

# **THE SECURITY IMPLICATIONS OF THE REFUGEE SITUATION IN SOUTH AFRICA**

**By**

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# CHAPTER 1

## INTRODUCTION

### 1. IDENTIFICATION OF THE RESEARCH THEME

The wave of refugees across international frontiers and borders and the resurgent refugee crisis have become major issues in international relations. It is accompanied by problems ranging from political, socio-economic to security issues, especially for receiving countries. The global refugee situation is another area of concern over human security as expressed by the crisis that now prevails in the “age of migration.” (Kegley; 2001:237). The vast majority of the world’s populations are either immigrants or the offspring of their immigrant parents or ancestors. The issue of refugees and migration has become pervasive and politically controversial in many countries where nationals are fearful of having foreigners as their neighbours.

There are several reasons for the mass migration of people, such as civil wars, political conflicts, persecution, poverty and deprivation. Other causes which are not well understood are climate change, environmental degradation and resource scarcity, including man-made and natural disasters. All these have contributed in no small measure to an increase in numbers of people forcibly displaced around the world, including refugees. The United Nations High Commissioner for Refugees (UNHCR) states that after several years of a steady decline, the global refugee population rose to nearly 10 million at the end of 2006 with increases in the numbers of internally displaced persons (IDPs) and stateless people. The overall figure of people of concern to the UNHCR at the beginning of 2007 stood at 32.9 million (UNHCR, 2008-09a:2). In June, 2009, the world refugee figure, including IDPs and persons of concern, according to latest statistics was put at 42 million (UNHCR, 2009a).

Africa has the largest number of refugees and internally displaced persons (IDPs), including persons of concern to the UNHCR, and Bernstein and Weiner

(1999:14) state that different regions of Africa have developed a variety of refugee flows. Deegan (2009:143) notes that two of the most critical consequences of conflict in Africa have been the increase in the numbers of refugees and internally displaced persons. According to Deegan (2009:148), 38 per cent of the world's armed conflicts are being fought in Africa and in 2006 nearly 50 per cent of all high intensity conflicts occurred in Africa. Wars, ethnic hatred, civil disorder and violence have created refugees and internally displaced persons much more than natural disasters, such as floods, drought and famine have done.

As indicated, Africa is the largest refugee producing continent in the world. The main conflicts producing refugees by region and country, are The Horn of Africa, Sudan, Somalia, Chad, Ethiopia, Eritrea, Uganda, Central Africa, Angola, Togo, Guinea, Burundi, Rwanda and the Democratic Republic of Congo (DRC) (Deegan, 2009:144-145). In Southern Africa, the majority of the refugees are Zimbabweans (Kruys, 2007:8).

South Africa since 1994, has become a major refugee destination following its transition to democracy. The refugee problem has often been aggravated and complicated by so-called economic refugees. Legrain (2007:56-57) states that most immigration systems tend to divide migrants into three main categories: political refugees, ordinary migrants and economic migrants, otherwise known as economic refugees or illegal migrants. No doubt some economic migrants masquerade as asylum seekers in order to gain entry into rich countries (Legrain, 2007:57). Most of these economic refugees who are essentially illegal migrants do not meet the requirements of the Organization of African Unity (OAU) now the African Union (AU), and United Nations (UN) Conventions on Refugees.

Migration encompasses a host of security issues and challenges due to the fact that people move both within and across national boundaries. Security, insecurity and migration are also linked, to some extent, as a result of human and narcotics trafficking, and associated international criminality (Snyder,

2008:65-66). It is also stated that refugees can be a threat to social stability through problematization of endogenous cultures leading to forms of xenophobia, and demographic and economic changes. Cultural, religious and ethnic identity can all be the source of conflict and security related problems in receiving countries (Snyder, 2008:66).

The sources of insecurity which exist in Africa's refugee camps and settlement areas, including refugees settled among wider society, are varied and numerous. Two categories exist here namely refugee populated areas officially designated as refugee camps and refugees living in ordinary residential areas outside refugee camps, may be the targets of direct military attacks and are subject to a variety of non-military related security threats, involving violence, coercion, intimidation and criminal activities (Crisp, 2002:24). In this context, refugees may therefore be the targets of certain activities, but are in some cases also the perpetrators of incidents that lead to threats to law and order and national security.

## **2. STUDY OBJECTIVES**

The main objective of the study is to analyse the security implications of refugee flows for receiving countries, with specific reference to the Republic of South Africa. South Africa is specifically chosen as the case study due to the increasing numbers of individuals applying for asylum, and an increase in issues including security issues, surrounding their presence in the country.

Following from the main objective, sub-objectives include the following:

- (i) identifying the causes of refugee flows to receiving countries, including South Africa;
- (ii) assessing the extent to which conditions and situations in the receiving countries, such as South Africa exacerbate the security implications of a refugee presence; and
- (iii) discussing policy responses to security issues and other challenges related to refugee flows, with specific reference to South Africa.

### 3. LITERATURE SURVEY

A large body of literature on refugee related issues exists, but most of it pays insufficient attention to the security aspects of refugee flows specifically. Part of the reason is that refugee flows have more often than not been treated as humanitarian and political issues. Some of the academic research which dealt with certain aspects of refugee security issues were undertaken by Nobel (ed), "Refugees and Development in Africa", (1987) and Zolberg *et al*, "Escape from Violence: Conflict and the Refugee Crisis in the Developing World", (1989). Other publications dedicated to refugee issues include, "Migration and Refugee Policies: An Overview", by Bernstein and Weiner (1999), and a special research project-Situation Report: "Refugees and Internally Displaced Peoples in Africa", by Clover (2002).

This neglect of refugee issues from the perspective of the implications for security, has been at the centre of criticism of the proponents of the Realist Theory of International Relations. Snyder (2008:20) states that one of the problems attributed to the Realist School is that it places too much emphasis on the importance of states and the arrangement of power among them, thereby neglecting other important actors, factors and areas in International Relations.

The neglect of refugee issues, especially from the point of view of its implications for security, compounds the problem of a lack of literature on the subject. Hakovirta, (1986:13) acknowledged this problem by stating that existing literature paid little attention to refugee issues. Academics have also been particularly slow to respond to its importance and the work that has been carried out has for the most part only existed on the periphery rather than in the mainstream of academic enterprise (Kushner & Knox, 2001:3).

The problem of inadequate literature on the security aspect of refugee flows, is also reflected in UNHCR annual reports (2008-2009); South African Department of Home Affairs Annual Report on Asylum statistics (DHA, 2007a); UN

Convention on Refugees (1951); and the OAU Convention on Refugee Problems in Africa (1969).

Another reason for the lack of more extensive research on the security implications of refugee flows is the dominance of Cold War definitions of national security which tended to emphasize external and specifically military threats. It is based on the traditional understanding of security and specifically the security of the state. This emphasis on security against military attack and the state-centric approach had already been questioned towards the end of the Cold War, but the demise of the Soviet threat facilitated a re-thinking of the concept of security. (Hough, 2003:2)

The efforts of some scholars to re-define national security threats and security generally from a Third World perspective have been acknowledged and welcomed. This perspective is necessary when viewed against the backdrop of the fact that the refugee crisis is largely a Third World problem. Ayooob (1995:6) identifies three features which have specifically contributed to distinguishing Third World national security from that of the First World, namely that “the low level of social cohesion and of state and regime legitimacy is the root cause of domestic insecurity in the Third World states” (Ayooob, 1995:190). The characteristics of Third World national security problems point to the domestic origins of insecurity, rather than external (military) threats (Job, 1999:17- 18).

Aspects of the security implications of refugees in South Africa from a socio-economic and political point of view were analysed with a range of other issues, in for instance the work of Minnaar and Hough (1996). One of the main security issues regarding refugees in South Africa was the attacks on foreigners including some refugees which in some views could lead to civil war (Hassim *et al*, 2008:201). Attacks on foreigners created a renewed awareness amongst others, of refugee issues in South Africa.

What has emerged from the literature survey is a lack of sufficient and current analysis on the security implications of the refugee issue. This is especially the

case regarding the current situation in South Africa, which is harboring increasing numbers of illegal migrants and refugees. This study aims to address some of these shortcomings with specific reference to refugees.

#### **4. FORMULATION AND DEMARCATION OF THE RESEARCH PROBLEM**

The central research problem to be addressed in this study resides in the following question; namely: to what extent and how do refugees have security implications for receiving countries and for South Africa specifically, and what are the dimensions of these implications?

Specific research questions to be answered are as follows:

- ❖ What are the main causes of refugee flows to South Africa?
- ❖ Which factors contribute to the security implications that refugee flows to South Africa have?
- ❖ What are the main policy responses in Africa and South Africa in particular, to the security issues created by the presence of refugees?

Following from the aforementioned research questions, the research will be based on the following assumptions:

- ❖ The main causes of refugee flows to South Africa, reside in a number of push-factors in the sending countries, but also in a number of pull-factors in South Africa.
- ❖ The security implications of refugee flows to South Africa are exacerbated by a number of political, socio-economic and administrative issues in South Africa.
- ❖ Although concern over some of the security issues relating to refugee flows to South Africa have been officially expressed, policy responses have been ambiguous.

The study will focus and analyse South Africa as a specific case study. The reason for the choice of South Africa is based on the fact that it is increasingly becoming a destination for refugees and not only for illegal migrants. The

recurrence of violent attacks on foreigners, including some refugees, in South Africa in 2007/2008, also led to a sequence of events that created further security problems.

The period covered by the study will be from 1994 when South Africa became a democratic country, up to the end of 2009, with the emphasis on the 2007/2008 period, regarded as the peak of the refugee crisis in South Africa.

## **5. METHODOLOGY AND SOURCES**

The study will be both descriptive as well as analytic with a brief historical overview of the refugee situation in South Africa up to 1994. As far as the conceptual framework is concerned, the broadened concept of security following the end of the Cold War, focusing on non-military threats to a greater extent, and on the individual as a referent object of security, will be described and analysed. Specific attention will be given to national security in developing countries, in view of the South Africa case study.

The second part of the conceptual framework will include an analysis of different types of refugees and the main international conventions in this regard, as well as some general security implications of refugee flows.

In terms of sources, the study will be based on primary as well as secondary sources. The primary sources include official South Africa documents such as the Constitution and Acts of Parliament, and UN Conventions and OAU/AU documents.

Secondary sources will include books and articles on national security and on migration. For this purpose, the study will particularly focus on the following works, namely; Buzan (1991), Job (1992), Ayoob (1995), Mathur (1996), Hough (2003) and Snyder (2008). These sources will be used to provide a conceptual framework for national security and Third World national security in particular.

As far as refugee issues are concerned, secondary sources will include books as well as journal articles. Included here are sources, such as: "Migration and

Refugee Policies: An Overview”, by Bernstein and Weiner (1999); “Refugees in International Politics”, by Gordenker (1987); “Illegal Migration: An Unfolding Crisis”, by James (1991); “The UNHCR and World Politics: A Delirious Path”, by Loescher (1992); “Refugees in an Age of Genocide: Global, National and local Perspectives During the Twentieth century”, by Kushner and Knox (2001); “South African Government policy and Strategy Regarding the Inflow of Migrants and / Refugees from Zimbabwe”, by Kruys (2007); “Migration in Post-Apartheid South Africa: Challenges and Questions to Policy-Makers”, by Wa Kabwe-Segatti and Landau (2008); and “South Africa Borders: How much control is left?” by Hough (2009).

## **6. STRUCTURE OF THE RESEARCH**

The research is presented in six chapters structured as follows:

### **Chapter 1: Introduction**

The introductory chapter will include the study objectives, the research problems, methodology, and assumptions, as well as indicating the structure of the study.

### **Chapter 2: Refugees and Security: A Conceptual Framework:**

This chapter will provide a framework for the major concepts that will feature in the study. The concepts of national security, refugees and the security issues which arise from refugee flows in general, will specifically be discussed.

### **Chapter 3: The Refugee Situation in Africa**

In this chapter an overview of the refugee situation in Africa and the main causes and implications of refugee flows will be provided as background to the specific case study on South Africa.

### **Chapter 4: Refugee Policy, and the Extent and Causes of Refugee Flows to South Africa**

The fourth chapter will discuss and analyse the South African situation as a case study. Particular attention will be paid to refugee legislation and policy in South

Africa, and the causes and extent of the refugee flows to South Africa, specifically between 1994 and 2009, with a brief overview of the period prior to 1994.

### **Chapter 5: The Security Implications of Refugees in South Africa.**

In this chapter, the security implications of the refugee situation in South Africa will be discussed and analysed, with specific reference to the political, socio-economic, and law and order dimensions. It will also include a discussion of official South African, opposition party and international perspectives in this regard.

### **Chapter 6: Evaluation**

The last chapter contains a summary of the text, testing of the assumptions formulated in the Introduction, and some conclusions.

## CHAPTER 2

### REFUGEES AND SECURITY: A CONCEPTUAL FRAMEWORK

#### 1. INTRODUCTION

There is no doubt that refugees and their impact on national security have to some extent been neglected by scholars and policy-makers alike. Yet, it affects the daily existence of citizens of several countries in various ways. A cursory observation has shown that in terms of an analysis of the situation, there are many issues involved when refugees are considered in accordance with the national security of a particular country. Security on its own is a multidimensional and multifaceted issue which can be endlessly dissected and applied in different ways to show how a particular phenomenon affects it. Therefore, refugees and human population movement as worldwide phenomena, have implications for national security.

In the first part of this chapter, the concept of security and national security will be examined. In this regard, national security and related concepts will be discussed from different perspectives, including, state security, human security (individual security), and Third World national security.

In the second part of this chapter, the concepts of refugees and illegal migrants are discussed within the contexts of their contemporary manifestations. The security implications of refugee flows within the dynamics of mass migration in general, are also discussed.

## **2. THE CONCEPTS OF SECURITY AND NATIONAL SECURITY**

Security will be discussed in two historical epochs—the Cold War era and the post-Cold War era. The two eras are important due to the fact that security during the post-Cold War era underwent fundamental conceptual changes.

### **2.1 The Concept of Security**

Security is a multi-faceted and broad concept and for that reason considerable disagreement exists about its precise meaning. Dictionary definitions of the notion of security stress the feeling of safety, involving physical, psychological, economic and social well-being. Generally, security tends to represent a “universal good” that everybody in society strives to achieve and enjoy such as feeling safe, and free from fear, risks or threats which undermine security. Security is a personal as well as national issue. To Mathur (1996:304) “security means preservation of liberty, life, property, honour and culture of individuals and an environment of peace and tranquility in the society.”

In discussing security, Snyder (2008:7-9) acknowledges the fact that the concept is a complex subject comprising different aspects and approaches. He further states that in the present world, coupled with the understanding that threats to security can also come from other sources, for instance, environmental degradation, resource depletion, disease (HIV/Aids), forced migration (refugee flows), natural disasters and organized transnational crime—security can only result from a balance of all issues and all instruments of foreign policy.

Security as a concept has several operational and analytical levels, namely; global (International) security, continental security, regional security, national security, state security, communal security and human (individual) security

(Hough, 2003:8-9). Part of the definitional problem is embedded in this multi-level aspect of security. Some scholars believe that a threat to any level is also a threat to all the levels or at least to some of them, because they are mutually reinforcing and interconnected (Sahu, 2002:29).

## **2.2 The Concept of National Security**

There is extensive definitional controversy among scholars of International Relations and Strategic Studies as to what constitutes national security. Several efforts have been made at defining national security, yet some maintain that there is no universally accepted definition of the concept. The notion of national security means different things to different people and to different countries, depending from which political divide or orientation it is approached.

A discussion of national security will firstly be based on traditional/Western oriented views followed by contemporary/broadened definitions, and lastly the concept of Third World security.

### **2.2.1 Traditional/ Western Oriented Views**

The traditional approach to the definition of the concept of national security is essentially based on the paradigm of geopolitics and the power/realist school of international relations. Based on this paradigm, Korany, *et al* (1993:1) state that threats to national security are military and /or external, and the focus is usually the study of interstate war. Mutimer (2008:77) asserts that traditionally, national security was the security of the state; it was threatened by the military power of other states and defended by the military power of the state itself.

It has also been defined as “the ability to preserve the nation’s physical integrity and territory; to maintain its economic relations with the rest of the world on reasonable terms; to protect its nature, institutions and governance from disruptions from outside; and to control its borders”; and “as the condition of freedom from external physical threat which a nation-state enjoys” (Louw, 1978:10). Moral and ideological threats should be included, but the real security problem for a state is physical violence, which in essence is the main danger to

its corporate existence and survival as an entity. According to Buzan (1991:5) national security remains a weakly conceptualized, ambiguously defined, but politically powerful concept, because an undefined notion of national security offers scope for power-maximizing strategies to political and military élites.

National security has also been described as” an abstraction, an idea, a symbol or feeling until such a time as a direct military attack is launched against the state’s territorial integrity” (Smoke, 1975:250). Mathur (1996:306) describes national security as an ‘ambiguous symbol’. However, there has been a shift in emphasis from the dominant realist paradigm of traditional views based on the state-centered-military security and geopolitical concept. The traditional Cold War views have been described as rather static, handicapped and lagging behind the growing changes in the world. Therefore, the power/realist school is inadequate within the context of changing current realities in the world (Korany, *et al*, 1993:6).

### **2.2.2. Post-Cold War Views**

The end of the Cold War and the 9/11 terrorist attacks in the United States (US) provided the impetus for new thinking on national security. Scholars such as Kolodziej (1993:48) agree that the concept of national security should be broadened to cope with the diversity of changes in the current global situation.

The fundamental approach of the post-Cold War view was predicated on the broadening of the concept of national security. Buzan (1991:19-20) took issue with the two elements of the traditional approach to security using the sectoral approach to security and argues that: “the security of human collectivities is affected by factors in five major sectors: military, political, economic, societal and environmental”. This involves military security, political security, economic security, societal security, and environmental security. He further states that these five sectors do not operate in isolation from each other, each defines a focal point within the security system of the state, and a way of ordering priorities, but all are woven together in a strong web of linkages.

The direct implication of Buzan's sectoral approach is that it extensively challenged the two central elements of the militaristic assumptions and the universal focus on the state as the 'referent object' of security of the traditional understanding of security. In fact, the referent object of security moved from the state to the individual in many interpretations (Hough, 2003:2).

Within the context of broadening of national security, Mathur (1996:307) argues that the national security of a country depends on some of the following, namely; geographic and geo-strategic conditions; human and material resources available; Industrial, material and economic development; political conditions; socio-cultural conditions; national power; security from all internal and external threats; and maintenance and preservation of political, economic and social structure of the country.

There has been an increasing acceptance that conflicts and disasters render communities and populations more vulnerable to disease and degradation and it is within this context that the term 'human' security has been framed (Deegan 2009:142). Human security has come to assume a very important aspect of the broadened concept of security, especially after the Cold War. Burgess (2008:63) recognizes this fact by stating that the concept of human security came into focus at the time of Cold War geopolitics and the geopolitics of transnational terrorism. There is still persisting controversy among scholars, as to what constitutes human security. However, the United Nations Development Programme (UNDP) (1994:23) defines the concept as "safety from such chronic threats as hunger, disease and repression, including protection from sudden and hurtful disruption in the patterns of daily life—whether in homes, in jobs or in communities. Such threats can exist at all levels of national income and development."

The 1994 United Nations Human Development Report is the most authoritative conceptualization of human security thinking to date (UNDP, 1994), and argues that the long-standing tradition of using 'security' to refer to geopolitical issues is

entirely misguided and reconciliatory, in the sense that it proposes human security as a supplement to Cold War security.

The Western concept of security is not always applicable to the Third World conception of security; hence it needs to be separately discussed.

### **2.2.3 National Security of Third World States**

The first major fundamental approach to Third World national security was that of Buzan (1991:112-116) as exemplified in his analysis of 'weak state' structures as main characteristic of Third World States, leading to the security dilemma. Job (1992:12) argues that the security dilemma of the Third World has three dimensions:

- \* The security dilemma of the Third World state is located in "weak state" structure as mentioned by Buzan. Therefore, the security dilemma for the typical Third World state arises in meeting internal rather than external threats, and for typical Third World citizens could well involve seeking protection from their own state institutions.
- \* The problem of static territorial borders and arbitrarily created boundaries by colonial powers helped to exacerbate divisions, conflicts and protracted tension among contending groups.
- \* The impact of the post-World War II, Cold War security order on the Third World.

According to Job (1992:17-18) "Third World national security has certain general characteristics which emphasize the primarily domestic origins of insecurity, which has to do with the fact that the Third World countries often have no single nation, rather series of contending communal groups; regimes lack popular legitimacy; the state lacks institutional capacity to maintain peace, law and order; and threats are perceived to be from and to the regime in power." This situation leads to different interpretations of what constitutes security. Demarcation of

different aspects of security, such as national, state and regime securities becomes problematic.

To Ayoob (1995:31) national security in the Third World is primarily determined by the interaction of three factors, namely; the degree of stateness in a given state; the way in which the international system impinges on its security situation; and the regional environment in which the state is located.

In assessing the national security of the post-Cold War Third World, Buzan (1994:1) concludes that Third World security has fallen victim to the uncertainties of contemporary international relations, mainly due to the fact that major security issues remain unresolved, and the new balance between global and regional dynamics and the future relationship between centre and periphery, have yet to evolve.

Having discussed national security, a discussion of criteria for threats to national security follows. It is necessary to examine what threats to national security entail, including the vulnerabilities of the state and its constituents which face the threats.

### **3. CRITERIA FOR NATIONAL SECURITY THREATS**

The criteria and assessment of threats to national security is a problematic, difficult and contentious issue in most polities. Threats and vulnerabilities of a country could be approached from different angles. Buzan (1991:112) states that insecurity reflects a combination of threats and vulnerabilities, and the two cannot meaningfully be separated. "The concepts of insecurity and vulnerabilities are, also closely related and an approach to security may at the same time lead to addressing both threats and vulnerabilities" (Buzan, 1991:112-113).

Threats have been defined by Hough (2003:7) as capabilities multiplied by intentions, probability, consequences and time-span. If either one is lacking, or very distant or missing from the assessment, there is no real threat. He further states that a distinction is made between threat perception based on actual

existing threats, as perceived, and so-called ‘threat-independent’ analysis based on hypothetical contingencies such as invasion.

In a broader sense, threats to national security can be defined as any activities or actions that are capable of threatening, affecting or impinging on the corporate existence, well-being, peace or stability of a state. Organized crime, economic sabotage, terrorism, espionage, ethnic and religious conflicts, labour and student unrest, drugs and human trafficking, arms smuggling, armed banditry and violent crime, social unrest, environmental degradation and climate change, are some examples. The threats could be actual or potential, real or imagined, depending on perception, analysis and interpretation.

As to whether a threat is indeed a threat to national security, certain guidelines exist, including the criteria outlined by Buzan. They are as follows, namely: the level of intensity on which the threat operates, which in turn depends on the specificity of its identity, nearness in space and time, probability of occurrence, weight ascribed to its consequences and the level of historical perception. Invocation of national security response is a function of the intensity, which in turn guides and directs national strategy and security policy to confront the threat. The national security decisions in respect of the determination of seriousness of the threats, more often than not is a matter of political decisions and/or a matter of political choice rather than objective fact (Buzan, 1991:115-134).

In addition, the following could serve as an indication of national security threats, namely: are there threats related to state stability; are national values threatened; what are they measures required to counter the threats; whether threats are of an immediate nature, sporadic or continuous; what is the extent of manifestations; namely; how widespread or localized; are illegal or unconstitutional means involved; and the extent of internationalization of the threat (Hough, 2003:18-19).

It is however stated that care must be exercised to avoid a situation of either understating or overstating national security threats, as defining national security too broadly or too narrowly could lead to unintended consequences for the particular country, including a waste of resources and aggressive policies (Hough, 2003:19).

In the next section, the concepts of migration and refugees are discussed with the aim of analysing their meanings, dimensions and manifestations, which ultimately provides a basis for the analysis of the security implications of the presence of refugees.

#### **4. THE CONCEPTS OF MIGRATION AND REFUGEES**

The concepts of migration and refugees as complex phenomena will be discussed in this section.

Following the discussion of various categories of cross border movement of people, especially refugees and illegal migrants, is an overview of the current global and African refugee situation. Also, the general security implications and dimensions of refugee flows are specifically analysed because it is within this context that the fundamental issues involving refugees and illegal migrants can best be understood.

Migrants and refugees problems and crises have reached unprecedented proportions, complicated by the fact that they face problems of reception and acceptance in many receiving countries. Many refugees are finding the doors to safe havens closing, due mainly to receiving countries' security concerns. There is no doubt that the existence of refugees in a particular country has certain security implications and concerns, which sometimes give rise to negative and unfavorable refugee and asylum policies. This security aspect of migration and refugee issues will be discussed in more detail in proceeding sections.

##### **4.1 Refugees**

The issue of refugees is a major and recurrent aspect of human migration to the extent that a discussion of human population movement is incomplete without paying serious attention to the problems of refugees, including internally displaced persons (IDPs) and other persons of concern. The world refugee problem and situation is a major issue confronting the contemporary international community. To Hakovirta (1986:11) it is one of the “global problems” confronting the world and the current studies of the main manifestations and possible causes has led to a new situation referred to as the “World Refugee Crisis”. In approaching this study, the first question is, who is a refugee?

The Encyclopedia Britannica (2005:116) defines a “refugee as any uprooted, homeless, involuntary migrant who has crossed a frontier and no longer possesses the protection of his former government.” To Blavo (1999:12) a refugee is a person who flees into neighboring country for refuge in the face of persecution or a major conflict such as civil war. Technically, the term “refugees” refers to those who have been displaced across the border of their home states, while “internally displaced persons (IDPs) refers to those who have been displaced within their country of origin (Clover, 2002:1). IDPs endure similar circumstances like refugees, but lack legal protection in international law and conventions unlike the refugees.

The United Nations (UN) 1951 Geneva Convention (UN Convention, 1951) and 1967 Protocol relating to the status of refugees, define a refugee as follows; namely; “ any person owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”.

Regarding the aforementioned definition, the UNHCR states that the Convention consolidates previous international instruments relating to refugees (UNHCR,

2008-09a:5). It lays down basic minimum standards for the determination and treatment of refugees, without prejudice to the granting by states of more favorable treatment.

Following contention that the 1951 definition was inadequate due to the growing number of refugees, especially in the Third World and Africa, the OAU in 1969 formulated the following definition, namely “the term ‘refugee’ shall also apply to every person who owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or in the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality” (OAU Convention, 1969:2).

The essence of this hinges on the growing recognition of the masses of people who were fleeing from war or violence due to the upheavals on the continent as a result of the process of decolonization and establishment of new nation–states. The Organization of American States (OAS) also emerged with its own version and alternative definition in the Cartagena Declaration of 1984 namely; “Persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed the public order” (Kushner & Knox, 1999:12).

According to Minnaar and Hough, (1996:5-6) “some governments and judiciaries are also taking a more restrictive attitude towards the definition of a refugee contained in the 1951 Convention, requiring very high standards of proof from those who claim they fear persecution and placing unprecedented emphasis on the asylum-seekers ability to demonstrate that he or she has been personally singled out for mistreatment”. This is one of the restrictive measures placed on asylum-seekers by governments of receiving countries, which helped to exacerbate and increase the refugee problems and pressures in the receiving countries.

The latter arise from the creation of delays in processing asylum requests; backlogs; and the overstretching of institutional capacity of refugee reception and asylum offices, coupled with new applications for asylum received. It also implies a recycling trend taking place as certain number of applicants rejected by the backlog offices are re-applying for asylum. One of the major consequences is that from one country to another, refugee and asylum issues and questions have become the subject of serious socio-economic and political controversy.

It is necessary to stress that the terms asylum seeker and refugee are more often than not confused or used interchangeably under certain circumstances. The fundamental distinction between the two terms is that an asylum seeker is someone who claims to be a refugee, but whose claim has not yet been definitively evaluated or adjudicated. In a situation of mass movement of refugees—caused by war, conflicts or generalized violence as opposed to individual persecution, there is usually little or no capacity to conduct individual asylum interviews for everyone who has crossed the border. In such circumstances, it is generally evident why they have fled. As a result, such groups are often declared “prima facie” refugees (UNHCR, 2007-08:8). The term asylum seeker simply describes the fact that someone has lodged the claim and some asylum seekers will be judged and accepted to be refugees, while others will be rejected and refused asylum. According to Solomon (2003:6), the main difference between refugees and asylum seekers lies in the fact that the rights of asylum belong to states and not to the individuals.

Generally, “a refugee is someone who has been displaced for various reasons from his or her home country and fled to another country” (Minnaar & Hough, 1996:6). There are usually different cogent reasons for fleeing ranging from civil war, conflict, or political violence to persecution or discrimination, including ethnic or racial or social grouping, religious beliefs, political affiliation or creed. Those genuine refugees who seek refuge and safety in another country by crossing international borders either legally or illegally or clandestinely usually apply for political asylum on arrival in the host country (Solomon, 1995:17).

However, once labeled as refugees they automatically fall under the jurisdiction and care of the UNHCR if the country is a signatory to the UN Convention and Protocol on Refugees. As soon as a person is accorded refugee status, he or she can then be entitled to UNHCR aid and aid by other agencies or non-governmental organisations (NGOs) responsible for refugee issues. They are taken to refugee camps or settlements or specially mapped out areas in the countries where such a facility is in existence (UNHCR, 2009a:2).

In some views the 1951 UN Convention definition of a refugee is problematic and not in accordance with current realities. Woehlcke (1992:287), notes that the Convention was originally intended as a regulation of the European refugee problem after the Second World War and that it is no longer applicable today where economic and environmental refugees form the bulk of refugee numbers.

The Convention, in spite of its shortcomings, however remains the clearest conception of the term 'refugee' which is still widely used in determining who is entitled to asylum by receiving countries (Kushner & Knox, 1999:12). The Protocol Relating to the Status of Refugees, 1967 came into being to expand the Convention to include all refugees in places other than in Europe, thus eliminating the temporal and geographic limitations in the scope of the Convention (Blavo, 1999:13).

## **4.2 Illegal Migrants**

Illegal migrant is one of the terms widely used to describe persons who have entered a country without the necessary documents. Illegal entry is usually penalized as an administrative offence (UNHCR, 2009a:2). The definition and classification of illegal migrants differ from country to country, depending on circumstance. In some countries, they are regarded as 'irregular migrants', and the International Bank for Reconstruction and Development (IBRD)/The World Bank (2006:119) recognizes the term 'irregular migration'.

This issue of illegal migration is a global problem. Goldin (2006:109) observes that international migrants can be characterized along several dimensions, such

as their reason for moving and the duration of their expected stay in the host country. In fact, the resultant categories may overlap, and, people can move or migrate for more than one reason and the true reason may not be apparent. He defines illegal migrants or undocumented migrants as those who cross borders without official permission of the host or destination country (Goldin, 2006:109). To Kruys (2007:3) an illegal migrant is an undocumented person who entered a country clandestinely or who has remained in a country after the expiration of his or her visa or permit. It has also been stated that illegal or undocumented migrants include both those who move voluntarily and those who are trafficked against their will (Beath, 2007:166).

According to the UNHCR, refugees and migrants are fundamentally different, and for that reason are treated very differently under modern international law irrespective of the fact that they move in the same fashion (UNHCR, 2007-08:7). Migrants, relocate in order to improve their well-being and that of their families, while refugees move out of lack of choice to save their lives. Kushner & Knox (1999:12) suggest that the difference between a refugee and illegal migrant is embedded in the push/pull motivation in the sense that migrants can be attracted to migrate to another country to seek opportunities for a better life, but refugees do not have the same element of choice.

However, Minnaar and Hough (1996:10) state that the distinction between refugees and economic migrants is very difficult in a situation where people move from states where poverty and economic deprivation were caused and exacerbated by oppressive politics and poor governance.

Woehlche (1992:287-288) states that the 1951 UN Convention was mainly focused on the nature of the European refugee problem after World War 11 which makes it inapplicable today where there are other categories of refugees (those fleeing from poverty and economic hardship) and environmental refugees (those fleeing ecological and natural catastrophes). The definition also excludes those refugees fleeing structural and generalized violence, war, insecurity and oppression, such as in Sudan, Somalia and the DRC. However, even the

broadened OAU/AU Convention on Refugees still distinguishes between refugees and illegal migrants, including economic migrants.

#### **4.3 The Global Extent of Refugees**

The global refugee population grew to nearly 10 million at the end of 2006, coupled with increases in the number of internally displaced and stateless people. The overall figure of people of concern to the UNHCR at the turn of 2007 stood at 32.9 million (UNHCR, 2008-09a:7). “Persons of concern” relates to the category of groups of persons who are outside or inside their country of origin and who face protection risks similar to those of refugees, but for whom refugee status has, for political or other reasons, not been ascertained. IDPs mostly fall into this category of persons, because they remain of concern to the UNHCR.

Several factors contributed to these growing population flows confronting the global community, with extreme poverty and deprivation as the main reasons, including a range of other causes such as climate change; environmental degradation; resource scarcity; uncontrollable natural disasters; war, and conflict and persecution; which are usually interconnected..

Beyond the aforementioned, the extent of the global refugee extent unfolds unabated against the background of other issues which complicate an already complex situation of crisis dimensions. Of specific note is the issue of grey area or grey zone. There are people who left their countries because of persecution and discrimination, where the economy is equally dire. The fundamental and critical determinant issue, namely whether people are leaving such countries for refugee reasons or economic ones, or whether both reasons merge into one, is in several instances, very difficult to determine. Also, there are people who depart their countries for refugee reasons and then keep on moving for economic reasons—the so-called ‘secondary movers’. This situation gives rise to the issue of ‘mixed migratory movements’—refugees and migrants using the same routes and means of transport, and employing the services of the same human smugglers as they try to reach the same countries of destination (UNHCR,

2007b:6). This type of complex mix is a major problem in analysing global refugee trends.

It has been stated that the global refugee situation has become more complex, difficult and problematic due to the worldwide financial, economic and social crisis, especially in the Third World where the full impact of the crisis is yet to be seen, and where four out of five refugees, and an even higher proportion of other displaced populations, are found. The UNHCR further states that neither does anybody know how exactly the crisis may increase along with other global challenges: climate change, urbanization and population growth, as well as food, water and energy insecurity (UNHCR, 2010-11a:4).

According to the UNHCR in January 2008, the top 10 countries of refugee origin in the world were Afghanistan, Iraq, Colombia, Sudan, Somalia, Burundi, the DRC, Vietnam, Turkey and Eritrea. Of these, five are African countries. As at the beginning of 2009, there were more than 10 million people of concern to the UNHCR in sub-Saharan Africa, including 2.1 million refugees; 305 000 asylum-seekers, more than 6.3 million IDPs; and an estimated 100 000 stateless people (UNHCR, 2010-11a:78). Africa remains one of the top refugee producing regions of the world. It has been noted that one of the most desperate refugee situations is in the Darfur region of Sudan (Deegan, 2009:144).

#### **4.4 Security Implications of Refugee Flows**

The purpose of this section is to explore the links between refugee flows and security/insecurity. There is no doubt that there are security implications of refugee flows, especially for receiving countries and for the refugees' state of origin. According to Solomon (1997:1) the issue of mass population displacements, generally, but particularly refugee flows, reflects insecurity. The subject of refugee flows cannot be seen within the narrow confines of a specific national context only, or as a strictly humanitarian issue (Loescher, 1992:4). Issues and problems surrounding refugees are multidimensional, involving

political, socio-economic, domestic, diplomatic— interstate, and regional as well as global security.

As the contemporary world views security beyond the classical Clausewitzian militaristic concepts, security in the 1990s was viewed in more inclusive and expansive terms. The more inclusive concept of security as previously stated, is often referred to as ‘human security’. The 1993 Bonn Declaration on Human Security defined human security as “the absence of threat to human life, lifestyle and culture through the fulfillment of basic needs” (Omari, 1995:4). The relevance of this perspective is based on the fact that human security is an essential part of refugee issues and problems, in the sense that it also involves human life and suffering.

In receiving countries, Solomon (1995:12) emphasizes that refugee flows have been seen to constitute a threat to security and to social cohesion, impacting negatively on domestic political stability; leading to anti-foreigner sentiments in the form of xenophobia; involvement in the politics of their host countries and that of their home states; real or perceived threats of refugee communities refugee camps and settlements that could become military targets; and hubs of crime and criminality—both as victims and perpetrators, sometimes blamed for rising crime rates in some countries and serious socio-economic problems and cost to their host countries.

From a socio-economic perspective, several governments and citizens alike are concerned that refugees and other migrants—skilled and unskilled, may take jobs, social grants and other benefits from the local population, thereby increasing the extent of state sponsored and supported welfare activities and services. Waever, *et al* (1993:148); Bernstein and Weiner (1999:XVI); and Mawadza (2008:1); acknowledge the fact that refugees and migrants from foreign cultures may constitute threats to the host country’s social stability, values, cultures and political styles, thereby not only resulting in social disharmony and political upheavals, but also in crime, drug trafficking, terrorism and general organised criminal networks.

The aforementioned situation can on the one hand especially arise in large refugee camps due to the concentration of persons of disparate backgrounds in one or several locations. On the other hand, the refugees themselves could target society in general for criminal purposes for their own reasons of survival, thereby attracting different responses by host authorities or the society at large.

The security implications of refugee flows are more apparent and pronounced in the Third World countries, especially Africa due to what Job (1992:14) describes as an “insecurity dilemma” and what Buzan (1991:65) calls “weak states”. It is from this perspective that Job (1992:14) concludes that the relationship between the insecurity dilemma and weak state structure as a phenomenon in the Third World, affects their security strategies and policies as a whole. The security implications of refugee flows could best be understood from this viewpoint, because several African states lack the capacity to cope and grapple with the issue of refugees and corresponding security linkages, unlike their Western counterparts. In Africa, the situation is of crisis proportions to the extent that the receiving countries’ ability to protect its citizens and refugees alike becomes problematic.

Specifically in urban settings, the security implications are equally daunting, even with the new policy on urban refugees released by the UNHCR, which seeks to undertake a study and policy options on urban displacement with Cities Alliance (NGO on Environment) led by UN–HABITAT (UNHCR, 2010-11a:6-7). There have been security consequences of refugee flows, migration, urbanization and city growth which are inextricably linked, leading to incidences of violence among groups of different national, tribal or religious backgrounds, in cities such as Paris, Rome, Los Angeles, Johannesburg and Nairobi (Tibaijuka, 2009b:5). In some receiving countries, lack of appropriate policies on refugee camps and settlements have created city and urban slums which became a source of several societal ills and security problems attributable to refugee flows and concentration, especially where the refugees live in squalor side by side with the locals.

Often neglected and underplayed aspects in this regard are the security implications for both the state, citizen and the refugee as a consequence of an increase in refugee flows into a receiving country. Analysed from a human security perspective, studies have shown that there is an extensive link between migration and human security. Mawadza (2008:1) states that the essence of the human security dimension stems from the fact that it focuses attention on the individual and takes into consideration the various sources of insecurity that impacts both on the country and its citizens, as well as the migrants, including refugees and undocumented migrants.

## **5. CONCLUSION**

The main objective of this chapter has been to examine the salient concepts of the study and to provide a conceptual framework for the case study. Different dimensions of the main concept of security, national security, refugees, migration and illegal migration have been examined, including their respective manifestations under varying circumstances.

The distinction between a refugee and an illegal migrant is somewhat artificial, especially when mixed motives are involved or a situation where the push factor involves both political persecution and economic mismanagement. It is partly because of this that in some views the distinction between illegal immigrants and refugees does not reflect current reality. This is one of the main definitional problems of the 1951 UN Convention on Refugees, hence a more inclusive definition of refugees as found in the 1969 OUA Convention, which however still does not recognize economic refugees.

The global refugee problem is mainly concentrated in the Third World, especially Africa, and has continued without abating. The trends and situations regarding the continued increase in the dimension, scale, urgency and duration of Third World refugee situations, are gradually gravitating to thresholds where the traditional African hospitality and brotherhood extended to refugees, will be

increasingly replaced by intolerance and indifference, coupled with the fact that the Western industrialized nations have started to revise certain refugee policies.

From all indications, it is clear that refugees and illegal immigrants can pose a security threat to host countries in several ways. Evidence has shown that the challenges of survival in a receiving country, such as hunger, lack of accommodation, joblessness and lack of documentation, can drive refugees and illegal immigrants to crime and social vices, such as drug peddling, human trafficking, prostitution, theft and forgery. Responses by host authorities often lead to human rights violations due to the vulnerability of the refugees, and their lack of recourse to the law.

In the next chapter, the study will focus on the causes of refugee flows in Africa in more detail. The causes of refugee problems in Africa highlights the extensive problem of security and insecurity, which has a direct bearing on the nature of conflicts in Africa

## **CHAPTER 3**

### **THE REFUGEE SITUATION IN AFRICA**

#### **1. INTRODUCTION**

This chapter reviews the refugee situation in Africa as background to the South African case study in subsequent chapters. This is necessary to provide a background of African refugee trends, issues and situations which are responsible for the responses and attitudes to forced migration and displacement in Africa today. This chapter provides an historical overview of African refugees from the pre-independence and post-independence eras up to the end of 2009; analyses the underlying and immediate causes of refugee flows in Africa; consequences of the refugee flows; the attempts at resolution of the refugee issues; and some conclusions. The year 2000 was a watershed in the history of African refugees because it was during this period that the dynamics and trends in national, regional and international politics, and security and economics, extensively changed the focus of migration generally and forced displacement in particular.

The growing complexity in the patterns, trends, situation and challenges of African refugee issues and problems witnessed a number of positive and negative outcomes. For almost a decade, from 1990 to the year 2000, Africa experienced a steady decline in the number of refugees and asylum seekers. One of the factors responsible for this are peace agreements that ended some of

the continent's most protracted civil wars. Greater attention was given to reconciliation, post-war reconstruction and development. The 1990s, regarded as the decade of repatriation, essentially witnessed a growing reluctance to grant asylum and refugee status.

## **2. HISTORICAL OVERVIEW OF THE REFUGEE SITUATION IN AFRICA**

The current African refugee situation dates back mainly from the late 1950s to the early 1960s, at the beginning of Africa's independence struggle. In the 1960s, there were four major sources of refugees in Africa. The first serious African refugee problem was created by Algeria's protracted independence struggle against French colonialism leading to about 200 000 refugees in 1962 when the war ended; while the most serious African refugee problem was the issue of some 160 000 Rwandese refugees which started in 1961 as a result of ethnic division sown by Belgian colonialism (Worldmark Encyclopaedia, 1967:112). As at the end of 1965, about 69 000 Rwandans had fled to Uganda; 52,000 to Burundi; 25 000 to the DRC; and another 14 000 to Tanzania (Hatch, 1970)

By 1965, the conflict between the African Sudanese and Arab Sudanese in Sudan resulted in 40 000 African Sudanese fleeing to Uganda; 20 000 moved to the Democratic Republic of the Congo (DRC); and 18 000 to the Central African Republic (CAR). Also, in 1965, there were another 200 000 refugees from Angola and Congo Brazzaville, and another 50,000 refugees from Portuguese Guinea in Senegal. Additionally there were 12 000 refugees from Mozambique in Tanzania, and 5 000 from Mozambique in Zambia (Worldmark Encyclopaedia, 1967:112).

Towards the end of 1966, there were about 600 000 Africans from 13 African countries, based in another 15 African countries seeking asylum. As a result of this the UNHCR shifted the emphasis from European refugees and focused more attention on the African refugee situation, to the extent that it earmarked almost half of its operating budget for Africa (El-Ayouty, 1970:11).

The refugee populations of Africa grew from about 800 000 at the end of the 1960s, to about four million ten years later, and probably more than five million in the middle of the 1980s (Nobel, 1987:13). In fact, no continent is burdened and saddled with more refugees than Africa.

By the end of 1980, the African refugee population was estimated to constitute about 80 per cent of all refugees in the world (Nkiwane, 1988:26). Beyond this, the number of refugees in Africa continued to exponentially increase due to political instability and economic hardship which remained unresolved in most parts of sub-Saharan Africa.

In regional terms, Southern Africa witnessed major refugee flows, particularly in the 1970s and 1980s due to the political conflicts and liberation struggles in South Africa, Zimbabwe and Namibia; civil wars in Angola and Mozambique, and political unrest in Lesotho. Zambia and Malawi were two countries that were burdened with the reception of large numbers of refugees from these countries (Matlosa, 2000:17).

According to the UNHCR, there were 5 274 600 registered refugees in Africa at the end of 1991, while this figure continued to increase to 5 393 200 African refugees by the end of December, 1992, due to war and conflict in countries such as Angola, Burundi, Cote d'Ivoire, Ethiopia, Guinea-Bissau, Liberia, Mauritania, Mozambique, Sierra Leone, Somalia and Sudan (UNHCR, 1993a:149-150).

The growing number of African refugees continued into the 1990s, peaking at an estimated 27.4 million in 1995. After this, the numbers of refugees began to decline steadily, a situation that continued to manifest for eight years, even though Africa continues to produce and host almost a third of all the world's refugees. By 1996, the number of countries with IDP populations increased to 34 from five in 1970, as a result of the spread of internal conflict, civil wars, poor governance and human rights violations across the continent (Juma, 2009:13). At the turn of the millennium in 2000, the situation and the face of displacement

had taken a dramatic turn due to the demise of the Cold War era which intensified demands for democratic reforms and political participation in Africa.

Most of the efforts aimed at the resolution of African refugee crisis situation have not yielded the desired results. Part of the reason is based on the intractable nature of African conflicts and the difficulty in resolving them. Deegan (2009:147) notes that conflicts in Africa are extremely difficult to resolve and, even when peace agreements are signed, IDPs may not agree with them. For instance, the Darfur Peace Agreement (DPA), signed in May 2006, was rejected by groups of IDPs who demonstrated against the agreement.

### **3. THE CONTEMPORARY REFUGEE SITUATION IN AFRICA**

Africa is the continent most affected by refugee problems and crises, including conflict-induced internal displacements. However, new or intensified crises continue to produce fresh flows of refugees and IDPs, particularly in Somalia, Chad, Sudan's Darfur region, the DRC and the Central African Republic (CAR). In this section, the study focuses on the more recent refugee situation in Africa. It is based on two periods, namely, from the post-2001 refugee situation in Africa up to 2007; and the 2008/2009 refugee situation in Africa.

#### **3.1. The Post-2001 Refugee Situation in Africa**

The OAU Coordinating Committee on Assistance and Protection of Refugees and Internally Displaced Persons estimated in mid-2001 that there were some 21 million internally displaced and five million refugees worldwide under the responsibility of the UNHCR, of which 28 per cent are in Africa (Clover, 2002:1; UNHCR, 2007a:3). This means that the UNHCR mandatorily takes care of the refugees in accordance with the provisions set out in the UN and AU Conventions on Refugees. The UNHCR obligations within the context of the Conventions include creation of a favourable international and local protection environment; provision of material and technical assistance; provision of legal advice; ensuring access to durable solutions; encouraging the government to facilitate asylum applications to avoid backlogs; maintaining the credibility of the

asylum processing system, and promotion of all aspects of welfare for all refugees and other persons of concern (UNHCR, 2010-11a:117).

In mid-2002, six million of the 22 million people around the world who were of concern to the UNHCR, were in Africa and three million of these were refugees, (Diagne, 2002:30). During this period, refugee and asylum issues continued to rise, while thousands of children were born in refugee camps and the protracted conflicts in Africa continued to produce more refugees and mass movements of people. Up to 2002, Sierra Leone, the DRC, Sudan, Somalia, Central Africa Republic (CAR), Burundi, Eritrea, Ethiopia, Angola, Uganda and Rwanda were major refugee producing countries of Africa (Diagne, 2002:31).

By the end of 2002 Africa continued to be characterized by a succession of large-scale refugee flows from a number of countries, namely; Angola, Burundi, Sierra Leone, the DRC, Sudan, Liberia, Rwanda and Somalia. Evidence indicates that the situation, extent and problem of refugees in Africa have continued to grow in scale. It has been said that the African refugee problem is geographically widespread and has become highly complex in nature and dimensions. While Africans constituted about 13 per cent of the world population, some 30 per cent (3.6 million) of the World's 12.1 million refugees were found in Africa in 2002 (Crisp, 2002:19-20). Added to this, are a quarter of a million returnees who, according to the UNHCR explanation, were not able to be integrated in their country of origin and who continued to need international protection and assistance (Clover, 2002:2).

Two principal sub-regions of refugee flows continued to confront African leaders—the vast area of Central Africa and the Horn of Africa, comprising, Burundi, the Central African Republic (CAR), Ethiopia-Eritrea, Somalia, Rwanda, and Uganda. These two regions were affected by complex mix of wars, poor governance and regional politics, leading to massive refugee flows, in which the refugee movements and returnees constitute both a consequence and a cause of social and political violence (Crisp, 2003:21).

As these trends continued unabated, the UNHCR (2006:7) observed that by 2003 and 2004, due to the adverse political situation already mentioned, of the 20 major 'refugee-producing' countries around the world, nine were in Africa; 25 African states had refugee populations in excess of 10 000 or more; and ten of the 24 countries with the highest ratio of refugees to local people were member states of the AU.

As some of the intractable conflicts in Africa dragged on, especially in Central Africa and the Great lakes; East and Horn of Africa and elsewhere with sporadic and new conflicts, including individual persecutions, the UNHCR, (2006:12) stated that Africa hosted about three million refugees in 2005. Among them were nearly 2.5 million refugees who had been in exile, mostly in camps for five years or longer in what humanitarians call "protracted refugee situations". But these interminable refugee situations do not include the millions more uprooted people who are displaced within their own countries and who far outnumber African refugees. Many of them have also been unable to return home, sometimes for decades. Even though international law distinguishes between refugees and internally displaced people, the complexity of the African situation makes such distinctions meaningless to those who have been forced from their homes.

The period up to the year 2007 witnessed a reasonable consolidation of peace in several African countries, which resulted in several thousands of refugees returning to their homeland. But massive forced displacement remains a grim reality.

### **3. 2. The 2008/2009 Refugee Situation in Africa**

In 2008/2009 Africa hosted a quarter of the 2.4 million refugees in the world under the UNHCR'S mandate, and included three of the top five refugees producing countries, namely Sudan, Somalia and the DRC (UNHCR, 2008-09a:70). The UNHCR further stated that Africa was also the continent most affected by conflict-related internal displacements; it harbours almost half the world's 24.5 million internally displaced persons (IDPs) and new or intensified

crises continue to produce fresh flows of IDPs; and refugees, particularly in Somalia, Chad, Sudan's Darfur region and the CAR (UNHCR, 2008-09a:70).

Not all countries or sub-regions of Africa are however equally affected by this problem. Following the resolution of the long-standing conflicts in Southern Africa between the late 1980's and mid-1990's in Mozambique, Namibia and South Africa, the sub-region had become a relatively minor refugee hosting location. The same applies to the West African sub-region, as a result of the resolution of the conflicts in Cote d'Ivoire, the two Guineas, Liberia and Sierra Leone in the late 1990's to early 2000. Also, the repatriation of the Tuareg refugees from Algeria, Burkina Faso, Mauritania and Niger to Mali and Niger, left the Sahel region without any significant refugee populations, excepting for Algeria's longstanding population of Sahrawi refugees of about 165,000 (UNHCR, 2008-09a:13).

The current African refugee situation is further complicated from definitional and legal perspectives, because the distinction between refugees and economic migrants is highly problematic. There is confusion here, because factors motivating people to leave their country, often under extreme stress and fear, have become so complex that their migration could be seen as forced, therefore they should be accorded refugee status in the broader sense of the word. A current example is the problematic situation in South Africa with an estimated more than one million Zimbabweans believed to be in the Republic (OneWorld.net, 2010:1). It has been extremely difficult for the authorities to distinguish between those who fled in fear of political thuggery and those desperate for jobs.

According to OneWorld.net (2010:2) a similar situation of legal distinction of refugees also excludes those who have been displaced but have not crossed an international border. For example, numerous people in Sudan have been forced out of their homes due to violence, but relocated within the country. They are not refugees, but are instead described as IDPs. This is a complex situation as they

are neglected by national governments and fall outside the protection of the 1951 Convention (Pretoria News, June 20, 2009).

The current African refugee situation has continued to be marked by an increase in refugee flows and is becoming more complex by the day. Most of the prominent refugee-receiving countries of Africa have been extensively overstretched regarding capacity and resources. These countries include Tanzania, which hosts over 300 000 Burundian and Rwandan refugees, and contemporary conflicts have forced similar numbers into Chad and Kenya. In the Dadaab refugee camp in the eastern Kenya, reputed to be the largest refugee camp in the world, the lives of more than 280 000 Somali refugees have been deteriorating since the turn of 2009 (OneWorld.net, 2010:4).

The Darfur conflict in Sudan has created over 2.7 million refugees since 2003 and these are still rising in number with recent violence at the Hamidia refugee camp which claimed 43 lives (Citizen, March 10, 2010). The Somali and the DRC cases are yet to stabilize with refugee flows and continuing violence in Somaliland and the eastern DRC. South Africa continues to grapple with endless refugee flows from Zimbabwe since 2007 following the election violence. There are more than 300 000 applications for political asylum, mainly by Zimbabweans and Congolese (City Press, August 29, 2010).

The next section looks at the underlying factors and root causes of refugee flows in Africa to facilitate a better understanding of African refugee trends.

#### **4. CAUSES OF REFUGEE FLOWS IN AFRICA**

Since the independence era millions of people throughout the African continent were forced to move against their will—within the context of forced or involuntary migration.

There are many different causes of refugee flows in Africa. They differ from country to country and the circumstances are wide-ranging. However, some of the causes are common to almost all countries producing refugees. One of the

major features of African refugee flows and causes is that some of the countries producing refugees since the 1960s have continued to produce refugees up to the present day. Such countries include the CAR, Somalia, Sudan, and the DRC.

In Africa, people have been uprooted as a result of causes ranging from wars of independence against colonialism; post-independence conflicts; persecution; super-power competition for areas of influence in the form of proxy wars; conflict over boundaries; a struggle for resources, social upheavals; religious crises; ethnic rivalry; revolution/violent change of government, and civil wars.

For the purpose of this study the main causes relevant to refugee flows in Africa in accordance with the UN and AU Conventions on Refugees will be discussed.

#### **4.1 Process of De-colonization**

One of the initial main causes of refugee flows in Africa was the fight against colonial rule and consequent decolonization process. Africans who were persecuted and marginalized by the colonial administration and those who found it intolerable, had to flee their respective countries as refugees, hence the decolonization process in the late 1950s and throughout the 1960s created streams of refugees. In the 1960s and 1970s, the focus of the international refugee problem shifted away from Europe to Africa due to an upsurge in independence movements; a succession of armed struggles; and civil conflicts and wars that took place in countries which had gained their independence from colonial rule (Khan & Talal, 1986:33). It has been stated that the ending of the colonial era inevitably brought with it enormous conflicts and some of these changes were violent and have produced and keep on producing refugees (Bulcha, 1987:20).

#### **4.2 Political Harassment, Intimidation and Persecution**

In Africa, political persecution, intimidation and harassment of political opponents and individuals who hold differing political opinions and views are widespread, pervasive and extensive. In several African countries, political harassment,

intimidation and persecution as a major cause of refugee flows in Africa has several forms including; intimidation; human rights violations and abuses; official abuse of socio-economic institutions to the benefit of some and to the exclusion of others; manipulation of electoral and political process; poor governance; illegal detentions of political opponents; abuse and manipulation of state instruments of power and coercion; and other abuses, such of the police, state security apparatus, intelligence agencies and the military.

Manipulation and abuse of political institutions, state instruments and structures of coercion have been widespread and extensive. According to Bulcha (1987:27) nearly 38 per cent of the refugees interviewed in 1982-83 gave persecution as the cause of their flight and added that political persecution in Ethiopia began to mount in 1976 to reach its peak during 1977/1978. Nkiwane (88:28) states that the new African rulers who took over power from the colonial powers appropriated power to the detriment of those considered outsiders in the power equation, through harassment, intimidation and persecution.

In some African countries, self-serving and repressive dictatorships and autocratic leadership, such as in Uganda under Idi Amin and Equatorial Guinea under Macias Nguema, and several other military dictatorships across Africa, terrorized, intimidated and persecuted much of the population which led to many leaving these countries during the early and late 1970s (Gordenker, 1987:76). Mugabe's clamp-down in Zimbabwe on the opposition and continued harassment of opposition leaders aggravated the country's political and socio-economic problems which led to several Zimbabweans leaving the country as refugees (Esterhuysen, 2004:44-45). All over, political persecution is rife and endemic which immensely contributed to refugee flows on the African continent.

Some of the refugee flows were attributed to unconstitutional changes of government. Revolutions and *coup d'états* cause a highly familiar type of refugee movement in the sense that leading government officials, existing elites and those who work closely with the state apparatus or identify their immediate and long-term interest with the fallen regime, face violent change in their

positions, harassment, intimidation, persecution, and visible threats to their physical security (Gordenker, 1987: 68-69)

Within the context of political harassment, intimidation and persecution, more than five decades of military intervention in African politics have continued unabated. Recent *coup d'états* or attempted *coups* in Africa, include Niger (April 1999), Comoros (April 1999), Guinea Bissau (May 1999), Ivory Coast (December 1999), Central African Republic (CAR) (March 2003), Mauritania (August 2008), Guinea-Bissau (March 2009), and Madagascar (2009) (Citizen, March 3, 2010). All twelve cases have contributed more refugees to the existing African refugees, whether the *coups* were successful or not, due to people fleeing from persecution, generalised violence and other mistreatment associated with unconstitutional changes of government.

Souare (2009:1-2) draws attention to the fact that the resurgence of military *coup d'états* and other governance-related issues, including elections-related violence under the concept and phenomenon of unconstitutional changes of government, constitute a serious obstacle to both socio-economic development and democratic processes in Africa.

#### **4.3 Internal Wars, Political and Violent Conflicts**

Of all the causes of refugee flows in Africa, internal wars, violent conflicts, political violence and other forms of generalised violence, constitute the largest contributory factor to refugee flows. The concepts of internal war and conflict have several dimensions, in the form of civil wars, low-intensity conflict, unconventional warfare, and insurgencies. Most of them are protracted, complex and last several decades.

Thirty eight of all global armed conflicts were being fought in Africa in 2002, and in 2006, nearly 50 per cent all 'high-intensity' conflicts occurred in Africa and almost half of the countries on the continent have been involved in some form of conflict since 1990 (Deegan, 2009:148). This situation is no doubt a major cause of refugee flows. Internal war and failure in resolving political conflicts has been

a prominent cause of refugee flows and protracted refugee situations in Africa since the early 1960s, for instance the Congo crisis in the early 1960s to date; the Nigerian civil war 1967 to 1970; the current Sudanese conflict since 1983 to date, the Somalian conflict from the early 1990s to date; the Chadian conflict since 1963, 1965 to 1979, 1982 and the present war which has continued unabated; and the civil wars in Mozambique from 1977 to 1992, and Angola since 1972 (Juma, 2009:20).

The problem of African refugee flows is compounded by the multiplicity and protraction of refugee-producing conflicts, and most of the conflicts that produced international refugee flows also occasioned massive internal displacements (Zolberg *et al* 1989:37). The problem of refugees has been inextricably linked in with conflict dynamics in Africa since the 1960s (Baregu, 2006:59). Hakovirta (1986:63) states that insofar as internal war is a major cause of refugees, there should be a degree of positive correlation between the intensity of warfare and the scale of refugee situations in Third World countries, including Africa.

#### **4.4 Other Causes of Migration and Refugee Flows in Africa**

In addition to causes that result in refugee flows and in terms of the international agreements relating to this, entitle those that flee to apply for asylum in certain cases, other causes of migration in Africa obviously also exist. These include dire economic difficulties and poverty, natural disasters, climate change, and globalization. These causes are more often than not generally mentioned and discussed, but they are not recognized as refugee flows in the conventional or classic sense, due to the fact that they fall outside the definition of refugees as contained in the 1951 UN or the 1969 OAU Conventions on Refugees. The majority of the migrants in these categories are regarded as economic migrants.

In spite of this, there is a grey area because there are people who are leaving their country of origin where persecution is unquestionably occurring but the economy is also in a dire situation. The question is: Are people leaving such

countries for refugee reasons, or economic reasons or do both reasons fuse and hence are in several cases, almost impossible to determine?

Also, there are people who depart their country for refugee reasons, and continue to move for economic ones—the so-called ‘secondary movers’ (UNHCR, 2007b:2). Refugees and migrants frequently move alongside each other; by the same route, by means of the same transportation, for a variety of reasons and trying to reach the same country of destination. This is known as ‘mixed migration’ or ‘mixed migratory movement (UNHCR, 2006:6).

The next section looks at the consequences of the African refugee flows against the background of the increasingly problematic refugee situation in Africa.

## **5. CONSEQUENCES OF REFUGEE FLOWS**

The consequences of African refugee flows, include erosion of traditional African hospitality and brotherhood; an increase in human insecurity; human rights abuses in refugee-receiving countries of Africa; adoption of more restrictive refugee and asylum policies; over-crowding, appalling conditions, poor sanitation and extensive health related problems; overstretching of the institutional capacity of refugee receiving countries; overstretching of UNHCR and aid organisations’ financial and infrastructural capacity; depopulation of refugee-producing countries; and general insecurity in the form of criminals, smugglers and organised criminal networks who take advantage of refugee flows to perpetrate their criminal acts and trade. The consequences are two dimensional namely for host countries and for refugees. Both will be analysed in more detail. For host countries, there are political, economic, social, environmental and security dimensions involved.

### **5.1 Consequences for Host Countries**

There is no doubt that refugee flows are accompanied by serious consequences for host countries in Africa in political and security, economic, social and environmental terms.

It is a myth that the majority of the refugees are found in rich countries. The reality of the situation is that majority of the refugees have the means to travel across the nearest border only and more than 80 per cent are presently located and based in the developing world, specifically sub-Saharan Africa (OneWorld.net, 2010:3). The consequent burden of hosting refugees therefore falls mainly on poor African countries least able to cope with refugee flows, thereby exacerbating their already problematic socio-economic and political situation. For instance, in 1994 Tanzania was a host to over 300 000 Burundian and Rwandan refugees and contemporary internal conflicts have forced almost the same numbers into Chad and Kenya's Dadaab refugee camp, with about 300 000 refugees, mainly of Somalian origin. These countries are already facing their own socio-economic and humanitarian issues (OneWorld.net, 2010:4).

### **5.1.1 Political and Security Consequences**

The political consequences of refugee flows and presence in host countries in Africa are enormous and controversial. Also, refugees adversely impact and affect the security of host countries in several ways.

In political terms, some of the refugees, especially high profile political refugees engage in political activities sometimes against the interests of their home and host countries and governments, to the detriment of the host countries' internal politics and the diplomatic relations between the two countries. The major implications and consequences of this is that it brings the host countries and home countries of the refugees onto a collision course. Certain high profile political refugees pose severe political problems and risks domestically, regionally and internationally (Solomon, 1997:2). Some of the refugees go as far as forming political organisations, sometimes together with illegal immigrants with consequences for international political stability. Countries, such as, Nigeria, Zambia, Tanzania, Kenya and others encountered a variety of serious problems with some of the refugees in their countries due to negative and allied political activities of these political refugees (Reitzes & Bam, 1996:8).

Regarding security consequences, in certain extreme situations, some refugees are suspected to be involved in terrorist related activities. This has resulted in a new dimension in most host countries attitude and response to refugees, especially since the unprecedented terrorist attacks of 9/11 on the United States of America (US). It has been said that terms, such as “refugee terrorist” are being increasingly used to justify “pre-emptive actions against people suspected of terrorist designs that could be exploited to circumvent the refugee protection system” (Juma, 2007:20). The fundamental challenge arising from this reality is the importance of striking a balance between the imperatives of the host countries’ security and the responsibility for refugees.

### **5.1.2 Economic Consequences.**

It has been stated that the problems associated with African refugees has eroded the well-known African generosity, humanitarian practice and time-tested tradition of being their brother’s keeper, coupled with the changing economic realities which are impeding the realization of Africa’s vision for sustainable economic development (Juma, 2009:1). This problem is further exacerbated by a complex mix of other issues in African developmental process, namely, weak capabilities, shrinking international support, the failure of burden-sharing, lack of finance, weak infrastructural facilities and emerging global security issues and threats (Juma, 2009:2). To provide for refugees in Africa, the UNHCR’s budget was USD563,095,197; USD423,207,848; and USD418,831,603 for the periods 2007, 2008 and 2009 respectively (UNHCR, 2008-09a:74). The UN is conscious of the aforementioned fact, even in the face of inadequate finances and moreover it focuses more on ‘crisis situations’ and ‘complex emergencies’. Therefore, host nations are as a matter of necessity expected to provide some funding, to make up the shortfall in UN funding, with extensive support from donor nations and some NGOs, including corporate partners, individual donors and foundations (UNHCR, 2008-09a:60-61 & 66).

Beyond the fact that citizens of host countries are deprived of scarce job opportunities which is in itself a serious problem, a former South African Minister

of Home Affairs Dlamini-Zuma stated that it is the deep-seated effect that refugees have on the economy that is even a more serious problem (Business Day, September 30, 2009). The effect on the economy is in the area of cost of voluntary repatriation, provision of infrastructural facilities for temporary refugee camps and other shelters, cost of re-integration process, burden on the Reconstruction and Development Programme (RDP), provision of educational facilities and other welfare services, which are provided at the cost of the South African taxpayer. The financial responsibilities host countries have for refugees are mainly in the form of the social services and other financial benefits they enjoy once refugee status is granted, because some of these services are provided free of charge.

Some of these services are compulsory, while others are voluntary, depending on circumstances and other local situations. It is compulsory especially if carried out under the auspices of the UNHCR or donor countries. For instance, in South Africa, certified refugees receive free medical care, food donations, temporary shelter, micro-credit programmes arranged by the UNHCR to facilitate their local integration process and self-reliance, and benefit from general protection advocacy provided by the NGOs (UNHCR, 2010-11a:117). All these services are administered by government agencies and NGOs in conjunction with the UNHCR, as operational and implementing partners of refugee assistance and protection programmes.

### **5.1.3 Social and Environmental Consequences**

The social and environmental consequences of refugees in host countries are extensive because they impact negatively on the poorest of the poor and the lowest in the social strata, thereby leading to social tension, unrest and instability. In Kenya, Zambia, Tanzania, and South Africa, sporadic riots and violent demonstrations have been witnessed due to the deteriorating conditions of peoples' lives and poor social services, amongst others blamed on the presence of large numbers of refugees and illegal migrants. Refugees affect and impact negatively on a host country's social infrastructures and have contributed

to the extent health problems, especially the spread of communicable and non-communicable diseases, such as, HIV/Aids, yellow fever, malaria, flu and tuberculosis. As part of the strategic plan of action, host countries are working in concert with the UNHCR to strengthen preparedness and response capacity for the outbreak of epidemics in refugee camps (UNHCR, Guterres, 2008-09b:37).

Large numbers of refugee flows also create squatter communities because several of them arrive in their host countries as destitutes, jobless and homeless (Tibaijuka, 2009b:3-4). Refugee situations also result in serious environmental hazards and challenges in host countries of Africa where most nations are yet to achieve international standards of health among the people. To this end, integrated approaches to promote sound environmental management in refugee camp operations is been factored into all refugee related activities (UNHCR, Guterres, 2008-09b:39).

The pervasive political, socio-economic, environmental and security dimensions of the African refugee issue cannot be overlooked. Different aspects of African existence have been adversely affected by the refugee flows. In socio-economic terms, it depopulates and increases the population of refugee-producing and receiving-countries respectively, which in turn leads to social strife, such as resentment by locals and the attendant xenophobic problems. Politically, electoral processes and voting systems have been affected in some countries, like Kenya, while the security consequence is pervasive and extensive (Mail & Guardian, 10-16 February 2010).

## **5.2 Consequences for Refugees.**

Several African refugees face serious hazards in the course of their movements. These include detention and imprisonment in unacceptable conditions, physical abuse and racial harassment, theft, extortion and destitution (UNHCR, 2007c:8). The unresolved refugee situation in Africa has also increased human trafficking, organised crime, prostitution and drug trafficking across the continent, including a host of other security challenges.

African refugees have in some situations come to be perceived and treated in unfavourable terms on a continent they rightly belong to, leading to extensive human rights abuses (Oucho, 2007:14). A global human rights group disclosed that Kenyan police are raping, abusing, beating and arbitrary deporting Somali refugees fleeing the chaos in their country (Star, June 18, 2010). The disheartening aspect of it is that the human suffering which causes people to flee their countries continues in some receiving countries (Deegan, 2009:128). The extensive poverty and human vulnerability have led to deteriorating refugee situations and consequent further peace and security problems in an already insecure region (Mail & Guardian, July 30 to August 5, 2010). In fact, the consequences of the human catastrophe of refugee flows in Africa, loom large both in refugee producing and receiving countries. As part of the consequences, the arbitrary arrest and detention of refugees and asylum-seekers in Africa is a serious issue, affecting thousands of refugees. This problem was discussed and highlighted at the 1979 Arusha Conference on the Situation of African Refugees in Africa (Godwin-Gill, 1986:193).

Incidents and cases of killings, torture, arbitrary arrests, deportations, and other forms of abuse, have continued to follow refugee flows in Africa, especially in Kenya, eastern DRC, Somalia, Sudan (Darfur) and in several border posts, refugee camps and reception offices across the continent. The number of reported cases of rapes and sexual assaults of Zimbabwean refugees in South Africa is increasing. From March to May, 2010, there were about 71 treated cases, according to Medicines Sans Frontiers (MSF) (Star, March 19, 2010).

Following the discussion of the consequences of refugees in Africa, the subsequent section is a discussion of the attempts at the resolution of African refugee problems. The discussion of the issue of resolution is important as refugee flows in Africa are growing, coupled with the attendant consequences and problems of crisis proportions brought about by globalization and new security threats, such as human security issues and international terrorism.

## **6. ATTEMPTS AT THE RESOLUTION OF AFRICAN REFUGEE ISSUES**

The urgent need for a lasting solution and effective resolution of African refugee issues and crises cannot be over-emphasised. This realisation has led to several attempts at the resolution of this recurrent problem. This section focuses on the efforts at the resolution of African refugee issues, and the success and failures of these attempts.

## **6.1 Major Efforts at the Resolution of African Refugee Issues**

In the discussion in Chapter 2 on the Refugee Conventions, especially the OAU/AU Convention on Refugees, the main thrust of the discussion was on the definition and determination of the status of a refugee as a first step towards amelioration of the refugee problem. Most attempts at the resolution of the African refugee problem were subsequently based on the foundation of the OAU/AU Convention on Refugees in Africa and by extension the UN Convention on Refugees.

As a result of several cases of human rights abuses and maltreatment of refugees across the continent, a Conference on the Situation of Refugees in Africa, was held in Arusha, Tanzania in May 1979, to reaffirm the fundamental rights, freedoms and better treatment of refugees. The need to view the legal problems of refugees in the wider context of respect for human rights was also emphasised (Nobel, 1987:47).

Preparatory to the May 1979 conference, a seminar on Legal Aspects of the African Refugee Problem was held in Uppsala, Sweden, in October 1977 (Erikson *et al* (eds), 1981:11). The UNHCR convened the first International Conference on Assistance to Refugees in Africa (ICARA 1) in 1981 and later ICARA 11 in July 1984, in Geneva (Rwelamira, 1990:8). The ICARA conferences on African refugees were a follow up to the Uppsala and Arusha initiatives. On 7 May, 2008 in Nairobi, Kenya, a Consultative Conference on Internal Displacement/Refugees and the Threats to Human Security was held, as part of the ongoing search for solutions on the problem of refugees and IDPs in Africa (Chikwanha, 2008:5).

The OAU adopted a resolution on the root causes of the African refugee problem in 1990 to address the issue of refugees specifically (Naldi, 1992:4). In September 1994 an OAU/UNHCR Symposium on Refugees and Forced Population Displacements in Africa adopted a resolution on a wide range of measures for urgent, and expeditious prevention and resolution of conflicts as root causes of refugee flows in Africa. The symposium also encouraged OAU member states to be part and parcel of a Comprehensive Plan of Action (CPA) for tackling the root causes of refugee flows—war, political and violent conflict (OAU/UNHCR,1994).

There have also been regional, sub-regional, country-based, and international attempts at the resolution of the refugee problem, both temporal and permanent, referred to as durable solutions. It is especially generalised violence that creates the condition for people to flee, therefore, the root causes of conflicts should be addressed and resolved (Chikwanha, 2008:5). For an enduring solution to the intractable African refugee problems of Africa, the following issues need to be considered and adhered to, namely, refugees peaceful co-existence with the locals and resident populations; their voluntary repatriation and return; and their local integration (Deegan, 2009:147). Some durable solutions of African refugee issues have been advocated extensively, such as local integration; resettlement and voluntary repatriation as “preferred options” (OneWorld.Net, 2010:4-5; and UNHCR, 2010-11a:2).

## **6.2 Failures and Successes**

The proffered solutions for resolution of the African refugee issues are however confronted with several problems. In host countries for example, local integration as the preferred durable solution is faced with the challenges of local resentment and xenophobia; resettlement in refugee camps faces problems of overcrowding and outbreak of disease and crime-related challenges; and voluntary repatriation is faced with major hurdles of continuing instability and violence or conflict in some countries or areas of return, such as Somalia and eastern DRC (OneWorld.Net, 2010:2).

A series of conflict-resolution initiatives as part of the attempts at the resolution African refugee issues have been initiated and implemented by different local authorities; NGOs; individual countries through diplomatic efforts; the UN; regional bodies and other international organisations in the form of agreements and accords, peace processes, peace-keeping, peacemaking and peace enforcement, including military interventions, sometimes with or without a UN or AU mandate. Several of these efforts have witnessed a depressing chronicle of failures and disasters; especially in the major refugee producing countries of Somalia, Sudan and the DRC. Between 1991 and 1993, a well-trained and equipped 37 000-strong UN and US-backed force disastrously failed to defeat the Somali warlords and the current effort of 6,300 strong AU mission, charged with the protection of the transitional federal government in Mogadishu is also under pressure (City Press, August 29, 2010).

Within the context of addressing the root causes of conflict and refugee flows, several peace agreements and accords were signed and programmes initiated for resolution of the DRC conflict and refugee flows. The Lusaka Peace Agreement of July 10, 1999 signed by the countries involved in the Congolese conflict, led to a cease fire (Rusamira, 2002:54). The UN mission in the DRC, MONUC, has been active in the resolution efforts with its programme of Disarmament, Demobilization, Repatriation, Reinstallation, and Reintegration (DDRRR) (Rusamira, 2002:75). The Goma Agreement, is a product of the Conference for Peace, Security and Development of 6 to 23 January, 2008, held in Goma to resolve the conflict in North and South Kivu with a peace agreement signed between the government and the militia rebel groups (Sadie, 2010:33). All these efforts at the resolution of the root causes were aimed at peace in the DRC, the Great Lakes region and Central Africa in general, which were major refugee producing areas in Africa. Unfortunately, conflict and violence still continue to be a daily occurrence in the eastern DRC.

In spite of the issues discussed above, which create problems for the efforts at the resolution of African refugee issues, some of the positive steps taken by African leaders and policymakers yielded concrete and tangible results.

The protection and assistance regimes for refugees and displaced populations through legislation, coupled with an improved human rights approach, have also improved. Especially with regard to refugees, some African countries have since the turn of the 1990s, developed better policy frameworks; crafted new and more comprehensive refugee and immigration laws to replace the old-fashioned and outdated migration acts; and developed forward looking and progressive administrative structures to protect and assist refugees, migrants, and other forcibly displaced persons (Juma, 2009:23).

Some of the far-reaching efforts at the resolution of African refugee issues is in the area of peace building. For instance the efforts towards a sustainable peace and reconciliation in Cote d'Ivoire; and people-to-people peacemaking and peace building of the New Sudan Council of Churches in Southern Sudan since 1997 (Schellhaas & Seegers, 2009:2-3). Also, the largely successful Burundian peace process of Arusha I, in 1996 and from July 1998 to August 2000, which culminated in the Arusha Agreement, were some of the major attempts at the resolution of African refugee problems, particularly the Burundian refugee flows (Boshoff *et al*, 2010:7-8).

## **7. CONCLUSION**

From the foregoing it has emerged that Africa which came to be regarded as the 'continent of refugees' especially since the independence era starting in the 1960s, has continued to be identified with this image due to several factors discussed in this chapter. African refugee issues are geographical, historical and structural in dimension and manifestation. There are many causes of refugee flows in Africa and the causes are varied, multidimensional and diversified. The refugee situation and causes of refugee flows in Africa are deeply embedded in the historical, cultural, socio-economic and political foundation of the continent.

Refugee flows in Africa have also become a deep-seated problem as a result of ongoing conflicts, poor governance, and political persecution. The refugee problem in Africa has degenerated into a security concern for many receiving countries. As a further consequence, responses to the refugee problem have become political, while the humanitarian dimension has become subordinated. Even some of the most refugee-tolerant countries of Africa at a point started to engage in an abrupt and arbitrary expulsion of many refugees from conflict zones. The implications and consequences are that the traditional African brotherhood, hospitality and solidarity towards refugees have been eroded while the Western nations continue to adopt stricter refugee policies.

Regarding attempts at resolving the African refugee problem and issues, opinions by scholars and policy-makers differ dramatically. Some believe that there have been no serious attempts to address African refugee issues, while others state that several efforts have been made to address and resolve the refugee problems in Africa. However, most attempts to resolve the African refugee problem have not achieved the desired results.

In the next chapter, South African refugee legislation and policy, including the extent and causes of refugee flows to South Africa, will be discussed.

## CHAPTER 4

### REFUGEE POLICY AND THE EXTENT AND CAUSES OF REFUGEE FLOWS TO SOUTH AFRICA

#### 1. INTRODUCTION

South Africa is one of the countries of choice for refugees and illegal migrants. One of the most important features of the situation in South Africa since April 1994, has been an increase in the flow of refugees, mainly from some Southern African countries, especially Zimbabwe, but also from across the rest of Africa and Asia.

In this chapter, an overview of South Africa's refugee policy and legislation is provided. The implementation of the Refugees Act, Act 130 of 1998 (RSA, 1998a) as well as some of the country's immigration legislation, and the extent of the refugee flows to South Africa are also discussed. The underlying, immediate and facilitating causes of refugee flows to South Africa are also focused on.

#### 2. SOUTH AFRICAN REFUGEE POLICY AND LEGISLATION

This section discusses and analyses South Africa's refugee policy and legislation from a historical perspective, including the signing of the UN and AU Conventions on Refugees and a brief overview of the extent of refugee flows up to 1994. This discussion focuses on the fact that part of the current South African refugee policy and legislation is affected by the legacies of the past, which therefore has direct relevance and several implications for policies that are still pursued today. A brief overview of refugee numbers is provided to determine how these have increased over time and what caused this state of affairs.

## 2.1 Historical Overview of South African Refugee Policy and Legislation up to 1994

For many years, South Africa's attitude and general approach to the influx of refugees and the issue of migration was based on discriminatory policy and legislation. Since the start of the twentieth century, South African immigration policy (residence practices and control over the flow of people across the country's borders) has essentially been determined by the logic and principles of various forms of regulated criteria prior to 1948, and policy aligned to the apartheid system up to 1994 (Modi, 2005:52). For instance, while this policy was pursued, European refugees and other immigrants had relatively easy and unimpeded access into South Africa, even though there were efforts to reduce the influx of Jewish refugees and immigrants in the 1930s and that of Roman Catholics who migrated to South Africa in the 1950s due to religious persecution (Bernstein & Weiner, 1999:190).

The Immigration Regulation Act of 1913, which drew its policy undertones from 19<sup>th</sup> century policies and practices, and the apartheid-era laws after 1948, controlled and closely monitored all forms of population flows, including refugee movements (Zolberg, 1989:320). During the twentieth century, the South African government seriously and actively sought white settlers and other migrants, but extensively limited Africans by granting them no more than temporary legal entry under the existing migrant and refugee system. However, in an effort to promote the Bantustans, the government changed its policy on the prohibition of black refugees after 1986 (Klotz, 1997:831; Modi, 2005:52) to allow more Africans to enter and reside in South Africa.

The last important piece of apartheid-era migration legislation relating to immigration policy was the Aliens Control Act, Act 96 of 1991 (RSA, 1991),

which combined most of the previous existing immigration and related laws into one Act, which should also be regarded as an extension of the legislation from before 1994. Thus it combined five Acts, notably the 1913 Immigration Act and the 1937 Aliens Act to form omnibus legislation to regulate and control the entry and exit of aliens into South Africa (Crush & McDonald, 2001:1). Various scholars have described it as codifying several legislative amendments which reinforced, over the years, strict controls over the flow of people across the country's borders (Modi, 2002:17; Peberdy, 1998:191-192).

As South Africa was accepted back into the international community, and as the attendant democratisation process got underway in 1993, the country witnessed a large influx of foreigners, including refugees, especially from neighbouring countries in Southern Africa and from other African countries in crisis. In spite of the fact that the refugees were without official status, they had become a major source of concern in the country for several decades. By the 1980s, South Africa was an unwilling host to about 35 000 Mozambican refugees, many of whom eventually returned home by special arrangement (South Africa.info, 2004:1). The Mozambicans settled in different parts of South Africa, especially around the Kruger National Park; in homelands such as Gazankulu and Kangwane, and on white owned farms, but only on the condition that they were legally documented as contract farm workers (Hough & Minnaar, 1996:108).

In 1993, the Basic agreement between the Government of the Republic of South Africa and the United Nations High Commissioner for Refugees concerning the presence, role, legal status, immunities and privileges of the UNHCR and its personnel in the RSA (UNHCR, 1993a) was signed between South Africa and the UNHCR. The Agreement provides for the UNHCR to establish an official presence in South Africa, designed to facilitate the application of internationally recognised principles on the protection, treatment and general welfare of refugees and asylum-seekers in South Africa (Solomon, 1995:21; UNHCR, 1993a). This Agreement was necessary due to the absence of any established or acceptable human rights-based refugee legislation in South Africa, coupled

with the fact that South Africa's role in the region had gained renewed importance since the country's admission to the Southern African Development Community (SADC).

In addition, the Tripartite Agreement between the Government of the Republic of South Africa, the Government of the Republic of Mozambique and the United Nations High Commissioner for Refugees for the Voluntary Repatriation of Mozambican Refugees from RSA, signed on 15 October, 1993, was also relied on as part of the effort to solve the refugee problems in South Africa (UNHCR, 1993b).

It was reported that an estimated 30 000 out of the registered 120 000 Mozambican refugees in South Africa officially returned to their country by the time that the UNHCR concluded its repatriation activity at the end of March 1995, and which had commenced in January 1994 (Star, March 28, 1995).

Following the large influx of refugees and other migrants to South Africa in 1994, the migration and refugee issues became a matter of serious political and socio-economic controversy. The situation was compounded by the fact that several of the apartheid-era migration policies and approaches were no longer tenable. Hence, the new Government of National Unity formed in 1994, was confronted with the problem of how best to change the existing policies as part of the emerging new political debate, especially with regard to the protection of refugees.

## **2.2 South African Refugee Policy: 1994 to 2010**

This section focuses on current South African refugee policy and legislation from 1994 to 2010, against the background of the increasing numbers of refugees and asylum-seekers entering the country.

The new government that came into power in April 1994, has had to contend with a rapidly changing immigration and refugee situation. The period from 1994 to 2010 was characterised by fundamental structural changes and

transformation in South African refugee policy and legislation. Wa Kabwe-Segatti and Landau (2008:37) claim that one of the most problematic legacies of the apartheid era is that there is no government agency in sole charge of immigration and refugees. The situation has been complicated by post-apartheid indecision and mismanagement.

South Africa has witnessed a large influx of refugees and asylum-seekers since 1994 for several reasons. The situation arose when various developments began to unfold in respect of refugee affairs, particularly in developed countries. The influx to South Africa may be partially ascribed to the fact that the country has become an attractive option for refugees and asylum-seekers, but also to the fact that many European and North American countries have started closing their borders to refugees who seek asylum (UNHCR, 2010-11a:3).

Until after the 1994 elections, the Aliens Control Act (RSA, 1991) remained the main instrument for the administration of South African refugees and immigration policy. The Act was essentially silent on refugees. The White Paper on International Migration stated that it would not deal with the issue of refugees which was addressed through another policy process under a separate White Paper and Bill, leading to the Refugees Act of 1998. It recognises that one of the challenges is to formulate policy that takes advantage of the positive aspects of globalisation, and the unprecedented movement of people to South Africa, including refugees (RSA, 1999:5).

The government that came into power in April 1994 witnessed a dramatic change in the extent of refugee flows to South Africa and increasing xenophobic tendencies towards foreigners in general, and illegal immigrants in particular (Solomon, 1995:12; Wa Kabwe-Segatti, 2008:55). The country initially continued to respond with a style of immigration management based on the Aliens Control Act (RSA, 1991) paying little or no attention to increasing numbers of asylum seekers. Most of the existing institutions, government agencies, and practices in charge of immigration matters, lacked the capacity to ensure human rights-

based immigration processes to protect genuine refugees. Part of the problem at that time was that by 1994 and 1995 South Africa was not yet a signatory to the UN Convention Relating to the Status of Refugees (UN, 1951), the Protocol on Refugees (UN, 1967) or the OAU Convention on Refugees (OAU, 1969), although South Africa was a member of both the UN and the OAU (Hough, 1995:11; Solomon, 1995:10).

Another problem was that of distinguishing between refugees and other types of migrants. For some South Africans, the distinction between refugees and illegal aliens is immaterial (Hough, 1995:10). It has also been stated that, “(t)he debate surrounding the distinction between illegal immigrants and refugees is not simply of academic interest” (Solomon, 1995:10). In fact, it has an effect on the types of policies that the South African government pursues, the treatment given to illegal immigrants and refugees, and the conditions under which they subsist. The UNHCR responded to this situation through its Senior Protection Officer, Philip Karani, who expressed concern about the lack of a distinction between refugees and illegal aliens (Pretoria News, December 8, 1994).

Following several objections to, and concerns regarding the Aliens Control Act, the Aliens Control Amendment Bill, B54-95 of 1995 (RSA, 1995a), was presented to Parliament partly because the Act did not address refugees and other issues related to migrants in the country. After the reading and passing of the Bill in Parliament, the Aliens Control Amendment Act, Act 76 of 1995 (RSA, 1995b) was assented to on 6 October 1995 by the then President of South Africa, Nelson Mandela. Crush (1998:2) argues that the patently unconstitutional aspects of the 1991 Act were purged in a review process which began in 1994, culminating in the Aliens Control Amendment Act of 1995.

The amended Act was based on a two-pronged approach in the government’s migration policy options: non-racialism and job preferences for South African citizens (Bernstein & Weiner, 1999:190). In several respects, much of the Act is centred on South Africa’s history, without any real regard for the emerging

refugee problem. The Act gives more powers to State officials to carry out the function of immigration, but expunged some of the unconstitutional powers formerly exercised by State officials in the management of all aspects of immigration affairs, as it relates to Section 4 of the principal Act (Crush, 1998:3).

During January 1996, the South African government signed the 1951 UN Convention on Refugees, and its 1967 Protocol. The 1969 OAU Convention on Refugees was signed on 15 December 1995 (UNHCR/Gupta, 2011a). Encouraged by the signing of these Conventions, steps were taken toward the country's first refugee-focused legislation. At the time, debate raged around the issue of whether or not to have a different Act for refugees or whether this matter should simply be part of general immigration policy (Bernstein & Weiner, 1999:196). Due to its flaws, the Aliens Control Act of 1991 was declared unconstitutional by human rights groups and NGOs, as well as immigration experts (Crush, 2000:105).

The first specific refugee legislation in South Africa, the Refugees Act (RSA, 1998a) was passed by Parliament in November 1998, and implemented on 1 April 2002. The new Refugees Act was widely hailed by government and NGOs as a progressive piece of legislation. However, in spite of the successful promulgation of the Act, some scholars were not optimistic about the country's policy direction, arguing that South Africa was opting for an essentially unworkable set of solutions for refugee protection (Barutciski, 1998:700). After several years of public debate on migration and refugee issues, and despite the Refugees Act, some analysts still claimed that little had been achieved to transform the pre-1994 migration management model into a more relevant ethically sound and efficient system (Crush, 2000:112-113). Nevertheless, the situation of foreigners in South Africa was already different from what it had been in 1994 as attention was being paid to refugee matters, public accountability and the due process of migration policy, and, in addition, there was official condemnation of xenophobia (Wa Kabwe-Segatti & Landau, 2008:82).

South Africa's refugee and asylum policy is now firmly anchored in the notion that the asylum regime and protection of the rights of refugees in a host country are governed by international conventions and domestic legal instruments, such as refugee policy and legislation. Thus, the South African refugee and migration legislation and policy from 1994 to 2010 is encapsulated in the following official documents:

- the *Constitution of the Republic of South Africa, Act 108 of 1996* (RSA, 1996b);
- the *Aliens Control Amendment Act, Act 76 of 1995* (RSA, 1995b);
- the *Green Paper on International Migration* (RSA, 1997a);
- the *White Paper on International Migration* (RSA, 1999);
- the *Refugees Act, Act 130 of 1998* (RSA, 1998a);
- the *Immigration Act, Act 13 of 2002* (RSA, 2002);
- the *Refugees Amendment Act, Act 33 of 2003* (RSA, 2003); and
- the *Refugees Amendment Act, B 11-2008* (RSA, 2008a).

The South African Constitution has been viewed as one of the most progressive and inclusive in the world (Crush, 2000:104; Simeon, 1998). For instance, the Bill of Rights guarantees a host of basic rights to all who are resident in the country. The 1998 Refugees Act (RSA, 1998a) follows the 1996 Constitution and other international conventions relating to refugee protection which South Africa has become a signatory to (De la Hunt, 1998:128). This enables refugees in South Africa to avail themselves of certain rights and legal protection.

The South African Refugees Act (RSA, 1998a:6&8) defines a 'refugee' as a person who has been granted asylum. A person qualifies for refugee status for the purposes of the Act if that person:

- a) Owing to a well-founded fear of being persecuted by reason of his or her race, tribe, religion, nationality, political opinion or membership of a particular social group, is outside the country of his or her nationality and is unable or unwilling to avail himself or herself of the protection of that country, or,

not having a nationality and being outside the country of his or former habitual residence is unable or, owing to such fear, unwilling to return to it, or,

**b)** Owing to external aggression, occupation, foreign domination or events seriously disrupting or disrupting public order in either a part or the whole of his or her country of origin or nationality, is compelled to leave his or her place of habitual residence in order to seek refuge elsewhere; or

**c)** Is a dependant of a person with refugee status in line with (a) and (b). It is also stated that a refugee is a person who is not a South African citizen or lawful permanent resident of South Africa and who is in the country in terms of the provisions of the Convention on Refugees (UN, 1951) and the Convention on the Status of Refugees in Africa (OAU, 1969) (UNHCR, 1999:23). From the foregoing, it is clear that the South African Refugees Act was enacted in accordance with the UN and OAU Conventions.

The next section looks at the implementation process of the Refugees Act of 1998 to establish how it affected refugees and asylum seekers in the country.

### **3. IMPLEMENTATION PROCESS OF THE 1998 REFUGEES ACT**

South Africa's adoption of the Refugees Act, demonstrated the country's readiness and acceptance of its obligation to protect persons with well-founded fears of persecution in their countries of origin. The government initiated efforts aimed at the full implementation of the Act in line with international best practices. However, most of the public pronouncements by State officials and politicians to meet the humanitarian obligations toward refugees and to give them assistance, have not been matched with concrete actions, as these efforts

were not well supported by the necessary legal and administrative structures (Landau, 2008:8).

Subsequently, the Refugees Amendment Act of 2003 (RSA, 2003) and the Refugees Amendment Act of 2008 (RSA, 2008a) became necessary to address some of the shortcomings of the Refugees Act of 1998 (RSA, 1998a). The critical aspect of the amendments relate to a provision for the establishment of Refugee Reception Offices (RRO); the dissolution of the standing committee for Refugee Affairs and the Refugee Appeal Board; the establishment of the Refugee Appeals Authority; and a provision for the clarification and revision of procedures and processes connected to the determination of refugee status and issues relating to the obligations, rights and duties of asylum-seekers and all other matters related to refugee issues in the Republic (RSA, 2008a:2).

Since May 2002, refugees have been issued refugee identity cards confirming their status in South Africa. The Refugees Amendment Act (RSA, 2003) resulted in the process of assisting refugees and asylum-seekers being decentralized to five Refugee Reception Offices (RROs) of the DHA across the country, where status determination officers have the power to grant refugee status to deserving applicants. Once a person has been granted refugee status, the person enjoys virtually the same privileges as a citizen and may work, conduct business or attend school. The DHA, in conjunction with the UNHCR, has also begun issuing UN Conventional Travel Documents to refugees who wish to travel beyond the borders of South Africa or opt for resettlement in third countries (Oneworld.net, 2010:2).

In 2001, the Chairperson of the Forum for Refugees, Jabulani Shabani stated that no areas for refugee camps had as yet been designated or mapped out, which made controlling and monitoring refugees in South Africa difficult. However, he confirmed that in accordance with the Refugees Act refugees were eligible to stay in South Africa for a period of up to five years, during which they would also have access to banking facilities and other social services. Shabani

added in an interview that these refugees would be eligible to apply for permanent residence after residing in the country for two years (SABC News (TV2), May 2, 2001).

In the implementation of the Refugees Act the Zimbabwean refugee problem turned out to be the single most serious issue to beleaguer South Africa's administrative capacity and its resources. The South African Minister of Home Affairs repeatedly stressed the government's position and policy to the effect that the majority of the Zimbabweans in South Africa are not authentic refugees, especially in the conventional sense, and that therefore no refugee camps would be established to accommodate them (Dlamini-Zuma, 2007).

Echoing the Minister's stance, the Director General of the DHA has stated that instead of housing refugees in dedicated camps, they should rather be integrated into South African communities, which then creates an avenue and an enabling environment for the survival and sustainable existence of such persons. The Director General also reiterated the government policy position and opinion that most Zimbabweans are in fact primarily economic migrants, rather than refugees (Mackay, Mail & Guardian, August 24, 2007).

In most cases, when South African immigration officials complain of the congestion of the Asylum Seeker System in the RROs, they mention Zimbabweans. As a response to the situation, in April 2009, the South African government approved a proposal to grant a special dispensation to all Zimbabweans living illegally in South Africa to regularize their stay as temporary residents if they applied for this. The agreement between the two governments on the special dispensation for Zimbabweans ended officially on December 31, 2010 (Citizen, September 3, 2010).

The South African Deputy Home Affairs Minister Malusi Gigaba, disclosed in Cape Town during a pre-budget press briefing in April 2010, that current refugee policy was about to be overhauled to facilitate the separation of genuine refugees from the economic migrants clogging the asylum system, thereby

undermining the government's efforts at meeting its international obligation of protecting authentic refugees (News 24.com, 2010).

The South African Minister of Home Affairs Nkosazana Dlamini-Zuma disclosed at a Parliamentary briefing in September, 2010 that to facilitate the implementation of the Refugees Act, the refugee processing system would have to change through a redrafting of South African refugee legislation and policy to be able to separate genuine asylum seekers from economic migrants (News 24.com, 2010).

However, some of the laudable achievements of the implementation of the Refugees Act have been negatively affected by a number of factors relating to the difficulties the government and the relevant implementing agencies have to face in addressing general immigration control, such as differentiating between refugees and illegal aliens and the negative attitude of some of the citizenry towards immigration issues. It has been said that the anti-immigration sentiments in South African society will aggravate the hardening of attitudes among policy-makers and implementers, which may mean that refugees are not treated with dignity (Majodina, 2009). Many South Africans are fearful and distrustful of non-nationals in their midst, but the violent attacks on foreigners (including refugees) in 2008, went beyond the problem of xenophobia, and may be ascribed to the underlying South African institutional framework and social structures that shaped the violence (Landau, 2008:2-3; Steinberg, 2008:1-2).

The next section examines the extent of refugee flows to South Africa.

#### **4. THE EXTENT OF REFUGEE FLOWS TO SOUTH AFRICA**

This section focuses on the current extent of refugee flows to South Africa, as well as other salient issues surrounding the country's refugee situation. The main purpose is to provide an overview of refugee and asylum trends, and then to analyse related refugee issues in South Africa primarily up to the end of 2009.

Since 1994, South Africa has increasingly come to be regarded as an attractive destination for refugees and asylum seekers, particularly in view of the fact that many Western countries have greatly restricted the number refugees they will admit and accommodate in asylum and resettlement projects in their domains. The restrictive situation in Western countries arose more or less simultaneously with South Africa's re-entry into the community of nations after years of isolation, resulting in a large influx of refugees to the country (Oneworld.net, 2010:5).

The DHA Annual Report on asylum seekers noted the influx throughout 2006, predicting that the number of people seeking asylum might increase to larger numbers in years to come. The majority of them may in fact have been economic migrants, as most of their claims were not in accordance with the basic principles of asylum as enshrined in the 1951 UN and 1969 OUA Conventions and the Refugees Act. It was also commented in the report that "certain people foresee the number registered in 2007 escalating to a possible double in 2008, treble in 2009 and even quadruple in 2010 particularly" (RSA, DHA, 2007a:4).

This projection was based on the assumptions that the FIFA 2010 World Cup tournament was to be held in Africa, which was likely to lead people south; that the multifaceted political crisis, hunger and poverty seen in the SADC region would swell the refugee numbers; and that human trafficking and the smuggling of persons, and the recycling of asylum-seekers whose applications were rejected, would increase the number of applications or re-applications (RSA, DHA, 2007a:5).

The refugee situation in South Africa had by 2009 already reached crisis proportions as the country became the single largest recipient of asylum seekers in Africa. A total of 207 206 submissions for asylum were made in 2008 (Pretoria News, June 20, 2009). Some 227 000 asylum applications were still pending by the end of December 2008 (UNHCR, 2010-11a:117). South Africa's refugee and asylum process and centres were flooded with large numbers of people seeking

work, including refugees and asylum-seekers, although most of the people could be described as economic migrants (Citizen, June 4, 2009).

Statistics indicate that by 2009 South Africa had received more than 222 000 new asylum claims, which made the country one of the world's largest asylum countries of choice (Oneworld.net, 2010:2). The 2009 Global Trends Report (Oneworld.net, 2010; UNHCR, 2009-10a) indicated that many refugees were streaming to the urban centres, especially in the developing world, as could be seen in the South African case. A total of 223 324 new asylum seekers were registered and recorded by December 2009, in contrast to 207 206 received and recorded the previous year. A total of 50 622 asylum claims were adjudicated in their first application in 2009. Of all these claims 4 567 were approved, whereas 46 055 were rejected, of which 27 199 were pronounced as manifestly unfounded and 18 856 as unfounded (RSA, 2009a:1).

The increase in the number of persons seeking asylum in the country is illustrated in Table 1.

**Table 1: Comparative annual arrivals of asylum seekers in South Africa: 2006-2009.**

Year	New Arrivals
2006	53 361
2007	45 637
2008	207 206
2009	222 324
Total	528 328

**Source:** (RSA, DHA 2009a:7)

Table 2 illustrates the fact that in 2007, asylum seeker applications in the five RROs across the country continued unabated. Among the top countries of origin and new refugee arrivals, Zimbabwe ranked highest in all five RROs. The second, and third positions in the RROs were shared between the DRC, and

Ethiopia respectively. The most important element of the table is to show the extent of the refugee situation in South Africa as the world's single largest recipient of asylum seekers. As can be seen from the data, there has been an exponential increase in the number of asylum seekers in the country.

**Table 2: Consolidated total of asylum seeker arrivals in the five RROs, according to country of origin: 2007.**

No	Country	Estimates
1.	Zimbabwe	17 667
2.	DRC	6 351
3.	Ethiopia	3 413
4.	Malawi	3 275
5.	Bangladesh	1 884
6.	Somalia	1 774
7.	Uganda	1 461
8.	Tanzania	1 100
9.	Nigeria	856
10.	India	676
11.	Burundi	580
12.	Congo	553
13.	China	285
14.	Algeria	153
15.	Pakistan	112
16.	Eritrea	90
17.	Kenya	83
18.	Rwanda	67
19.	Ghana	51
	<b>Total</b>	<b>40 381</b>

**Source:** RSA, DHA (2007a:9)

Having discussed the extent of asylum seekers in South Africa, the next section focuses on the causes of refugee flows to the country.

## **5. CAUSES OF REFUGEE FLOWS TO SOUTH AFRICA**

In this section, the main causes of refugee flows to South Africa are analysed. Of specific interest in this regard are factors such as a lack of security in the context of several political, economic and social crises on the African continent especially.

Beyond what Schutte (1993:3) refers to as ‘push’ and ‘pull’ factors, and Adepoju’s (2003:379) socio-cultural factors, geographic proximity, precedent and global political economy, the problem of insecurity has been identified as a key cause of refugee flows to South Africa (Deegan, 2009:143).

For purposes of this study, factors such as historical events; demographic issues; the global political economy; politics and international relations; socio-cultural context; and regional and sub-regional socio-economic and border related issues, are discussed with the understanding that these factors are interrelated, interdependent and intricately connected and mutually reinforcing. This argument is predicated on the understanding that people often have mixed motives for their decision to migrate, leading to the issue of mixed migration that needs to be considered in discussing refugee flows.

Other factors that have influenced the extent of refugee flows to South Africa, include the fact that refugees and asylum-seekers have enjoyed freedom of movement, the right to work, carry out business activities and the right to avail themselves of available basic social services. As a result of this situation, they live mainly in urban areas amongst other foreigners and the local population (SouthAfrica.info, 2010:2).

## **5.1 Socio-Cultural Causes**

History is full of examples of migration, including refugees and illegal migrants, based on historical factors, socio-cultural and ethnic affiliations. South Africa, as a multi-racial and ethnically diverse country, is not immune to such population movements. This fact accounts for one of the 'pull' factors in refugee flows to South Africa. Even though South Africa is not an 'immigration country' in the conventional sense, some of its white and coloured population are either immigrants or the descendants of immigrants who arrived in South Africa from the mid-seventeenth to the early twentieth centuries (Peberdy & Crush (1998:18-36) and Crush (2000:108). In the nineteenth century, the Boers also opted to leave behind their British colonisers in the Cape Colony when they migrated to the interior to establish their own republics (Davenport, 1999:12-15).

There is contemporary evidence of socio-cultural factors and dimensions in refugee flows to South Africa, as evidenced in the country's multi-racial mix (Solomon, 2003:63-64). It is on record that massive population movements were encouraged and facilitated by ethnic and tribal affiliations. There are also several indications to conclude that clan connections, lineage and tribe have taken precedence over the ties of citizenship generated by the State in South Africa and Africa in general, when viewed from this perspective (Solomon, 1993:21-22). These historical and socio-cultural issues have, in several instances, created an enabling environment for refugee flows to South Africa. Because South Africa's international borders divide some ethnic groups so that they live in two or more countries, refugees are often assimilated in other countries, as well as in South Africa as immigrants (Ocaya-Lakidi, 1993:13).

## **5.2 Insecurity: Civil Wars, Political Violence and Instability**

The single major cause of refugee flows to South Africa is insecurity in other countries in the region in the form of civil wars, internal conflict, civil strife, generalised violence and general political instability. The Southern African region was engulfed in civil wars and political instability in the 1960s and 1970s. The

period from the late 1980s to the early 1990s was characterised by a type of civil war generally referred to as internal conflict, and wars which decreased security in the African political landscape, leading to refugee flows to South Africa. Insecurity associated with the violent collapse of civil society; armed conflict; political repression and persecution; turmoil, ethnic strife, *coups*, religious and ethnic intolerance, civil war, mass expulsion, human rights abuses and a denial of political rights and participation to certain groups, are important and immediate causes of refugee flows to South Africa ( Solomon, 2003:67; UNHCR, 2010-11a:4).

Some of the African countries most affected by insecurity and allied problems are Somalia, Sudan and the DRC. In several other countries, wars and political instability have been partially or totally settled, but internal politics still produces refugees, such as in the Central African Republic (CAR), and Côte d'Ivoire. This list also includes Kenya, which was engulfed by political violence shortly after the December 2008 elections. Political persecution, intimidation and repression was particularly rife even in some of the settled cases and in some supposedly peaceful countries, such as Egypt, Libya, Nigeria, Algeria, Rwanda and Zimbabwe, which is a special case (Oneworld.net, 2010:2b; UNHCR, 2010-11a:4).

Deegan (2009:144) states that incidents of political conflict, sporadic violence and ethnic or religious violence have been an enduring and constant feature of the African political terrain for several years. Hence, the insecurity situation across Africa has contributed to the refugee flows to South Africa.

### **5.3 Colonialism**

Some of the main characteristics of colonialism are general dislocation; uprootment, and the destabilization of the indigenous population to enable the colonial powers to entrench a colonial administrative system, thereby leading to refugee flows. It was also echoed at the September 1994 OAU/UNHCR Symposium on Refugees and Forced Population Displacement in Africa on the

issue of the root causes of refugee flows in Africa, that colonialism was responsible for some of the forced and coerced mass population displacements in Africa (Minnaar and Hough, 1996:12).

The refugee flows to South Africa before 1994 had a racial dynamic due to the discriminatory refugee reception based on race. South Africa granted asylum to refugees, especially in the 1970s, when persons of Portuguese origin and affiliation fled from the Angolan war against colonialism into what was then South West Africa (now Namibia). Many white Angolans and Mozambicans were given rights to citizenship and permanent residence in South Africa when Portuguese colonialism ended, but Mozambican black refugees during the civil war in the 1980s and 1990s were refused recognition as refugees by the South African government. During the Mozambican civil war, several Mozambicans did however migrate to in South Africa as refugees and migrant workers, legally and illegally (Crush, 1998:125). Initially, refugees were refused recognition, but with the passage of time and following UNHCR intervention under the September 6, 1993 agreement signed between the South African government and the Mozambican government, some were granted refugee status and accorded temporary resident permits to legally stay in South Africa. However, this only applied to Mozambican citizens who entered South Africa between 1985 and 1992 (UNHCR, 1993a).

#### **5.4 Porous Borders**

There is no doubt that the porous nature of South Africa's borders, coupled with inefficient control, is a major cause of refugee and illegal migrant flows to South Africa. Part of the problem in this regard is a combination of a lack of capacity, resources and political will by the authorities to enforce stricter and more effective border control.

South Africa is bordered by five member countries of the SADC, namely Namibia, Botswana, Zimbabwe, Mozambique and Swaziland. South Africa also surrounds a land-locked country, namely Lesotho. The country's total land

border is estimated to be about 3 500km (Hennop & Jefferson, 2001:17). Refugees as well as illegal migrants from different parts of the world take advantage of this situation, especially citizens from countries in sub-Saharan Africa and the SADC countries.

### **5.5 International Relations and South African Foreign Policy**

It has been said that population movement, including refugees, must be seen and understood in the broader context of interstate relations (Solomon, 2003:23). Weiner (1995:134) contends that international population movement is often impelled, facilitated, encouraged or prevented or discouraged by governments based not only on state policies, economic reasons or circumstances, but also on politics. Conversely, governments' ability to control the exit of their citizens from the country and the entry of foreign citizens into a country varies. Klotz (1997:38) contends that foreign policies are necessary to understand the basis of refugee flows and other population movements, and that it is imperative to understand that state policies are not formulated in a vacuum, but sometimes within the context of certain variables, such as norms and conventions.

South Africa as stated is a signatory to the 1951 UN Convention, the 1969 OAU Convention on Refugees; and the 1948 UN Human Rights Conventions and it engages in preventive diplomacy, and peace keeping. For instance, former president Thabo Mbeki's African Renaissance foreign policy approach was aimed at the promotion of African peace, security and co-existence, including meeting the country's international, continental and sub-regional obligations. These policies have affected South Africa's attitude towards refugee issues, hence contributing toward the refugee flows to South Africa after Mbeki's assumption of office since 1999. It is contended that the contradictions in South Africa's regional policy between its realistic pursuit of national interests and its pan-Africanist policies, as epitomised by the Zimbabwean case led to refugee flows into the country (Wa Kabwe-Segatti, 2008:31).

## 5.6 Persecution and Marginalisation

Incidents of political, socio-economic and religious persecution and the marginalisation of certain groups are particularly rife in Africa. Minority groups and some political and religious groups have faced persecution for their creeds, opinions and affiliations as a way of intimidating and driving them out, reducing their relevance in the larger scheme of things, especially countries with weak political institutions which are susceptible to manipulation to achieve pre-determined political ends. People who are persecuted and marginalised in this way may abandon their countries of origin to seek asylum elsewhere, thereby increasing refugee flows to countries such as South Africa. Political and ethnic persecution, ruthless suppression and the imprisonment of groups from countries such as Iran, Ethiopia, Egypt, Rwanda, China, Burma and other places, leads to refugee flows especially to South Africa (UNHCR, 2010-11b:4).

## 6. CONCLUSION

The main aim of this chapter was to analyse South African refugee legislation and policy, from both historical and more contemporary perspectives, as part of the country's response and attitude towards its refugee situation. The current extent of the refugee problem in South Africa and the causes of refugee flows to South Africa were also examined. The overall implementation process of the Refugees Act as the country's first authentic refugee legislation was considered.

An analysis of the current extent of the refugee problem in South Africa has shown that the year 1994 marked a watershed in the history of refugees and refugee flows to South Africa, making the country the single largest asylum country in the world.

In the context of the causes of refugee flows to South Africa, several issues and problems were found to be responsible as core and facilitating factors, ranging from civil wars, political violence and conflict. Porous borders and poor border

control and policing, as well as socio-cultural relations and persecution, have all contributed immensely to South Africa's refugee flows.

The next chapter focuses on the security implications of the presence of refugees in South Africa in terms of both the impact on the state as well as on societal security, hence on national security.

## CHAPTER 5

### THE SECURITY IMPLICATIONS OF REFUGEES IN SOUTH

### AFRICA

#### 1. INTRODUCTION

This chapter seeks to examine and analyse the security implications of the refugee situation in South Africa from a multifaceted perspective. It briefly summarises national security policy in South Africa; examines the official South African and international perspectives on the refugee problem in South Africa, and analyses the security implications of the refugee presence in South Africa in terms of the political, social, environmental, economic, and societal effects of their presence, as well as their effect on law and order.

In recent years, security analysts and migration experts have often pointed out that migration, especially the flow of refugees and their presence in a region, constitutes a serious security risk and threat to receiving countries. The main security risk results from the fact that many economic and illegal/undocumented migrants falsely claim to be refugees and asylum seekers. Refugees, as products of forced and involuntary migration and population movements, are themselves often products of different dimensions of insecurity in Africa and elsewhere.

Not only do refugees place a welfare burden on their hosts, but their presence is also associated with social vices, crime and criminality, as well as environmental, economic and political problems. Moreover, since the 9/11 terrorist attacks in the United States, refugees in some countries have sometimes been blamed for or accused of terrorism. Based on this perception and public prejudice, several governments have not only instituted restrictive policies, but have introduced legislation that denies even genuine asylum-seekers entrance to a country if the authorities consider such people a risk or a possible threat to a nation's security

(UNHCR, 2010-11b:3). South Africa, as a major refugee destination, has the unenviable record of having received 222 000 individual asylum claims in 2010, thereby making it the world's largest asylum destination (Oneworld.net, 2011:2). This situation clearly creates a range of security-related problems.

It has been said that mass population displacements in general and refugee flows in particular, are products of insecurity, but they can also constitute a source of insecurity (Solomon, 1996:1). Linked to this point is the fact that the issue of mass population movements cannot be addressed in the narrow confines of national interest or as a strictly humanitarian problem that requires only humanitarian solutions (Loescher, 1992:4). Refugee problems and the issues associated with them are usually societal, security-related, socio-cultural, economic and political in nature, with domestic, interstate, regional, continental and global ramifications.

To assess the security implications of refugees in South Africa specifically, an overview of national security policy is required.

## **2. NATIONAL SECURITY POLICY IN SOUTH AFRICA**

National security policy in South Africa is formulated and encapsulated in official views as contained in a number of official documents. The following documents are particularly relevant in this regard:

- the *Constitution of South Africa, Act 108 of 1996* (RSA, 1996a);
- the *White Paper on National Defence for the Republic of South Africa, May 1996* (RSA, 1996b);
- *the Bill of Rights: Constitution of the Republic of South Africa* (RSA, 1996c);
- the *White Paper on Intelligence, October 1995* (RSA, 1995c);
- *the White Paper on National Development for the Republic of South Africa* (RSA, 1996d); and

- The *White Paper on South Africa's Participation in International Peace Missions, October 1998* (RSA, 1998b).

The *Constitution of the Republic of South Africa* (RSA, 1996a) states that:

National security must reflect the resolve of South Africans, as individuals and as a nation, to live as equals, to live as a nation, to live in peace and harmony, to be free from fear and want and to seek a better life;

The resolve to live in peace and harmony precludes any South African citizen from participating in armed conflict, nationally or internationally, except as provided for in terms of the Constitution or national legislation;

National security must be pursued in compliance with the law, including international law;

National security is subject to the authority of Parliament and the National Executive.

The White Paper on National Defence of the Republic of South Africa (RSA, 1996b) states that “in the new South Africa, national security is no longer viewed as a predominantly military or police problem, it has been broadened to incorporate, political, economic, social and environmental matters. At the heart of this new approach is a permanent concern with the security of people” (RSA, 1996b:2).

The White Paper on Intelligence (RSA, 1995c:3) states that “(t)he maintenance and promotion of national security (i.e. peace, stability, development and progress) should be a primary objective of any government. Since intelligence is an instrument to achieve this goal, the two concepts inevitably represents two sides of the same coin.” It states further that a complex combination of international, regional and domestic development, of both a positive and negative dimensions have impact on national security, as well as the mission of

intelligence community in South Africa (RSA, 1995c: 8). The White Paper also focuses on the shift from the narrow, almost exclusively state-military approach to the issue of national security, to the broadened approach which is regarded as being more relevant to the post-Cold War reality of the country. The White Paper is premised on the fact that the objectives of national security should incorporate the basic principles and the core values associated with a better quality of life for the people, freedom, social and economic justice, prosperity and development (RSA, 1995c:4).

In terms of the broad approach to national security in South Africa, various aspects of the refugee presence in South Africa therefore need to be examined when discussing their security implications for South Africa. Some of the security concerns in this regard, are reflected in official and other views.

### **3. OFFICIAL, OPPOSITION PARTY AND INTERNATIONAL PERSPECTIVES ON THE REFUGEE PROBLEM IN SOUTH AFRICA**

In this section, selected official South African views on the refugee issue, as well as those of certain opposition parties are discussed, followed by some international perspectives.

A large part of the refugee issue arises from the problem of how to differentiate between economic migrants and authentic refugees. South African press reports regarding foreigners' involvement in crime often do not distinguish between refugees, illegal migrants and other foreigners who are residing in South Africa legally (Hough, 2004:8).

The South African National Crime Prevention Strategy (NCPS) lists certain problems associated with the presence of foreigners such as an increase in crime; the effects on employment opportunities for locals; extensive pressure on socio-economic infrastructure; increasing xenophobic tendencies; the exacerbation of inter-group conflict, and organised crime in border areas and beyond (Hough, 2004:2).

Former Minister of Home Affairs Mapisa-Nqakula disclosed that the South African government is conscious of its obligations to refugees and asylum seekers and efforts are directed towards the examination of different options with respect to managing the refugees (Sunday Independent, June 8, 2008). According to her, South Africans increasingly regard migration as a problem for the economy and a security threat to be addressed. She expressed the view that immigration policy serves the imperatives of internal security control and foreign policy objectives, including local, regional and international economic development. She acknowledged the fact that immigration policy should strike a balance between security and development (RSA, 2008b).

The former Minister of Home Affairs Nkosazana Dlamini-Zuma expressed concern about mixed migration to South Africa for economic and political reasons, which posed several challenges to the country's efforts to manage migration and provide protection to refugees who are vulnerable (RSA, 2009b). She commended the UNHCR for providing expertise to South Africa to be able to act appropriately on the refugee issue. She also disclosed that South Africa had expressed concern to the AU over the protracted refugee situation in the country, and the serious challenges faced by refugees and internally displaced communities in the country (Business Day, September 30, 2009).

The Deputy Chairperson of the South African Human Rights Commission (SAHRC) Zonke Majodina stated that there is no doubt that South Africa has a sound legal basis for admitting asylum seekers into the country, as exemplified by the Refugees Act of 1998, but the implementation left much to be desired (Sunday Independent, June 21, 2009). He especially highlighted some of these problems as follows:

- The long delays in processing asylum applications at DHA;
- Xenophobic attitude of the people both at official and private levels;

Lack of capacity at Home Affairs and the difficulty in establishing a workable system for administering the Act;

The vulnerability of refugees starts at an official level due to arbitrary detentions of legal refugees by law enforcement agencies; and

The difficulty refugees encounter on daily basis in accessing basic social and economic rights, which in itself amounts to a violation of refugee rights.

The Director-General of Home Affairs Mkuseli Apleni during a presentation to Members of Parliament in 2010, stated that Home Affairs' ineffective, chaotic asylum application system is a risk to national security, and refugee status is sometimes awarded to undeserving applicants. He said that this state of affairs is due to the large influx of applicants at the refugee reception offices which also concerns surrounding businesses and neighbours. People who are genuine asylum-seekers are applying for refugee status for the purposes of qualifying for the acquisition of South African permanent residence and citizenship. There was need for a clear process to identify and separate economic migrants from political asylum-seekers. He informed the Members of Parliament that a major problem encountered by DHA officials was that once an individual had entered the country and applied for asylum status, any dispute about the process took a long time, thereby placing further pressure on the asylum system (Star, June 2, 2010).

According to the former Deputy Minister of Home Affairs, Malusi Gigaba, criminals from fellow African States penetrated South Africa as migrants, asylum seekers and refugees, thereby abusing the process of international migration (RSA, 2010). The Deputy Minister of Home Affairs, Fatima Chohan acknowledged the negative effects and consequences that migration, including refugees, have on the South African economy and social infrastructure. She said that the country's asylum seeker and refugee management system has been

under intense pressure due to the fact that South Africa, according to the UNHCR, has the largest number of asylum seekers in the world (RSA, 2011).

The extent of certain differences in views regarding the refugee and asylum issue in South Africa, was displayed in Parliament among opposition political parties during the parliamentary debate of May 17, 2008. According to the Independent Democrats (ID), the AU should be blamed for its failure to address the problem of irresponsible leadership and poor governance in Africa, resulting in citizens from troubled African countries leaving their countries of origin to end up in South Africa, using legal and illegal means as refugees and asylum-seekers. The ID specifically mentioned the Zimbabwean situation as a case that required South African action, but the ANC-led government unfortunately has refused to take serious action on the leadership crisis in that country (RSA, 2008e).

The Freedom Front Plus (FF+) blamed the government for failure of government policy regarding the influx of large numbers of refugees, asylum-seekers and other migrants into the country, especially from Zimbabwe. The party described the situation as failure of South African diplomacy related to Zimbabwe (RSA, 2008e).

The Democratic Alliance (DA) expressed concerned about the security implications of the presence of large numbers of refugees in South Africa and criticised the porous security situation at the country's borders (RSA, 2008e). The DA advocated the establishment of a refugee camp, properly managed and monitored by the international community, the UNHCR and the DHA. According to the DA, such a camp would assist in keeping track of the refugees, their activities and properly identify them, thereby mitigating the security aspect of the problem. Also, it would make it easy for the DHA to differentiate economic migrants from genuine refugees and asylum-seekers in South Africa (Pretoria News, August 1, 2008).

As far as some of the international views are concerned, the UNHCR has also stated that some of the refugees and asylum-seekers show disregard for South African laws and engage in criminal activities such as document forgery, human trafficking, drug related crimes, prostitution and trans-border crime which pose security problems for the country (UNHCR, 2010a). The UNHCR stressed that as long as the organisation and other institutions are ready to extend assistance and protection to refugees and asylum-seekers, they have an obligation to obey and respect the country's laws (UNHCR, 2010b).

The UNHCR acknowledges the fact that it has become difficult to sustain a distinction between political migrants (or refugees in the conventional sense) and environmental and economic migrants, who constitute the majority of the illegal migrants (UNHCR, 1993a:13). The process of globalisation and other global developments has made such a distinction increasingly difficult.

The next section analyses the security implications of the refugee presence in South Africa from a multidimensional perspective.

#### **4. SELECTED MANIFESTATIONS OF SECURITY ISSUES RELATED TO REFUGEES IN SOUTH AFRICA**

Since 1994, the South African government has had to deal with the problem of increasing numbers of illegal migrants and refugees entering the country. Most of those who claim to be refugees are not in fact refugees in the strict sense, especially when the legal definitions of the conventions on refugees are considered.

Refugees, in their quest for survival, compete with locals for almost everything, ranging from jobs and housing, to health and education. Migrants, especially refugees, are thus an important source of security problems in South Africa, in the sense that the country's social services are overburdened, coupled with an increased crime rate and are perceived as security threat (Solomon, 1997:3).

The security implications of the refugee presence in South Africa are discussed from various perspectives, namely the political, social and environmental, economic, and violent conflict dimensions.

#### **4.1 Political Implications**

In South Africa, the presence of refugees has continued to be a contentious political matter in several respects. In recent years, coping with the large numbers of refugees in South Africa has increasingly become a problem, leading to political controversy, both at inter- and intra-party levels.

The presence of refugees results in a political risk domestically, regionally and internationally to South Africa's well-being, because there is evidence that refugees have established pressure groups and political organisations with negative repercussions for South Africa's internal political stability (Solomon, 2003:108-109). It was reported in early 1994 that refugees and illegal migrants formed a crisis committee and the National Immigrant's Workers Association (NIWA) in Winterveld and targeted communities for the purposes of political agitation and the aggregation of their interests in South Africa (Reitzes & Bam, 1996:7). The Concerned Refugees and Immigrants of Mozambique Organisation (CORIMO) was founded in October 1994 in the former Eastern Transvaal (Makhanya, 1996:7). By 1997, CORIMO had opened a branch in Alexandra Township and used the branch for suspected political activities. It was speculated that the National Party (NP) might profit from this and enhance its electoral chances in the October 1995 municipal elections as CORIMO's backer and financier (Solomon, 2003:109). Aside from the CORIMO-NP political association, similar political cooperation was rumoured to exist between NIWA and the Pan Africanist Congress (PAC), (Reitzes & Bam, 1996:7).

Apart from the domestic political implications for the country, political refugees in both their overt and covert political activities have created certain problems and posed a risk to South African foreign policy and diplomacy. Some of the cases are quite instructive in their dimensions and ramifications. The National

Liberation Coalition (NALICON) of Nigerian Nobel laureate Professor Wole Soyinka founded and operated the Radio Democrat International. The radio broadcast from South Africa on 12 June 1996, to commemorate the second year anniversary of the Nigerian presidential election of 12 June 1993, was monitored in Lagos, Nigeria (New Africa, 1995). The Nigerian government was displeased, because the channel released anti-Abacha propaganda. This situation created friction in South African-Nigerian diplomatic relations, to the extent that it was rumoured that the late Nigerian head of state, General Sani Abacha, did not attend President Nelson Mandela's inauguration in April 1994 (New Africa, 1995; Solomon, 2003: 110).

Shortly after the defeat and fall of Mobutu Sese Seko in Zaire four of his loyal generals arrived in South Africa to claim refugee status, while engaging in anti-Kabila political activities, which caused a diplomatic row between Pretoria and Kinshasa (Kanhema, 1997). It was further disclosed that the generals formed a political organisation, the National Front for the Liberation of Congo (NFLC), after selling cobalt to the value of R32 million to obtain funds to hire mercenaries to launch military insurrection from the Southern Congo, Zambia and Angola (Solomon, 2003:110-111).

A former Rwandan Army Chief, General Austin Kyamwasa, who fled Rwanda in February 2010, was shot and critically wounded in Johannesburg on Saturday 19 June 2010 by gunmen who opened fire on his car (Star, June 21, 2010; Sunday Independent, June 20, 2010). Nyamwasa, a fierce critic of Rwandan President Paul Kagame, was granted refugee status in Pretoria while Kigali requested his extradition to Rwanda to face charges related to a series of grenade attacks in the capital, in February 2010. The South African Police Service (SAPS) and government officials confirmed that the shooting of Nyamwasa was a political assassination attempt, and police arrested a total of six people, including two Rwandans (Citizen, June 24,2010; Mercury, June 24, 2010; Star, June 23, 2010). The South African government recalled its envoy to Kigali "for consultations" and to discuss with Pretoria how to "work on" relations

with Rwanda (Business Day, August 10, 2010; Star, August 6, 2010). This incident heightened the state of security alert around high-profile political refugees in South Africa.

It was also reported that another political refugee, the exiled Deputy President of the Movement for the Liberation of Congo (MLC) Michel Bouyela, was almost kidnapped by five unknown men in two unmarked vehicles in Johannesburg (Business Day, September 29, 2010). Bouyela is known to be opposed to President Joseph Kabila and has been involved in a series of political activities across South Africa which are inimical to Congolese interests and of great concern to the Pretoria administration (Business Day, September 29, 2010).

In certain situations, refugee affairs could well become problematic and affect good inter-state diplomatic relations. One major area of immediate concern in this regard is that there is sometimes the suspicion on the part of the refugees' country of origin that the host state is a source of encouragement to the refugees to organise subversive activities against the former, even without concrete evidence or for propaganda purposes (Ocaya-Lakidi, 1993:14).

#### **4.2 Social and Environmental Implications**

The social and environmental implications of the presence of large numbers of refugees in South Africa are extensive, particularly in the form of pressure on social services, such as health, education, housing, welfare provision and other services established by the government to render assistance and support to South African citizens (Maharaj, 2008:7).

From the perspective of environmental issues, refugees in their efforts at survival put pressure on the environment through slum dwellings due to inadequate housing, lack of access to basic social services, and other forms of deprivation. The Under-Secretary General of UN HABITAT, Dr Anna Kajumulo Tibaijuka stated that the poverty and deprivation suffered by migrants, as well as refugees, constitutes a major threat not only to their welfare, but also to the overall stability

of their respective receiving countries. Whether they are persons fleeing conflict, persecution, natural or man-made disasters or simply seeking greener pastures, migrants move in large numbers than ever known, including those skilled and unskilled, the poor and the more endowed. This in turn creates a host of environmental-related problems in the cities and urban centres (Tibaijuka, 2009b: 3-4).

The environmental impact of large numbers of refugees on the urban landscape, informal settlements and rural dwellings in South Africa, is extensive due to the increase in the scale and diversity of refugee arrivals from different parts of Africa and Asia. In Third World countries such as South Africa, the arrival of migrants, as well as refugees, more often than not, in a void of public or collective preparedness, whereby many of them end up in slum dwellings and rural areas (Tibaijuka, 2009b:4-5). The consequences of this is obvious, especially in the informal settlements in the form of degrading of the environment by way of polluting water resources; cutting down trees; creation of rubbish and refuse dumps; and other destructive environmental practices. Such squalid living conditions in slum areas constitute a serious health hazard because slum dwellers in the rural areas, cities, and informal settlements by the nature of their existence, are prone to disease, more at risk of HIV/Aids; suffer from malnutrition and hunger, and are more vulnerable to natural disasters such as floods, fires, earthquakes and landslides. Many of the slum dwellers in squatter communities are unable to access basic social services such as potable water, sanitation, energy supply, health and education facilities.

It has been stated that the Johannesburg central business district faced a serious humanitarian crisis particularly the area around the Central Methodist Church, the High Court and the well-known pedestrian shopping mall in Small Street due to large numbers of refugees, mainly from Zimbabwe (Star, March 11, 2009). In 2009, thousands of refugees turned the Johannesburg Central Business District (CBD), including the Central Methodist Church, the High Court

and the popular pedestrian shopping mall in Small Street, into a temporary abode, creating a humanitarian crisis of major proportions. The situation was such that the DHA approached the Department of Defence for the use of its military base in Limpopo as a temporary shelter for refugees and asylum seekers (Star, March 11, 2009).

A spokesperson for the Department of Home Affairs disclosed that negotiations had reached an advanced stage because the temporary housing facility in Musina was being relocated following a municipality request that the refugees be moved from the show grounds in the town (Star, March 11, 2009). According to Refugee International, Zimbabweans in the absence of accommodation in Musina, lived in substandard accommodation in Hillbrow, on construction sites, informal settlements and in churches (Garcia and Duplois, 2007:3). Johannesburg Police spokesperson Captain Bheki Mavundla stated that the Police had to raid the Central Methodist Church as a result of public complaints about criminals who rob people and run into the church (Star, February 2, 2008).

South Africa has no permanent refugee camps or transit facilities, and asylum seekers live freely in the country among the people and are authorised to work or do business and attend school, if granted refugee status. South African refugee policy is such that refugees are allowed freedom of movement; the right to engage in business ventures; the right to seek employment; and to avail themselves of other social services such as adequate housing, education, basic health care, social security, and access to legal protection once granted provisional asylum or full refugee status. On 22 August 2008, the Department of Social Development instituted disability grants for disabled refugees, including an old age grant and child grant as part of comprehensive plan for social assistance to refugees (RSA, 2010).

The extent of involvement of foreigners and refugees particularly, in crime, is a matter of debate and has generated much controversy in South Africa. Statistics

on foreigners and specifically their involvement in crime are not always reliable, or available. Some senior SAPS and DHA officials doubt that refugees contribute to the crime problem in particular, or that addressing illegal immigration or refugee problems is an effective means of bringing down national crime rates and solving security-related problems in the country (Gigaba, 2006).

There have however been extensive media reports on the involvement of foreigners, including refugees in certain crimes in South Africa. In the media reporting, a distinction is not always made between illegal migrants, refugees and other foreigners legally in South Africa. Some specific examples of arrests of foreigners reported in the media during 2009 and 2010, are as follows:

- Two Zimbabwean nationals were hired and paid R6 000 by Mulalo Sivhizo to murder her husband Avhabakali Netshisaulu son of former City Press editor Mathata Tsedu ( Star, February 2, 2009).
- Three men, one Zimbabwean and two Angolans with temporary asylum seeker identify documents were arrested and charged for kidnapping the five years old son of an Angolan mining magnate in June (Citizen, June 15, 2010).
- One of the suspects in the murder of Eugene Terre Blanche was discovered to be a Zimbabwean national (Pretoria News, May 10, 2010).
- Two Mozambican refugees were charged for attempted murder and robbery with aggravated circumstances for robbing a family in Sandton, Johannesburg during which a one year old baby was assaulted (Star, May 21, 2010).
- A Congolese refugee was arrested and charged in a Johannesburg magistrate court for violent robbery during which he took his victim's cell phone in Pretoria (Pretoria News, June 24, 2010).
- Four Pakistani asylum seekers were arrested in Brits, Pretoria during a sting operation on a Pakistan-run factory described by the Police as a "mini-Home Affairs" office. The following items were found by the Police on the premises:

- \* several thousand blank birth certificates;
- \* nearly 100 000 temporary and permanent work permits waiting to be filled in;
- \* bags full of blank identify documents;
- \* thousands of blank South African passports;
- \* more than 500 passports waiting for delivery or collection; and
- \* equipment for taking fingerprint impressions and an official Department of Home Affairs Stamp (Pretoria News, June 25, 2010).

### **4.3 Economic Implications**

Refugees not only migrate to places of safety and security, but also to countries of relative stability, wealth and an appreciable level of economic development. South Africa, as the largest African economy, with a developed infrastructure, has attracted large numbers of refugees since the 1990s and many remain in South Africa. The refugee flows to South Africa were compounded by the arrival of legal and illegal migrants, who became involved in all areas of the country's national economy (Peberdy & Oucho, 2000:1).

In addition to other implications of the presence of refugees in South Africa, the economic implications are extensive, and pervasive. These implications cannot be estimated only in financial terms, especially in respect of job opportunities in poor communities. The implications of the economic perspective associated with migrants and refugee problems include rising rates of unemployment among South Africans, leading to increasing tension, the deterioration of labour market conditions, a decline in job generation, and low levels of labour-absorption capacity in the formal and informal economy (Independent Online, 2007).

The impact of large numbers of refugees is most pronounced in the area of employment of low skilled, unskilled poor and working class South Africans who live, work and compete for jobs, struggle for small businesses, and hawking with refugees in the informal settlements and communities (RSA, 2010). Refugee

labourers, particularly Mozambican refugees were accused by locals of accepting low wages from South African farmers which contributed to unemployment among nationals. (Minnaar & Hough, 1996:111). The Executive Director, Business Unity South Africa (BUSA) Lawrence Khoza stated that one of the strongest criticisms directed against organised business in South Africa by the locals is that they are always quick to hire foreign nationals, including refugees at the expense of South Africans by offering low wages (Khoza, BUSA, 2008).

The active participation of refugees and other foreigners in these sectors of the economy has hurt local businesses and led to a negative reaction by the locals to refugees. As a direct response to this situation, several trade unions in various economic sectors have risen in defence of the locals. The members of unions such as the Food and Allied Workers Union (FAWU); the South African Commercial Catering and Allied Workers Union (SACCAWU); the Construction and Allied Workers Union (CAWU); the South African Domestic Workers Union (SADWU); and the African Chamber of Hawkers and Informal Business (ACHIB), have all been active and vociferous in accusing refugees of ruining local business. The protest by these unions, and especially ACHIB, has led to a campaign against refugees and other foreigners in South Africa (Weekender, May 31- June 1 2008).

As a proactive measure, the Department of Home Affairs approached Cabinet for permission to undertake wide-ranging consultations with economic stakeholders to evolve a policy on economic migration and to differentiate between asylum seekers, refugees and economic migrants more clearly to address the problem of competition raised by the unions. In this regard, the DHA held a meeting with Business Unity South Africa and a two-day workshop with the Central Executive Committee of the Congress of South African Trade Unions (COSATU), while more consultations were still ongoing with other stakeholders in the economy of the country (RSA, 2009c). The importance of this is based on the reality that economic migrants take advantage of the asylum channel to

regularise their stay, thereby clogging the asylum system which in turn creates problems for genuine asylum seekers and refugees in South Africa.

There is no doubt that refugees add to the country's burdens against the background of the fact that economic analysts estimated by 2010 that the unemployment rate would rise to 30 per cent over the next five years with 4.3 million unemployed, and five million graduates and students would enter the labour market in the next four years (Star Business Report, May 13, 2010).

#### **4.4 Violent Conflict**

The issue of violent conflict in South Africa, particularly violent attacks on foreigners, since the 1990s has become a recurrent problem in South Africa. For instance, in March 1990 about 300 huts belonging to Mozambican refugees were burnt down in Hluphekani, near Giyani, the capital of the former Gazankulu homeland by locals, who had warned them not to look for work or even work in their gardens (Minnaar & Hough, 1996:110). Also, two Senegalese non-nationals were brutally murdered in a crowded train travelling between Johannesburg and Pretoria in 1998. The human rights organisations were alarmed by the violence against Africans in South Africa and this resulted in a consultative process from which the Braamfontein Statement emanated (SAHRC, 2008:6). The document was an unequivocal condemnation of the rising levels of xenophobic violence in South Africa, which resulted in the formation of the Roll Back Xenophobia Campaign on October 15, 1998, under the auspices of the South African Human Rights Commission, but was sponsored by the UNHCR (RSA, 1998c).

From December 1994 to January 1995, foreigners as well as refugees were attacked in what was called "Operation Buyelekhaya" which means "go back home", aimed at forceful and violent removal of foreigners, illegal immigrants and refugees from Alexandra township (Solomon, 2003:98). Also, in May 2008, there were violent attacks against foreigners, which started in Alexandra and then spread to other areas of Gauteng and across the country, leading to the death of about 62 people, including South Africans (Landau, 2008:2).

Between 11 and 26 May 2008 foreign nationals, including refugees were killed by mobs in Johannesburg, Cape Town, Durban and other places, including some 35 000 who were driven from their homes; numbers of shacks were razed to the ground, and the uprising was dubbed South Africa's 'xenophobic riots' (Steinberg, 2008:1). Also, about 670 people were wounded; dozens were reported raped in the process; some thousands were physically and verbally assaulted; over 100 000 were displaced with several thousand returning to their countries of origin or migrating to other places, and properties worth millions of rand was destroyed or illegally appropriated or redistributed by the locals (Landau, 2008:2). In addition, there were several other isolated instances of violent attacks against foreigners across South Africa. One of the unfortunate aspects of these attacks is that no distinction seems to have been made between refugees and illegal and legal migrants (Juma, 2009:20).

As society attempted to come to terms with this problem, violence broke out at a temporary refugee camp outside Pretoria, when more than 200 displaced Somali refugees went on a rampage, attacking other refugees, until the police intervened and fired rubber bullets at them in an attempt to control the situation (Pretoria News, May 29, 2008). This followed the attacks on Somali refugees and asylum seekers, leading to the death of eight Somalis in Rustenburg in January 2008 (Somali Times, January 19, 2008). One of the worst incidents of violence was witnessed in De Doorns, in the Western Cape, leading to the displacement of about 3 000 refugees (Pretoria News, November 18, 2009; Star, November 20, 2009). The resentment against refugees, and foreigners, especially the attacks on Somali-owned shops and other businesses in South Africa, occurred as a result of amongst others, the existing competition for scarce resources such as jobs, trading and services (UNHCR, 2010b).

According to the Consortium for Refugees and Migrants in South Africa (CoRMSA), in January 2010 in Riviersonderend, Western Cape, about 400 residents looted Somali-owned shops in the area following the suspicious death of a local man who was seen with Somali nationals. An autopsy later proved that

the man died of natural causes, but by then shops had already been destroyed and Somalis displaced (CoRMSA, 2010). Also, violence erupted at the Houtseng Informal Settlement, near Johannesburg, when locals went on a rampage and clashed with the police and foreigners, including refugees, over poor service delivery, lack of housing, sanitation and other basic facilities in their farm settlement (Citizen, October 6, 2010).

Regarding violent conflict in the temporary refugee camps, Somalis have been involved more than any other nationals in South Africa, both as victims and perpetrators. Somalis were at the forefront of the resistance against the South African government's decision to close the temporary refugee camps, especially the volatile Klerksoord refugee camp, North of Pretoria established by the government to accommodate the more than 800 foreigners displaced after the outbreak of violent xenophobic attacks in May 2008 (Pretoria News, October 7, 2008).

Most of the foreigners and mainly Somalis in the Klerksoord temporary shelter refused to move to be re-integrated into communities, with many calling for repatriation back to their countries or resettlement in other countries. The UNHCR and the Jesuit Refugee Services (JRS) offered them financial assistance to get them alternative accommodation or be re-integrated into the communities, but they refused all the offers (Pretoria News, October 7, 2008). In the process, the police arrested seven Somali refugees for violent behaviour for intimidating other refugees who opted to register according to the DHA directives (Star, July 23, 2008).

According to the UNHCR, there are more than 7 000 Somali refugees in South Africa and human rights lawyers say that South African gangs killed more than 700 Somalis in the country between 2002 to 2010 to intimidate their community, rob them and destroy their businesses (UNHCR, 2011b).

Regarding the causes of the violent conflict, the participants accused foreigners of stealing houses, women, and work, and there seemed to be a struggle for resources between South Africans and foreigners (Steinberg, 2008:6). The government has also been accused of poor management of the conflict, and specifically “(t)he ineffective communication and/or engagement with local citizenry around the violence and its underlying causes; the insufficient pace and processing of service delivery as contributing to tensions; and more directly perceived corruption and impropriety of government officials, especially in the Police Service, and Department of Home Affairs officials in their dealings with foreign nationals” (HSRC, 2008: 27).

## **5. CONCLUSION**

This chapter discussed some of the main principles of South African national security policy; selected South African, opposition party and international perspectives regarding the refugee situation; and the security implications of the South African refugee situation from a political, social, environmental, and economic perspective, including violent conflict in the informal settlements and temporary refugee camps.

South African national security policy is a result of the political changes in the country, including its changed strategic environment. Current South African national security policy includes economic, political, social, and military dimensions as being relevant. It also emphasises human security in addition to state security.

Part of the problem regarding refugees revolves around the difficulty in distinguishing between genuine refugees and illegal migrants. To many South Africans, a distinction between refugees and illegal aliens and other foreigners is immaterial, and they see both categories as threats or as competitors.

The extent of refugee flows, and the presence of refugees in South Africa, have an impact on the country from a political, economic, social and environmental

perspective, including violent conflict in parts of South Africa which posed, and may again, pose a threat to the country's security. Some refugees have been associated with criminal activities in their effort at survival. Part of the explanation for violent attacks against refugees and other migrants, is the allegation that they engage in criminal activities and contribute to aggravating the security situation in the country.

## CHAPTER 6

### EVALUATION

In this chapter, a brief summary of the study is provided. The assumptions as formulated in the introductory chapter are assessed to indicate how the issues considered and analysed, relate to the security implications of the refugee presence in South Africa. Finally a brief conclusion is presented.

#### 1. SUMMARY OF THE TEXT

Chapter One provides the foundation of the other chapters by delineating the concepts, topics and main issues of the study. It includes the identification of the research theme; aims and objectives of the study; the scope and survey of literature; formulation and demarcation of the research problem; methodology, sources and assumptions; and the structure of the research.

The second chapter firstly defines and analyses the concept of national security from the perspective of traditional/western views and a post-Cold War, broader concept of security, on the one hand, and a Third World aspect of national security on the other. The discussion of the Third World approach to national security is relevant to the South African case study in this research. The second section of Chapter Two focuses on the concept of refugees within the context of the legal definitions provided by the 1951 UN and the 1969 OAU Convention on Refugees. The weaknesses or shortcomings of the various definitions of refugee status are discussed in relation to other contending categories of refugees, with particular reference to forced migration, such as IDPs, and so-called economic refugees and environmental refugees.

In Chapter Three, the study provides an overview of the African refugee situation, as the major refugee producing region of the world from both an historical and contemporary perspective. Also, the main causes of refugee flows in Africa are discussed and identified, including internal conflict in the form of civil

wars, political violence, political persecution, internecine strife, colonialism and poor governance. The implications of refugee flows for receiving countries are discussed in a multi-dimensional context comprising political, socio-economic, security and environmental factors. In addition, the consequences for the refugees themselves are discussed. Specific attention is paid to the major efforts expended towards a resolution of the African refugee problem and to recorded successes and failures, at regional and sub-regional levels.

In Chapter Four, South African refugee policy and legislation from an historical and contemporary perspective are analysed, including the current extent of refugee flows to South Africa and the immediate and facilitating causes of refugee flows to the country as the continent's foremost refugee destination. An overview of refugee policies and legislation initiated and enacted between 1994 and 2010 by South Africa to control and manage the presence of large numbers of refugees is provided. This includes the Aliens Control Amendment Act, 1995, and the Refugee Act, 1998. Regarding the causes of refugee flows to South Africa, civil wars, political violence, political persecution, intimidation, poor border protection, and reciprocity seem to be the main factors. An analysis of the South African Refugee Act, 1998, indicates that the Act recorded some achievement in terms of international best practice, but that certain problems remain.

In Chapter Five, the study provides an overview of national security policy in South Africa as a prelude to the discussion of the security implications of refugees for the country. National security in South Africa which is encapsulated in several official documents is conceptualised on a broadened basis; with specific emphasis on human security. The discussion on South African and international perspectives on the South African refugee issues and problems, indicates that a lack of a proper distinction concerning asylum seekers, refugees, and legal and illegal migrants, continues to exist. The security implications of refugees in South Africa were analysed from a political, economic, social, environmental, and law and order perspectives.

## 2. TESTING THE ASSUMPTIONS OF THE STUDY

The study is based on three assumptions namely:

- The main causes of refugee flows to South Africa reside not only in a number of push-factors in the sending countries, but also in a number of pull-factors in South Africa.
- The security implications of refugee flows to South Africa are exacerbated by a number of political, socio-economic and administrative issues in South Africa.
- Although concern over some of the security issues relating to refugee flows to South Africa have been officially expressed, policy responses have been ambiguous.

These assumptions are assessed below.

### **2.1 The main causes of refugee flows to South Africa reside not only in a number of push-factors in the sending countries, but also in a number of pull-factors in South Africa.**

There are a number of push-factors in the countries of origin of refugees that act as immediate causes of refugee flows to South Africa. The following push-factors have been identified in the course of the study:

- Internal conflicts in the form of civil wars, political violence and instability, political persecution, marginalisation, and intimidation. Such conflicts have been identified as one of the most important single push-factors in the majority of the refugee producing countries, especially in Africa. Evidence shows that conflicts are the major and root causes of forced displacement in Africa (Minnaar & Hough, 1996:12). The majority of refugees in South Africa are from the DRC, Somalia, Sudan, Ethiopia and Zimbabwe – countries which are known for their perpetual internal conflicts and politically-induced violence (UNHCR, 2010-11b:4).
- The research found that refugee flows induced by anti-colonial struggles have been the most problematic because of the large numbers of

refugees who crossed into South Africa under emergency conditions. It was, for example, reported that an estimated 300,000 Mozambican refugees poured into South Africa in the early 1990s due in part to the civil war induced by the anti-colonial struggle (Star, March 28, 1995). Colonialism brought about forced population displacements and dislocations leading to refugee flows in Africa as also noted by Minnaar & Hough (1996:12).

- Poor governance in Africa, especially in terms of ineffective leadership, culminating in a series of political, socio-economic and structural problems, is a key factor that has caused citizens to abandon their countries of origin and flee to South Africa in search of a better life (Solomon, 2003:67&68; Modi, 2002:15). Poor governance exacerbates social injustice and is a major push-factor that has led to mass population movements to South Africa (Kruys, 2007:1). As a result, refugees, including illegal migrants from several African countries, ended up in South Africa. This has created the problem of determining their status as either asylum seekers or illegal immigrants.

Regarding the pull-factors in South Africa which have been responsible for refugee and other migrant flows to the country, the following have been identified:

- Porous borders, and inefficient border protection, are some of the major pull-factors that have created an environment for population flows to South Africa. The study has shown that apart from the fact that South Africa shares its borders with five countries and an independent land-locked country surrounded by South Africa; lack of will on the part of the government has been blamed for the often unrestricted movement of people across the borders into South Africa. It was found that most of the 52 designated border posts lack trained staff, modern facilities, operational equipment, and a reliable power supply. In addition, they

suffer from a shortage of vehicles and a lack of suitable official living quarters (Kruys, 2007:130).

- South Africa's land borders are extensive and porous which makes clandestine entry by vehicle and on foot very easy without fear of detection and apprehension (Malatji, 2004:2). This opens the way for both genuine refugees, but also for illegal migrants (some passing as refugees) to relatively easily enter the country.
- South African foreign policy, reciprocity and African brotherhood form a three-dimensional pull-factor that was identified in the study as a major cause of refugee inflows into South Africa. South Africa is a member of all major international, regional and sub-regional organisations and a signatory to the two main refugee conventions (SAHRC, 2004:19). Its management of refugee issues is expected to comply with the international best practices. What follows from this is the fact that South Africa's foreign policy itself has become a pull-factor in refugee flows to the country, because it has encouraged refugees to move to South Africa. It was also found that South Africa's foreign policy under former President Thabo Mbeki was partly to blame for the Zimbabwean refugee and illegal migrant flows to South Africa. Mbeki's quiet diplomacy regarding Zimbabwe was regarded as inappropriate and ineffective and failed to end the political violence and electoral fraud in Zimbabwe. Also, Mbeki's African Renaissance foreign policy which advocated continental unity, greater integration and cooperation, encouraged both forced and voluntary migration to South Africa (SAHRC, 2004:17). Because several of the ANC cadres and some government officials were once exiled in different African countries, this has also affected their attitude towards refugees in terms of reciprocity.
- The spirit of African brotherhood is no less a pull-factor as a cause of refugee flows to South Africa, as some of the consequences of the refugee influx were overlooked. South Africa was warned that it should be circumspect and should exercise restraint on any issue of mass

migration the country. Therefore, awarding refugee status to individuals should be done more carefully (Solomon, 1996:2).

- Socio-cultural affinity is one of the pull-factors that created the condition for refugee flows to South Africa. Available evidence shows that many of the refugees were able to enter because of the presence of their relatives in South Africa, who provided the needed cover, assistance, and support. This enabled several of them to adapt quickly to the urban areas and informal settlements. The South African racial mix and multi-ethnic configuration further fuelled the influx of refugees who discovered the existence of their kinsmen in the country (Solomon, 2003:63-64). The study found extensive evidence of refugee movements due to historical and socio-cultural pull-factors. This finding has been confirmed by several scholars of migration both forced and voluntary (Ocaya-Lakidi, 1993:13; Juma, 2009:13). Refugee issues in South Africa have to some extent become both sentimental and emotional, which has adversely affected appropriate refugee policy decisions.
- The assumption as formulated can therefore be verified.

## **2.2. The security implications of refugee flows to South Africa are exacerbated by a number of political, socio-economic and administrative issues in South Africa**

To fully appreciate the security implications of refugee flows to South Africa and capture the interrelationship and link between refugees and security issues in South Africa, the country's perspective of the concept of security has to be taken into account. The country in its approach to national security adopted the broad concept of security, which is enunciated in the Constitution of South Africa, 1996, the White Paper on National Defence, 1996 and the White Paper on Intelligence, 1995 in which human security is specifically emphasised.

As evidenced in the study, the political implications of refugees in South Africa are varied. The large numbers of refugees in different parts of South Africa, both in urban centres and informal settlements, where immigrants mix freely with local

inhabitants, are shown to have had adverse domestic political consequences in certain cases. Several of the refugees have become involved in domestic politics, leading to political tension, violence and attacks against foreigners, including refugees in some cases (Malatji, 2004:2). Some of the refugees went to the extent of forming political associations; political campaigns, and other subterranean political activities with implications for South Africa security. Refugees have been manipulated by the political élite for electoral and partisan purposes. It was alleged that CORIMO founded in October 1994, was to politically enhance the electoral chances of the NP in the 1995 municipal election (Solomon, 2003:109). NIWA was speculated to politically benefit the PAC in the same election (Reitzes & Bam, 1996:7).

It was also found that some of the refugees had been involved in the politics of their home countries. This creates serious political implications for both domestic and regional politics (Solomon, 2003: 108). A good example is the case of a Congolese opposition leader, Roger Lumbala, who was seeking political asylum in South Africa, but who was wanted by his own country on charges of treason (This Day, September 10, 2012). A former Rwandan Army Chief General Austin Nyamwasa and a fierce critic of Rwandan President Paul Kagame, was shot and wounded by gunmen in Johannesburg on Saturday, June 19, 2010 (Sunday Independent, June 20, 2010 and Star, June 21, 2010). Nyamwasa was granted asylum and refugee status by Pretoria despite the request by Kigali for his extradition to Rwanda to face charges bothering on terrorism. This adversely affected the diplomatic relations between the two countries (Star, August 6, 2010 and Business Day, August 10, 2010).

The study has also shown that the presence of large numbers of refugees in South Africa has negative economic implications for ordinary South Africans, in particular, and for the country at large. Research has demonstrated that there has been no conscious effort to assess the negative economic cost of the refugee presence in South Africa between 1994 and 2010; rather that it was treated as a peripheral matter. According to the DHA, an average of R35 million

is spent annually on refugee repatriations to their country of origin (RSA: DHA, September 2009). This excludes expenses for government officials' accommodation and other costs associated with the assignment. The former Minister of Home Affairs, Nkosazana Dlamini-Zuma, stated that countries such as South Africa that host large numbers of refugees, are facing extensive challenges in providing for them against the background of the economic recession (Business Day, 30 September 2009). Refugees have also been blamed for being the source of the economic hardship faced by some of the citizenry. It has been said that the economic aspect of the refugee problem in South Africa is especially marked regarding the employment of low skilled, and unskilled workers in South Africa who compete for employment, hawking and small businesses with refugees in the informal settlements and communities (RSA, 2010). Moreover, the government stands accused of not doing enough to control this situation, thereby leading to conflict and violent protest. It was observed that accompanying the violent, so-called service delivery protests at local level is a disguised aggression against foreigners, including refugees. Refugees were found to be doing better than locals in different sectors of the economy which has had serious negative consequences for the domestic labour market (Peberdy & Oucho, 2001:1). In hawking, refugees, especially Somalis, outsmart and compete with the locals who resorted to attacking and killing them (Breen, CoRMSA, 2010). The economic implications and consequences are thus daunting.

Employers found migrants as well as the refugees to be more effective in the hotel and restaurant industry; in construction jobs; farm work and domestic work, and in fact, in most menial jobs, because they are prepared to accept lower wages than South African workers, and some even work unremunerated in return for shelter and food (Steinberg, 2008:6).

Regarding the social and environmental implications of large numbers of refugees in South Africa, refugees have contributed to squatter communities with the attendant diseases-prone, squalor-ridden environmental problems; have

exerted pressure on the available infrastructure; and exacerbated the struggle for urban space (UN, 2009b:3-4). It has been observed that most of these refugees arrived in South Africa traumatised, poor, homeless, jobless and destitute; therefore, they needed special care, which was provided by the government in conjunction with the UNHCR, NGOs and the Red Cross (UNHCR: 2007b:8). This has resulted in social tension, because the providers were seemingly unaware that the locals were becoming annoyed, believing that what was due to them was being diverted and given to refugees.

The assumption can therefore be verified.

### **2.3 Although concern over some of the security issues relating to refugee flows to South Africa have been officially expressed, policy responses have been ambiguous.**

Available evidence shows that the South African government realised as early as 1993 that refugees had become a problematic issue, and by 1994 this manifested as a crisis. Unfortunately, there was no clear refugee policy to manage the problem and when the Refugees Act was passed in 1998, effective from 2000, the implementation itself became problematic. It has been observed that central to the refugee problem in South Africa is the fact that there was a lack of appropriate policy options in the initial stages of post-1994, linked to ineffective articulation of strategy and implementation of the 1998 Refugees Act. The UNHCR in Pretoria acknowledged the fact that South Africa has the largest number of asylum seekers in the world and that the problem of refugees in South Africa was assuming alarming proportions (RSA, 2012). From an analysis of the post-1998 era, it is evident that the DHA was not only ill-equipped both legally and strategically to handle asylum processes, but it also had to contend with well-organised networks of NGOs, human rights organisations and asylum seekers' activists across the country, as well as the UNHCR.

Several South African government officials irrespective of race or political leaning, privately and publicly subscribed to the former Minister of Home Affairs

Mangosuthu Buthelezi's opinion that: "South Africa is faced with another threat, and that is the SADC ideology of free movement of people, free trade and freedom to choose where you live or work. Free movement of persons spells disaster for our country" (RSA, 1997b). In 1998, the then South African Deputy Minister for Home Affairs Lindiwe Sisulu, confirmed that the adoption and vote for the Refugees Act was a refugee policy premised to refocus on security dimensions justified by the relation between immigration and crime. This is based on two sets of considerations namely the fulfilment of international and constitutional obligations, and the priorities of law and order including concerns over other aspects of national and state security, social and economic interests (Sisulu,1998).

The ambiguity in policy responses is founded on certain contradictions in the country's policy frameworks and socio-economic realities, as well as security issues. When the refugee policy was promulgated the implementation thereof became a problem, because the official government policy on migration and refugees did not have the full support of every segment of the administration, the citizens and the political parties, while others maintained an ambivalent posture (Wa kabwe-Segatti, 2008:98).

This assumption as formulated above can therefore be confirmed.

### **3. CONCLUSION**

The presence of large numbers of refugees in South Africa has security implications that affect both the state and citizens. The central research problem of to what extent and how refugees impact on security in South Africa, as well as the nature and dimensions of these implications, were addressed in this study.

The main security concerns of the South African government and its citizens regarding the presence of large numbers of refugees in the country centre on economic, political, social and environmental issues. Migrants, including refugees, are often blamed for spiralling crime rates in South Africa, linking

foreigners to the proliferation of drugs; weapons/gun running; prostitution; smuggling rings; money laundering syndicates; human trafficking, and confidence scams.

South Africa is the preferred destination for many asylum seekers due to the fact that the country offers the best prospects for employment, and also has one of the most progressive refugee laws and a liberal constitution. The management of mixed migration flows and concerns about not allowing people to abuse the asylum system became an important issue. With the large numbers of asylum seekers, the result is an asylum system that has been overwhelmed by more applications than any other in the world, leading to large backlogs. This issue has heightened concerns about security, integrity of the state and abuses of the asylum system. One of the consequences of this situation is that it increased the rejection rate of asylum applications.

The flow of refugees to South Africa is unlikely to abate in the foreseeable future. This factor, coupled with the fact that most of the root causes responsible for refugee flows to South Africa are still present, pose certain threats to security in South Africa. Beyond this, several African refugees from conflict areas see South Africa as an opportunity for survival. Refugees will remain a persistent feature in the Third World, and many of these refugees who originated from countries such as Mozambique, the DRC, the Republic of Congo, Rwanda, Ethiopia and Somalia, are yet to return to their countries of origin.

## ABSTRACT

**Title:** The Security Implications of the Refugee Situation in South Africa

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**Degree:** Master of Security Studies

The aim of this study is to analyse the security implications of refugee flows to South Africa. The country is reputed to host the largest number of refugees and asylum seekers in the world and is also the foremost refugee destination of choice on the African continent. It therefore becomes pertinent that a consideration of the security implications is necessary in this age of global migration. The dissertation is based on three main assumptions to be investigated and tested, namely:

- > The main causes of refugee flows to South Africa reside in a number of push-factors in the sending countries, but also in a number of pull-factors in South Africa.
- > The security implications of refugee flows to South Africa are exacerbated by a number of political, socio-economic and administrative issues in South Africa.
- > Although concern over some of the security issues relating to refugee flows to South Africa have been officially expressed, policy responses have been ambiguous.

The study is undertaken against the background of the concept of national security, specifically in developing countries. It is within these parameters that the security implications of refugees in South Africa are analysed, especially from the perspective of political, economic, social and environmental dimensions.

The study mainly focuses on the period 1994 to 2010, as it is within this period that major developments regarding refugee issues in South Africa occurred.

**Key Terminology:**

Asylum seekers	National security threat
Illegal immigration	Refugees
Illegal migrants	Refugee flows
Migration	Security
Mixed migration	Xenophobia
National security	

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