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Abstract and Keywords

This chapter examines the regional dynamics of different types of forced displacement in West Africa, focusing on conflict-induced displacements, forced expulsions and 'mixed migration' in a historical perspective. It discusses the politics and practices of asylum in the region and highlights some of the unintended effects of a West African 'protection' regime in terms of labelling processes, the intensification of certain conflicts, and the emergence of increasingly rigid categories of belonging. It also analyses the influence of the European Union in the development of immigration discourses and policies in the region and the role and potential of the Economic Community of West African States in recognizing the importance of mobility in the everyday lives of displaced populations.

Keywords: forced migration, West Africa, Economic Community of West African States, European Union, immigration, displacement, mixed migration, politics, asylum

Introduction

Since the 1960s, West Africa has long had a reputation of stability and economic growth driven by Senegal, Ghana, and Côte d'Ivoire, and yet political and economic crises leading to mass displacements across the region have multiplied over the last 20 years. Since the 2000s, West Africa has also been identified as a major hub for human trafficking, and portrayed as a departure point for thousands of desperate 'illegal' migrants trying to reach Europe when 80 per cent of migratory movements actually take place within the region (Gnisci 2008). This chapter discusses these recent evolutions by situating regional dynamics of different types of forced displacement in historical perspective. It highlights some of the unintended effects which the development of a West African 'protection' regime have had in terms of labelling processes, the development of increasingly rigid categories of belonging, and, at times, the accentuation of certain conflicts. It also outlines regional specificities such as the role of the Economic Community of West African States (ECOWAS) vis-à-vis displaced populations, and the influence of the European Union (EU) immigration agenda in framing regional discourses and initiatives in relation to forced migration.

'West Africa' in this context refers to ECOWAS member states (Benin, Burkina Faso, Cap Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Mali, Niger, Nigeria, Liberia, Senegal, Sierra Leone, and Togo) and Mauritania, which withdrew from ECOWAS in 2000. This chapter does not comprehensively cover the situation of all these countries, but rather highlights significant trends vis-à-vis dynamics of displacement identified broadly across the region through an extensive review of the literature. However, while West Africa shares a common heritage of slavery, colonization, and migratory patterns as well as a common framework with ECOWAS, not all dynamics identified necessarily have an intrinsically regional character: the politics and (p. 542) practices of asylum, for instance, remain strongly dependent on national contexts while labelling processes are closely articulated to wider, global, dynamics. Nevertheless, the regional scale facilitates an analysis of the intra-regional dimension of a majority of displacements in West Africa, and a reflection on the potential for ECOWAS to address cross-border challenges whilst simultaneously recognizing the importance of mobility in the everyday lives of displaced populations.

'Refugees' of Pre-colonial and Colonial Times

Forced displacement is not a recent phenomenon in West Africa and its causes have always been multiple. During pre-colonial times, constant micro-displacements took place as small groups of people fled lineage disputes over power, chiefdom leadership, and land. These micro-displacements played a key role in West African population dynamics and in the construction of pre-colonial political organizations, as migrants sought to reproduce the political structures of their society of origin in new areas of settlement (Kopytoff 1987). Larger population movements throughout this period were also induced by *razzias* (raids) of goods and animals and by political and religious conquests, including *jihad* movements across the Sahel undertaken by the Almovarides in the Middle Ages and subsequently by Muslim Fulani in the nineteenth century (Amselle and M'Bokolo 1989).

Concurrently, the most documented and most extensive form of forced migration in West Africa remains the external slave trade. While slavery had always existed in the region, it took a new dimension with the trans-Saharan (8th–18th centuries) and the transatlantic trades (16th–19th centuries), when local slave systems started to supply captives for slave markets outside the region. Slaves were first captured at the periphery of medieval West African empires and sent to North Africa and the Middle East. With the transatlantic trade, an estimated 12 million people were then captured across the coastal regions, including 6 million deported to the Americas. The most affected regions were Benin, Guinea, and Senegambia, and yet they were also the most developed ones (Manning 1996). After its abolition in the early eighteenth century, slavery also brought about so-called 'return movements' of emancipated slaves from the Unites States to Liberia and Sierra Leone, organized by a philanthropic American movement. These 'returns' created a structural division in Liberia and Sierra Leone between 'Afro-Americans' and those asserting their 'autochthony', a divide which was subsequently manipulated by both countries' elites, contributing to the devastating conflicts of the 1990s.

Colonization equally caused important forced displacements. Within French West Africa, it induced new kinds of micro-displacements as inhabitants fled the census, head taxes, the requisition of forced labour, and military recruitment. People attempted to escape by moving from one circumscription to the other or fleeing to inaccessible (p. 543) rural areas. Until the 1950s, both the inner Sahel bush and tropical forests of West Africa became 'refuge zones' (Marchal 1999). Many were also forcibly requisitioned to work on plantations, mines, or for construction. This was the case of the Mossi resettled from Upper Volta to work on plantations in Côte d'Ivoire. As for Diola

and Malinke, the Mossi migration was afterwards promoted under the Houpouet Boigny presidency to provide planters with a steady labour supply and, years later, the politicization of the presence of these migrants was one of the factors which led Côte d'Ivoire to civil war. In the Upper Volta alone, Marchal (1999) estimates that 1.8 million people were forcibly displaced between 1900 and 1950.

Forced displacements prior to 1960, which continue to this date, were eventually caused by harsh climate conditions combined with socio-economic, demographic, and political factors (Morrissey 2014). Major events in this regard have included the famines of 1900–3 and 1913 in the Niger delta and the dramatic droughts of the 1970s, which provoked the displacement, and sometimes forced sedentarization of thousands of Moorish, Tuareg, and Fulani nomads leading to a dramatic increase in pressure on land in the Sahel.

Overall, forced displacements in the past have either intensified existing migration patterns towards existing towns or contributed to the development of new communities, whose relationships with established communities have varied between absorption or domination (Skinner 1963). Social scientists have outlined the key role played by local intermediaries such as the figure of the *jatigui* in facilitating the social integration of strangers in new areas and contributing to fluid politics of belonging (Chauveau Jacob, and Le Meur 2004). Yet they also show that colonial practices solidified boundary-making processes between existing populations and newcomers by encapsulating them into reified ethnic categories, and nourishing tensions over access to resources which were to reappear years after independence (Amselle and M'Bokolo 1989).

Contemporary Forced Displacements

Since the 1960s, processes of displacement across West Africa have often been induced by multiple and overlapping factors as in the past and have sometimes resulted from conflicts over resources provoked by previous displacements. However, contemporary types of displacement are distinct since they now occur in the context of nation states and are framed according to bureaucratic categories such as 'refugees', 'internally displaced persons' (IDPs), or 'trafficked persons'. The following section explores regional trends vis-à-vis three key types of displacements—conflict induced displacement, forced expulsions induced by economic crisis, and 'child trafficking'—which may, however, have interrelated causes in practice. Importantly, it must be noted that mass displacements such as those related to the Mano River wars and more recently 'mixed migration' towards Europe have been much more extensively documented than other types of movements which are either more recent or have received less media coverage.

(p. 544) Conflict Induced Displacements

Conflicts have been a major cause of contemporary forced migration in West Africa (Kotoudi 2004). Apart from the liberation struggle of Guinea-Bissau, most conflicts have been intrastate, related to nation-state-building processes and struggles over the control of power and resources, and often articulated around the language of ethnicity or religion. Political tensions have at times also arisen from the militarization of the political sphere or from post-election crises.

Until the late 1980s, such conflicts remained localized in a region reputed to be stable. They took the form of secessionist movements like the Biafra war in Nigeria (1967–70) and the Casamance independence movement in Southern Senegal (1980–present), and generated more internal displacement than refugee flows. If the Biafra war

was relatively short and provoked large-scale internal displacement, the Casamance conflict was much longer, and induced fewer displacements. Despite several ceasefires, the conflict continued into the 1990s and took a wider dimension as Zighinchor, the capital, was no longer spared from violence. Approximately 17,000 (Robin 2006) displaced people started crossing to Guinea-Bissau and Gambia. Yet, rebels amongst the refugees not only perpetrated sporadic violent attacks in Casamance but also took part in the 1998–9 Guinean civil war, generating another 400,000 IDPs (Robin 2006). A system of conflict thus slowly emerged in the Senegambia area, fostered by cross-border solidarities and arms trafficking, creating chronic instability.

The development of the Casamance conflict reflects the way in which regional displacement dynamics have evolved since the mid-1990s: a growing circulation of actors and factors of conflicts, massive cross-border refugee movements which have sometimes nourished new tensions and new displacements following the militarization of refugee camps. This evolution has been fuelled by historical links between cross-border populations, and by the increasing involvement in intrastate conflicts of various actors, including humanitarian organizations, ECOWAS, the UN, or other states. Its most significant illustration is the well-known imbrication of the civil wars in Sierra Leone and Liberia, which induced, at the pick of the war in 1996, the displacement of around 755,000 Liberians and 355,000 Sierra Leoneans to neighbouring countries (Gnisci, Tremoliers, and Hussein 2003: 20–3).

Although the consequences of these refugee movements in Guinea has been well documented (Van Damme 1999; Milner 2009), their impact in Côte d'Ivoire is less known. The concentration of Liberian and Sierra Leonean refugees in the west of the country, where many Ivoirians of Burkinabe and Malian origin had been established since the colonial times, significantly increased an already important demographic pressure on land, at a time when Côte d'Ivoire was experiencing a major economic crisis and the redistribution of power among its elites (Gnisci, Tremoliers, and Hussein 2003). Their presence contributed to an exacerbation of the ongoing politicization of autochtony, and facilitated the circulation of arms and mercenaries (Ero and Marshall 2003). The subsequent civil war in Côte d'Ivoire (2002–7, 2010–11) further displaced Liberian and Sierra (p. 545) Leonean refugees but also led to the massive expulsions of Ivoirians of Burkinabe origin, the internal displacement of thousands of Ivoirians, and the flight of 250,000 others abroad (UNHCR 2011: 110), about whose situation there is a salient lack of research. The current situation in and around Côte d'Ivoire remains volatile, especially as return movements have created new tensions over access to land, as in Burkina-Faso (Zongo 2008), and as war itself increasingly becomes a survival mode attracting unemployed youth (Ero and Marshall 2005).

A final illustration of such systems of conflict is the situation in northern Mali as of October 2012. Throughout the 1960s and 1990s, Mali faced Tuareg separatist insurgencies accompanied by sporadic population displacement to Algeria and Libya. And yet the Tuareg Mouvement National de Libération de l'Azawad has recently received further support following the return of Malian Tuareg from Libya well armed with weapons circulating since Qaddafi's demise, prompting the displacement of hundreds of thousands of Malians to border countries in areas severely affected by droughts. Several armed Islamist movements have also joined and sometimes supplanted the Tuareg uprising. The progressive establishment of so-called 'radical Islam' in the Sahel, which rearticulates local political agendas in a new manner, illustrates the importance of extra-regional dynamics on conflict and displacement in West Africa.

Current trends therefore suggest that conflict induced displacement in the coming years may be increasingly related to the apparition of 'nomadic' war economies, which fuel local conflicts related to nation-state-building processes, and become an attractive activity for marginalized youth. The politicization of refugee camps and humanitarian aid may also be part of the problem as they simultaneously reinforce cross-border alliances and

foster politics of autochthony in hosting areas. Such an evolution risks spreading chronic instability around Côte d'Ivoire, the Mano River countries, and the Sahel, leading refugees to find asylum not only in bordering countries but also increasingly in other countries of the region.

Forced Expulsions and 'Mixed Migration'

If war has been a major cause of forced displacement, other processes have predominantly resulted from economic crises leading to violence targeted against foreigners. At times of economic recession, West African states have sometimes taken radical measures, such as the mass expulsion of 200,000 Nigerians and other foreigners from Ghana in 1969 (Bump 2006). In 1983 and 1985, Nigeria followed Ghana's example, with its military government expelling over 1.2 million Ghanaians, accusing them of taking jobs from Nigerians (Bump 2006). Yet, these expulsions did not bring fundamental changes to migration dynamics, as migrants quickly returned to Nigeria and Ghana. In a different context, Mauritania and Senegal also organized the forced repatriation of thousands of their citizens in 1989, after a border incident provoked an outburst of violence against Moorish traders in Senegal and against Senegalese citizens in Nouakchott. However, in Mauritania the authorities also used the forced returns of Senegalese as a (p. 546) pretext to expel 120,000 Mauritanian citizens belonging to the same ethnic groups, and who had historically controlled the country's only fertile lands, which became increasingly strategic after the sedentarization of 70 per cent of Moorish nomads during the 1970s droughts (Fresia 2009).

Since the early 2000s, forced expulsions of West Africans have, however, mainly happened at the periphery of the region, from North African and European countries, as a result of restrictive European immigration policies and strengthened surveillance of North African borders and maritime routes. Within the international policy arena, this context has raised attention to the increased risk of *refoulement* faced by West African asylum seekers using the same routes as other migrants (the 'mixed migration' problematic). In parallel, a rich literature documenting the migratory experiences of West Africans attempting to reach Europe outlines the difficulty of drawing a clear line between forced and voluntary migration. Scholars have also focused on the situation of those expelled from North Africa or Europe, demonstrating that the majority are not in a position to return home due to lack of funds and fear of experiencing shame, thereby tending to either remain in so-called 'transit' countries that turn out to be dead ends or attempting to migrate again (Schmitz 2008). Poutignat and Streiff-Fénart (2008) outline how the European immigration agenda has contributed to the stigmatization of certain migrant communities established for decades in Senegal, Mauritania, or Mali as 'illegal' migrants, generating xenophobia against them. Restrictive European policies have ultimately been described as the cause of the growing sophistication of human smuggling networks in West Africa, which has in turn produced a discourse criminalizing intermediaries such as the *jatigui* despite their role often also being positive in facilitating migrants' journey and integration in foreign countries (Pian 2010).

Child Trafficking or Youth Migration?

Since the United Nations adopted the Palermo Protocol on trafficking on persons in 2000, West Africa has also been increasingly framed as a major human trafficking region. Child trafficking has particularly been denounced as a key regional challenge, generating considerable grey literature. Three main exploitation routes have repeatedly been identified: adolescent boys from Mali and Burkina Faso transported to work in the cocoa agricultural industry in Côte d'Ivoire and Ghana; young girls from Benin and Togo taken to Gabon and Nigeria to be employed as domestic servants or street beggars; and young women taken from Nigeria and Ghana mainly to Europe and the

Middle East to work as sex workers. Liberia, Sierra Leone, Guinea, and Côte d'Ivoire are also associated with the forced enrolment of children in armed forces and child labour in mines (Sawadogo 2012).

Research remains scarce on the topic and academics are more cautious than NGOs to qualify certain practices as human trafficking. Castles and Diarra (2003) highlight the need to adopt a more nuanced perspective given the history of child migration in the region, where the *confiage*[2] of children to a relative for educational purposes has (p. 547) always been widespread, and adolescents' working experience abroad has often been perceived as a necessary rite of passage or an emancipatory adventure. Some researchers underline the socio-economic transformations that may explain why such historical practices have sometimes become abusive, such as the globalization of criminal networks, surging food prices or women's accession to monetary economy which creates greater needs for domestic labour (Abega, Abé, and Mimche 2007). They also note the region's demographic explosion, which redefines young people's roles as becoming increasingly responsible for financially supporting their parents. In this context, youth mobility becomes the best if not the only option to secure their family's life. Scholars insist on the need to restore parents' and youth's agency within the human trafficking discourse, highlighting the unintended effects of an approach which criminalizes and homogenizes such practices (Huijsmans and Baker 2012).

The West African 'Protection' Apparatus

In parallel with and as a response to contemporary displacements, West African states have developed national and regional legal and political frameworks to ensure the management of displaced populations. This contemporary 'protection' apparatus has been shaped by international and regional norms on refugee rights, but has never fully replaced former mechanisms of migration regulation such as kinship solidarity or the *jatigui* institution. This section provides a brief overview of the history of this apparatus, how it has been mobilized by governments, and the role ECOWAS, the EU, and UNHCR have played in shaping it.

The Politics and Practices of Asylum

West Africa has a well-developed legal framework vis-à-vis refugee protection. During the 1960s and 1970s, all ECOWAS member states acceded to the Geneva Convention relating to the Status of Refugees (1951) and its additional Protocol (1967), as well as the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (1969). Throughout the 1990s and 2000s, all ECOWAS countries except Cape Verde adopted national laws on asylum, responding to these decades' massive refugee movements and UNHCR's advocacy work. Furthermore, since 2009, all ECOWAS countries save Niger and Cape Verde have either signed or ratified the Kampala Convention on IDPs and by 2012 half of them had acceded to the UN Conventions relating to the Status of Stateless Persons of 1954 or 1961. Since the early 2000s, a majority of ECOWAS countries as well as Mauritania have eventually established their own national commissions for refugee status determination (RSD).

(p. 548) There is a lack of systematic research regarding the actual practices of asylum in the region, and yet investigations conducted in Guinea (Milner 2009) and Senegal (Fresia 2009), in addition to World Refugee Surveys, can give us insights into how West African states have mobilized this framework in practice. First, it appears that they may not have followed the same path as other sub-Saharan African states depicted as having had a 'golden age' of asylum up to the 1980s followed by a crisis in hospitality since the 1990s (Crisp 2006). Rather,

they have always upheld broadly open asylum policies combined at certain times with restrictive practices. Since the 1960s, they have continuously hosted massive refugee influxes on their territories granting them prima facie refugee status. Hosting policies have also been characterized as laissez-faire, taking place through a combination of kinship solidarities, *jatigui* hosting mechanisms, and spontaneous refugee settlements; these processes have been paralleled by the establishment of more standardized refugee camps since the mid-1990s along with the Mano River conflicts (Van Damne 1999). Camps in West Africa however have rarely reached the size of those in Eastern Africa and West African states have not formulated encampment policies nor formally restricted refugees' freedom of movement or right to work. Far from being embedded in so-called African 'hospitality', this can be explained by diverse factors including long-lasting economic and kinship links across border populations, the ECOWAS framework, political interests in hosting a given refugee population, the perceived advantage of receiving international assistance and the extent and length of the demographic pressure exerted by refugee populations (Milner 2009: 171–88). West Africa may not have yet reached 'refugee fatigue' as massive and continuous cross-border movements have only occurred since the 1990s.

Nonetheless, West African states have, at different times, adopted restrictive policies towards refugees, often because of geopolitical interests or in response to the militarization of refugees. In Guinea, Milner (2009: 144–5) has documented President Conté's harsh reaction to the 2000–1 cross-border incursions, which provoked the detention of thousands of refugees. The Senegalese authorities also decided not to issue Mauritanian refugees with adequate ID cards in the late 1990s, as their political activism became a subject of diplomatic tensions with Mauritania (Fresia 2009). The failure to issue ID cards or to recognize existing ones is actually a widespread limit to refugee protection across the region, which hampers refugees' formal freedom of movements.

Another significant component of restrictive policies relates to individual RSD. West African states with national eligibility committees still lack a fair procedure and, apart from Guinea, the main hosting countries in the region have extremely low recognition rates.[3] Recent research conducted in Ghana and Senegal shows, for instance, that both states tend to suspect that all applicants who have moved beyond their first country of asylum are preparing an 'illegal' trip to Europe and are abusing their asylum system (Charrière and Fresia 2008). This has direct consequences on refugees originating from non-ECOWAS countries but also on Sierra Leoneans, Liberians, and Ivoirians who move throughout the region and are in need of protection. In both countries, RSD therefore appears to have been mobilized more as an instrument of exclusion, asserting national sovereignty, than as an instrument of protection.

(p. 549) As for durable solutions, West African state practices have varied between repatriation and local integration, often combining the two for the same population. After the independence of Guinea-Bissau, thousands of Guinean refugees were repatriated, while many remained in Senegal. Since the early 2000s, the official return of refugees became the 'favourite' durable solution, as it is perceived as a strong political signal symbolizing the return to peace in previously unstable countries. Sierra Leoneans, Liberians, Togolese, and Mauritanians were officially repatriated when many of them had either already returned spontaneously or found a solution through transnational coping strategies. Yet, the early 2000s can concurrently be characterized as an era of 'local integration' (Milner 2009: 34). UNHCR has indeed actively promoted the latter to address protracted refugee situations and several governments have so far responded positively to the idea of officially integrating refugees who cannot repatriate, either through naturalization or via the regularization of their often de facto integration as migrant workers through the ECOWAS framework.

The ECOWAS Framework

ECOWAS was created in 1975 to promote economic integration across the region through its 1979 Protocol Relating to Free Movement of Persons, Right of Residence and Establishment for all ECOWAS citizens, and its supplementary protocols. This framework has the potential to further protect refugees who are ECOWAS citizens by facilitating their economic integration in member states and recognizing the importance of mobility in their lives. In practice, however, the ECOWAS Protocols have been scarcely implemented (Gnisci 2008). ECOWAS citizens still encounter difficulties with moving freely in the region as they are subject to informal taxes or arbitrary detention. At borders, legal distinctions between ECOWAS and non-ECOWAS citizens, migrants, and refugees are of little relevance. Rather, discrimination appears to function between nationals of bordering countries and the 'others'. Likewise, ECOWAS citizens coming from countries other than bordering ones face greater difficulties in accessing employment and resident permits. In Senegal, for instance, there are discriminatory administrative practices between 'Sahel people' and people from the 'tropical forests', which particularly affect Anglophone refugees (Charrière and Fresia 2008).

While its role in terms of economic integration has remained limited, ECOWAS has nevertheless developed a new function in the area of peace-building during the 1990s. An additional protocol was signed in 1999 establishing the ECOWAS Mechanism for Conflict Prevention and Peace Keeping. It institutionalized the ECOMOG West African intervention force—an ad hoc ceasefire monitoring group which intervened in the Mano River countries and Guinea-Bissau—and led to the creation of an ECOWAS department of Humanitarian Affairs. For Levitt (2001), ECOWAS is the African regional organization with the most advanced experience in terms of refugee protection via peacekeeping. However, its actions have also contributed to prolong the Liberian civil war, and its lack of resources and internal divisions remain major weaknesses.

(p. 550) ECOWAS's role vis-à-vis displaced persons has nevertheless received increased interest through several initiatives. First, UNHCR has closely worked with several ECOWAS member states to encourage them to recognize that the Protocols on free movements should apply to Liberians and Sierra Leoneans, whose refugee status has ceased (Adepoju, Boulton, and Levin 2007). This strategy led to the adoption, in 2007, of a 'Memorandum on equality of treatment for refugees and other ECOWAS nationals' which constitutes an innovative first step towards considering not only local integration but also legal mobility as a fourth durable solution for ECOWAS refugees. If this solution is de facto the one already adopted by a majority of refugees for whom mobility is at the heart of coping strategies, its implementation could allow legal recognition of the latter and secure their rights.

Second, the ECOWAS framework has gained interest with regard to combating human trafficking with the adoption of the 2006 Ouagadougou Action Plan against the trafficking of women and children. Parallel to these initiatives, 12 countries out of 15 have signed the Palermo Protocol on Trafficking between 2009 and 2012 including Benin, Togo, and Burkina-Faso and 12 of the 15 states have passed national laws on human trafficking. IOM has also developed a regional programme of assistance for the return and reintegration of trafficked children (IOM/UNHCR 2011). Nonetheless, the impact of these counter-trafficking initiatives remains to be evaluated, especially when they tend to homogenize practices that may be of different natures. Besides, their focus on women and children tends to overshadow the situation of men who may be equally exposed to labour exploitation.

The Weight of the EU Immigration Agenda

A third aspect of the West African protection 'apparatus' is its articulation with the EU immigration agenda. The multiplication, since the early 2000s, of bilateral agreements between EU countries and West African states vis-à-

vis migration management have contributed to shape regional priorities (Gnisci 2008). First, it has legitimized the need to reinforce national capacities with regard to border management, which may contradict ECOWAS Protocols. Second, it has framed West Africa as a region of departure of 'illegal migrants', entailing a shift of attention away from refugee movements. Third, while it may signal West African states' will to gain ownership on asylum, the recent establishment of RSD systems in the region can also be interpreted as a consequence of European pressure to have them better control their migration flows.

These evolutions have, however, been partially counter-balanced in 2008 by the 'ECOWAS Common Approach of Member States to Migration' in which the will is reaffirmed to speed up the implementation of the Protocols while asserting the need to protect refugees and trafficked persons, and the right of residence in member countries for ECOWAS refugees. UNHCR has also initiated trainings on 'protection sensitive' border management and convened several inter-agency conferences with IOM and ECOWAS on the 'protection of refugees and other people on the move within mixed migration (p. 551) contexts' (IOM/UNHCR 2011). Overall, these initiatives have contributed to a discursive shift within the region from 'refugee protection' to 'mixed migration', recognizing both that the boundary between forced and voluntary migration is not always clear, and yet that the 'specific' protection needs of different categories of people on the move should be addressed.

Conclusion

While forced displacements have always existed in West Africa, the past 50 years have witnessed dramatic changes in the way they have been framed and addressed.

First, the development of a 'protection' apparatus in the region has contributed to the production of 'refugeehood' by constructing a boundary between refugees and migrants, which have been juxtaposed to former, and yet still existing, mechanisms of migration regulation which were based on more fluid categories of belonging. Since the early 2000s, under the influence of EU, UNHCR, and IOM, this apparatus has entered a new phase with a shift of focus from 'refugee protection' alone to the protection of different categories of 'people on the move'. This shift reflects a wider, global, evolution towards a multiplication of labels of displaced persons paradoxically combined with the recognition that refugees and other migrants may have similar experiences of migration. If these labelling processes have the potential to offer more protection to displaced persons in West Africa, they may also have unintended consequences such as the stigmatization of the figure of the stranger ; the criminalization of intermediaries such as the *jatigui*; the production of victimhood ; and the homogenization of practices related to youth migration. Yet, research work has also shown that these labelling processes have enhanced new forms of political mobilization and citizenship among displaced persons, and new migratory and labour opportunities for certain social actors (Fresia 2009). Further research is therefore necessary to fully understand how this West African protection apparatus contributes to alter regional and local political and historical dynamics.

A second regional evolution is the growing role played by individual recognition of refugee status. There is currently almost no research on the politics and practices of national eligibility committees. It only appears that West African states seem more generous to provide prima facie protection to refugees coming from neighbouring countries, than to provide individual recognition to asylum seekers coming from farther countries. The mobilization of RSD to exclude more than to protect could therefore become a challenge to be closely followed.

A third recent trend is the growing political will to use ECOWAS not only as an instrument of regional economic integration but also as a tool to enhance protection and innovative durable solutions. This positive evolution yet raises several challenges including ECOWAS's capacity to implement such ambitious goals; the concern that ECOWAS's increased role is too closely articulated to the EU migration agenda and may be a way for European countries to shift a number of burdens on West African states; and the risk of (p. 552) accentuating an already existing discrimination between ECOWAS and non-ECOWAS citizens in terms of access to asylum, durable solutions, or labour migration.

Last, this chapter has outlined the increasing imbrications between system of conflicts and displaced populations. This is probably the most important challenge the region will continue to face in coming years, despite being recently overshadowed by the 'mixed migration' discourse, whether on policy or research agendas. Further research on the circulation of actors and factors of conflicts is therefore needed, including by following the implications of recent major repatriation operations that, far from being the end of refugee cycles in the region, may be characterized by a range of new challenges.

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Notes:

(2) . Literally referring to 'entrusting' the child to a relative or friend, *confiage* can be understood as a form of fostering.

(3) . Recognition rates in 2007: Benin 3.6%; Côte d'Ivoire 8%; Senegal 5%; Ghana 3.6%; Guinea 63.1% (Charrière and Fresia 2008).

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Abstract and Keywords

This chapter outlines five phases of displacement in the 'fifty years war' of Southern Africa, from the wars of independence of the 1960s, 1970s, and 1980s to the mass exodus of people from Zimbabwe and mass deportations of migrants, asylum seekers, internally displaced persons, and refugees to other states. It first provides an overview of pre-colonial and colonial forced migration and periodizes the five-decade war from 1960 to the present. It then highlights the advantages and limitations of national refugee legislation as well as regional initiatives like the Organization of African Unity Refugee Convention and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa. It also compares control-oriented and protection-oriented approaches that have been adopted to address the plight of forced migrants.

Keywords: displacement, Southern Africa, wars, Zimbabwe, mass deportations, asylum seekers, internally displaced persons, refugees, forced migration, legislation

Introduction

Over the last 50 years, Southern Africa (here viewed as coterminous with the 15 member states of the Southern African Development Community) has experienced successive waves of forced migration primarily as a result of armed conflict and civil war. Some states, such as Angola and Mozambique, have generated significant refugee outflows and internal displacement; others, such as Botswana, Malawi, Swaziland, Tanzania, and Zambia have been states of refuge; still others, such as Namibia, South Africa, and Zimbabwe have sent and received refugees. Other forms of forced migration include trafficking, which is not a significant issue in this region, and deportations, which are.
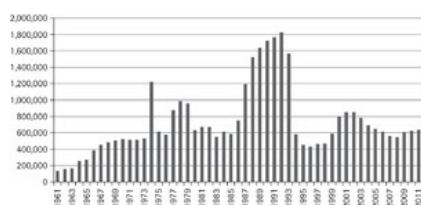
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Figure 43.1 Refugee flows within Southern Africa, 1961–2011

Source: UNHCR Statistical Online Population Database (<http://www.unhcr.org/statistics/populationdatabase>, accessed 20 June 2012).

Saul (1993) depicts the independence struggles against colonial and white settler rule in Southern Africa as the 'thirty years war'. However, forced migration within the region did not begin with the struggle for independence nor end when it was attained. To understand both the volume and longevity of forced migration in Southern Africa, it is necessary to revisit the history of involuntary population movement in the pre-colonial and colonial periods. Colonialism itself set the stage for what we refer to here as Southern Africa's 'fifty years war' of struggle for independence and post-independence strife which has disrupted lives, destroyed livelihoods, and displaced millions of people internally and across borders. At the regional scale, the total number of refugees in Southern Africa rose steadily between 1960 and the late 1970s, fell in the early 1980s, and then rapidly escalated to a peak of 1.8 million in 1992 (Figure 43.1). Since then, the numbers have declined, risen and then fallen again. However, at no point between 1967 and 2011 has the number of refugees outside their home countries ever dropped below 400,000. No comparable time-series data exists for Internally Displaced Persons (IDPs) whose numbers peaked in different countries at different times. According (p. 555) to the UNHCR, the highest number of IDPs was 4 million in Mozambique (in 1992), 2.1 million in the DRC (2009), and 300,000 in Angola (in 1994).

This chapter begins with a brief overview of pre-colonial and colonial forced migration. It then periodizes the fifty years war from 1960 to the present. The first phase accompanied the wars of independence of the 1960s, 1970s, and 1980s. The second began when anti-colonial forces turned on each other, often with outside backing. The third phase, primarily in the 1990s, saw the voluntary return and reintegration of many refugees, especially to Mozambique. The fourth phase, which began in the early 1990s, has seen increasing numbers of forced migrants from other African countries entering Southern Africa. The final, and current, phase has witnessed a mass exodus of people from Zimbabwe and mass deportations of migrants, asylum seekers, and refugees to other states. Against this backdrop, the chapter surveys the divergent policy responses towards forced migrants, paying particular attention to the differences between control-oriented and protection-oriented approaches.

Pre-colonial and Colonial Forced Migration

Forced migration in Southern Africa has deep historical roots. In pre-colonial times, forced migration was a product of factors such as territorial invasions by outside groups or dwindling resources due to population pressure, drought, disease, and pestilence, and inter-ethnic conflict. Pre-colonial forced migrations were never entirely endogenous, however, as they often occurred at the interface between local and outside political and (p. 556) economic forces. Many disruptions were

exacerbated and even instigated by contact with the expansionist European powers. The transatlantic slave trade, for example, forcibly removed millions of people from the region and consolidated slave raiding kingdoms in the modern states of Angola and the Democratic Republic of Congo (DRC). These kingdoms not only raided weaker states for slaves for export but caused massive population displacement.

In the early nineteenth century, large-scale population movements occurred within Southern Africa during the *Mfecane* ('scattering') period as clans were expelled or took refuge from the militarist Zulu Kingdom under Shaka. The modern-day Basotho nation (Lesotho) was formed from refugee groups fleeing the *Mfecane* to the north-east. A defining characteristic of pre-colonial forced movements was their geographically unrestricted character because of the absence of international boundaries. In colonial mythology, the expansionist Zulu state and associated forced migration were a product of 'tribal' warfare. Later historical scholarship demonstrated that the pressures of expansion of white settlement and trade played a major catalytic role in the *Mfecane* (Hamilton 1995).

Colonialism fundamentally changed the nature of forced migration in Southern Africa. Conquest was sometimes relatively peaceful (as in Botswana, Lesotho, and Swaziland) and sometimes extremely bloody (as in the Anglo-Zulu wars of the nineteenth century and the genocidal policies pursued by the Germans in Namibia in the early twentieth) (Olusoga and Erichsen 2010). The partition of the region grouped pre-colonial enemies under the same European flag, while ethnic groups with shared cultures and histories were separated and forced to serve different masters. Several inter-ethnic conflicts in Africa can be traced to this arbitrary process. Furthermore, colonialism led to the massive internal displacement of peasant communities as fertile land was forcibly expropriated for white settlement in many colonies. In South Africa, over 85 per cent of the entire land surface was expropriated. Many people continued to live on expropriated land, until the apartheid state began forced removals in the 1960s.

The Colonial Retreat

The collapse of Belgian, British, French and Portuguese colonialism and white minority rule in Southern Africa in the late twentieth century brought the promise of a new era of economic opportunity and political rights. Across the region, the struggle for independence was often protracted and bloody. Although the colonial retreat from some countries was relatively peaceful, even these former British colonies of Botswana, Lesotho, Malawi, Swaziland, Tanzania, and Zambia were caught up in the regional maelstrom, becoming destinations for forced migrants fleeing wars of liberation in neighbouring countries.
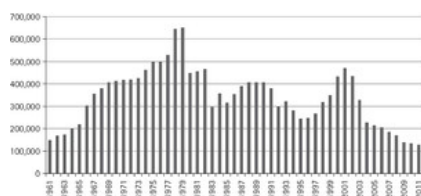
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Figure 43.2 Refugee flows from Angola, 1961–2011

(p. 557) The independence wars against Portugal (in Angola and Mozambique) and white settler rule (in Namibia, South Africa, and Zimbabwe) were the most violent. The independence war in Angola lasted from 1961 to 1974 and led to hundreds of thousands fleeing to neighbouring countries such as Zambia and Zaire (now the Democratic Republic of Congo (DRC)). By the early 1970s, over 400,000 had left the country (Figure 43.2). The independence war ended after a military coup in Lisbon in 1974, paving the way for Angolan independence in 1975.

Portugal's refusal to voluntarily leave Angola was mirrored in Mozambique which experienced a decade-long war of liberation between 1964 and 1974. As the nationalist Frente de Libertação de Moçambique (FRELIMO) made territorial gains, Portuguese repression intensified, including the massacre of civilians who were supporting FRELIMO. Whole communities fled to neighbouring countries from northern Mozambique. In 1967, 67,000 Mozambican refugees were living in Tanzanian camps. As in Angola, the war in Mozambique ended abruptly in 1974.

The wars of independence also produced significant internal displacement and cross-border refugee migration. By the late 1970s, over 200,000 people had fled Zimbabwe for countries such as Mozambique and Zambia. Namibia, too, experienced a liberation war from 1966 to 1988 between the South-West Africa People's Organization (SWAPO) and the occupying South African army (Leys and Saul 1995). Many SWAPO members went into exile in Angola and joined the guerilla war. In the late 1970s and 1980s, the number of refugees leaving Namibia exceeded 70,000.

In South Africa, the apartheid government's repression of its black population led to the internal displacement of an estimated 3.5 million people. By comparison, the numbers who left the country were relatively small. Refugees were mainly anti-apartheid activists who pursued the struggle against white rule from other countries. By the late 1980s, nearly 40,000 South Africans were in political exile.

(p. 558) Uncivil Wars

Forced migration, both internally and across borders, escalated after the end of colonial rule in three of the most populous states: the DRC, Angola, and Mozambique. In a fourth, Zimbabwe, the Mugabe government sent the North Korean trained Fifth Brigade into southern Zimbabwe in the early 1980s to suppress dissent in Operation Gukurahundi (CCJP 2007). At least 3,000 people died and nearly 10,000 fled to neighbouring Botswana where they were accommodated in camps.

The DRC, formerly the Belgian Congo and then Zaire, became an independent state in 1960, following a series of violent altercations between the Belgian and Congolese armies in the late 1950s. Secession attempts in Katanga province shortly after independence led to the death of thousands including Prime Minister Patrice Lumumba. In the late 1970s, further disturbances in Katanga were only suppressed with Moroccan and French intervention. At the height of the conflict, more than 260,000 refugees left the country while many more were displaced internally. Ethnic tensions in neighbouring Great Lakes countries spilled into the DRC, leading to the First Congo War of 1996–7. In 1997, more than 170,000 people fled as refugees as the Kabila-led Tutsi army swept Mobutu from power.

A second war began soon after Kabila took power and withstood attacks by Rwandan and Ugandan-backed rebels with support from Angola, Namibia, and Zimbabwe. Kabila was assassinated and replaced by his son in 2001, but violent conflict continued to generate forced movements. The number of DRC refugees in neighbouring countries remained above 350,000 after 2000 and was estimated at close to 500,000 in 2011. IDPs were estimated to be close to 1 million in 2007 but fell to about 800,000 in 2011.

In Angola and Mozambique, bitter civil wars began almost immediately after the Portuguese had departed. Neither would have been as traumatic and lengthy without outside interference (Minter 1994). In Angola, the two main anti-colonial movements, the Popular Movement for the Liberation of Angola (MPLA) and the National Union for the Total Liberation of Angola (UNITA), took up arms against each other. The United States and South Africa sided with UNITA while Cuba and the Soviet Union backed the MPLA. By the late 1980s, Angola had 800,000 IDPs and 400,000 refugees in Zaire and Zambia. After nearly 30 years, the war ended in 2002 when Jonas Savimbi, the UNITA leader, was killed.

Independence in Mozambique led to heightened civil conflict as white-ruled Rhodesia and South Africa set out to destroy the new socialist FRELIMO government (Minter 1994). The civil war in Mozambique was fought between FRELIMO and the Mozambican Resistance Movement (RENAMO). With support from South Africa, RENAMO launched a terror campaign which resulted in destruction of infrastructure, an increasingly traumatized society, and widespread displacement (Table 43.1). An estimated 200,000 people died and millions were displaced internally and across borders to Tanzania, Malawi, Zimbabwe, Swaziland, and South Africa. Unlike in Angola, the (p. 559) war in Mozambique ended quickly with the collapse of apartheid and the end of South African support for RENAMO.

Table 43.1 Flow of Mozambican refugees and IDPs			
Year	No. of Refugees	Estimated No. of Internally Displaced People*	Total of Refugees & IDPs (Estimate)
1984	51,200	400,000	450,000
1985	72,250	700,000-1.8 million	770,000-1.9 million
1986	193,550	900,000-1.8 million	1.1–2.0 million
1987	635,000	2.0 million	2.6 million
1988	921,238	1.5-2.0 million	2.4-2.9 million
1989	1,120,758	1.7 million	2.8 million
1990	1,247,992	2.0 million	3.2 million
1991	1,316,636	2.0 million	3.3 million
1992-3	1,445,474	4.0 million	5.4 million

Sources:

(*) UNHCR Statistical Online Population Database;

(**) Azevedo (2002: 4).

The Return of the Refugee

The end of apartheid brought major shifts in patterns of forced migration in Southern Africa. First, South Africa's proxy wars in Angola, Namibia, and Mozambique, and its suppression of internal dissent, came to an end. During the 1990s, South Africa, Namibia, and Mozambique ceased to be major refugee-generating states. Second, forced migrants began to return home in large numbers to Mozambique and Angola. SWAPO and ANC political exiles also returned to Namibia and South Africa (Simon and Preston 1993). The orderly nature of refugee repatriation to Namibia and South Africa contrasted with the disorganized manner in which refugees returned to Mozambique. The majority of refugees self-repatriated because of the failure of the official repatriation programmes (Englund 2002). By the time the official programme was launched in Malawi, most of the refugees had already returned. Third, most Mozambican refugees in South Africa were not interested in return (Azevedo 2002). The UNHCR instituted a voluntary return programme which included financial assistance with resettlement to Mozambique. The programme was not a great success, the vast majority of refugees electing to stay in South Africa where they were living and working.

After the 1994 elections, the post-apartheid government ratified the OAU and UN Refugee Conventions and passed the Refugees Act of 1998. This did not resolve one policy dilemma since most Mozambican refugees in South Africa no longer qualified for Convention protection. The South African Cabinet eventually approved an amnesty for ex-refugees from Mozambique. Although this was plagued by procedural delays, (p. 560) an estimated 130,000 Mozambicans acquired identity documents and permanent residence in South Africa.

When the civil war in Angola ended in 2002, more than 457,000 Angolans were living as refugees in neighbouring countries. Zambia had more than 225,000 refugees, some of whom had integrated into Zambian society. In four years of repatriation between 2003 and 2006, UNHCR organized the return of 140,000 refugees and assisted another 117,000. A further 154,000 refugees returned without UNHCR assistance.

New Forced Migrants

Since the late 1980s, Southern Africa has become a new destination for asylum seekers from the rest of Africa, particularly from the Horn and Great Lakes region (Long and Crisp 2011). The most dramatic increase in the volume of inward forced migration was experienced by the DRC and Tanzania. In the DRC, the number of refugees increased from just over 100,000 in 1990 to a peak of nearly 1.6 million in 1994 as hundreds of thousands of people fled the genocide in Rwanda. By 2011, the number of refugees in DRC had fallen again to 74,000. In Tanzania, the refugee population grew from 177,000 to 832,307 by 1994 at the height of the Rwandan genocide. By 2011, the number of refugees still in Tanzania had dwindled to less than 70,000.
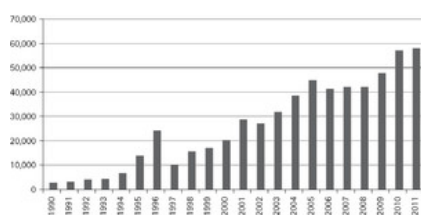
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Figure 43.3 African refugees from outside Southern Africa

Source: UNHCR Statistical Online Population Database.

Rwandan refugees also moved in much smaller numbers to other Southern African countries in the 1990s. However, the most notable feature of the last 20 years has been the steady increase in the number of African asylum seekers from more distant countries in East, West, and North Africa. In 1990 (excluding the DRC and Tanzania as destinations), there were only 3,400 refugees registered by the UNHCR from outside the region in Southern Africa. This number rose to 21,000 in 2000 and to nearly 60,000 in 2011 (Figure 43.3). The main destination countries are South Africa and Zambia, which combined hosted 83 per cent of the total in 2010. The actual numbers of forced migrants in Southern Africa may well be much larger since some countries are notoriously resistant to providing protection to asylum seekers from countries that are not deemed by governments to be 'refugee generating'.

The idea has gained currency that refugee protection systems are collapsing under the weight of bogus claims by economic migrants. In the UNHCR lexicon 'mixed migration' streams combine genuine refugees and voluntary economic migrants seeking to legitimize their irregular status through making applications for asylum (van der Klaauw 2009). In 2010, the Government of Tanzania, the UNHCR, and the International Organization for Migration (IOM) convened a regional conference on mixed movements and irregular migration to Southern Africa. The conference developed an Action Plan which, amongst other things, offered technical support to governments to distinguish genuine refugees from 'irregular migrants'. Migration from Zimbabwe to its neighbours is seen as a good example of the phenomenon of 'mixed migration' and the challenges it poses.

(p. 561) The South African government has shown great interest in the notion of 'mixed migration' for it perfectly buttresses its argument that the country's refugee system is being abused by non-refugees. However, when it comes to Zimbabwe, South Africa has been extremely reluctant to acknowledge that there is any forced migration at all (Crush and Tevera 2011). The number of asylum applications lodged by Zimbabweans in South Africa rose dramatically after 2003 and reached nearly 150,000 in 2009 and 2010 (Table 43.2). In total, Zimbabweans have lodged nearly half a million asylum applications in South Africa since 2000 (over 50 per cent of the total number received). In 2010 alone, over 80 per cent of total asylum applications were made by Zimbabweans.

| Table 43.2 Zimbabweans claiming asylum in South Africa, 2001–2010												
	2000	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**Total**
Asylum Applications by all Nationalities in South Africa	3,132	4,294	55,426	35,920	32,565	28,522	53,361	45,637	207,206	222,324	180,637	869,024
No. of Zimbabwean Applicants	0	4	115	2,588	5,789	7,783	18,973	17,667	111,968	149,453	146,566	460,906
% Applications by Zimbabweans	0.0	0.1	0.2	7.2	17.8	27.3	35.6	38.7	54.0	67.2	81.1	53.0
Zimbabwean Claims Adjudicated				25	93	271	1,981	1,894	n/a	15,701	33,179	53,144
Granted Refugee Status				9	24	83	103	271	n/a	200	429	1,119
% Accepted				36.0	25.8	30.6	5.2	14.3	n/a	1.3	1.3	2.1

Source: UNHCR Statistical Online Population Database; UNHCR Statistical Yearbooks (Various Reports).

The dramatic increase in the number of applications for asylum by Zimbabweans partly reflects the fact that continuing human rights violations and political persecution in Zimbabwe are forcing people out of the country to seek protection. It also reflects a different kind of forced migration driven by sheer economic desperation. Between 2003 and 2010 (excluding 2008 for which data is not available), bureaucratic ineptitude and reluctance to process claimants meant that only 53,144 Zimbabwean asylum applications (or 15 per cent) had been adjudicated. Of these, 98 per cent were rejected. In other words, 348,819 applications for refugee protection yielded a mere 1,119 successful claims, an extraordinarily low rate of 2.1 per cent. As the number of applications increased, so the success rate declined. To reduce the pressure on the refugee protection system by Zimbabweans, the South African government ran an amnesty programme in 2010–11. Approximately 250,000 applications for four-year work and residence permits were received, many from individuals holding asylum-seeker permits.

Although there is no reason why Zimbabwean migrants cannot continue to apply for asylum, after December 2011 the South African Department of Home Affairs refused to issue asylum permits to Zimbabweans unless they had previously acquired an 'asylum transit permit' at the border when they entered the country. Not only was this a violation (p. 562) (p. 563) of South Africa's international and regional Convention obligations, it transpired that it was virtually impossible to obtain a transit

permit on entry. Recognizing Zimbabweans as legitimate refugees would amount to criticizing a government and leader which the South African government has been extremely reluctant to antagonize. There was a moratorium on deportations during the amnesty but they resumed in 2012 when 43,000 Zimbabweans were forcibly deported.

The end of apartheid brought major increases of intra-regional cross-border migration in Southern Africa. Most of this movement was economically motivated and of a temporary and circular nature focused on those countries with stronger economies such as Botswana, Namibia, and South Africa. However, economic migration from other countries in the region was widely viewed as a threat by citizens and governments in destination countries, despite their common membership of the Southern African Development Community. Efforts to craft a regional Protocol on freer movement continuously foundered on the rocks of territorial sovereignty and opposition from individual governments. Levels of xenophobia and hostility towards all migrants are extraordinarily high and often culminate in physical violence. In 2008, for example, over 100,000 migrants were internally displaced from urban communities in South Africa following xenophobic attacks throughout the country which killed over 70 people.
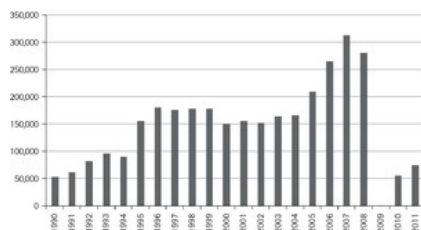
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Figure 43.4 Deportations from Southern Africa, 1990– 2011

Legal avenues for migrants from one country to go and work in another are extremely restricted leading to considerable undocumented migration and irregular employment. The response of most states has been to try and control the influx with border fortification (for example between South Africa and Zimbabwe and Botswana and Zimbabwe), army patrols, and 'homeland' policing. In South Africa, the policy of rounding up migrants at work and on the streets and summarily deporting them to neighbouring countries began in the apartheid period (Figure 43.4). This form of forced migration intensified after 1994. Since 1990, over 3 million people have been forcibly removed from (p. 564) South Africa through deportation. The passage of the Immigration Act of 2002 provided even more draconian enforcement provisions and deportations exceeded 300,000 in 2006 alone (LHR 2008).

These policies enjoy widespread popular support. If anything, governments are regarded as too lenient by their citizens. A survey conducted by SAMP in 2010 sought to establish the attitudes of South Africans on refugee rights. Forty two per cent of the respondents felt that refugees should never enjoy freedom of speech, a quarter felt that they should never enjoy legal protection, such as access to lawyers and the courts, and a similar number that they should never enjoy police protection. Attitudinally, South Africans tend to group refugees together with other foreign citizens and subject them to the same kinds of intolerance and abuse. Somali refugees have become particular targets in violent attacks in the country.

Refugees and asylum seekers are regularly caught up in the dragnet which the police use to catch, identify, and deport irregular migrants. A vast corruption industry has grown up around enforcement and often it is easier for refugees to simply pay the bribes demanded by the police rather than risk having their documents destroyed and being arrested and deported with a minimum of due process (Klaaren and Ramji 2001). The refugee protection system is not protecting and the immigration enforcement machinery is engaged in a ruthless form of forced migration which clearly violates Convention principles of *non-refoulement*. South Africa is simply the most prominent example of a regional phenomenon. Forced migrants in other countries in the region face similar kinds of treatment and abuse of their rights. At the heart of the issue is a clash between rights-based and control-oriented approaches and policy perspectives on forced migration.

Control versus Protection

All of the countries in the Southern African region are signatories to the 1951 UN International Convention governing the recognition and protection of refugees. With the exception of Mauritius, Madagascar, and Namibia, all have also ratified the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention) with its broader definition of the meaning of 'refugee'. In addition, all countries have their own legislation defining who qualifies as a refugee, how refugee status is defined, and the conditions of sojourn in the host country (Table 43.3). However, the actual rights given to refugees in individual countries vary considerably in terms of freedom of movement, access to employment, and eligibility for naturalization. Part of the reason for variations in the approach to refugee protection is based on how refugee laws have evolved. The earliest laws were control oriented in their approach, aimed at controlling the entry of refugees into the respective countries. The first laws were enacted in the 1960s and include Tanzania's Refugee Control Act of 1966, Botswana's Refugee (Control and Recognition) Act of 1968, Zambia's Refugee (Control) (p. 565) (p. 566) (p. 567) Act of 1970, and Swaziland's Refugee Control Order of 1978. More importantly, the laws of all four countries permitted the restriction of movement of refugees.

The refugee laws that emerged in the region after 1980 were more concerned about the protection of refugees and were more consistent with the extended definitions and parameters of the OAU Convention. They include Zimbabwe's Refugees Act of 1983 and Lesotho's Refugee Act of 1983, which made provisions for individual refugee status determination including appeals. Other countries which adopted protection-oriented refugee laws in this period include Angola's Law on Refugee Status of 1990, Mozambique's Refugee Act of 1991, South Africa's Refugee Act of 1998, and Namibia's Refugees (Recognition and Control) Act of 1999. Tanzania repealed the Refugees Control Act of 1966 and replaced it with a protection-oriented Refugee Act of 1998.

In terms of refugee status determination, two main procedures are used: prima facie status and individual status determination. Prima facie procedures give the minister responsible for refugee affairs the power to declare any class of persons to be refugees under any acceptable definition. Countries whose legislation has such provisions include Lesotho, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe. On the other hand, individual status determination of asylum applications is allowed under the laws of Angola, Botswana, Namibia, Lesotho, Malawi, Mozambique, South Africa, Tanzania, and Zimbabwe. Furthermore, countries such as Malawi, Tanzania, Zambia, Namibia, Swaziland, and Zimbabwe require refugees to reside in specific settlements while Angola, South Africa, and Mozambique allow them to engage in gainful employment activities. Finally, Lesotho, Mozambique, and South Africa have provisions in their legislation which make it possible for refugees to naturalize.

New hope for the protection of IDPs in Africa is provided by the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the 'Kampala Convention') which entered into force on 6 December 2012. The Convention binds governments to provide legal protection for the rights and well-being of those forced to flee inside their home countries due to conflict, violence, natural disasters, or development projects. By January 2013, a total of 37 states

had signed the Convention and 16 had ratified it. In Southern Africa, eight of the 15 states had signed the Convention (Angola, DRC, Lesotho, Mozambique, Namibia, Tanzania, Zambia, and Zimbabwe). However, only three (Lesotho, Swaziland, and Zambia) had ratified it, none of which have significant numbers of IDPs. The major IDP-generating countries of the region, past and present (including Angola, the DRC, Mozambique, and South Africa) had not ratified the Convention by early 2013, presumably because they are reluctant to accept responsibility for the state obligations towards IDPs that the Convention requires.

Table 43.3 Refugee legislation in Southern Africa								
	UN Convention (Year Signed)[a]	OAU Convention (Date of Ratification)[b]	Refugee Legislation[c]	Rights Given to Refugees in Practice[d]				
				Freedom of movement	Confinement to camps	Naturalisation	Access to employment	Refugee determination process	
								Prima Facie	Individual status determination
Angola	23 Jun 1981	30 April 1981	Law No. 8/1990 of 26 May 1990, Law on Refugee Status	✓	5	-	✓	5	✓
Botswana	06 Jan 1969	4 May 1995	Refugees (Recognition and Control) Act, Cap. 25:03 (1968)	✓	✓	5	5	5	✓
Lesotho	14 May 1981	18 Nov 1988	Refugee Act 1983	✓	5	✓	-	✓	✓
Malawi	10 Dec 1987	4 Nov 1987	Refugee Act (1989)	5	✓	5	5	5	✓
Mozambique	16 Dec 1983	22 Feb 1989	Act No. 21/1991 of 31 December 1991 (Refugee Act)	✓	5	✓	✓	5	✓
Namibia	17 Feb 1995	11 Nov 2009	Namibia Refugees (Recognition and Control) Act, 1999	5	✓	-	-	5	✓
South Africa	12 Jan 1996	15 Dec 1995	Refugees Act (No. 130, 1998)	✓	5	✓	✓	✓	✓
Swaziland	14 Feb 2000	16 Jan 1989	The Refugees Control Order, 1978	5	✓	-	-	✓	5
Tanzania	12 May 1964	10 Jan 1989	Refugees Act, 1998	5	✓	5	5	✓	✓
Zambia	24 Sep 1969	30 July 1973	Refugee (Control) Act, 1970	5	✓	5	5	✓	✓

Zimbabwe	25 Aug 1981	28 Sept 1985	Refugee Act, 1983	5	✓	5	5	✓	✓

(a) UNHCR website <http://www.unhcr.org/3b73b0d63.html>; Makhema (2009).

(b) Africa Union website <http://www.au.int/en/treaties>.

(c) UNHCR Refworld <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain>.

(d) Klaaren and Rutinwa (2004).

Conclusion

For five decades, Southern Africa has been one of the world's major forced migration-generating regions. The vast majority of forced migration movements have (p. 568) been between countries within the region. Although the drivers of forced migration and the affected parts of the region have varied over time, there is sufficient continuity to permit several generalizations to be made. First, forced migration in Southern Africa did not begin with the anti-colonial struggles of the late twentieth century nor did it end with political independence from colonial rule. Forced migration has a very long history in the region, dating deep into the pre-colonial period. Pre-colonial forced migration was not, however, a purely endogenous phenomenon and was partly stimulated by European encroachment on the continent. The colonial period saw the first major example of internal forced displacement in the region as land was expropriated for white settlers and the residents were relocated into reserves.

In recent decades, armed struggle against colonial rule and the assault by states on their own populations have been the most important causes of forced migration in the region. Whether instigated by repressive colonial and white settler regimes, the apartheid government's assault on its own black population and newly independent states, or civil conflict between competing political groups, many countries have undergone periods of extreme disruption and insecurity. In almost every case, outside influence and interference played an important role. Some colonial powers, especially the Portuguese, only decolonized with great reluctance. White settler regimes, emboldened by outside support, fought to retain power for far too long at incalculable human cost. The apartheid regime destabilized many independent states for the best part of a decade. Cold War protagonists also had their proxy wars in the region, especially in Angola.

Forced migration across borders and internal displacement have generally involved large-scale mass flight, calling for massive humanitarian emergency assistance from the UNHCR. The essentially temporary nature of many of these movements has meant that once the flight conditions have resolved, large-scale repatriation has generally followed. The major exception to this was the case of Mozambicans in South Africa in the 1990s who preferred to remain where they were, despite the difficulties of remaining in a country where they were not wanted by the state or the citizenry.

Southern Africa's 'fifty years war' shows encouraging signs of finally winding down. South Africa is no longer the region's rogue state. Angola and Mozambique are amongst Africa's fastest-growing economies. All, with the exception of Zimbabwe and Swaziland, are now relatively robust democracies. The numbers of refugees and internally displaced within Southern Africa are lower than they have been for decades. Poverty, inequality, and unemployment are certainly endemic but, with the exception of Zimbabwe, are not prompting displacement and flight by communities in fear of their lives. The biggest challenge currently facing Southern Africa is not protecting forced migrants but repatriating and integrating returnees and IDPs.

At the same time, there remain four emerging policy challenges with regard to forced migration. First, there is substantial evidence of growing intolerance and xenophobia directed against refugees by citizens. Governments are reluctant to acknowledge this reality, much less take steps to mitigate its pernicious effects. Second, the influx of asylum seekers from other areas of Africa (and the use of the region as a 'transit point' for (p. 569) asylum seekers attempting to reach other regions) is a growing policy challenge that governments are not responding to particularly well, opting for control- rather than protection-oriented solutions. Third, by defining deportations as a form of forced migration, this chapter draws attention to a phenomenon that achieves very little except the disruption of livelihoods, the abuse of migrant and refugee rights, and the enrichment of corrupt enforcers. Finally, while each state has its own refugee legislation, there is little harmony in approach or perspective amongst states. A strong case has been made by the Migration Dialogue for Southern Africa (MIDSA) for the harmonization of laws and practices across the SADC (Klaaren and Rutinwa 2004). However, this call has yet to be acted on by governments.

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