refugees in late 1980s and early 1990s as potentially contributing to the *shifta* movement and to concerns about irredentist elements in the North East Province. Likewise, some elements within the Conté regime perceive the current instability in Southern Guinea as providing a fertile breeding group for anti-Conté Guinean dissidents.

Finally, the host state may come under pressure from exiled communities. Such communities may include both refugees and armed elements, so-called 'refugee warriors'. The blurring of the lines between political activities, which refugees are allowed to undertake, and subversive activities, which would lead to an individual's exclusion from refugee status, makes a clear distinction between refugee and armed element difficult, especially in the context of *prima facie* status determination. As such, it may be more useful to consider the

ways in which the exiled community, in its entirety, may not only influence the host state, as with the case of Liberian elements in Guinea, but also put pressure on the country of origin or the refugee-populated area, in turn affecting the way that these other actors relate to the host state and resulting in a number of direct security concerns.

Factors affecting asylum policies

As argued throughout this thesis, the asylum policies of African states are the product of factors both related to and separate from the presence of refugees. The sources of pressure, outlined above, interact with various factors to affect the asylum policies of host states. This section argues that the following refugee-specific factors should be considered when examining the asylum policies of states in Africa: historical factors, quantitative factors, burden sharing factors and security factors. More generally, however, it is also necessary to consider a number of broader domestic, regional and international factors. Drawing from the case studies, this section argues that the combination and interaction of these factors will determine the asylum policies adopted by states. While each of these factors may affect different states in different ways, a consideration of these factors, and the interplay between them, will illustrate how each played a role in determining the asylum policies of Kenya, Tanzania and Guinea.

Historical factors: As argued by Jacobsen, a state's past experience with refugee movements may contribute significantly to its approach to the arrival of additional refugees, especially to those from the same country of origin.¹¹³² If past refugee movements resulted in political or economic benefits for the host state and local community, coupled with a sustained engagement by the international community, there is a greater probability that future refugee movements will benefit from an open asylum policy. Likewise, if a state previously

¹¹³² Jacobsen, 1996, 660 – 661 and 669.

had a negative experience with the arrival of refugees, there is a higher probability that it will adopt a restrictive approach.

Tanzania's response to Burundian refugees in the 1970s may be best understood in these terms. The arrival of Rwandan refugees in the 1960s boosted Tanzania's status regionally and internationally, while the Tripartite settlement model helped ensure that the refugee presence would attract development resources to underdeveloped regions of the country and ensure that the cost to the state would remain low. In another way, the experience of hundreds of thousands of Guineans having sought and received asylum in the region during the Touré regime likely informed the open approach of the Conté regime to the arrival of Liberian refugees in the early 1990s. At the same time, a positive historical experience does not always lead to an open asylum policy in the future. The history of Ugandan refugees in Kenya in the 1980s, and the general agreement that they made an important contribution to the Kenyan economy, did not appear to play a role in the formulation of the Moi regime's response to the arrival of Somali refugees.

However, it is more likely that a negative historical experience will lead to a restrictive asylum policy than a positive historical experience will lead to an open approach. This is particularly true if past experience results in the host state feeling that its hospitality has been 'slighted' or forgotten by refugees or the international community. After the RPF gained control of Kigali and formed a Tutsi-dominated government in 1994, a number of stories circulated of Rwandans who had been granted citizenship in Tanzania in the 1980s burning their Tanzanian passports and returning to Rwanda.¹¹³³ While these stories have not been verified, they have nonetheless affected Tanzanian asylum policy. Some feel that this 'slighted hospitality' contributed significantly to Tanzania's post-1995 position that local integration and naturalization is no longer feasible for any refugee it hosts.¹¹³⁴ At the same time, the belief that the engagement of the international donor community has waned over

¹¹³³ Interview with Poppe, 2004; interview with Butiku, 2004; and interview with Ache, 2004.

¹¹³⁴ Interview with van Buren, 2004.

time resulted in feelings of ‘forgotten hospitality’ in both Dar¹¹³⁵ and in Kibondo.¹¹³⁶ In particular, feelings that the international donor community previously left the host country to shoulder a refugee burden alone will likely lead to a lack of willingness to trust the sustainability and dependability of burden sharing in future cases, as discussed below.

Quantitative factors: The changing nature and scale of refugee movements in Africa, however, may result in historical experiences not being seen as a useful precedent. For example, it is unlikely that the presence of 10,000 Ugandan refugees in Kenya in the 1980s could be viewed as useful for understanding the response of the Moi regime to the arrival of over 400,000 Somali refugees. In fact, in every case considered by this thesis, concerns relating to the numbers of refugees and their length of stay were cited by officials as a key factor contributing to the state’s approach to asylum. In this way, it is important to understand how the quantitative features of a refugee movement may affect the response of the host state.

A new feature of conflict and refugee movements in post-Cold War Africa is the advent of so-called ‘failed and failing states’, where the nature of conflict has resulted in a breakdown of essential state structures.¹¹³⁷ Whereas “the survival of existing states, no matter how weak or bankrupt, could be taken for granted” during the Cold War, “the list of states that have either collapsed or could easily do so is [now] growing.”¹¹³⁸ As argued by Young:

Until Charles Taylor’s band of insurgents sparked a chain reaction of disintegration in Liberia in 1989, and the ouster of Muhammad Siad Barre from Somalia in 1991 triggered a power struggle in which warlords and their clan militia demolished the institutional superstructure of the state, state collapse had never been seriously contemplated as a likely scenario by analysts of African politics.¹¹³⁹

Such conflicts were particularly prevalent in the Horn of Africa, the Great Lakes region and West Africa during the 1990s. By virtue of neighbouring such conflicts, Kenya, Tanzania and Guinea were subjected to significant refugee influxes.

¹¹³⁵ Interview with Mseke, 2004.

¹¹³⁶ Interview with Machimu, 2004.

¹¹³⁷ See: Furley (ed.), 1997.

¹¹³⁸ Herbst, 1999, 315.

¹¹³⁹ Young, 1999, 24.

The nature of conflict in Africa in the 1990s not only resulted in the outflow of significant refugee populations, but also frustrated efforts to find solutions to the refugee situations they produced. In this way, the protracted nature of conflict and the advent of so-called ‘collapsed states’ has increased the number of protracted refugee situations in Africa. For example, the collapse of state institutions in Somalia in the early 1990s continues to frustrate efforts to find a solution to the Somali refugee situation and, coupled with the lack of external engagement and the policy responses of host states, has led to one of Africa’s most protracted refugee situations. In fact, a list of Africa’s major protracted refugee situations doubles as a list of the most significant examples of protracted conflict in Africa, as illustrated by Table 7.1.

Table 7.1
Major Protracted Refugee Situations in Africa (31 December 2003)¹¹⁴⁰

Region/country of asylum	Country of Origin	Total
Burundi	Dem. Rep. of the Congo	41,000
Central African Republic	Sudan	36,000
Chad	Sudan	110,000
Dem. Rep. of the Congo	Angola	120,000
Dem. Rep. of the Congo	Sudan	45,000
Rwanda	Dem. Rep. of the Congo	35,000
Tanzania	Burundi	490,000
Tanzania	Dem. Rep. of the Congo	150,000
Djibouti	Somalia	25,000
Ethiopia	Sudan	95,000
Kenya	Somalia	150,000
Kenya	Sudan	63,000
Sudan	Eritrea	110,000
Uganda	Sudan	200,000
Zambia	Angola	160,000
Zambia	Dem. Rep. of the Congo	58,000
Cameroon	Chad	39,000
Côte d’Ivoire	Liberia	74,000
Ghana	Liberia	42,000
Guinea	Liberia	150,000
Guinea	Sierra Leone	25,000
TOTAL		2,300,000

The changing nature of conflict has consequently not only resulted in a significant increase in Africa’s refugee population in the 1990s, but the failure to engage in sustainable conflict resolution and state reconstruction in many of these countries has meant that refugees

¹¹⁴⁰ UNHCR, ExCom, 10 June 2004, Appendix 1.

are staying in exile for longer periods of time. According to UNHCR, the average duration of a major refugee situation has increased from 9 years in 1993 to 17 years in 2003.¹¹⁴¹ As these situations become increasingly protracted, and as solutions remain elusive, host states come to perceive them as an unending burden. Such a perception may, in turn affect the state's approach to asylum. For example, in both Kenya and Tanzania, the protracted nature of the refugee situation was identified as one of the principal concerns of the host state, and a justification for adopting a restrictive asylum policy. This fact highlights the need to formulate and implement comprehensive solutions to protracted refugee situations.¹¹⁴²

The increase in numbers alone, however, cannot independently account for the nature of asylum policies adopted by states. For example, Guinea's refugee population climbed from 325,000 in 1990 to 670,000 in 1996 without prompting a change in policy from the regime in Conakry. Lessons may also be drawn from the politics of asylum in the West. In the context of Europe's trend towards restrictionism in the 1990s, Gibney argues that "rising numbers on their own fall well short of providing an adequate explanation for increased restriction."¹¹⁴³ The fact that Western governments continue to introduce restrictive asylum policies notwithstanding the fact that the number of asylum seekers arriving in all industrialized countries has fallen by half in the past five years raises further questions about the explanatory value of numbers alone.¹¹⁴⁴ As Gibney concludes, "rising asylum claims tell us what governments have been reacting to, but they do not tell us why governments have grasped with such alacrity measures designed to restrict and prevent rather than include and

¹¹⁴¹ UNHCR, ExCom, 10 June 2004, 2.

¹¹⁴² For an overview of historical and contemporary efforts to formulate comprehensive solutions for protracted refugee situations, see: Gil Loescher and James Milner, *Protracted Refugee Situations: Domestic and Security Implications*, Adelphi Paper no. 375, London: Routledge, 2005, 67 – 84.

¹¹⁴³ Gibney, 2001, 3.

¹¹⁴⁴ See: UNHCR, "Press Release: Number of asylum seekers halved since 2001, says UNHCR", 17 March 2006.

manage those striving for asylum.”¹¹⁴⁵ This conclusion applies with equal force to Africa, and points to the fact that other factors likely play a more significant role.

At the same time, it is important to recognise that the politics of refugee numbers are as potent in Africa as they are in the West.¹¹⁴⁶ As outlined above, Bariagaber notes that host countries in the Horn of Africa were thought to inflate their refugee statistics as a means of both attracting additional material resources from humanitarian organizations and embarrassing a neighbouring regime.¹¹⁴⁷ Similar concerns were raised in Guinea in 1999, as humanitarian workers believed that Guinea had inflated the refugee population in the Guékédou settlements as a means of inflating the assistance budget.¹¹⁴⁸ Crisp argues that these concerns were expressed across Africa in the 1990s, as aid agencies were frequently suspicious that host countries made “exaggerated claims about the number of refugees present on their territory” to embarrass neighbouring regimes, attract additional material and financial assistance, justify large refugee assistance programmes and bureaucracies, and “to cast the most favourable light possible on the country’s commitment to humanitarian norms, thereby bolstering its international reputation and external support.”¹¹⁴⁹ Such concerns indicate that broader political factors may motivate host states to present inflated refugee statistics, and that refugee statistics are consequently just as susceptible to politicization as the characterization of refugees as a security concern or a burden.

Burden sharing factors: In all three cases, government officials claimed that the mass arrival and prolonged presence of refugees had a negative impact on the refugee-populated area, while also expressing concern about declining donor engagement and failures in burden sharing. This section applies the framework presented in Chapter 2 to examine how

¹¹⁴⁵ Gibney, 2001, 3.

¹¹⁴⁶ See: Kibreab, 1991, 8 – 15.

¹¹⁴⁷ Bariagaber, 1999, 603.

¹¹⁴⁸ USCR, *World Refugee Survey*, 2000.

¹¹⁴⁹ Crisp, June 1999, 8.

perceptions of burden sharing contributed to the asylum policies adopted by Kenya, Tanzania and Guinea.

Evidence from the cases suggests a wide scope of burden sharing in the three cases, both in terms of financial and physical burden sharing. In Kenya, donor engagement has supported programmes as diverse as the Firewood Project, the security package, assistance to the local population through LAPs, and the largest resettlement programme in Africa. While there is less engagement in resettlement from Tanzania, there is a wide scope of financial burden sharing, with support for the security package and assistance to the local population through the SPRAAs. The scope of burden sharing was more limited in Guinea, with donor engagement focused almost exclusively on the refugee camps, notwithstanding the innovations of these engagements, as illustrated by the Canadian police deployment, and interest in the resettlement of refugees from Guinea.

In contrast, the scale, sustainability and dependability of burden sharing in all three cases have caused concern for host states. In Kenya, limited and unpredictable donor support means that UNHCR was struggling to “maintain minimum standards of emergency assistance” more than a decade after the ‘end’ of the Somali refugee emergency.¹¹⁵⁰ Similar concerns were evident in Tanzania, with significant shortfalls in donor support in 1999, 2000 and 2001. In 2003, UNHCR’s Sub-Office in Kibondo reported that it could “hardly maintain the quality of services rendered to the refugees at the expected standard,”¹¹⁵¹ as WFP was only able to distribute 50% of the standard food rations in the early months of the year. In fact, there has been a steady decline in donor engagement in both programmes in recent years as donors claim that they find it difficult to justify continued support for assistance programmes that have been in existence for so long. Moreover, those involved in soliciting donor support for the Burundian and Somali programmes noted in 2004 that they found

¹¹⁵⁰ UNHCR, *Global Report 2003*, 2004, 191.

¹¹⁵¹ UNHCR, Kibondo, April 2004.

donors more engaged in high profile emergencies such as Iraq and Afghanistan, illustrating a lack of dependability in burden sharing in both cases.

In contrast, the scale of burden sharing in Guinea in 2001-2003 was significant, with donors sometimes contributing more funds than requested by UNHCR and other implementing partners. Likewise, the scale of interest in sharing Guinea's physical burden has exceeded UNHCR's capacity, leading resettlement countries to seek other avenues to fill their resettlement quotas. In the midst of continuing conflict in Liberia, donors appeared to be fully engaged in sharing Guinea's refugee burden, although with a more limited scope than in Kenya and Tanzania. The scale and dependability of this engagement, however, changed with the fall of the Taylor regime in Liberia in August 2003. With the change of circumstances in Liberia, donor interest has shifted away from Guinea and towards reconstruction in Liberia, highlighting a lack of dependability.

These experiences support Crisp's more general conclusion that "donor states can be said to have exacerbated the decline in protection standards in Africa by making it increasingly clear that they are no longer prepared to support long term refugee assistance efforts."¹¹⁵² Such concerns are reinforced when considering what aspects of asylum donors were seeking to ensure in these host states. In all three cases, it would appear that donors were targeting their assistance to ensure a high quantity of asylum as opposed to a high quality of asylum. In both Kenya and Guinea, donor engagement was most pronounced amid fears that the borders of the host state would be closed to refugees. This type of engagement was particularly evident in Guinea between September 2000 and March 2001.

At the same time, the three case studies illustrate that host states have tended to emphasise the burdens of hosting refugees, notwithstanding the evidence that their presence may, in certain circumstances, constitute a benefit. All three cases provide significant evidence that, in some respect, the prolonged presence of refugees and the refugee assistance

¹¹⁵² Crisp, August 2000, 7.

programme has resulted in tangible benefits for the refugee-populated area. These benefits have taken the form of investment in local services and infrastructure, especially through the LAPs in Kenya and the SPRAAs in Tanzania, and the creation of employment opportunities in Dadaab, Kibondo and N'Zérékoré. In Guinea, where refugees enjoy the right to work, they contributed directly to the local economy. While identified by officials in refugee-populated areas, these benefits associated with the presence of refugees have not been articulated by representatives of the host state in the capital cities or in international fora such as UNHCR's Executive Committee. In these settings, host states emphasise that the hosting of refugees has resulted only in burdens. As illustrated by the approach of Members of Parliament for Dadaab and Kibondo, this tactic has been employed as a means of trying to leverage additional support from the donor community. As such, it may be argued that host states characterize refugees exclusively as a burden as a means of trying to influence the level of assistance they receive from the international donor community.

As noted in Chapter 2, African host states have consistently advocated for compensation from the international community for hosting refugees. Since the ICARA process, however, donor states have refused to provide financial burden sharing either as compensation or at the levels requested by host states. The inability of African states to shift the terms of the burden sharing debate over the past 25 years suggests that the dynamics of the debate are largely dictated by donors and determined by the nature of relationship between African states and the donor community, as argued below, as opposed to any objective characterization of the African refugee burden.

Security factors: As with burden sharing concerns, evidence from the three case studies illustrate that security concerns were experienced in different ways at different levels of the state, with direct security concerns more commonly articulated in the capital and indirect security concerns more commonly articulated in the refugee-populated areas. Both Kenya and Tanzania justified adopting restrictive asylum policies as a result of these security

concerns. It is, however, important to understand the nature of these security concerns, consider the extent to which refugees are the cause of these concerns, and identify other factors that may contribute to the securitization of the refugee question. This section applies the framework presented in Chapter 3 to examine how perceptions of refugees as direct and indirect security concerns contributed to the asylum policies of Kenya, Tanzania and Guinea.

In the case of direct security concerns in all three cases, it is not refugees that cause insecurity, but the presence of armed elements either within or close to the refugee population. In fact, there is little evidence suggesting that direct security concerns are caused by the presence of refugees. In the case of Kenya, a long history of conflict between the ethnic-Somali Kenyan population and the Kenyan state has reinforced “a public perception that lumps all Somalis together, be they Kenyan Somali, Somali or a refugee. As a result, everyone crossing the border from Somalia is called a refugee.”¹¹⁵³ On the basis of this association, and the fact that terrorism in the region and small arms proliferation have roots in Somalia, Somali refugees are perceived as direct security threats. Likewise, security concerns relating to the presence of refugees are not new to Tanzania, especially given its active support of African liberation movements in the 1960s and 1970s, or for Guinea, given its history of hosting foreign armed elements. As Tanzania’s security concerns are no longer tied to support for liberation struggles, and refugees have been a source of regional and international frustration, not pride, for Tanzania since the 1990s, they are of increasing concern to the CCM regime, which has, in turn, securitized the presence of Burundian refugees. In Guinea, the President’s ‘speech act’ masked the fact that the Conté regime had entered into an alliance with foreign armed elements, especially LURD.

In all three cases, the identification of refugees as a cause of direct security concerns stems more from the perceptions and policy choices of the host state and governing regime. The political decision to securitize the refugee population has often been used a means to

¹¹⁵³ Interview with Musau, 2004.

divert attention from regime action in other areas, as in the case of Guinea, or to divert attention from government inaction, or its inability to control related security concerns, as with the proliferation of small arms in Kenya and Tanzania. While the proliferation of small arms and the presence of armed elements in volatile border areas do constitute legitimate security concerns, they are not caused by refugee movements. As such, evidence from the cases would suggest that the identification of refugees as a direct security concern in Kenya, Tanzania and Guinea is more the result of a ‘scapegoat strategy’, as described by Job,¹¹⁵⁴ than a legitimate security concern. This dynamic will be discussed in greater detail below.

In contrast, the three case studies demonstrate how the presence of refugees, coupled with other factors, has resulted in indirect security concerns for host states. Failures of burden sharing, combined with restrictive asylum policies, have led refugees in Kenya and Tanzania to pursue their own coping strategies. Notwithstanding the fact that these strategies are often more harmful for refugees than for the local population,¹¹⁵⁵ some of these coping strategies have created legitimate security concerns for host states. This is especially true in the case of Tanzania, where interruptions in food distribution to encamped refugees have resulted in instances of refugees turning to theft and banditry as a coping strategy.

In a similar way, two other indirect security concerns are more the consequence of factors unrelated to the presence of refugees than a result of the actions of refugees themselves. First, grievances arising from the perception that refugees receive preferential treatment, most evident in the case of Tanzania, largely result from economic liberalization and structural adjustment programmes. Chazan *et al* note that “adjustment measures often [have] the effect of curtailing access to social services” as “governments [introduce] user fees for health and education and reduced funding to many programmes and regions” and citizens, as a result, come to “find these basic services inaccessible.”¹¹⁵⁶ In such cases, the fact that

¹¹⁵⁴ See: Job, 1992, 29.

¹¹⁵⁵ See: Crisp, January 2003, 19 – 22.

¹¹⁵⁶ Chazan *et al*, 1999, 343.

the local population must now pay for services which the refugees continue to receive for free has resulted in tensions between the two groups, notwithstanding the significant contribution to the local community made through SPRAAs. Similarly, shocks in Guinea's economy, which provoked the dramatic increase in the cost of rice, are believed to have increased tensions between the local population and refugees, although it may be too soon to tell how lasting these tensions will be.

Second, perceptions that the presence of refugees has prompted shifts in the balance of power either between the governing regime and domestic challenger groups, or between the core and periphery of the state, are best understood within the context of democratization and political liberalization. As argued by Mkandawire, "periods of transition tend to render more transparent challenges to the legitimacy of the state, as hitherto unarticulated or muted claims are openly voiced."¹¹⁵⁷ Governing regimes consequently face additional pressures to meet the political and economic demands of a range of challenger groups and regions of the country. The fact that large refugee movements in the 1990s coincided with the early stages of democratization has not meant that refugees have affected political opportunity structures. Instead, changes in the political opportunity structure have affected refugees, as challenger groups have sought to create political opportunity by linking the presence of refugees to a range of social, economic and security concerns.¹¹⁵⁸ At the same time, governing regimes, in a bid to retain power when confronted with democratization, have employed additional 'scapegoat strategies' and politicised the refugee question for their political benefit, as discussed below.

This analysis of the burden sharing and security concerns of host states indicates that factors unrelated to the presence of refugees have played a significant, if not the predominant

¹¹⁵⁷ Thandika Mkandawire, "Crisis Management and the Making of 'Choiceless Democracies'", in Joseph (ed.), 1999, 124.

¹¹⁵⁸ This conclusion also has important implications for understanding how the presence of refugees may affect the relationship between the core and periphery of the host state, as outlined above. While findings from fieldwork indicate that the presence of refugees and refugee assistance programmes did give new political significance to refugee populated areas on the periphery of the host state, additional research is required to more critically understand the nature and implications of this dynamic.

role, in determining the asylum policies of states. In particular, the changing nature of conflict in Africa, the inability of African states to exert pressure on the international donor community, and the consequences of limited state capacity, economic liberalization, and democratization all appear to have crucially influenced the nature of asylum policies adopted by Kenya, Tanzania and Guinea. For this reason, any understanding of asylum policies in Africa must consider these broader domestic, regional and international factors.

Domestic factors: This section considers how a number of domestic factors, unrelated to the presence of refugees, have affected asylum policies in Kenya, Tanzania and Guinea. In particular, various dynamics resulting from democratization and the consequent increase of domestic pressure on the governing regime have limited the space within which asylum policies have been formed. At the same time, some governments have sought to politicise the presence of refugees as a way of countering sources of domestic pressure and demonstrating their control over domestic affairs. This section seeks to highlight these dynamics by drawing on similar dynamics in Western states and by emphasising the growing significance of nationality laws in Africa.

Rutinwa cites three factors to explain the “growing xenophobia in many African countries” during the 1990s.¹¹⁵⁹ First, he points to declining feelings of solidarity between local populations and refugees, due primarily to the fact that refugees were no longer fleeing wars of national liberation. Second, he emphasises the dual impact of the African economic crisis and economic liberalization on the well-being of citizens in refugee-populated areas, noting that the curtailment of services to citizens has “made it difficult for the people to accept the same services being provided for free to refugees.”¹¹⁶⁰ Third, he notes that xenophobia has “emerged at a time when most of Africa is democratizing and governments are compelled to take into account public opinion in formulating various policies.”¹¹⁶¹ Crisp

¹¹⁵⁹ Rutinwa, 1999, 1 – 2.

¹¹⁶⁰ Rutinwa, 1999, 2.

¹¹⁶¹ *Ibid.*

makes a similar point by noting that “prior to the 1990s, authoritarian governments and one party states in Africa were relatively free to offer asylum to large refugee populations when they considered such a policy to be consistent with their own interests.”¹¹⁶² In fact, it is no coincidence that the era of open asylum policies in Africa in the 1960s and 1970s overlapped with the era of the ‘monopoly state’ in Africa, with virtually no sources of domestic opposition.¹¹⁶³ In this way, it is significant that it is the least democratic of the three cases considered in this thesis – Guinea – that has maintained the most open asylum policy.

To better understand this dynamic, lessons may be drawn from the experience of Western asylum countries. In considering the rise of more restrictive policies in Western states in the 1990s, Gibney argues that a number of factors eroded the autonomy of state leaders to set asylum policies and led to “a *democratization of asylum policy* in Western states, with domestic political actors (the public, the media and opposition parties) increasingly calling the tune.”¹¹⁶⁴ As Gibney argues:

The results were not pretty. As asylum became part of the cut and thrust of domestic politics, government leaders found themselves facing more pressures to restrict entry. With little incentive to resist ... governments implemented an increasingly retrograde set of control measures to prevent and deter the arrival of asylum seekers.¹¹⁶⁵

As a consequence of this process, the politics of asylum in the West has increasingly come to focus on the government’s ability to demonstrate control,¹¹⁶⁶ with public perception that the admission of refugees is neither orderly nor controlled having the potential to undermine the government’s legitimacy in the eyes of the electorate.¹¹⁶⁷ In democratic states, this loss of legitimacy may have electoral consequences as “political elites believe that if they fail to control asylum, it will contribute to or cause their electoral defeat.”¹¹⁶⁸

¹¹⁶² Crisp, August 2000, 8.

¹¹⁶³ See: Clapham, 1996, 56 – 62.

¹¹⁶⁴ Gibney, 2001, 7. Emphasis in original.

¹¹⁶⁵ *Ibid.*

¹¹⁶⁶ Weiner, 1995, 9.

¹¹⁶⁷ See: Sarah Spencer, “Introduction” in Spencer (ed.), 2003; and Gibney, 2004, 221.

¹¹⁶⁸ Gibney, 2001, 7.

While similar dynamics are at play in African states, the reduced ability of the state in Africa to broadcast its authority to the periphery of the state, as argued by Herbst, results in different outcomes. In Western states, governments have sought to demonstrate their control over the asylum question through the introduction of increasingly stringent screening procedures and more differentiated categorizations of individuals permitted to enter on what terms.¹¹⁶⁹ Unlike European states, however, African states do not have the same capacity to broadcast authority and must consequently seek alternate means of demonstrating control.¹¹⁷⁰ In such cases, it is to the benefit of African regimes that refugees have only *prima facie* refugee status, as the lack of individualized status not only facilitates the securitization of refugees, as outlined above, but their politicization as well. Whereas European states seek greater precision in refugee definitions, African states tend to seek greater ambiguity as a means of facilitating securitization, thereby justifying blanket control.

This is yet another way that Job's 'scapegoating strategy' informs an understanding of asylum policies. Given the vulnerability of African regimes to internal pressures, the portrayal of *all* refugees as security concerns, thereby justifying encampment, for example, allows the government to demonstrate control. This is the instrumental value of portraying refugees, collectively, as a security concern: the governing regime can demonstrate its ability to 'control' a security 'threat' by imposing encampment, thereby using the presence of refugees to address a domestic source of pressure in the context of democratization. This dynamic is especially evident in Kenya's portrayal of Somalis, Tanzania's portrayal of Burundians, and Conté's portrayal of Sierra Leonean and Liberian refugees in his speech of 9 September 2000.

It is also important to compare and contrast the role that a number of other actors have played in the domestic asylum debate in both the West and Africa. In particular, both the

¹¹⁶⁹ See: Spencer, 2003.

¹¹⁷⁰ Herbst, 2000, 13 – 28.

media¹¹⁷¹ and NGOs¹¹⁷² have played key roles in the Western asylum debate. While the media is often seen to fan the flames of restrictionism, Western NGOs have frequently been the only means through which the needs and interests of refugees can be voiced.¹¹⁷³ This is true at the national, regional and international level, with groups like the British Refugee Council, ECRE and Amnesty International representing the needs and rights of refugees to different levels of governing authority.

While the media has been found to play an equally potent role in shaping popular anti-refugee sentiments in Africa, as illustrated by Nyamnjoh's work on the role of the media in the articulation of a more exclusionary idea of citizenship,¹¹⁷⁴ a striking difference between the asylum debate in Africa and the West is the role of domestic and regional NGOs. In particular, domestic refugee NGOs have been found to have a very limited presence, if any at all, in many host countries in Africa.¹¹⁷⁵ As argued by ECRE and USCR, "an important constraint in the ability to offer a secure asylum environment for refugees [in regions of refugee origin] is the extremely limited roles of NGOs and civil society..."¹¹⁷⁶ Findings from the cases support this conclusion. No domestic NGOs focusing on refugee and asylum issues were active in either Tanzania or Guinea in 2004. While RCK was an active commentator on asylum issues in Kenya, significant funding limitations and government-imposed restrictions limited its ability to play an influential role, especially during the debate on the Refugee Bill in 2003. This lack of an active NGO presence to voice the concerns of refugees and asylum seekers, coupled with the political benefits of securitizing refugees for governing regimes

¹¹⁷¹ See: Claudia Tazreiter, *Asylum Seekers and the State: The politics of protection in a security-conscious world*, Aldershot: Ashgate, 2004, 217 – 219.

¹¹⁷² See: Tazreiter, 2004, 57 – 72.

¹¹⁷³ Gibney, 2001, 8.

¹¹⁷⁴ Francis B. Nyamnjoh, *Africa's Media: Democracy and the Politics of Belonging*, London: Zed Books, 2005, 17 – 24.

¹¹⁷⁵ See: Juma and Suhrke (eds.), 2003.

¹¹⁷⁶ ECRE and USCR, 2003, 20.

facing the internal pressure of democratization, will likely have continued implications for the state of asylum in Africa.

More fundamentally, however, asylum policies have been affected by “a new and more nationally oriented citizenship”¹¹⁷⁷ which has accompanied the rise of democratization and economic liberalization in Africa. Herbst argues that the combined effect of these forces was the primary cause of the increased significance of citizenship laws in Africa during the 1990s, designed to enhance the division between citizen and foreigner. For him, “the wave of democratization sweeping across Africa ... has made citizenship laws even more publicly controversial than in the past, because it suddenly matters a great deal who can and cannot vote.”¹¹⁷⁸ While “all the [African] state can do through citizenship laws is provide a basic, lower-common-denominator identity,” Herbst argues that “this basic identity may still be important to non-citizens, even if the advantages of being a citizen are far fewer than in more developed countries.”¹¹⁷⁹ As witnessed in the increasing differentiation between ethnic Somalis from Kenya and Somalia and between ethnic Ha in Tanzania and Burundi, this increased emphasis on national citizenship as a result of political transformations in Africa during the 1990s has affected asylum by increasing the differentiation between refugee and non-refugee.

As argued in Chapter 3, ethnic affinity between refugees and the local population has been understood to be central to peaceful cohabitation between the two groups. Whereas the accepted logic has been that populations separated by artificial colonial borders shared a sense of distributive justice that bound them together, and when refugees arrived in a region of an ethnically similar local population they would be welcomed as ethnic kin, this would appear to no longer necessarily be the case in the context of countries undergoing political and economic liberalization. In fact, findings from Dadaab and Kibondo indicate the extent to

¹¹⁷⁷ Gyimah-Boadi, 2004, 21.

¹¹⁷⁸ Herbst, 1999, 267.

¹¹⁷⁹ Herbst, 1999, 277.

which nationality and citizenship have come to be more defining identities than ethnicity, thereby eroding affinity between the local population and refugees. In contrast, in countries like Guinea that are not subject to such pressures, similar divisions between ethnically similar nationals and refugees do not appear to be as entrenched.

In this way, the relationship between democratization, changing notions of political membership and the adoption of restrictive asylum policies highlights the need to develop a more critical understanding of the implications of democratization on human rights for non-citizens in Africa. While Young has outlined how democratization can lead to an erosion of human rights,¹¹⁸⁰ most scholarly literature on democratization in Africa views the process as one that is necessarily good. Findings especially from Tanzania, however, would suggest that, like South Africa,¹¹⁸¹ the process of democratization can have a negative impact on the human rights of non-citizens in Africa. Just as Zakaria argues that democratization does not always lead to liberal democracies,¹¹⁸² and Snyder argues that democratization does not always lead to peace,¹¹⁸³ the findings of this thesis indicate that the relationship between democratization and asylum policies in Africa is not always good for human rights.

Regional factors: In addition to these domestic factors, the three cases highlight the significant role of regional factors in the asylum policies of Kenya, Tanzania and Guinea. In some cases, like Guinea, the granting of asylum was used both as a means of highlighting the failure of neighbouring regimes and as a cover for providing support to elements opposed to the neighbouring regime. In other cases, like Tanzania, changing relations between the host state and the country of origin resulted in the prioritization of regional relations over the needs

¹¹⁸⁰ Young, 1999, 28 – 32.

¹¹⁸¹ See: Human Rights Watch (HRW), *“Prohibited Persons”: Abuse of Undocumented Migrants, Asylum Seekers and Refugees in South Africa*, New York: HRW, March 1998; and Bronwyn Harris, “A Foreign Experience: Violence, Crime and Xenophobia during South Africa’s transition”, *Violence and Transition* series, Vol. 5, Johannesburg: Centre for the Study of Violence and Reconciliation, August 2001.

¹¹⁸² See: Fareed Zakaria, “The Rise of Illiberal Democracy”, *Foreign Affairs*, Vol. 76, no. 6, November/December 1997.

¹¹⁸³ See: Jack Snyder, *From Voting to Violence: Democratization and Nationalist Conflict*, The Norton Series in World Politics, London: W. W. Norton and Company, 2000.

of refugees. Finally, for states like Kenya, the inability to resolve prolonged refugee situations is compounded by neighbouring a state with no functioning central government. Most significantly, the changing nature of conflict in Africa has been closely associated with the spill-over of insecurity into neighbouring states, and the regionalization of previously intra-state conflict. As argued by Stedman and Lyons, events of the 1990s indicate that “wars in Africa are increasingly becoming regionalized and the distinction between civil war and international war less meaningful.”¹¹⁸⁴ As such, it is important to more critically understand the role that relations between neighbouring African states have played in formulating particular asylum policies.

Here, it is important to emphasise the significance of the end of wars of national liberation for asylum policies in Africa. Just as “refugee admission was primarily a foreign policy matter for Western states” during the Cold War,¹¹⁸⁵ the response of Guinea and Tanzania to refugees fleeing colonial regimes in the 1960s and 1970s was dictated substantially by their anti-colonial foreign policies. Just as “by portraying refugee admission as an issue of *raison d'état*, Western elites were able to carve out a significant degree of autonomy from the domestic politics of their states” during the Cold War,¹¹⁸⁶ African leaders such as Nyerere and Touré were able to appeal to the idea of the anti-colonial African state as a justification for their approach to many refugees and liberation movements.

Such considerations were, for some, indicative of a wider trend. Wright argues that prior to the 1990s, African foreign policies were largely influenced by factors such as the impact of colonialism, solidarity and non-alignment, and opposition to apartheid South Africa.¹¹⁸⁷ In contrast, since the end of the Cold War and the political transition in South Africa, other issues have come to dominate African foreign policy agendas. Wright argues

¹¹⁸⁴ Stedman and Lyons, 2004, 143.

¹¹⁸⁵ Gibney, 2001, 6.

¹¹⁸⁶ *Ibid.*

¹¹⁸⁷ Stephen Wright, “The Changing Context of African Foreign Policies” in Stephen Wright (ed.), *African Foreign Policies*, Boulder, CO: Westview Press, 1999, 2 – 6.

that contemporary foreign policy is increasingly guided by concerns relating to the changing state capacities, economic crisis, the proliferation of security concerns, the impact of democratization, and the regionalization of conflict.¹¹⁸⁸

In this way, it may be argued that the arrival and prolonged presence of refugees may reluctantly draw a host state more fully into a regional security complex, whereby states are unable to insulate themselves from insecurity in neighbouring states.¹¹⁸⁹ Given the regionalization of conflict, otherwise relatively peaceful states like Kenya and Tanzania would likely not want to be drawn into the regional security complexes of the Horn of Africa and the Great Lakes region. This may be one reason that these states have been actively involved in trying to resolve conflicts in countries of origin, specifically Somalia and Burundi, by hosting peace negotiations. Given the limited literature that exists on African foreign policies,¹¹⁹⁰ however, additional research is needed to fully explore this dynamic.

International factors: Finally, the cases of Kenya, Tanzania and Guinea clearly illustrate the role of international factors in the formulation of their asylum policies. In particular, all three states have developed their asylum policies in light of a number of external factors and constraints. Paramount among these constraints, as outlined above, is the power imbalance between the host state and the donor state, with the interests and priorities of the donor state playing the dominant role in determining the nature of burden sharing with the host state. This section considers how these international factors have affected asylum policies by considering in greater details the predominant role that the power imbalance between host and donor states plays in the formulation of asylum policies.

The distribution of power in the donor-host relationships illustrated in the three case studies reflects the broader pattern of power distribution in the North-South relationship, as

¹¹⁸⁸ Wright, 1999, 10 – 18.

¹¹⁸⁹ See: Barry Buzan, “Third World Regional Security in Structural and Historical Perspective”, in Job (ed.), 1992.

¹¹⁹⁰ Wright argues that limited attention has been paid to the foreign policies of African states, and that “many texts have focused on Africa and the global system, but fewer have focused on the African elements of this relationship or on the intra-African dimension of foreign policy.” Wright, 1999, 1.

characterized by Ravenhill, Krasner and others.¹¹⁹¹ Krasner characterizes the relationship between South and North as being between “weak and vulnerable states on the one hand and strong and resilient ones on the other.”¹¹⁹² As a consequence, he believes that “a deep asymmetry of power” between South and North “leaves almost all developing countries exposed to shocks from the international environment.”¹¹⁹³

Largely as a result of this power imbalance, African states were unable to insulate themselves from pressures to pursue economic and political liberalization by the end of the 1980s, as outlined in the Introduction. As Clapham argues, this “metamorphosis” resulted from a number of pressures “which made it extremely difficult for them to cling to their previous insistence on unfettered sovereignty in the international arena combined with monopoly statehood in the internal one.”¹¹⁹⁴ As a result, some have argued that African states are now subject to “a comprehensive superstructure of international accountability.”¹¹⁹⁵ Others claim that by the beginning of the 1990s, “Western governments sought to deny African states the freedom to choose the political and economic systems which their leaders believed would best suit their countries’ individual circumstances and needs.”¹¹⁹⁶ Responding to the scale of these external pressures is a significant challenge for African states.

In some cases, African regimes have used the presence of refugees to seek leverage against an otherwise restrictive international donor community, both to extract material benefits and to ensure their survival. Perhaps the best example is the Conté regime’s practice of highlighting the openness of its asylum policy as a way of seeking concessions from the European Union. Similarly, Moi’s decision to allow a high quantity of asylum to Somali refugees in 1991 was linked to its desire to seek support from the donor community following

¹¹⁹¹ See: John Ravenhill, “The North-South balance of power”, *International Affairs*, Vol. 66, no. 4, 1990; and Krasner, 1985.

¹¹⁹² Krasner, 1985, 30.

¹¹⁹³ Krasner, 1985, 294.

¹¹⁹⁴ Clapham 1996, 193.

¹¹⁹⁵ Young, 1999, 34 – 35.

¹¹⁹⁶ Tordorff, 2002, 237.

the suspension of international aid. In each of these cases, host states have attempted to 'link' the presence of refugees to other areas of negotiation with donor states in order to seek concessions, a process known as 'issue-linkage'.¹¹⁹⁷

As illustrated by the cases of this thesis, however, efforts by Kenya, Tanzania and Guinea to employ issue-linkage to extract greater burden sharing from donor states have met with limited success. This is likely due to the fact that they have placed an emphasis on the quality of asylum, as opposed to the quantity of asylum, which appears to be of greater interest to donors. Given more than 25 years of concerns about burden sharing on the part of host states in Africa, it is striking that African states, independently and collectively, have not resorted to action similar to that of Southeast Asian states and Macedonia and threatened to disregard the principle of *non-refoulement* as a means of extracting burden sharing commitments from donor states. In fact, there is no evidence to suggest that Tanzania's expulsion of the Rwandan refugees was a tactic to gain leverage against the donor community. In reviewing the cases, it would appear that Kenya accepted the constraints placed upon it by the international donor community and Guinea relied on its strategic importance as a guarantee of sustained donor engagement. In the long run, neither strategy appears to have been successful.

Indeed, host states are typically caught between two contradictory pressures when formulating their asylum policies. Domestically, and especially in the context of democratization, there is pressure for the host state to demonstrate control over refugee populations by restricting asylum. Internationally, however, host states face pressure from the international donor community to provide asylum for refugees fleeing neighbouring conflicts. The question of how states negotiate between these two, often contradictory, sets of factors is a question that requires additional research. It is, however, important to remember the views of the Kenyan Permanent Secretary of Foreign Affairs, who argued that it is not possible for

¹¹⁹⁷ See: Betts, July 2005; and Andreas Hasenclever, Peter Mayer and Volker Ritterger, *Theories of International Regimes*, Cambridge: Cambridge University Press, 1997.

aid-dependent states like Kenya to approach the question of refugees without considering the foreign policy implications.¹¹⁹⁸ In such cases, states do not feel free to pursue unilateral action for fear of jeopardising relations with the donor community, upon whom it is dependent.

Conclusion

This chapter has presented a framework for understanding the politics of asylum in Africa. Based on the three case studies of this thesis, and drawing from the political history of the African state presented in the Introduction, this framework illustrates the range of factors that contribute to the formulation of asylum policies in Africa. By taking the vulnerability of the African state as a point of departure, this chapter has argued that a range of actors place pressure on the host state to adopt particular asylum policies. At the same time, the asylum policies of host states are influenced by historical, quantitative, burden sharing, security, domestic, regional and international factors.

While these factors will affect different states in different ways, this chapter has argued that factors unrelated to the presence of refugees tend to play a predominant role in the formulation of asylum policies as host states incorporate decisions on asylum into their broader political calculus. To this end, the chapter has argued that the state must be more closely integrated into the study of refugees in Africa and that the political dynamics of asylum policies need to be more fully addressed. As the case studies have illustrated, the politics of the state in Africa has played a significant role in determining the quality and quantity of asylum afforded to refugees; future research on refugees in Africa therefore ignores the state at its peril.

¹¹⁹⁸ Interview with Ole Nkuraiya, 2004.

Conclusion

This thesis has examined the cases of Kenya, Tanzania and Guinea to ask how these states have responded to the mass arrival and prolonged presence of refugees, what factors have played the most significant role in determining their asylum policies, and how these responses have changed over time. While their particular approaches have differed, this thesis has argued that Kenya's approach to Somali refugees, Tanzania's approach to Burundian refugee and Guinea's approach to Liberian and Sierra Leonean refugees have obeyed a similar logic. While representatives of all three states have pointed to factors such as the scale and duration of the refugee problem, burden sharing and security as justifications for the quality and quantity of asylum they have provided, the case studies found that responses of these states to refugees have primarily been the result of broader political factors. In this way, the central conclusion of this thesis is that the asylum policies of states like Kenya, Tanzania and Guinea are influenced more by factors unrelated to the presence of refugees than by refugee-specific factors.

This is not to suggest that factors relating to the presence of refugees – such as the scale and protracted nature of refugee populations and concerns about burden sharing and security – are irrelevant to the study of asylum in Africa. Instead, as outlined in Chapter 1, these factors have been central aspects of the asylum question in Africa for some time. The thesis has argued, however, that such factors need to be understood in a more critical way, mindful of the political context within which asylum policies are formulated. To this end, the thesis has presented more critical understandings of burden sharing and security relevant to the study of asylum in Africa, and applied these frameworks to the three case studies. In considering burden sharing, the thesis has argued that understandings of financial and physical burden sharing should be included in any examination of donor engagement with host states, in addition to the ways in which the presence of refugees may constitute a benefit for the host state and local community, as outlined in Chapter 2. In considering security, the

thesis has argued that critical understandings of security relevant to Africa need to be applied to examinations of the potential security implications of refugee movements in Africa, disaggregated into direct and indirect security concerns, as outlined in Chapter 3.

More generally, however, this thesis has argued that while these refugee-specific factors play an important role in the formulation of asylum policies, they are typically conditioned by factors unrelated to the presence of refugees. These broader factors are the result of changes in the African political landscape since the 1980s, which have exacerbated a number of internal and external pressures on the African state, as outlined in the Introduction. These pressures have increased the vulnerability of many governing regimes in Africa, and have, in turn, indirectly had an impact on the formulation of asylum policies. In particular, this thesis has argued that these pressures have often led the governing regime to portray refugees collectively as a burden, as a means of seeking leverage against the international donor community, and as a security concern, as a means of demonstrating control in light of domestic pressures.

In the case of Kenya, the history of conflict between the state and its Somali population, coupled with the suspension of international aid in 1991, put pressure on the weakened Moi regime at the time of the mass arrival of the Somali refugees. The regime responded by implementing an open approach to the quantity of asylum, thereby satisfying the donor community, and a restrictive approach to the quality of asylum, by seeking to contain refugees on the periphery of the state. In the case of Tanzania, the end of the *ujamaa* model in 1985, coupled with the introduction of multi-party elections in 1995, resulted in changes in the idea of the Tanzanian state and challenges to the CCM regime. In response, Tanzania placed restrictions on the quantity and quality of asylum it provided to refugees from Rwanda and Burundi, both in an attempt to pressure the donor community to engage in more burden sharing and as a means of responding to increased domestic political competition. In Guinea, the Conté regime has clung to power by engaging in regional

conflicts and limiting domestic opposition. With the fall of the Taylor regime in Liberia, however, donors appear to have decreased interest in Guinea, both as a host for refugees and as a conduit through which pressure on the Taylor regime could be exerted, and have suspended aid to Guinea in light of the Conté regime's poor governance record. In response, Guinea has sought concessions from donors by highlighting its open approach to the quantity and quality of asylum, but with seemingly little effect.

To understand these dynamics, this thesis has argued for an approach that recognizes the politics of asylum in Africa, as outlined in Chapter 7. Such an approach affords the state a more central role in the study of asylum in Africa, while recognizing the broader spectrum of factors that affect the asylum policies of states, especially political factors unrelated to the presence of refugees. As a result of the prevailing sense of vulnerability experienced by many regimes in contemporary sub-Saharan Africa, the approach of this thesis argues that regimes tend to see the arrival of refugees as a potential threat to their survival. Facing such threats, but under pressure from the international donor community to provide asylum, African states must balance a range of factors and interests when formulating their asylum policies. Examining this dynamic has been the core objective of this thesis.

Adopting the politics of asylum as a conceptual framework leads to important conclusions not only for the study of asylum in Africa, but also for the future of the refugee protection regime in Africa. While part of the solution to the crisis of asylum in Africa surely lies in addressing the scale and protracted nature of the refugee problem, burden sharing and security, part of the solution also lies in engaging in broader political and economic forces that influence a state's asylum policies. The remainder of this Conclusion now considers these lessons for the study of asylum in Africa and for the future of the refugee protection regime in Africa, before outlining areas for future research suggested by the findings of this thesis.

Implications for the study of asylum in Africa

This thesis illustrates the importance of incorporating the politics of the host state more centrally into the study of asylum in Africa. As outlined in the Introduction, such an approach has generally been lacking, especially from a comparative perspective. While commentators have acknowledged that political factors affect the asylum policies of African states, the literature in this area remains remarkably limited, especially when compared to the literature elsewhere. The case studies of this thesis demonstrate the predominant role played by the politics of the host state in determining the quality and quantity of asylum afforded to refugees. To better understand constraints on asylum, refugee studies should, therefore, develop more rigorous and critical understandings of the ways in which the interests, constraints and concerns of states affect their asylum policies, notwithstanding the obligations placed on them by international refugee and human rights regimes. Given the diversity of states and asylum policies in Africa, such understandings are likely best developed in a comparative perspective.

At the same time, it is important to recognize that such political dynamics are not exclusive to the study of asylum in Africa. In fact, as argued in the work of Gibney, Weiner and others,¹¹⁹⁹ the politics of asylum is an approach that is equally relevant in Western states. As highlighted in Chapter 7, these understandings of the politics of asylum in Western states may help explain the dynamics of the politics of asylum in Africa. Further consideration should therefore be given to the benefits of a cross-regional comparative approach, and the benefit of more generally overcoming divisions between the study of asylum in the global North and the global South.

It is also important to understand the possible motivations for a continued conceptual division between the analysis of Western and African asylum policies. Chimni argues that the end of the Cold War witnessed a paradigm shift in refugee policy, law and research, centred

¹¹⁹⁹ See: Gibney, 2004; Weiner 1995.

on the “creation of a myth of difference: the nature and character of refugee flows in the Third World were represented as being radically different from refugee flows in Europe since the end of the First World War.”¹²⁰⁰ To overcome this ‘myth of difference’, asylum in Africa should be ‘de-exoticised’¹²⁰¹ and further research undertaken on the benefits of understanding both the similarities and the differences between asylum in Africa and the West.

Implications for the refugee protection regime in Africa

An approach that recognizes the politics of asylum also carries important implications for the future direction of the refugee protection regime in Africa. First, identifying both the burdens and benefits associated with the presence of refugees would help move beyond the rhetoric of refugees as exclusively a burden, as argued by the work of Rutinwa and Kamanga on refugees in Western Tanzania.¹²⁰² As indicated by the Kenya and Guinea case studies of this thesis, replicating their approach of identifying both the benefits and burdens associated with the presence of refugees would appear to be the most effective way of addressing the burden sharing concerns of host states. Through such an approach, donor engagement could be more effectively targeted to mitigate the burdens associated with the presence of refugees, like the negative impact on the environment, while additional programme are developed to maximize the benefits associated with the presence of refugees, especially capitalizing on the benefits to the local economy.

A more politicized understanding of burden sharing, and the interests of African states more generally, also speaks to the question of recent proposals to ‘externalize’ European

¹²⁰⁰ B. S. Chimni, 1998a, 351.

¹²⁰¹ According to the *Oxford English Dictionary*, to ‘exoticise’ (v.) is: “to make exotic; to glamorize; to treat or portray as unusual (often with the implication of romanticization, stereotyping, or condescension).” Notions of de-exoticising are central to post-colonial studies, with an emphasis on deconstructing the ‘otherness’ inherent in many understandings of non-European practices. See: Stewart Hall (ed.), *Representation: Cultural representation and signifying practices*, London: SAGE for the Open University, 1997.

¹²⁰² Rutinwa and Kamanga, September 2003.

asylum policy.¹²⁰³ A range of European-driven bilateral and multilateral policy initiatives in recent years have focused on the two-fold assumption that programmes in Africa, and other regions of origin, can be developed as a means of reducing the number of spontaneous arrival asylum seekers reaching the EU and that countries of first asylum would be willing to participate in such schemes. Such assumptions fail to consider the willingness and ability of states in regions of refugee origin to participate in such schemes. In fact, the findings of this thesis would suggest that the domestic constraints faced by states like Kenya and Tanzania would mean that the domestic political cost of participating in such schemes would be too high, and that such states would not be able to provide the quality of asylum required. At the same time, the power imbalance between African and donor states will make it difficult for African states to resist such programmes, especially if European states link participation in such schemes with issues like aid and debt. While more research is required on how African states will balance these contradictory domestic and international pressures, an approach that recognizes the politics of asylum in Africa clearly forwards our understanding of one aspect of the ‘new asylum paradigm’.

This thesis also indicates the need for the refugee protection regime to engage more consistently with the range of security concerns associated with refugee movements. While this thesis has argued that a range of refugee-related security concerns are, in fact, motivated by attempts to counter sources of domestic pressure on the governing regime, this is not to say that host states and refugee-populated areas do not have legitimate security concerns relating to refugee movements. Kenya, Tanzania and, to a certain extent, Guinea were all found to have legitimate indirect security concerns in refugee-populated areas. These concerns typically resulted from tensions between local communities and refugee populations, stemming from either competition over scarce resources or the perception that refugees were receiving preferential treatment. Lessons should be learned from the apparent success of the

¹²⁰³ See: Oxfam, 2005; and Betts, July 2005.

Firewood Project in Kenya and the SPRAAs in Tanzania to mitigate these indirect security concerns, and similar targeted development assistance and local assistance projects incorporated into other refugee programmes, especially in cases of protracted refugee situations.

At the same time, it is important to recognize that while refugees are not, by definition, responsible for direct security concerns, refugee movements typically occur in a context of wider insecurity, stemming from the presence of armed elements in the refugee population, the spill-over of conflict and the proliferation of small arms. These phenomena have a negative affect not only on the security of refugees, but also on the security of host states. As such, responses to these direct security concerns, involving a wider range of peace and security actors, need to be developed and implemented, not only to ensure the protection of refugees, but also to ensure the continued willingness of states to provide asylum.

Such responses, however, can only mitigate the concerns of states and the protection needs of refugees. Fundamentally, the most effective way of ensuring a convergence between the concerns of states and the protection needs of refugees is through the formulation and implementation of a comprehensive solution to the refugee situation itself. Building from the lessons of past comprehensive solutions,¹²⁰⁴ this approach would potentially employ the full spectrum of possible solutions for refugees – including repatriation, local integration and resettlement – and involve the sustained engagement of a wide range of actors, including peace and security, development and humanitarian actors. Such solutions would ultimately be the best way of addressing the concerns of host states and meeting the protection needs of refugees.

This approach would, however, need to be especially mindful of the interests, concerns and constraints on host states. As illustrated by the case studies of this thesis, host

¹²⁰⁴ See: Loescher and Milner, 2005; Alexander Betts, “Comprehensive Plans of Action: Insights from CIREFCA and the Indochinese CPA”, *New Issues in Refugee Research*, Working Paper No. 120, Geneva: UNHCR, January 2006; and Alexander Betts, “International cooperation and the targeting of development assistance for refugee solutions: Lessons from the 1980s”, *New Issues in Refugee Research*, Working Paper No. 107, Geneva: UNHCR, September 2004.

states must balance and respond to a range of pressures and interests when formulating their asylum policies, many of which are not related to the presence of refugees. Accordingly, comprehensive engagement in refugee situations must also address the broader political and economic constraints faced by host states. To this end, a more comprehensive response to the crisis of asylum in Africa would need to situate the question of refugees within the wider context of North-South negotiations, including trade, aid, debt, governance, human rights, defence, and development. Incorporating asylum into this broader constellation of issues would not only recognize the full range of factors that affect a state's asylum policies, but also create opportunities for the formulation of 'win-win' outcomes through the potential linking of asylum to wider benefits for the host state, as discussed below.

Areas for future research

These implications indicate the need for further research in a number of areas. First, this thesis has argued that a range of domestic and international factors affect the asylum policies of states. What remains to be explained, however, is the process by which African states negotiate between domestic and international politics when formulating their asylum policies. This reflects Putnam's larger claim that "domestic politics and international relations are often somehow entangled, but our theories have not yet sorted out the puzzling tangle."¹²⁰⁵ As illustrated by the case studies, African states must negotiate between two, often conflicting, influences when devising their asylum policies. Domestically, they often face increased demands to place restrictions on refugees in response to a range of internal challenges. At the same time, African states are under pressure from the international refugee regime, including the donor community and UNHCR, to protect refugees according to recognized international standards. Understanding how states negotiate these seemingly contradictory priorities is an important area for future study.

¹²⁰⁵ Robert D. Putnam, "Diplomacy and domestic politics: the logic of two level games", *International Organization*, Vol. 42, no. 3, Summer 1988, 428.

Second, cross-regional studies of the politics of asylum, such as a comparison of the politics of asylum in Europe and Africa, may prove useful in more critically engaging the political dynamics that underlie asylum policies. Such comparisons, however, need to be rooted in a rigorous understanding of the specific characteristics and histories of the different states involved. This thesis has argued that a historically-rooted understanding of the nature of the state in Africa needs to be at the basis of an examination of how asylum policies are formulated. Comparisons of the politics of asylum between regions should equally be based on a comparative understanding of the characteristics of states in both regions. Developing such an approach could create new possibilities for understanding constraints and opportunities for the future of refugee studies more generally.

Third, this thesis has argued that the structural power imbalance between African states and the international donor community is a key factor contributing to asylum policies. Until this imbalance is addressed, future research could consider more innovative ways for African states to manage their relationships with the donor community within these parameters to maximize the benefits of hosting refugees. As detailed in the case studies, both Guinea and Kenya have used the presence of refugees to seek leverage against an otherwise restrictive international donor community by ‘linking’ the presence of refugees to other areas of negotiation in order to seek concessions. Betts has highlighted this practice in the context of recent North-South negotiations convened by UNHCR, and drawn on the notion of ‘issue linkage’ from the international relations literature in an attempt to explain preconditions for cooperation.¹²⁰⁶ This application of regime theory could usefully be developed by applying it to bilateral as well as multilateral negotiations between host states and donors. In particular, further research could usefully examine the cases of other African states who have been able to secure sustained donor engagement through the provision of a high quality of asylum, like Zambia and Uganda.

¹²⁰⁶ See: Betts, July 2005.

Ultimately, however, future research needs to be mindful of Turton's argument that work on questions of human suffering can only be justified if its objective is to alleviate that suffering.¹²⁰⁷ The search for solutions to the plight of refugees should consequently remain prominent on the research agenda. Given the proven ability of the international community to resolve cases of prolonged exile elsewhere in the world, the crisis of asylum in Africa is neither inevitable nor unchangeable. Research must therefore challenge the *status quo*. The hope of this thesis is that a more rigorous understanding of the factors affecting asylum in Africa will contribute to the identification of possible solutions to the crisis. At the end of 2003, there were 2.3 million refugees trapped in protracted refugee situations in Africa. Given the scale of human suffering represented by this statistic, a solution to their plight cannot come soon enough.

¹²⁰⁷ See: Turton, 1996.

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