

Migrants' Rights, Forced Migration and Migration Policy in Africa

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An analysis of international migration in Africa poses a challenge. The continent has 56 countries or areas, 53 of which are independent states. The possibilities of international population exchanges between such a large number of units are ample. Furthermore, the dynamics of international migration movements in Africa continues to be coloured by the continent's history of colonisation where the colonial powers imposed arbitrary borders that often divided people belonging to the same tribal or ethnic group. In addition, the need for labour to exploit the agricultural and mineral deposits of the colonies led to the forced movement of workers from one corner of a colony to another or even between colonial enclaves governed by different outside powers. These practices were at the root of the migrant worker recruitment programmes developed under formal agreements between newly independent countries after the period of colonial rule came to an end. However, as time elapsed and the economic situation of labour-receiving countries deteriorated or as the prices of the commodities they produced fluctuated in the world markets, the labour-receiving countries have often resorted to expulsion measures to reduce their foreign labour force in times of economic stringency. In addition, the process of nation-building has also been accompanied in certain instances by the expulsion of groups considered to be extraneous to the national polity.

Though sparse, more information is available on international migration policies in Africa under the colonial period and soon after decolonisation than for more recent years. By the late twentieth century, the fast population growth that most African countries had experienced together with the protracted stagnation that had characterized most of the African economies had left few countries in need of foreign labour. Much of international migration in the continent occurred and still occurs outside a regulatory framework, partly because few African countries have a well-articulated policy on international migration and even fewer seem to enforce their laws and regulations on immigration and emigration rigidly. Furthermore, a very sizeable proportion of international migration in Africa is related to forced migration and particularly to the movement of refugees in search of asylum. These types of flows have been affecting a growing number of countries in the continent. Not surprisingly, therefore, explicit laws relating to refugees are more common than those relating to other types of international migration.

This paper will review first the information available on the extent and nature of international migration in the continent, primarily to assess the extent to which forced migration plays a role in generating international migration flows in Africa. It will then review in general terms the policy goals and views of governments, the measures taken to manage international migration and the role of international instruments in enhancing the protection of migrants' rights.

A. THE DIMENSIONS OF MIGRATION OF AFRICA

Migration, whether internal or international, is a poorly quantified phenomenon in Africa. Lack of adequate and timely information on population movements is a major obstacle for furthering the understanding of migration dynamics in the continent. This paper will focus on international migration, but the situation with respect to internal migration and urbanization is not much better (United Nations, 1996 and 2002).

Data sources

With respect to international migration, perhaps the best set of comprehensive information is that provided by population censuses. Information on the place of birth or the citizenship of the enumerated population can be used to assess the impact of international migration by deriving estimates of the stock of international migrants. Data on place of birth are preferred as the basis for such estimation, since a person born in a country other than the one in which he or she is enumerated must have migrated internationally at least once. That is not the case for foreigners who, under nationality laws based on *jus sanguinis*, may not have the right to the citizenship of the country in which they are born and reside. However, from the "migrant rights" perspective, the number of foreigners residing in a country is more important than that of actual international migrants since those international migrants who are or have become citizens generally have the same rights as other citizens and would therefore not be subject to special treatment.

Even with regard to censuses, arguably the most easily available source of demographic information in Africa, coverage is far from ideal. The United Nations has compiled the most comprehensive collection of census data relative to place of birth or citizenship. For the 56 countries or areas in the continent, the collection includes 150 censuses covering the period 1945-2001. A total of 47 censuses refer to the period 1985-2001, but only 12 of them refer to years between 1995 and 2001. Table 1 shows the distribution of countries of Africa according to the number of censuses available with data on place of birth or citizenship (all censuses taken from 1945 to 2001 are considered). Five countries lack data altogether and 11 have only one census with the relevant information. Considering that censuses are traditionally taken every ten years, the period 1945-2001 would normally accommodate five or six censuses. As table 1 reveals, only 8 countries in Africa have at least 5 censuses with information relevant to the measurement of international migration. However, not all countries with more than one census have used consistently the same questions in their censuses. Thus, one census may record information on place of birth and the next on citizenship. Table 1 identifies the number of countries with at least two censuses where the criterion used has changed over time. Such changes imply that for three additional countries only one source of information can be used to assess the level of the international migrant stock. In sum, out of the 56 countries of Africa, 19 have either no information allowing the estimation of the international migrant stock or at most one census with data that can serve as a basis for assessing the impact of international migration over the second half of the twentieth century.

The census data described above and similar data for other regions of the world have been used to estimate the stock of international migrants at comparable points in time for all countries of the world. For all developing countries, estimates of the international migrant stock derived from censuses were added to estimates of the number of refugees in the countries of asylum as reported to UNHCR. That is, refugees are included in the final estimates of the migrant stock and, to the extent that censuses enumerate refugees, some double counting may have taken place. Undocumented, illegal or otherwise unauthorized migrants are not purposefully excluded from the estimates of the migrant stock but they are reflected in those estimates only to the extent that they are covered by census enumerations. Given that a significant proportion of international migration in Africa occurs between neighbouring countries

and appears not to be subject to strict administrative controls, there is no reason to believe that undocumented migrants were systematically excluded from census counts. Migration of short duration, however, is more likely to be missed than that involving a longer change of residence. Bearing these caveats in mind, it is useful to place the international migration experience of Africa in the context of world migration.

The magnitude of international migration in Africa

According to the estimates presented in table 2, the total number of international migrants in Africa rose from 9 million in 1960 to 16 million in 2000. The largest increase occurred between 1960 and 1980, when the number of international migrants in Africa rose from 9 million to 14 million. Since 1980 that number has changed less, reaching 16 million by 1990 and barely changing during 1990-2000. In comparison to the other major areas of the developing world, Africa has had more than double the number of international migrants than Latin America and the Caribbean since 1980 and about one half to one third of the number in Asia. However, the share of Africa in terms of the worldwide number of international migrants has been decreasing steadily since 1980, passing from 14 per cent then to an estimated 9 per cent in 2000. That is, neither the absolute number of international migrants in Africa nor Africa's share of the world migrant stock has been increasing markedly during the past 20 years and even over a forty-year horizon the changes in the migrant stock of Africa seem modest, particularly when compared with the near tripling of Africa's population during the same period. Indeed, the number of international migrants as a share of Africa's population has tended to decrease over time, especially after 1980 (see table 3). Thus, whereas in 1960 and still in 1980, international migrants constituted over 3 per cent of Africa's population, by 2000 their share had dropped to 2 per cent. In comparison with Asia or Latin America and the Caribbean, however, the number of international migrants in Africa has always constituted a higher share of the population than in other major areas. Also worth noting is that in 1960, when the process of decolonisation had just started, the percentage of international migrants in Africa was higher than in Europe (3.4 per cent vs. 2.8 per cent), but by 2000, the percentage of international migrants among Europe's population was nearly four times that in Africa (7.7 per cent vs. 2 per cent).

International migrants are not distributed homogeneously among the regions of Africa. As table 4 shows, Eastern Africa and Western Africa have generally had higher numbers of international migrants than the other regions of the continent. Western Africa has experienced a fairly important increase in the number of international migrants since 1960, but the increase has not been steady. By 2000 it was hosting 6.8 million international migrants, up from 2.5 million in 1960. In Eastern Africa the number of international migrants increased steadily until 1990 but has decreased in the last decade, so that by 2000 it stood at 4.5 million, about ten per cent below the level estimated for 1980 (5.1 million). In Southern Africa, a region that has been traditionally considered a major magnet for international migrants, the number remained close to a million from 1960 to 1980 and then increased during the 1980s to 1.5 million, but is estimated to have remained at that level during the 1990s. In Middle Africa, the number of international migrants increased from 1.3 million to 1.9 million between 1960 and 1980, but declined to 1.5 million by 1990 and is estimated to have remained virtually unchanged since then. In Northern Africa, the increasing trend in the number of international migrants that persisted during 1970-1990 was reversed in the 1990s and by 2000 the region was estimated to host 1.9 million international migrants. As a result of these trends, by 2000, 42 per cent of the international migrants in Africa lived in countries of Western Africa; 28 per cent in Eastern Africa; a further 12 per cent in Northern Africa, and 9 per cent in each Middle Africa and Southern Africa.

Regional differences in the number of international migrants lead to differences in their proportion among the total population of each region. As table 5 indicates, international migrants have generally constituted a greater share of the populations of Eastern and Western Africa than of those of other regions. In Eastern Africa, international migrants constituted more than 3 per cent of the population from 1960 to 1990, but their share has declined markedly since then to reach 1.8 per cent in 2000. In relative terms, therefore, international migrants remain more prominent in Western Africa where they constituted 2.7 per cent of the population in 2000, near the average for the 1960-1990 period. In all other regions of Africa, international migrants were estimated to constitute less than one per cent of the population in 2000 and, for most of those regions, the share of international migrants in the whole population had declined by at least half since 1960.

The extent of female migration in Africa

In Africa, males have tended to outnumber females among international migrants. As table 6 indicates, the proportion of females among international migrants in Africa has generally been lower than the average for the world as a whole. However, the proportion female among international migrants in Africa has been increasing steadily and faster than at the world level. By 2000, it is estimated that 46.7 per cent of the 16 million international migrants in Africa were female, up from 42 per cent in 1960 when the number of international migrants in the continent stood at 9 million. In 1960, Africa had the lowest proportion female among international migrants in comparison to other major areas. By 2000, the proportion female among international migrants in Asia was lower than that in Africa but in all other major areas female migrants constituted more than 50 per cent of the international migrant population.

At the regional level, Southern Africa has traditionally had the lowest proportion of females among the international migrant stock (42 per cent in 2000 up from 30 per cent in 1960). During the 1960s, the reliance of the coal and gold mines of the Republic of South Africa on male migrant workers was largely responsible for the strong predominance of men among international migrants. In the 1970s, however, the government of South Africa began to reduce the dependence of the mining sector on foreign labour, with the result that the number of temporary migrant workers employed by the Chamber of Mines declined steadily and the proportion female in the overall international migrant stock increased.

Females were also significantly underrepresented among the international migrant stock of Eastern and Western Africa: they constituted 41 to 42 per cent of all international migrants in those regions in 1960. However, the proportion female in those regions increased steadily after 1960 to reach nearly 48 per cent in both regions by 2000, a figure only slightly below the world average. In contrast, the proportion female declined steadily among the international migrants in Northern Africa, passing from 49.5 per cent in 1960 to nearly 43 per cent in 2000. Decolonisation and the continued dominance of temporary worker migration in that region probably accounts for such a trend. Lastly, in Middle Africa, the proportion female among

international migrants is estimated to have remained nearly unchanged since 1960 at close to 46 per cent.

Refugees in Africa

Refugees have been an important component of international migration in Africa. As table 7 indicates, the number of refugees in Africa increased steadily from 1960 to 1995, passing from 79,000 to 6.4 million in that period. However, during the 1990s, the resolution of conflicts, some of long-standing, made possible major refugee repatriations, leading to an important reduction of their numbers. In addition, as will be discussed below, the growing reluctance of receiving countries in Africa to grant asylum and refugee status on a *prima facie* basis has also contributed to the reduction of official numbers of refugees. By 2000, the total number of refugees reported to UNHCR by countries in Africa stood at 3.6 million, a 44 per cent reduction with respect to the number in 1995.

Since 1970, refugees in Africa have constituted a substantial proportion of the world's refugees. Whereas in the 1960s, as decolonisation proceeded, Africa accounted for less than one in six of all refugees in the world, by 1970 it was hosting two out of every five. The proportion of refugees in Africa peaked in 1975, when three out of every five of the world's refugees had found asylum in the continent. Since 1985, at least a third of all refugees in the world have been hosted by countries of Africa and only Asia has surpassed Africa in terms of the number of refugees in its midst.

During 1960-1975, the countries of Middle Africa provided asylum to the largest proportion of refugees in Africa, with Eastern Africa hosting the second largest group (see table 8). As of 1980, Eastern Africa became the region with the largest concentration of refugees, accounting for at least half of all refugees in Africa during 1980-1990 and still providing asylum to 46 per cent of the refugees in Africa by 2000. Middle Africa and Northern Africa (which includes the Sudan) have also hosted significant proportions of refugees, though there have been fluctuations in their relative positions since 1980. By 2000, they each accounted for about one of every seven refugees in Africa.

Southern Africa has tended to have the lowest number of refugees in Africa and in 2000 accounted for just one of every 100 refugees in the continent. In contrast, Western Africa, where major refugee movements had occurred in the 1970s and again in the 1990s, accounted for over 20 per cent of all refugees in Africa during 1995-2000.

Although refugees in Africa have tended to concentrate in just a few countries of asylum, the list of major countries of asylum in the continent has been expanding steadily. In 1960, a single country, the Democratic Republic of the Congo, accounted for 95 per cent of the 79,000 refugees in the continent. By 1970, 8 countries hosted 95 per cent of the refugees in Africa, and by 1980 that list had increased to 11. In 1990, 15 countries were needed to account for the same proportion and by 2000 there were 18 countries hosting the majority of refugees in Africa. Table 9 shows the list of countries hosting most of the refugees in Africa during the 1990s. Many of the countries involved are classified as least developed by the United Nations and, as such, face serious constraints in providing assistance to large numbers of refugees.

Forced migration has been a major component of international migration in Africa. To assess its impact, the proportion of refugees among the international migrant stock has been calculated (see table 10). In 1960, only one per cent of all international migrants in Africa were refugees. By 1970 that proportion had risen to 10 per cent and in 1980 it had reached 25 per cent. The number of refugees as a percentage of the international migrant stock increased further to 33 per cent in 1990 and is likely to have kept on rising until 1995 before declining to 22 per cent in 2000.

At the regional level, refugees constituted a very substantial proportion of all international migrants in Eastern Africa, where in 1990 they accounted for 54 per cent of the migrant stock, a proportion that declined to 36 per cent in 2000 (see table 10). Refugees have also been a major proportion of international migrants in Middle Africa (31 per cent in 1990 and 36 per cent in 2000) and in Northern Africa (46 per cent in 1990 and 30 per cent in 2000). In Western Africa, refugees have accounted for at least 10 per cent of all international migrants

during the 1990s. Only in Southern Africa have refugees remained a very small proportion of the migrant stock (2 to 3 per cent in the 1990s).

In sum, although international migration in Africa has not been dominated by refugee movements, over certain periods and in certain parts of the continent, forced migration across international borders had constituted a very substantial component of all international migration. In the major part of the continent, including Eastern, Middle and Northern Africa, the share of refugees among the international migrant stock has been high since 1980 and is currently of at least 30 per cent. During the 1990s, between one in three and one in five international migrants in Africa was a refugee.

B. INTERNATIONAL MIGRATION POLICIES IN AFRICA

There is no comprehensive source on international migration policies in Africa. However, the United Nations Population Division has conducted eight “Population Inquiries among Governments” since 1963 to compile official government views about the different components of population change and information on the policies used to shape them. With regard to international migration, the Population Inquiries carried out since 1976 have included questions on the views of governments regarding the adequacy of their current levels of immigration and emigration and on the goals of policies on immigration or emigration. The results of the Inquiries carried out in 1976, 1986, 1996 and 2001 are presented in tables 11 and 12 for the countries of Africa (United Nations, 2002c).

With regard to immigration, the results of the Inquiries reveal that most countries of Africa find their level of immigration satisfactory and that, since 1996, only 7 or 8 countries out of the 53 independent countries covered by the Inquiry have reported that their levels of immigration are viewed as too high. Furthermore, in recent periods no country in Africa has considered its immigration levels as too low. On the whole, these views appear to be congruent with the goals of their immigration policies. In 1976, 41 of the 48 African countries responding to the Inquiry either had a policy of no intervention to shape immigration flows or had a policy whose aim was to maintain immigration at the current levels. By 1996 that number had dropped

to 35 countries (out of a total of 53) and in 2001 it had been reduced further to 32. In contrast, the number of countries whose governments had policies aimed at lowering immigration had risen from 2 in 1976 to 20 in 2001, and the number of those wishing to increase immigration had declined from 5 in 1976 to 1 in 2001. That is, just as in the rest of the world, to the extent that countries in Africa were taking measures to modify immigration trends, their goal was to reduce immigration rather than to increase it. However, it bears stressing that 23 of the 53 African countries responding to the 2001 Inquiry reported a policy of “no intervention”, a stance that is often equivalent to having no explicit policy on immigration.

With respect to policies on emigration, the trends are less clear (table 12). As with immigration, the vast majority of African countries responding to the different Inquiries reported that levels of emigration were satisfactory and that they either had a policy of no intervention or one aimed at maintaining current levels. Although the number of countries wishing to lower emigration had risen from 1976 to 1996 (from 3 to 9), by 2001 it had declined significantly (to 6). Only one or two countries reported in each Inquiry that their policies were aimed at increasing emigration. That is, more clearly than in the case of immigration, a policy of no intervention or to keep emigration levels stable was the most commonly reported by governments in Africa. In fact, in the 2001 Inquiry, 40 African countries reported a policy of no intervention with respect to emigration. Among the rest, the goal of those taking a more proactive stance to modify emigration levels was generally to reduce emigration.

It is enlightening to consider the changes in the international migrant stock experienced recently by countries whose stated policy goal in 2001 was to reduce immigration. Table 13 shows those countries in conjunction with the estimated number of international migrants in each for 1990 and 2000, and the difference between those two figures. Although the decrement or increment of the stock of international migrants in a country does not reveal the full extent of international migration flows over that period because the latter includes also the movement of persons who are not foreign-born, nevertheless the differences presented in table 13 are indicative of the net loss or gain of foreign-born individuals by each country.

From a policy stance, a reduction of “immigration” can be understood to mean a reduction in the increase of the number of foreign-born, if not its outright reduction. According to table 13, 9 out of the 20 countries declaring that their aim was to reduce immigration experienced a reduction in the number of international migrants between 1990 and 2000, making their policy congruent with the migration experienced during that decade. One country, Tunisia, experienced zero growth of the international migrant population, and the other 10 countries saw their migrant stock increase, sometimes substantially, as in the case of Cote d’Ivoire and the United Republic of Tanzania. For the latter countries, therefore, the 2001 policy stance indicated either a reaction to the increasing migrant stock or a failure of past measures to stem its growth.

It should be noted, however, that the changes in the migrant stock experienced by Congo, Djibouti, Kenya, Malawi, Mauritania, Namibia, Sierra Leone, the United Republic of Tanzania, Zambia and Zimbabwe were mostly attributable to changes in the number of refugees in those countries. In Djibouti, Malawi, Mauritania, Sierra Leone and Zimbabwe, refugee repatriations led to sizeable reductions of the international migrant stock. In the rest, refugee inflows raised the number of international migrants in their territories. For the latter, policies aimed at reducing immigration would generally not be expected to prevent the inflow of refugees forced to flee neighbouring countries, unless the measures taken included an effective closure of borders. That is, even if effective measures to reduce normal immigration had been in place during the 1990s, they are unlikely to have prevented the increase of the migrant stock in countries receiving sizable refugee inflows.

For Cameroon, the Democratic Republic of the Congo, Egypt and Mauritius, the reduction of the migrant stock between 1990 and 2000 was mostly due to migration flows that did not involve refugees. For those countries, therefore, the view expressed in 2001 regarding the goal of reducing immigration was congruent with their recent past experience and might indicate that any measures they had taken to reduce immigration had had the desired effect. In contrast, for Botswana, Cote d’Ivoire, Gabon, the Gambia and the Libyan Arab Jamahiriya, the increase of the migrant stock during the 1990s suggested that either their policies to reduce immigration had not been effective or that the decision to reduce the inflows of international migrants had been taken as a response to the increasing number of international migrants in their midst.

Selected national experience

In contrast with the comprehensiveness of coverage characterizing the Population Inquiry's information on government views regarding migration policies, more specific information about those policies in the countries of Africa is hard to find. Perhaps the best known policies are those adopted by South Africa to shape the temporary migration of labour from neighbouring countries. Foreign workers were recruited under agreements between the employing organization and the governments of the supplying countries. Contracts for migrant workers were of limited duration (at most two years) and upon completion of the contract migrant workers were transported back to their countries of origin as a group. Foreign workers were not allowed to bring in their families and while in South Africa their movement outside the area of employment was prohibited and no change of employers was possible. Most of the countries neighbouring South Africa were suppliers of migrant workers in the 1960s. Upon independence in 1972, Mozambique discontinued labour migration to South Africa and Malawi did the same in 1973. As a response to these unilateral restrictive moves by suppliers, the government of South Africa began to take steps to reduce the dependence of the gold and coal industries on foreign labour. By the 1990s, although foreign workers were still being hired on a temporary basis by the Chamber of Mines, their numbers had been reduced very significantly both in absolute terms and as a percentage of the workforce engaged in the mines.

With the end of apartheid in 1994, the government of South Africa adopted the 1995 Amendments to the 1991 Aliens Control Act with the aim of eliminating the most severe regulations restricting the rights of unauthorized migrants. Nevertheless, restrictions on immigration remain. South Africa allows the admission of permanent immigrants and skilled temporary migrants on a selective basis. In addition, farmers and the mining industry still have the prerogative of recruiting foreign labour under the terms of bilateral agreements with countries of origin although they must secure work permits for the foreign migrants recruited. The economic prosperity of South Africa continues to attract unauthorized migrants, who mostly lack legal protections. If caught, expulsion is immediate. However, in 1996 South Africa

conducted an amnesty program that granted residence to 124,000 nationals of other Southern African states.

Botswana is another country in Southern Africa whose relative prosperity has made it into a common destination of unauthorized migrants. Botswana relies on foreign workers to fill skilled positions if nationals are not available. However, the country does not have a formal international migration policy. Mindful of its need for skilled manpower, in the early 1990s Botswana relaxed the granting of entry visas and residence permits.

In Western Africa, Cote d'Ivoire has a long history as a labour importer. Under colonial rule, forced labour recruitment was the norm but after independence formal labour recruitment programmes were developed under agreements with neighbouring countries, particularly Burkina Faso. Over the years, recruitment and hiring practices were relaxed and the government's immigration policy was considered liberal. However, during the 1990s, as economic difficulties loomed, measures to restrict labour migration and to combat unauthorized migration began to be implemented. A drive to register and issue identity card for foreigners was undertaken. In 1998, annual residence fees for foreigners were tripled. Unauthorized migrants, if caught, were subject to deportation.

In Middle Africa, Gabon, an oil-producing country, also has a long history of foreign labour recruitment carried out under bilateral agreements with countries of origin. However, in the early 1990s, Gabon adopted a policy aimed at "nationalizing" the labour force. In 1994 a law requiring foreigners to register and pay residence fees was adopted. Failure to comply by February 1995 implied that foreigners had to leave the country. It is estimated that by the deadline, about 15,000 foreigners had been legalized and 55,000 had been forced to leave the country.

Regional approaches to migration policy

In addition to bilateral agreements governing the recruitment of labour, there have been a number of initiatives in Africa to facilitate international population movements among countries

belonging to supranational organizations. One of the first such initiatives was the Conseil de l'Entente among French-speaking countries of Western Africa which would have allowed dual nationality and given citizens of member states the same status as citizens of member countries in the labour markets of other member countries. However, the proposed convention was opposed by Cote d'Ivoire and never implemented.

Under the Communauté Économique de l'Afrique de l'Ouest (CEAO) which grouped Benin, Burkina Faso, Cote d'Ivoire, Mali, Mauritania, Niger and Senegal, with Togo in observer status, an agreement on the free circulation of people was signed in 1978. A similar but more ambitious project was initiated by the Economic Community of West African States (ECOWAS), whose Protocol on the Free Movement of Persons, Right of Residence and Establishment was signed in 1979. The Protocol was to be implemented in three phases, each comprising approximately five years. The first phase, which became effective in 1980, guaranteed the right of entry to citizens of member states by stipulating that community citizens in possession of valid travel documents or international peace certificates did not need visas to enter other member states provided their intended length of stay did not exceed 90 days. The second phase, which started in 1986, granted the right of residence to community citizens wishing to reside in a member state other than their own but it did not grant the right to hold a salaried job. The third phase, which was to have started in 1991, would have granted community citizens the right to establish business ventures in member states other than their own. Because of concerns about unauthorized migration, neither the second nor the third phases of implementation of the Protocol have led to unfettered rights of residence or establishment.

In Southern Africa, the Southern African Development Community, revitalized in 1995, set the goal of creating a free trade community with free movement of people by 2000. So far, agreement has been achieved only on the use of visa-free admission for limited durations. However, both South Africa and Zimbabwe have declined to implement the plan for freer movement, worried about its potential to increase unauthorized migration.

C. MAJOR INTERNATIONAL INSTRUMENTS AND THEIR IMPORTANCE FOR AFRICA

The key international instruments relating to international migration are the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol; the 1990 Convention on the Rights of All Migrant Workers and Members of Their Families, the 2002 Protocol against the Smuggling of Migrants by Land, Sea and Air and the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The latter two Protocols supplement the 2000 United Nations Convention against Transnational Organized Crime.

Given the importance of forced migration in Africa and the long history of refugee flows in the continent, there is almost universal adherence to the international instruments relating to refugees. Thus, 47 of the 53 independent countries of Africa are parties to both the 1951 Convention and the 1967 Protocol relating to the Status of Refugees. Only four countries are not parties to either (Comoros, Eritrea, the Libyan Arab Jamahiriya and Mauritius), Madagascar and Namibia are parties to the 1951 Convention only and Cape Verde is party only to the 1967 Protocol.

For refugees in Africa there is a further regional treaty, the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Refugee Convention). Drafted in the aftermath of anti-colonial struggles, the OAU Refugee Convention allows for the group-based determination of refugee status. In addition, it expands the definition of “refugee” by stating that external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of the country of origin or nationality of a person are a basis for claiming refugee status. This means that large groups of refugees fleeing mass human rights violations or generalized violence can be given protection on the strength of their nationality or their membership of a particular ethnic group. Countries that adhere to both the 1951 UN Convention and the OAU Refugee Convention can have, therefore, a dual approach to granting refugee status (individual determination on the basis of the 1951 Convention or group basis on the basis of the OAU definition of refugee).

With respect to the rights of migrant workers, the 1990 Convention has not yet received the overwhelming support achieved by the international instruments on refugees. Nevertheless, 8 countries in Africa have already ratified the Convention, namely, Cape Verde, Egypt, Ghana, Guinea, Morocco, Senegal, Seychelles and Uganda. In addition, the Convention has been signed by Burkina Faso, Comoros, Guinea-Bissau, Sao Tome and Principe, Sierra Leone, the Sudan and Togo. Yet the most important importers of labour in Africa are not parties to the Convention, while most of the countries signing or ratifying it are mainly sources of migrants. That is, as in other world regions, countries hosting sizeable numbers of migrant workers have been reluctant to become parties to the 1990 Convention on the Rights of All Migrant Workers.

Although migrant trafficking is only beginning to attract the attention of governments in Africa, the recently adopted Protocols against Smuggling and Trafficking have already been ratified by five African countries: Botswana, Burkina Faso, Mauritania, Namibia and Nigeria. It is worth noting that these Protocols do not belong to either the body of human rights law or that of humanitarian law. They are aimed less at protecting the rights of migrants than at punishing those who assist in migrant smuggling or engage in trafficking of persons. In Africa, smuggling is increasingly affecting countries in Northern Africa that are used as countries of transit for citizens of countries in sub-Saharan Africa who wish to gain access to Europe. Yet, no country in Northern Africa has as yet ratified the Protocol against Smuggling.

Policies relating to refugees

In African countries, refugees are often admitted to asylum countries under the terms of group eligibility. However, they are then required to remain confined to rural settlements and camps. If they leave the designated areas, refugees lose their refugee status and become illegal migrants. Many refugees are of rural origin, but urban refugees also find themselves restricted to areas where they have no opportunity to re-establish the lives they were forced to leave behind. Refugees often move to towns and cities where they become “invisible” and are vulnerable to exploitation, harassment and expulsion.

In many African countries, individual asylum applicants have their status determined on a case-by-case basis, often through procedures that are complex and less than satisfactory. Asylum-seekers frequently have no access to independent advice or representation, and no real prospect of exercising the right of appeal if their application is turned down.

The protection afforded to people recognized as refugees varies from country to country. The legal framework at the national level ranges from detailed legislation on refugees to virtual silence on the issue. African governments also differ in how far they implement human rights standards in their treatment of refugees

The Office of the United Nations High Commissioner for Refugees (UNHCR) is charged with ensuring that both the protection and assistance needs of refugees are met: To carry out its work, UNHCR needs access to refugee communities, access that generally depends on the goodwill and cooperation of host states. This dependence on governments can sometimes constrain UNHCR from fully discharging its protection mandate.

For the 16 million internally displaced Africans, there is no specific international treaty or organization like UNHCR mandated to provide assistance and protection. Governments are frequently reluctant to accept international supervision of their treatment of the internally displaced and wary of international involvement in providing them with assistance and protection. Many internally displaced populations are therefore beyond the reach of international organizations. Although there is an urgent need to secure improved protection for the internally displaced, solutions are complex and fraught with practical and political difficulties. Refugee advocates fear, with good reason, that the governments of both of host countries and of financial donors may use initiatives on behalf of the internally displaced to undermine international obligations towards refugees by effectively preventing people from fleeing across international borders.

Africa's history of forced migration goes back centuries. Conditions in pre-colonial states often led to mass movements of people escaping from repressive rulers. In the years after independence, nationalist politicians in a number of countries resorted to mass expulsions of

“foreigners” in attempts to build popular support. Recent decades have seen disastrous economic decline in Africa, exacerbating repression, political destabilization and civil war. With the end of the Cold War, Africa’s global strategic significance has declined. New opportunities for democratization have opened up, but political uncertainty and armed conflict have spread. In some parts of Africa, such as the Democratic Republic of the Congo, Liberia, Somalia or the Sudan, states have disintegrated into patches of territory controlled by competing armed factions.

Any optimism that there might have been in the 1990s regarding an imminent end to forced migration in Africa has dissipated. Instead, the prospect for continued internal conflict in a number of countries and even full-scale international wars looms large. With the growing reluctance of governments to offer asylum to large numbers of persons fleeing such conflicts, a crisis in international protection may materialize. Historically, the response of most African countries and communities towards the displaced has been generous, reflecting long-standing ethnic, political and cultural links between refugees and host populations. However, in recent years this hospitality has eroded. Some African countries have closed their borders to people fleeing persecution and have forcibly expelled refugees. In certain cases, refugees have been compelled to return to their countries by reductions in food supplies and the denial of other basic rights in the countries of asylum. Hostility towards refugees appears to be increasing, with refugees being blamed for economic, security, environmental and social problems. In addition, there is a growing unwillingness on the part of the richer countries of the world to provide international support for the refugees hosted by poor countries.

Because recent refugee crises in Africa have mostly arisen in the context of armed conflict, human rights issues have to be an integral part of the process of resolving such conflicts. If a lasting peace is to be achieved, peace treaties should incorporate specific human rights commitments and mechanisms to guarantee them, including agreements on the return of both refugees and internally displaced people to their homes. Repatriation should take place only when the situation in the communities of origin is demonstrably safe. Furthermore, return, even when it is voluntary and safe, does not guarantee successful reintegration. Both development aid and an independent monitoring system to ensure that basic human rights are safeguarded need to be in place.

This paper has shown that forced migration in Africa has accounted for a very sizeable proportion of all international migrants in the continent. Given the prospects for continued instability in the region and the ever more restricted opportunities for authorized migration of an economic type, it is likely that, over the next decade or two, forced migration will continue to play a major role in the international population movements of Africa. It is important, therefore, to pay particular attention to the development of both appropriate legal frameworks and flexible institutional responses that can respond to the needs of refugees and internally displaced persons while at the same time ensuring that their basic human rights are protected.

REFERENCES

Adepoju, Aderanti (1988). International migration in Africa south of the Sahara. In *International Migration Today, vol. I: Trends and Prospects*, Reginald Appleyard, ed. Paris: UNESCO.

International Organization for Migration and the United Nations (2000). *World Migration Report 2000*. Geneva: IOM.

Makinwa-Abedusoye, Paulina (1992). The West African migration system. In *International Migration Systems: A Global Approach*, Mary M. Kritz, Lin Lean Lim and Hania Zlotnik, ed. Oxford,UK: Clarendon Press, pp. 63-79.

Ricca, Sergio (1989). *International Migration in Africa: Legal and Administrative Aspects*. Geneva: International Labour Office.

Russell, Sharon Stanton, Karen Jacobsen and William Deane Stanley (1990). International migration and development in Sub-Saharan Africa. World Bank Discussion Papers, 101 and 102. Volumes I and II.

United Nations High Commissioner for Refugees (1993). *The State of the World's Refugees: The Challenge of Protection*. Harmondsworth, England: Penguin Books.

United Nations (1982). *International Migration Policies and Programmes: A World Survey*. United Nations publication E.82.XIII.4.

United Nations (1996). How much do we know about urban growth in the twentieth century? In *World Economic and Social Survey 1996*, United Nations publication, Sales No. E/1996/60.

United Nations (1998). *International Migration Policies*. United Nations publication E.98.XIII.8.

United Nations (2002a). *World Urbanization Prospects: The 2001 Revision*. United Nations publication, Sales No. E.02.XIII.16.

United Nations (2002b). *International Migration Report 2002*. United Nations publication, Sales No. E.03.XIII.4.

United Nations (2002c). *National Population Policies 2001*. United Nations publications, Sales No. E.02.XIII.12.

TABLE 1. DISTRIBUTION OF COUNTRIES IN AFRICA ACCORDING TO AVAILABILITY OF CENSUS DATA ON INTERNATIONAL MIGRATION

<i>Number of censuses with data on migrants</i>	<i>Number of countries or areas per category</i>	<i>Number of countries where criteria to identify migrants vary among censuses</i>	<i>Number of censuses with the same criterion to identify migrants among countries using different criteria</i>
0	5	--	--
1	11	--	--
2	11	3	1
3	16	5	2
4	4	4	3
5	5	3	4
6	3	2	5
7	1	1	6
Total	56	18	

TABLE 2. ESTIMATED NUMBER OF INTERNATIONAL MIGRANTS AND POPULATION OF THE WORLD,
THE MAJOR DEVELOPMENT GROUPS AND THE MAJOR AREAS, 1960-2000

<i>Major area</i>	<i>Estimated international migrant stock (millions)</i>					<i>Population (millions)</i>				
	<i>1960</i>	<i>1970</i>	<i>1980</i>	<i>1990</i>	<i>2000</i>	<i>1960</i>	<i>1970</i>	<i>1980</i>	<i>1990</i>	<i>2000</i>
World	78	83	101	154	175	3,021	3,692	4,435	5,264	6,071
More developed regions	35	41	51	81	104	915	1,007	1,083	1,149	1,194
Less developed regions	43	42	50	73	71	2,106	2,685	3,352	4,115	4,877
Africa	9	10	14	16	16	277	357	470	622	796
Asia	28	27	30	50	50	1,701	2,143	2,632	3,168	3,680
Latin America and the Caribbean	6	6	6	7	6	218	285	361	442	520
Northern America	13	13	18	28	41	204	232	256	284	316
Europe	17	22	25	48	56	604	656	692	722	728
Oceania	2	3	4	5	6	16	19	23	27	31
	<i>Percentage distribution by major area</i>									
More developed regions	45	50	50	53	60	30	27	24	22	20
Less developed regions	55	50	50	47	40	70	73	76	78	80
Africa	12	12	14	11	9	9	10	11	12	13
Asia	36	32	30	32	29	56	58	59	60	61
Latin America and the Caribbean	8	7	6	5	3	7	8	8	8	9
Northern America	16	16	18	18	23	7	6	6	5	5
Europe	22	26	25	31	32	20	18	16	14	12
Oceania	3	4	4	3	3	1	1	1	1	1

TABLE 3. INTERNATIONAL MIGRANTS AS A PERCENTAGE OF THE POPULATION OF THE WORLD, MAJOR DEVELOPMENT GROUPS AND MAJOR AREAS, 1960-2000

<i>Major area</i>	<i>International migrants as percentage of population</i>				
	<i>1960</i>	<i>1970</i>	<i>1980</i>	<i>1990</i>	<i>2000</i>
World	2.6	2.3	2.3	2.9	2.9
More developed regions	3.8	4.1	4.7	7.1	8.7
Less developed regions	2.1	1.6	1.5	1.8	1.5
Africa	3.4	2.7	3.1	2.6	2.0
Asia	1.7	1.3	1.1	1.6	1.4
Latin America and the Caribbean	2.8	2.0	1.7	1.6	1.1
Northern America	6.1	5.6	7.1	9.7	12.9
Europe	2.8	3.3	3.7	6.7	7.7
Oceania	13.4	15.6	16.4	17.8	18.8

TABLE 4. ESTIMATED NUMBER OF INTERNATIONAL MIGRANTS AND POPULATION FOR AFRICA AND ITS REGIONS, 1960-2000

<i>Region</i>	<i>Estimated international migrant stock (millions)</i>					<i>Population (millions)</i>				
	<i>1960</i>	<i>1970</i>	<i>1980</i>	<i>1990</i>	<i>2000</i>	<i>1960</i>	<i>1970</i>	<i>1980</i>	<i>1990</i>	<i>2000</i>
Africa	9.4	9.7	14.4	16.2	16.3	277	357	470	622	796
Eastern Africa	3.1	3.2	5.1	6.1	4.5	83	108	144	195	253
Middle Africa	1.3	1.8	1.9	1.5	1.5	32	41	53	71	93
Northern Africa	1.5	0.9	1.5	2.3	1.9	67	86	111	143	174
Southern Africa	1.0	1.0	1.1	1.5	1.5	20	26	33	42	50
Western Africa	2.5	2.7	4.8	4.9	6.8	76	97	128	172	226
	<i>Percentage distribution by region</i>									
Eastern Africa	33	33	35	38	28	30	30	31	31	32
Middle Africa	14	18	13	9	9	12	11	11	11	12
Northern Africa	16	10	10	14	12	24	24	24	23	22
Southern Africa	10	11	8	9	9	7	7	7	7	6
Western Africa	27	28	33	30	42	27	27	27	28	28

TABLE 5. INTERNATIONAL MIGRANTS AS A PERCENTAGE OF THE POPULATION OF AFRICA AND ITS REGIONS, 1960-2000

<i>Region</i>	<i>International migrants as percentage of population</i>				
	<i>1960</i>	<i>1970</i>	<i>1980</i>	<i>1990</i>	<i>2000</i>
Africa	3.4	2.7	3.1	2.6	2.0
Eastern Africa	3.7	3.0	3.5	3.1	1.8
Middle Africa	1.6	1.7	1.3	0.8	0.6
Northern Africa	1.8	0.9	1.0	1.2	0.8
Southern Africa	1.2	1.0	0.8	0.7	0.6
Western Africa	3.1	2.5	3.3	2.5	2.7

TABLE 6. PROPORTION FEMALE AMONG INTERNATIONAL MIGRANTS IN THE WORLD, THE MAJOR DEVELOPMENT GROUPS, AFRICA AND ITS REGIONS, 1960-2000

<i>Major area</i>	<i>Percentage female among the migrant stock</i>				
	<i>1960</i>	<i>1970</i>	<i>1980</i>	<i>1990</i>	<i>2000</i>
World	46.7	47.2	47.4	47.9	48.8
More developed regions	47.9	48.2	49.3	50.8	50.9
Less developed regions	45.7	46.3	45.5	44.7	45.7
Africa	42.0	42.6	44.0	45.9	46.7
Asia	46.1	46.5	44.7	42.9	43.3
Latin America and the Caribbean	44.7	46.8	48.2	49.9	50.2
Northern America	49.8	51.1	52.6	51.0	51.0
Europe	48.5	48.0	48.5	51.7	52.4
Oceania	44.4	46.5	47.9	49.1	50.5
Eastern Africa	41.9	43.4	45.0	47.2	48.1
Middle Africa	45.3	46.1	46.4	46.3	46.2
Northern Africa	49.5	47.7	45.8	44.9	42.8
Southern Africa	30.1	30.3	35.6	38.6	42.2
Western Africa	40.7	42.3	43.5	46.7	47.9

TABLE 7. NUMBER OF REFUGEES IN THE WORLD AND ITS MAJOR AREAS, 1960-2000

<i>Major area of asylum</i>	<i>Refugees (in thousands)</i>								
	<i>1960</i>	<i>1965</i>	<i>1970</i>	<i>1975</i>	<i>1980</i>	<i>1985</i>	<i>1990</i>	<i>1995</i>	<i>2000</i>
World	1,658	3,300	2,490	2,181	7,220	11,209	15,945	15,266	11,860
More developed regions	1,432	1,238	1,193	562	1,493	1,635	2,010	3,824	3,154
Less developed regions	227	2,062	1,297	1,619	5,727	9,574	13,935	11,442	8,706
Africa	79	541	992	1,363	3,608	3,561	5,352	6,363	3,575
Asia	2	1,333	155	70	1,970	5,586	7,382	4,973	5,083
Latin America	120	123	108	134	148	352	1,201	101	50
Northern America	548	515	519	14	644	662	583	783	648
Europe	883	703	630	548	533	875	1,317	2,978	2,438
Oceania	-	20	44	38	315	105	110	67	67
<i>Percentage distribution by major area</i>									
More developed regions	86	38	48	26	21	15	13	25	27
Less developed regions	14	62	52	74	79	85	87	75	73
Africa	5	16	40	62	50	32	34	42	30
Asia	0	40	6	3	27	50	46	33	43
Latin America	7	4	4	6	2	3	8	1	0
Northern America	33	16	21	1	9	6	4	5	5
Europe	53	21	25	25	7	8	8	20	21
Oceania	0	1	2	2	4	1	1	0	1

TABLE 8. NUMBER OF REFUGEES IN THE REGIONS OF AFRICA, 1960-2000

<i>Region of asylum</i>	<i>Refugees (in thousands)</i>								
	<i>1960</i>	<i>1965</i>	<i>1970</i>	<i>1975</i>	<i>1980</i>	<i>1985</i>	<i>1990</i>	<i>1995</i>	<i>2000</i>
Eastern Africa	-	228	319	425	2,187	1,773	3,315	2,187	1,639
Middle Africa	75	262	524	564	834	472	447	1,694	539
Northern Africa	4	6	56	90	478	1,242	1,071	916	590
Southern Africa	-	-	4	3	23	27	42	99	35
Western Africa	-	45	85	218	55	17	476	1,467	772
<i>Percentage distribution by region</i>									
Eastern Africa	0	42	32	33	61	50	62	34	46
Middle Africa	95	48	53	43	23	13	8	27	15
Northern Africa	5	1	6	7	13	35	20	14	17
Southern Africa	0	0	0	0	1	1	1	2	1
Western Africa	0	8	9	17	2	0	9	23	22

TABLE 9. MAIN ASYLUM COUNTRIES IN AFRICA, 1990, 1995 AND 2000

<i>Country</i>	<i>Number of refugees 1990</i>	<i>Percentage</i>	<i>Cumulative percentage</i>	<i>Country</i>	<i>Number of refugees 1995</i>	<i>Percentage</i>	<i>Cumulative percentage</i>	<i>Country</i>	<i>Number of refugees 2000</i>	<i>Percentage</i>	<i>Cumulative percentage</i>
1 Sudan	899,390	16.8	16.8	1 Dem. Rep. of the Congo	1,579,063	24.8	24.8	1 United Rep. of Tanzania	651,533	18.2	18.2
2 Malawi	874,614	16.3	33.1	2 United Rep. of Tanzania	856,461	13.5	38.3	2 Guinea	464,375	13.0	31.2
3 Ethiopia	741,965	13.9	47.0	3 Sudan	700,623	11.0	49.3	3 Sudan	402,962	11.3	42.5
4 Somalia	614,815	11.5	58.5	4 Guinea	612,771	9.6	58.9	4 Dem. Rep. of the Congo	308,890	8.6	51.1
5 Dem. Rep. of the Congo	378,562	7.1	65.6	5 Ethiopia	370,777	5.8	64.7	5 Zambia	228,663	6.4	57.5
6 Burundi	267,929	5.0	70.6	6 Côte d'Ivoire	329,010	5.2	69.9	6 Ethiopia	227,824	6.4	63.9
7 United Rep. of Tanzania	265,156	5.0	75.5	7 Uganda	257,925	4.1	74.0	7 Uganda	227,407	6.4	70.3
8 Zimbabwe	183,150	3.4	79.0	8 Kenya	243,544	3.8	77.8	8 Kenya	214,901	6.0	76.3
9 Algeria	169,107	3.2	82.1	9 Burundi	236,660	3.7	81.5	9 Algeria	167,453	4.7	80.9
10 Guinea	162,500	3.0	85.2	10 Algeria	205,781	3.2	84.8	10 Côte d'Ivoire	129,560	3.6	84.6
11 Uganda	137,840	2.6	87.7	11 Zambia	135,546	2.1	86.9	11 Liberia	82,816	2.3	86.9
12 Zambia	137,615	2.6	90.3	12 Liberia	120,122	1.9	88.8	12 Congo	81,530	2.3	89.2
13 Côte d'Ivoire	136,381	2.5	92.9	13 Ghana	98,433	1.5	90.3	13 Central African Republic	52,488	1.5	90.6
14 Sierra Leone	62,915	1.2	94.0	14 South Africa	96,651	1.5	91.8	14 Cameroon	46,454	1.3	91.9
15 Senegal	55,729	1.0	95.1	15 Senegal	69,882	1.1	92.9	15 Rwanda	31,382	0.9	92.8
				16 Mauritania	58,312	0.9	93.9	16 Burundi	24,623	0.7	93.5
				17 Benin	47,125	0.7	94.6	17 Djibouti	23,257	0.7	94.2
				18 Malawi	45,630	0.7	95.3	18 Senegal	21,153	0.6	94.7
Total in Africa	5,351,536			Total in Africa	6,362,562			Total in Africa	3,575,132		

TABLE 10. REFUGEES AS A PERCENTAGE OF THE INTERNATIONAL MIGRANT STOCK IN THE REGIONS OF AFRICA, 1960-2000

<i>Region</i>	<i>Refugees as percentage of the migrant stock</i>				
	<i>1960</i>	<i>1970</i>	<i>1980</i>	<i>1990</i>	<i>2000</i>
Africa	1	10	25	33	22
Eastern Africa	0	10	43	54	36
Middle Africa	6	29	44	31	36
Northern Africa	0	6	32	46	30
Southern Africa	0	0	2	3	2
Western Africa	0	3	1	10	11

TABLE 11. VIEWS AND POLICIES OF COUNTRIES IN AFRICA REGARDING EMIGRATION, 1976-2001

	<i>Views on level of immigration</i>				<i>Goal of policies on immigration</i>			
	<i>Too low</i>	<i>Satisfactory</i>	<i>Too high</i>	<i>Total number of countries</i>	<i>Raise</i>	<i>Maintain or no intervention</i>	<i>Lower</i>	<i>Total number of countries</i>
1976	5	41	2	48	5	41	2	48
1986	1	39	11	51	1	41	9	51
1996	0	46	7	53	2	35	16	53
2001	0	45	8	53	1	32	20	53

Source: United Nations (2002c), pp. 26 and 29.

TABLE 12. VIEWS AND POLICIES OF COUNTRIES IN AFRICA REGARDING EMIGRATION, 1976-2001

	<i>Views on level of emigration</i>				<i>Goal of policies on emigration</i>			
	<i>Too low</i>	<i>Satisfactory</i>	<i>Too high</i>	<i>Total number of countries</i>	<i>Raise</i>	<i>Maintain or no intervention</i>	<i>Lower</i>	<i>Total number of countries</i>
1976	1	44	3	48	1	44	3	48
1986	3	41	7	51	2	41	8	51
1996	2	40	11	53	2	42	9	53
2001	2	44	7	53	1	46	6	53

Source: United Nations (2002c), pp. 31 and 33.

TABLE 13. CHANGE IN THE ESTIMATED INTERNATIONAL MIGRANT STOCK FROM 1990 TO 2000 IN COUNTRIES REPORTING A POLICY TO REDUCE IMMIGRATION IN THE 2001 POPULATION INQUIRY AMONG GOVERNMENTS

<i>Country</i>	<i>Number of international migrants (thousands)</i>		<i>Difference</i>
	<i>1990</i>	<i>2000</i>	
Malawi	1,157	280	-877
Dem. Rep. of the Congo	938	739	-199
Zimbabwe	804	656	-148
Sierra Leone	112	47	-65
Mauritania	94	63	-31
Djibouti	59	28	-31
Cameroon	174	150	-24
Egypt	176	169	-6
Mauritius	9	8	-1
Tunisia	38	38	0
Namibia	119	143	23
Botswana	27	52	25
Zambia	323	377	54
Gambia	118	185	67
Congo	108	197	89
Libyan Arab Jamahiriya	457	570	112
Gabon	128	250	122
Kenya	146	327	182
United Rep. of Tanzania	574	893	318
Côte d'Ivoire	1,953	2,336	384