

CHAPTER II

REFUGEE THEORY, LAW AND SETTLEMENT

According to the most recent data available, there are nearly six million refugees in Africa (US Committee for Refugees 1995, p. 42). These refugees fled their home countries that were overtaken by violence and ravaged by famine. The refugees have been forced to settle where they are generally unwanted and have often been left to fend for themselves. The African continent is not unusual in the fact that there are so many refugees. Large-scale refugee migrations have occurred elsewhere in the world and these have lasted for decades without hope of solutions. However, Africa does hold the dubious distinction that almost every country on the continent has at some time been either a producer or a destination for refugees, or both. The existence of so many refugees and refugee flows, seems to point to some systemic failure in modern African society. At the same time, the fact that so many African refugees seem to adapt to their situation and survive the experience of being in exile, also indicates some unseen ability that is incongruent with the common perception of what a refugee is. This chapter examines what a refugee is, how African refugees settle themselves in their countries of asylum and how this can affect their eventual repatriation.

REFUGEE THEORY

Kunz's Typology

In order to explain how refugees can be classified, Kunz (1981, p. 44) divided them into three distinct groups, derived from refugees' attitudes towards their displacement. Those refugees whose opposition to political and social events at home is

shared by their compatriots, both refugees and those who remain in home areas, are called *majority identified refugees*. Refugees who have left their home areas because of active or latent discrimination against the group to which they belong, frequently retain little interest in what occurs in their former homes once they have left. These refugees, who feel irreconcilably alienated from their fellow citizens, Kunz calls *events related refugees*. A third type of refugee includes people who decided to leave their home country for a variety of individual reasons. These *self-alienated* refugees feel alienated from their society not by any active policy of that society, but rather by some personal philosophy.

In his work, while Kunz does not specifically address the problems associated with repatriation, it can be suggested that the first type of refugee, the *majority identified* would be the most likely to participate in a repatriation. Refugees who retain a strong attachment to both the feeling of homeland and to people who did not flee as refugees, are the most likely to want to repatriate. In the African context, the *majority identified* category can be applied to a significant proportion of the current refugee population, as well as almost all refugees created in the period of anti-colonial wars. Kunz notes that "...these refugees identify themselves enthusiastically with the nation, though not with its government." (p. 43).

Refugees from Namibia in the 1980s, from Angola and Zimbabwe in the 1970s and from Algeria in the 1950s all fled their countries because of the effects of foreign domination. These refugees however, did not altogether abandon their nations, rather in many cases they actively participated in liberation struggles. Once liberation occurred, they were anxious to return home to resume their former lives.

Some more recent refugee migrations in Africa tend to fit into Kunz's *events related* category. Refugees who have been subjected to discrimination and often outright violence feel that they are unwanted, or unsafe in their own homelands. After becoming refugees, the desire to return home can only be aroused were there to be

substantial change at home. Ethnic conflicts often leads to the creation of *events related* refugees in Africa. An example of this type of migration are Burundi and Rwandans displaced to each other's country and to Tanzania, Uganda and Zaire. The majority of these refugees were displaced by the ethnic conflict between the Hutu and Tutsi. Before the recent upheaval in these two states in 1994, little hope was seen for the thousands of refugees who had fled Burundi and Rwanda. Many refugees in Tanzania had settled for an extended period and had been granted citizenship by the Tanzanian government.

In Africa, *self-alienated* refugees have played only a minor role in the larger-scale refugee picture. There have been some cases, however where individuals or groups of people have been displaced because of philosophical differences between them and governments. For example, upwards of twenty thousand Jehovah's Witnesses fled from Malawi to Zambia during the late 1960s and early 1970s (Coles 1985, p. 112). While the Jehovah's Witnesses were self-alienated, they were subject to discrimination and harassment prior to their decision to flee. Elsewhere in southern Africa, many of the refugees who fled South Africa to participate in the fight against *Apartheid* could be classified as *self-alienated*. Recent political changes in South Africa allowed most of the country's refugees to return home, where they have been able to participate actively in that nation's new democracy. Individual cases of *self-alienated* refugees abound on the continent. Many Ethiopian intellectuals who fled the tyranny of the Mengistu regime could also be classified as *self-alienated* refugees, as could white Mozambicans and Angolans who returned to Portugal during the 1970s. However, to a great extent, the *self-alienated* refugees category is more relevant to other areas of the world than it is to Africa.

Colonialism, Tribalism and Refugees in Africa

In an attempt to explain the very large number of refugees in Africa, some researchers have provided one fundamental explanation: colonialism and its lasting

effects in Africa. Much early literature on African refugees focuses on the fact that yesterday's colonial policies and the boundaries that they imposed are to be held directly responsible for today's refugees (Kibreab 1985, p. 32). The basic premise suggested is that the colonial boundaries that were superimposed on Africa by European colonial powers were artificial and therefore separated ethnic and linguistic areas that were formerly closely linked into two or more colonies that often had different colonial masters. Figure 2.1 provides a very general indication of the number and distribution of ethnic groups on the continent.

During the colonial period, little attempt was made to develop a sense of nationalism among the many ethnic groups in a colony. In some instances, colonial governments would use inter-ethnic rivalries to their advantage. At the end of the colonial era, old rivalries and conflicts between ethnic groups, that had been suppressed during the colonial era, often came to the surface during the fight for control of the emerging nations. In some cases, such as with Biafra and Katanga, the conflict resulted in secessionist movements. Elsewhere, as in Southern Sudan, a protracted civil war has developed from a secessionist movement. In other examples such as Namibia, Rhodesia and the former Portuguese colonies of Angola, Guinea Bissau and Mozambique, the desire to overthrow colonial governments and to achieve independence led to lengthy guerrilla wars. In many of these examples, the violence and instability inherent in these conflicts drove many people to seek asylum outside their homelands.

The colonial and ethnic explanations of Africa's refugee problem present some difficulties. While the demise of colonial powers undoubtedly left many African states as a heterogeneous collection of ethnic groups, ill-prepared for independence, the result has not been universally chaotic. Although many states have singled out some ethnic, religious or linguistic groups, and pursued discriminatory policies against them, the majority of Africa's people remain unaffected in this way. The fact that African states

Figure 2.1 Distribution of Ethnic Groups in Africa



Adapted From: Murdock 1959 *insert*

are today, for the most part, tenuous alliances based on ethnic grounds would seem to call into question the simple colonial/ ethnic explanation for refugee migration. Some alternate explanation must be available that takes the complexities of modern Africa into account.

While not denying the impact of the colonial precursors to contemporary African society, Kibreab (1985; 1991) suggests that the current causes of refugees on the continent run much deeper. He notes that "...at the heart of the African refugee problem lies a lack of respect for fundamental human rights, including the right of peoples to determine their own destiny..." (Kibreab 1991, p. 21). He continues:

"...The refugee problem in Africa is a result of an inter-play of political, social, economic and environmental factors. It is not easy, therefore to isolate one factor to the neglect of others and to state the real cause with certainty. The factors that generate refugees are inextricably intertwined with each other..." (Kibreab 1991, p. 23)

Colonialism is a fact in African history, but using it as a crutch to explain continuing refugee migrations becomes less viable as the colonial era sinks further into the past. Kibreab attempts to reduce the scale of the perspective, from the continental level of the colonial theorists, to the micro-scale of the regional conflict. This reduction in scale can prove useful. Each refugee migration, be it large or small, long or short-term, has its origin in discrete socio-economic causes that do not occur elsewhere in the same form. The causes and the solutions of refugee migrations in Africa lie in the complex social and economic interactions manifest in everyday life. While inter-ethnic conflict might be the catalyst in one refugee migration, another might be the result of environmental stress brought on by economic and demographic pressures. The governments of many African states are increasingly directly involved in situations that cause refugee migrations, through enforced villagization, or the direct persecution of a single ethnic group. The application of the 'colonial explanation' to all these migrations does not, in the end, shed much light on the real reasons for these migrations.

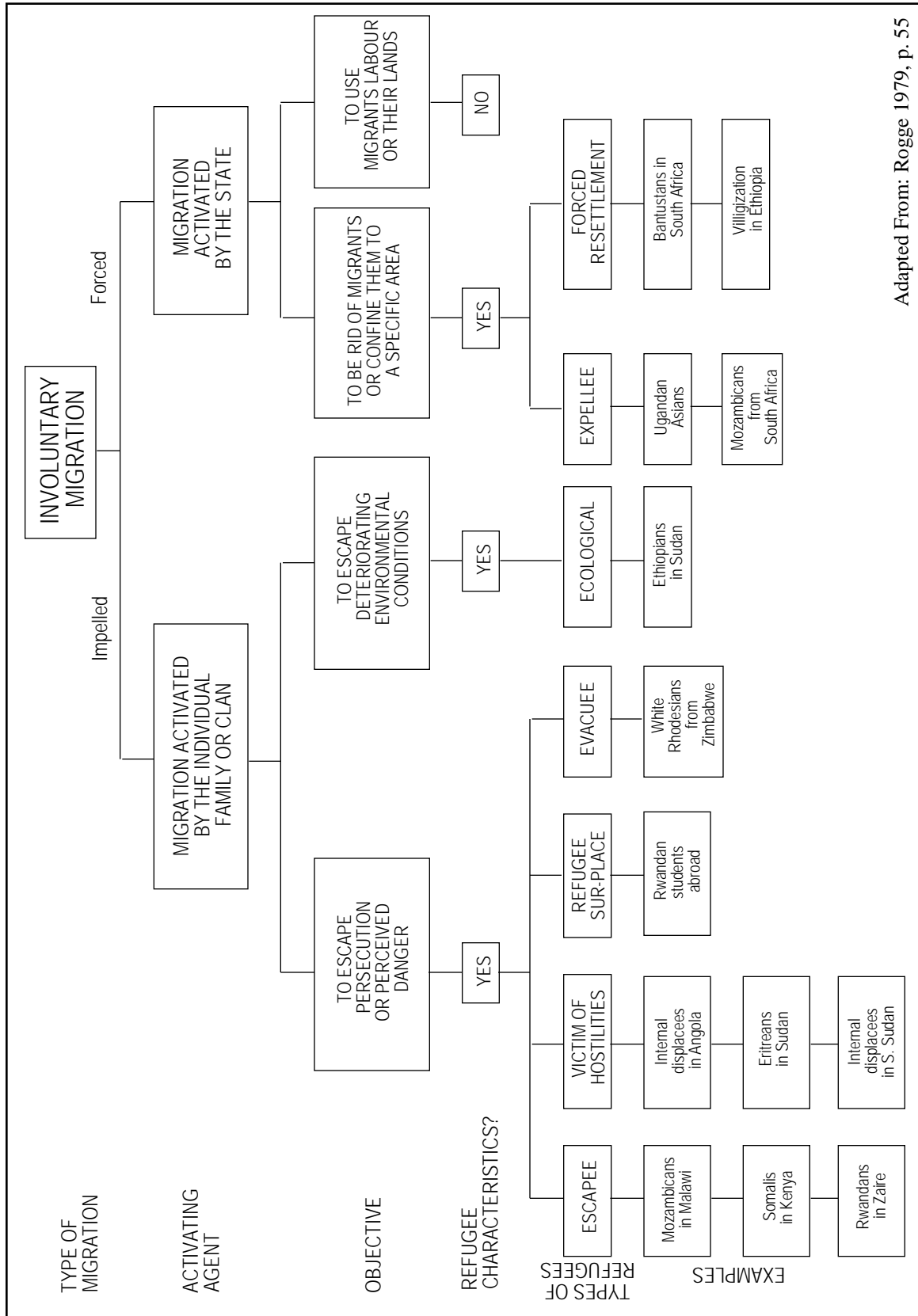
African Refugee Theory

The complex interplay of socio-economic factors which can lead to refugee migrations does not affect each migrant in the same manner. The varieties of different refugee migrations are as complex as the situations which can create them. People have different perceptions of exactly what they consider is a threat to them. In some situations the mere rumour of instability can be enough to impel people to move. In other situations, people do not flee until they have been overtaken by violent conflict. Because in the African context, the line between political and economic repression can become blurred, many refugees could (and are) classified as economic migrants. In other cases, ecological change can be the cause of mass migrations. This latter variation of migration is usually ignored by contemporary definitions.

Rogge (1979, p. 55) derived a typology of refugees based upon an examination of the activating agent for the refugee migration, the objective of the migration, and whether the migrants possess refugee characteristics. Figure 2.2 shows the outline of Rogge's typology, with more contemporary examples replacing the originals. This more complex examination of refugee decision making is more in line with Kibreab's explanation of the refugee situation in Africa.

Rogge's typology initially identifies two classes of involuntary migration: *forced* and *impelled*. The typology continues by outlining seven distinct types of refugees and their characteristics. It should be noted that the terms *forced* and *impelled* were introduced into the migration literature by Petersen (1958, p. 261). According to Petersen, the difference between these two classes of migration lies in the amount of free choice an individual has when they are involved in forced migration. *Forced* migrants are expelled from an area by an external force, such as a government, the people involved have absolutely no choice in the matter of their removal. In Africa,

Figure 2.2 Typology of Involuntary Migration in Africa



Adapted From: Rogge 1979, p. 55

examples include Ugandan Asians expelled by the Amin regime in the 1970s, or South Africans forcibly removed to homelands under *Apartheid*. *Impelled* migrants, on the other hand, do retain some degree of choice regarding their possible flight. Before making the decision to migrate, 'impelled' migrants have the opportunity to weigh the factors involved and then make a choice between moving or remaining in the face of an external threat. Recent African examples of *impelled* migration include Somalis or Rwandans fleeing to neighbouring states. Most, but not all, African refugees fall into the *impelled* category.

The motivation for a refugee's migration becomes important when their legal status is determined. According to Rogge's typology, some types of refugees are more likely to obtain official recognition than others. Ecological refugees, for example, almost never receive official international recognition, but do sometimes receive international assistance, such as Malians in Niger (1974) and Tigrayans in Sudan (1984).

REFUGEE LAW

African Refugees and International Law

The different types of refugees as identified by Kunz, Petersen, Rogge and others are subject to various international and regional laws. In the African context, three important legal instruments, two from the United Nations and one from the Organization for African Unity (OAU), govern the manner in which refugees are defined, what assistance they are able to receive and how they should be resettled. Repatriation is also of central importance in these documents. The right of refugees to determine how and when they should return home is clearly stated in two of the three major documents. In addition, each document has clauses that affect the status of every African refugee.

United Nations Statutes

Following the Second World War, several million people remained displaced throughout Europe. The newly formed United Nations was given the task of providing a framework for the resettlement of these people. Following on the work of the International Refugee Organization, that was part of the disbanded League of Nations, the UN drafted the *1951 Convention Relating to the Status of Refugees*, and established the United Nations High Commission for Refugees (Holborn 1975, p. 65). The new UN *Convention* defined a refugee as any person who

“...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 to, or owing to such fear, is unwilling to avail himself of the protection of that country...” (UN 1951, I.1.A[2]).

In addition, the 1951 *Convention* limited the definition to anyone who was a refugee because of events that occurred in Europe before January 1951.

In 1967 the UN, recognizing the limitations of the original *Convention* regarding the clause which limited official refugees to people of European origin before the 1951 date, approved a *Protocol* to the *Convention*. This *Protocol* extended the definition of ‘refugee’ to include all people who have fled their homeland owing to a well-founded fear of persecution (Onyango 1986, p. 5). The extension of the *Convention* institutionalized the international refugee protection system, including the UNHCR. Initially UNHCR’s mandate was to run for three years. However since it first expired, the mandate has been extended by the UN General Assembly every five years (Crisp 1995, p. 256).

In the context of repatriation, the UN statutes include two principles central to the refugee population in Africa. The first is the right to asylum. Once a nation has ratified the *Convention* and the *Protocol*, refugees have the right to settle in that

country. In addition, Article 33 of the *Convention* states that refugees have the right not to be *refouled*, or returned to their country of origin against their will, while their life might still be in danger. The principle of *non-refoulement* is an essential element in the protection of refugees against forces that might want to expedite a solution to a refugee situation. In principle, this article provides individual refugees with the choice of repatriating when they choose to do so. In reality, however, when governments and NGOs make arrangements for official repatriation programs, refugees are frequently not consulted about their concerns with security in their home areas. Once governments have decided that it is 'safe' for refugees to return, the agendas of the authorities frequently over-ride those of the refugees or the conventions of international law. The UNHCR is given the mandate to protect refugees covered by these international agreements.

The United Nations Statutes and Africa

When it was drawn up, the UN *Convention* was widely regarded as a 'western' document that had little or no relevance to the African refugee situation (Onyango 1986, p. 4). The 1951 *Convention* and the 1967 *Protocol* reflected a Euro-American centred perspective of the concept of 'refugee' that was derived following the Second World War (Paton 1990, p. 4). This perspective viewed refugees as a one-time problem, that required a one-time solution: the 1951 *Convention* (Schultheis 1989, p. 8). The United Nations *Convention* provided a universal definition of a refugee, with respect to the aftermath of the Second World War. The definition's strength lies in the fact that it concentrates on individuals and their rights regarding refugee status and protection. The UN definition however, has a weakness that can be exploited when migrants have a less well founded "...fear of persecution...", that allows them to be more easily excluded from official recognition and its benefits, should a host nation wish to exclude them (Goodwin-Gill 1990, p. 28).

One type of migrant who is most likely to be excluded by the UN definition is the so-called 'economic' refugee. Although some refugee migrations do have strong roots in economic factors, people who use the lack of economic opportunities as a reason for claiming refugee status are often denied that status (Schultheis 1989, p. 9). Paton (1990, p. 4) argues that this discrimination originates in an abnormal separation of politics from economics and is peculiar to the developed world, particularly the United States. This separation is then used to justify the position that politically motivated refugees are legitimate, while economically motivated ones are not.

The Organization for African Unity and Refugees

In the years preceding the formation of the OAU in 1963, many African peoples were trying to achieve liberation from European colonial powers. During this period, Africa's refugee population began to grow rapidly. By 1967, it is estimated that one-half million people had been displaced outside their home countries (Onyango 1986, p. 3). In this early phase of the post-colonial era, most African refugees were the product of anti-colonial struggles. Apart from the UN *Convention*, which had its deficiencies, no legal instrument officially protected refugees on the continent; at that time to show solidarity with peoples still under colonial domination, the OAU decided to establish its own wide-reaching refugee policy.

In 1969, the sixth session of the OAU adopted its own *Protocol* for refugees. The OAU *Protocol* incorporated the 1951 UN *Convention* on refugees, but expanded the definition of who is a refugee. In addition to including the UN definition of a refugee, the OAU definition includes anyone who:

“...through aggression, occupation, foreign domination, or events gravely disturbing public order in part, or in all of his country of origin, or the country of which he has nationality, is obliged to leave his usual place of residence to seek refuge outside this country.” (OAU 1969, Article 1)

The intention of the OAU definition was to extend refugee status to persons fleeing colonial domination and anti-colonial warfare. The OAU definition was worded in such a way as to make it easier for a nation to extend immediate protection of refugee status to a large group of people at once, who were fleeing colonial oppression. At the time this convention was drafted, there were only 900,000 refugees in Africa, many of whom were expected to return home quickly at the end of colonial domination (Bakwesegha 1995, p. 6). Unlike the UN definition, which places the emphasis on individual persecution, the OAU definition concentrates on groups of people who are at risk during a conflict (Holborn 1975, p. 189). More recently, the clause providing status for those fleeing events gravely disturbing public order, has provided Africans with the most liberal definition of ‘refugee’ in the world.

Article Three of the *Convention* prohibits the use of the protection of refugee status in one country as a base for subversive activities against another OAU member state. This provision is in line with the *Convention’s* pretext that the acceptance of refugees by a state should not be regarded as a hostile act by the state that generated the refugees. Ideally, the granting of asylum should be a neutral decision, not influenced by inter-state rivalries. In reality, subversive activities and sometimes outright hostilities do occur across frontiers. The most recent notable example of refugees using one country as a base for subversion of another occurred in Rwanda in 1990. In November of that year, the Rwandese Patriotic Front (RPF), consisting mainly of Rwandan refugees from Uganda, crossed into their homeland and seized control of the nation (Khiddu-Makubuya 1995, p. 143).

Article Five of the OAU *Convention* specifically addresses the question of durable solutions for refugees. (The full text of Article Five is included as Appendix I)

The *Convention* assumes that voluntary repatriation should be the ultimate solution for African refugees. Once the conflict that generated the refugees has ended, signatories to the convention must work towards the promotion of voluntary repatriation. It should be noted that explicit provision is made for the refugees themselves to determine the time and manner in which they will return home (Bakwesegha 1995, p. 11). As with the OAU definition of 'refugee', the assumption that repatriation must be the eventual outcome of a refugee situation emanates from the era in which the *Convention* was conceived. When it was drafted, the majority of African refugees had fled European colonies or anti-colonial wars. Following national independence, rapid repatriation was the most likely solution for these refugees.

The OAU definition of a refugee does not specifically address the economic aspects of refugee migrations. However, the *Convention's* section dealing with "...events seriously disrupting public order..." does provide a window for the granting of refugee status to some 'economic' refugees. The problems surrounding official definitions of who is, and who is not a refugee, have led researchers to create the phrase '*de facto* refugee'. Any person who has fled their homeland to another country, regardless of their legal status, is a *de facto* refugee. While the whims of government officials might not define these people as 'refugees', they do exist, and share the same characteristics as officially recognized refugees.

The OAU *Convention*, like the UN *Convention* and *Protocol* does not provide recognition for internally displaced refugees. Both the UN and the OAU recognize the states' authority to be paramount regarding matters within their own frontiers. International protection and assistance cannot be officially provided to an internally displaced population without the agreement of an internationally recognized government (Schultheis 1989, p. 8). Recently there has been some adjustment in this position at the international level. The crisis in Somalia, for example, prompted the UN and the United States, after much delay, to decide that there was in fact no legitimate

national government in Somalia and that it was therefore necessary to impose a solution that included some responses to the large internally displaced population.

Whatever strengths and weaknesses are apparent in the international legislation regarding refugees, the content of such agreements becomes irrelevant if governments choose not to enforce them. Onyango (1986, p. 1) describes the OAU charter as 'pragmatic' and 'progressive'; and notes that (at the time) thirty-three member states had ratified the agreement. However he also observes that only a few of these countries have modified their national legal systems to reflect the *Convention's* principles. Despite the existence of the OAU *Convention*, some African countries have not altered national laws and statutes to reflect the requirements of refugees. Because of this, there exists the potential for selective abuses of refugee rights, for which the refugees have little or no recourse on a national level. In many cases, refugee migrations in Africa are so large and occur with little forewarning that questions of the validity of the refugees claims for asylum are rapidly superseded by the more pressing basic needs of refugees such as food and medical care. Among those states that have incorporated aspects of the OAU's *Convention* into their domestic legal system are major refugee receiving countries such as Sudan, Tanzania and Zambia. In these countries, specific policies and agencies for the management of refugees have been established. In many cases, these agencies or governments have been able to react to large-scale refugee migrations within their borders. In some cases however, such as in Sudan, national legislation regarding refugees has not necessarily been applied evenly to all refugees.

Many African countries have signed and ratified the OAU *Convention*. Many more have signed the UN *Convention* and *Protocol* on refugees (a complete list is included as Appendix II). While some states have signed the OAU *Convention* and ratified it in their legislative assemblies, others have signed but not yet ratified the agreement. A few states have only signed the UN *Convention* or *Protocol*. Despite the holdouts, this widespread acknowledgment of the responsibilities of states regarding

refugees has been useful to international agencies such as UNHCR. In some cases, UNHCR has been able to invoke provisions of these conventions in countries that have signed them, thereby providing enhanced international protection to refugees (Bakwesegha 1995, p. 15).

In the final analysis however, the UN and the OAU are ultimately bound by the wishes of their member states. These international organizations and their component agencies, such as UNHCR, are sometimes compelled to act when there might be internal opposition to decisions made at a political level. Because of this constraint, UNHCR has occasionally had to participate in repatriation exercises organized by two sovereign nations, that it would otherwise not have initiated independently.

REFUGEE SETTLEMENT

The manner in which refugees settle when they are in exile has a direct effect upon their repatriation prospects. Many of the assumptions made about refugee settlement and voluntary repatriation in Africa come from an the anti-colonial era of African history. During this period, refugees were often welcomed in exile as comrades in the fight against European colonialism. More recently, as refugees have become a major burden to many states, there have been severe limitations placed on the land available to refugees and the assistance that they receive. What follows is a summary of how and why refugee settlement has changed in Africa and how the *voluntariness* of repatriations can be affected.

Refugee Settlement: The Anti-Colonial Era

During the anti-colonial era, the majority of Africa's refugees migrated from one rural area and settled in another. In some cases, such as in Sudan, (Karadawi 1987, p. 115) some refugees did settle in cities, however most displacees found refuge in rural areas, where they engaged in some type of subsistence agriculture or wage earning.

Because of the lack of comprehensive surveys, the proportion of African refugees that settled in rural areas is difficult to estimate. Rogge (1985, p. 21) states that until the mid-1970s upwards of ninety percent of all refugees were settled in rural areas. Those refugees that did settle in rural areas were either provided with land in a settlement scheme, or settled themselves spontaneously wherever they found land available. While the proportion of spontaneously settled refugees has never been accurately determined, the 1979 Arusha Conference on African refugees fixed the fraction at sixty percent (Rogge 1985, p. 123). Since this proportion represents little more than an estimate on behalf of researchers and officials, it is clear that at the time the majority of Africa's refugees were self-settled and did not rely on settlement schemes for land.

During the 1970s and early 1980s, Robert Chambers (1979; 1982) conducted significant research on the process of refugee settlement in Africa. Through his field experience, he noted many of the characteristics of refugees that had settled without external assistance in rural areas (1979, p. 386). His work provides a valuable insight on how refugees settled during the anti-colonial era and in comparison with more recent literature, becomes a useful benchmark on the extent to which refugee settlement has changed over the last decades.

According to Chambers, refugees who had recently arrived in a settlement area were instantly impoverished, since they had only what they could easily carry with them during their flight. The refugees had frequently abandoned the tools with which they formerly made their living, or the animals upon which they relied for food. Some refugees, due to the vagaries of boundaries fixed during the colonial era, found themselves among people of similar ethnic backgrounds, however this was not always the case. Many refugees had traveled far enough to settle in regions populated by different ethnic groups, where they were not as welcome. Whatever the case, the large scale influx of an impoverished group of people, who at the least required some land

upon which to settle or cultivate, placed extreme pressures on the relationship between refugees and hosts.

Upon arriving in exile, many refugees had nothing to sell but their own labour. During the period before the refugees planted and harvested their first crops, their labour was one of their only saleable items. Unfortunately for a refugee seeking to enter the local labour force, a refugee receiving area was usually saturated with other refugees who had a similar goal. The pool of unemployed refugees had a tendency to force down the average wage of available jobs. During the 1960s and 1970s there were many areas of Africa that remained sparsely settled. Some governments provided land for large-scale refugee settlement. However, much of this land was of marginal agricultural quality, so refugees who moved in large concentrations still encountered problems gaining access to fertile land on which to settle.

In some cases refugees became the targets of unwarranted persecution from host governments. While this persecution sometimes took the form of eviction from their lands, it also took the form of periodic *refoulement* or arrest of refugees. Because few countries had clear domestic policies concerning refugees, local government officials could use refugees as convenient scapegoats for problems that surfaced in a refugee receiving area. However well refugees became integrated into a host society, in the long term, they usually remained last on governments' priority list for land, food, water, education and credit. The same processes that affected refugees upon settlement: declining wages, rising prices, restricted access, inherently affected the host community. While some large landowners benefited from a refugee influx by renting land, selling food and hiring cheap labour, the poorer hosts were negatively affected by all these factors. The limited pool of resources available in any one area was invariably drained to the detriment of both refugees and poorer hosts.

Refugee Settlement: The Contemporary Situation

While some of the characteristics of African refugees in Chambers' time still ring true today, such as their instant impoverishment and the relative lack of services provided for refugees, there have been significant changes (mostly for the worse) in the conditions to which contemporary refugees are subjected. Since the early 1980s a series of large-scale refugee migrations that are not directly linked to the anti-colonial era have altered the way in which refugees are treated.

One change that has had a profound effect on refugees is the apparent demise of the 'traditional hospitality' (Hansen 1979, p. 375) that was shown by locals to the refugees that settled among them. As population pressures have increased, so has the value of land in Africa. Increasingly as land is bought and sold, traditional land tenure systems have fallen into decline. Refugees who once might have had access to land through kinship ties, are now frequently unable to use these ties to obtain sufficient land. Kibreab (1985, p. 68) heralded the end of 'traditional hospitality' in Africa. He argued that this hospitality might once have existed in response to African migrations, but since the rise of African nation states, and with the widespread introduction of the private ownership of land, this concept has become a 'museum piece'. The lack of available resources to already impoverished rural hosts virtually eliminates opportunities for the hosts to provide assistance to the refugees. Increasingly, refugees are being left to the whim of their local hosts, who can exploit them for cheap labour or as a market for overpriced goods. Today, refugees who attempt spontaneous settlement in Africa find themselves in an unwelcome competition for land, jobs and food. Where land is unavailable or where governments want to restrict refugee settlement, they find themselves confined to refugee camps that provide little more than basic services (Hocké 1989, p. 37).

Because of the increasing restrictions being placed on refugee settlement in Africa, UNHCR has had to emphasize the organized settlement of refugees. Today,

refugees in Zaire, Burundi, Algeria, Sudan and elsewhere are confined to camps with little or no opportunity to become self-supporting. The UNHCR maintains these refugees in camps that offer the occupants little in the way of services or economic opportunities. While in the early 1970s, upwards of sixty percent of UNHCR's African budget was spent on organized agricultural settlements for refugees (Rogge 1985, p. 67), more recently, UNHCR has earmarked most of its African budget for emergency relief for refugees (Kibreab 1991, p. 35). This shift of emphasis from long-term organized settlement to short-term emergency relief has serious implications for the process of voluntary repatriation. Refugees who are without hope in relief camps are increasingly taking risks, or are forced into taking risks and are returning home. The voluntary nature of some of these return migrations thus becomes very questionable.

SUMMARY

The forced migration theories, especially those of Petersen and Kunz, have introduced the concepts that underlie the current debate about the *voluntariness* of repatriation. Particularly important to the question of repatriation is Petersen's differentiation between *forced* and *impelled* migration. Many of his categories and the sub-categories derived by Rogge, can be conveniently adapted to a contemporary repatriation situation. Is repatriation in Africa, as the UN and OAU *Conventions* would dictate, a free choice? Or is repatriation increasingly being impelled or forced upon refugees? The international law regarding refugees provides a standard against which nations that deal with refugees can be compared. From the basic theoretical framework of African refugees, the focus turns to the specific question of how and why refugees decide to return home.

Refugee settlement practices in Africa have changed substantially over the last fifteen years. The increasing use of refugee camps as places to confine refugees, rather than help them become self-supporting has led to an increased burden being placed on

the international community. Many of these settlements, for example those in Kenya or Zaire, have become little more than basic feeding centres for refugees. In many cases, these organized settlements provide officials with an easily identifiable target population for repatriation exercises.