

REDUCING REFUGEE RIGHTS?
A COMPARATIVE ANALYSIS OF SHIFTING REFUGEE
POLICY AND PRACTICE IN MOZAMBIQUE AND GUINEA

Master of Arts in Law and Diplomacy Thesis

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Reducing Refugee Rights?
A comparative analysis of shifting refugee
policy and practice in Mozambique and Guinea

Submitted to Dr. Karen Jacobsen

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I. Introduction

There is a stark contrast between the ever expanding body of international law which addresses the protection of refugees and the imposition of increased restrictions due to stringent state policies and practices which refugees face in host countries. Expanding refugee protection at the international level takes the form of new covenants and declarations, increasing numbers of signatories on and ratifications of existing instruments, and regional agreements between groups of states. On the other hand, policies and practices of refugee hosting governments have sometimes led to a curbing of refugees' rights. Some countries, which at one time had quite friendly approaches toward refugees, have scaled back their liberal practices and reduced the rights afforded to refugees.

This thesis aims to better understand the factors that are leading host countries to shift their policies and practices toward refugees from liberal to stringent. The paper will focus on developing countries, particularly in Africa, which have signed onto refugee rights instruments and have, at one time, had relatively liberal stances toward acceptance and treatment of refugees. Through an exploration of two case studies, the drive behind the states' shift from liberal policies and practices, which limit the rights of refugees within their borders, will be explored. In short, this paper addresses the research question: what are the main factors which drive states to shift from liberal to stringent policies and practices towards refugees?

By "policies and practices" of host governments, I mean the strategies that are implemented and procedures that are put into place by governments in reaction to forced migrants living in or attempting to access their borders. More specifically, by "liberal" policies and practices, I mean providing refugees with legitimate identity documentation, allowing

refugees to work like citizens of the host country, allowing for freedom of movement within the host country, providing for physical protection and safety, and offering a durable solution, such as the possibility to remain and integrate into local society. By “stringent” policies and practices, I mean that some states are changing from liberal practices toward more harsh methods of refugee acceptance and hosting. They are policies and practices that reduce the rights of refugees laid out in international refugee law. Aspects of refugee policy implementation, which illustrate stringent policies and practices, include limiting refugees’ freedom of movement, strict border controls, restricting access to refugee status determination procedures, lack of refugee identity documentation, lack of physical legal protection, limited access to livelihoods, inability to work, and forced repatriation.

These shifts from liberal to stringent policies and practices could be caused by a myriad of different factors, of both domestic and international character. I hypothesize that three aspects of international relations – inter-state relationships, the impact of international refugee regime, and national security concerns – are the main factors that lead developing countries to shift their policies. First, the souring relationships between the refugee host state and its neighbors, particularly the refugee sending country, can lead to stringent policies. Second, the international refugee regime, UN bodies and NGOs, which are often the implementing partners of states, have sometimes negatively influenced the policies and practices of host states, through unintended consequences of their aid programming. Finally, the national security concerns of host states, due to the political and security threats of hosting international forced migrants, has led to a tightening of policies and practices.

This hypothesis is explored in two case studies, Mozambique and Guinea. These two refugee host countries have traditionally given refugees a liberal and warm welcome however, in

the years 2000 and 2001, there were significant shifts in their policies and practices toward refugees. In each case, I will explore the extent to which the three factors – inter-state relationships, the impact of international refugee regime, and national security concerns – have influenced the shifts from liberal to stringent policies and practices.

In Section II, I lay out the methodology used to research the question and why Mozambique and Guinea were chosen as case studies. In Section III, I summarize refugee rights as set out in international refugee law, and show how these rights have been reduced throughout the African continent. Section IV explores the literature on the three main factors, which I argue, lead toward more restrictive policies and practices. Section V deals with the case studies, and Section VI concludes with how host states are influenced by international relations.

II. Methodology

In attempting to explore the factors that cause refugee host countries to shift from liberal to more restrictive practices toward refugees, I propose to do a comparative analysis of two refugee host countries, Mozambique and Guinea.

The case study requires in-depth, detailed analysis of the subject¹, such as a refugee host state. I use existing documents and desk studies, and draw on field research, which I conducted in Mozambique, in June-August 2004. In Mozambique, I conducted interviews with key informants, including governmental and UNCHR representatives in Maputo and Nampula. For Guinea, I rely primarily on a desk study.

Mozambique and Guinea were selected because they underwent similar shifts in refugee policy and practice during the period 2000 - 2001. Both are recent refugee host countries, and

¹ DJ Casley and D. A. Cury, “The Case Study” in *Data Collection in Developing Countries*. (Oxford: Clarendon Press, 1981) and Winston Tellis, “Application of a Case Study Methodology,” *The Qualitative Report* [Online Serial] 3(3), September, 1997 (Accessed on May 10, 2005); available from <http://www.nova.edu/ssss/QR/QR3-3/tellis2.html>.

have also been refugee-sending countries in the past. During Mozambique's civil war between 1977-1992, some 1.7 million refugees fled Mozambique and sought safety primarily in Malawi and Zimbabwe. Guinea has also been a refugee-producing country. In 2001, about 60,000 Guineans were internally displaced and more than 3,000 Guineans applied for political asylum in Europe.²

Today, both countries are hosts to refugees. The number of refugees in Mozambique rose dramatically in the early years of the 2000's. The entire population of refugees in Mozambique more than doubled in the year 2001 to approximately 5,000³ and in 2003, there was an estimated 8,000 refugees.⁴ The numbers continue to rise. In Guinea, there were approximately 223,000 refugees at the end of 2003.⁵ The height of refugee hosting for Guinea was reached in 1998, when the country was host to about 515,000 refugees.⁶

Despite being resource poor, both countries have traditionally afforded refugees liberal rights. In the years 2000 - 2001, however, they have tightened up their liberal practices. It is therefore critical to compare the factors that have driven these two countries, on opposite sides of an enormous continent with fairly different refugee contexts to shift their policies and practices towards refugees.

The proposed case study methodology is challenging, for the following reasons: (1) little to no research has been conducted on Mozambique as a refugees host state; (2) the data collected this past summer through interviews conducted during my Alchemy internship may present a biased view of the refugee situation in Mozambique, for the interviews were conducted with

² USCRI, *World Refugee Survey: Guinea*, 2001 (Accessed on May 10, 2005); available from www.refugees.org.

³ USCRI, *World Refugee Survey: Mozambique*, 2002 (Accessed on May 10, 2005); available from www.refugees.org.

⁴ USCRI, *World Refugee Survey: Mozambique*, 2004 (Accessed on May 10, 2005); available from www.refugees.org.

⁵ USCRI, *World Refugee Survey: Guinea*, 2004 (Accessed on May 10, 2005); available from www.refugees.org.

⁶ USCRI, *World Refugee Survey: Guinea*, 1999 (Accessed on May 10, 2005); available from www.refugees.org.

governmental officials and officers of the UNHCR; (3) there is little opportunity to triangulate my data in order to check its validity with sources from other academics or researchers; and (4) the case studies are uneven, for I was only able to collect field data in Mozambique, and my research on Guinea has been conducted through a desk study.

III. Overview of the Rights of Refugees

In the *Price of Indifference*, Arthur Helton refers to the rights and obligations under international law concerning refugees as: “a tapestry of international law comprising refugee, human rights, and humanitarian law.”⁷ Although this thesis is not focused on examining the international laws that protect refugees, it is important to address the body of laws which impose obligations on states to protect the rights of displaced persons. International refugee law forms the benchmark for all policy decisions of refugee host states. In addition, it is the measuring stick for how well or poorly states meet their practical obligations in addressing the rights of displaced persons. International refugee law, however, is tempered by host states’ interpretation and implementation of the established laws.

A combination of international and regional covenants, as well as domestic laws, outline the rights afforded to refugees. Certainly the instruments were drafted with the goal of providing refugee protection, but these instruments were also created in the geopolitical context of UN negotiations between sovereign states. It is important to note that states created and ratified these binding legal instruments with, as Jeff Crisp states, the “specific intention of protecting their national interests and addressing their own security concerns.”⁸

⁷ Arthur Helton, *The Price of Indifference: Refugees and Humanitarian Action in the New Century* (New York: Oxford University Press, 2002), 122.

⁸ Jeff Crisp, “Africa’s Refugees: Patterns, Problems and Policy Challenges,” *New Issues in Refugee Research*, Working Paper No. 28, August 2000, (Geneva: UNCHR), 12.

Widely signed and ratified, the Convention relating to the Status of Refugees⁹ lays the foundation of international refugee law. It provides a definition of “refugee” and lays out the rights afforded to refugees including *non-refoulement* (Article 33), which establishes the prohibition of expulsion or return, the right to employment (Article 17), status under the law (Article 12), housing (Article 21), public education (Article 22), freedom of movement (Article 26), and identification and travel documents (Articles 27 & 28). Other international instruments which are part of international refugee law include the Protocol relating to the Status of Refugees¹⁰ and the Statute of the Office of the United Nations High Commissioner for Refugees,¹¹ which outlines the functions and duties of the High Commissioner, as well as the organization of the office. In general, international refugee law demands states’ obligations to respect the rights of refugees in an unqualified manner, with exceptions including reasons of national security or public order.

There are also specific regional refugee law instruments for Africa. The African Charter on Human and Peoples' Rights¹², which is the foundation human rights documents for the Organization of African Unity (OAU, now referred to as African Union), provides the right to seek and obtain asylum and prohibits the mass expulsion of non-nationals. It states the following in Article 12 (3-5):

- “3. Every individual shall have the right, when persecuted, to *seek and obtain* asylum in other countries in accordance with laws of those countries and international conventions.
4. A non-national legally admitted in a territory of a State Party to the present Charter,

⁹ UN, *Convention relating to the Status of Refugees* (1951), 189 UNTS 150 (Accessed on May 3, 2005); available from <http://www.ohchr.org/english/law/refugees.htm>.

¹⁰ UN, *Protocol relating to the Status of Refugees* (1967), 606 UNTS 267 (Accessed on May 3, 2005); available from http://www.unhcr.ch/html/menu3/b/o_p_ref.htm.

¹¹ UN, *Statute of the Office of the United Nations High Commissioner for Refugees* (1950), GA res. 428 (V), annex, 5 UN GAOR Supp. (No. 20) at 46, UN Doc. A/1775. (Accessed on May 3, 2005); available from <http://www1.umn.edu/humanrts/instree/v3sunhcr.htm>.

¹² OAU, *African Charter on Human and Peoples' Rights* (1982), OAU Doc. CAB/LEG/67/3 rev. 5; 21 ILM 58. (Accessed on May 3, 2005); available from <http://www1.umn.edu/humanrts/instree/z1afchar.htm>.

may only be expelled from it by virtue of a decision taken in accordance with the law. 5. The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups.”¹³ (Emphasis mine)

Some member states of the OAU also signed and ratified the Convention Governing the Specific Aspects of Refugee Rights in Africa¹⁴. This instrument addresses the flows of refugees and asylum seeking peoples specifically in Africa. These regional instruments differ from the above international refugee law instruments in that they expand the rights afforded to refugees and place them in a specific context. Bonaventure Rutinwa argues that the OAU Convention enhances the regime of refugee protection, specifically “the recognition of refugee status, the grant of asylum, respect for the norms of *non-refoulement* and non-discrimination, and the provision of durable solutions.”¹⁵

There is one organization that is mandated by international law to protect and assist forced migrants. The UN High Commissioner for Refugees (UNHCR) is charged with “providing international protection, under the auspices of the United Nations, to refugees who fall within the scope of the present Statute and of seeking permanent solutions for the problem of refugees by assisting governments and, subject to the approval of the governments concerned, private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities.”¹⁶ Their duties and actions should be nonpolitical and humanitarian in character.

There are also many other international and non-governmental organizations that assist refugees in providing aid to forced migrants. International organizations that address the needs

¹³ Ibid.

¹⁴ OAU, *Convention Governing the Specific Aspects of Refugee Rights in Africa* (1969), OAU Doc. No. CAB/LEG/24.3. (Accessed on May 3, 2005); available from http://www.achpr.org/english/info/refugee_en.html.

¹⁵ Bonaventure Rutinwa, “The End of Asylum? The Changing Nature of refugee Policies in Africa,” *New Issues in Refugee Research*, Working Paper No. 5, May 1999 (Geneva: UNHCR), 4.

¹⁶ UN, *Statute of the UNCHR*.

of refugees include the Office for the Coordination of Humanitarian Affairs (OCHA), Office of the High Commissioner for Human Rights (OHCHR), The United Nations Children's Fund (UNICEF), and the World Food Program (WFP) among others.

In addition, refugees are also included under the mandate of many non-governmental relief and development organizations, international and local, including the International Committee of the Red Cross (ICRC), International Rescue Committee, World Vision, American Refugee Council, among many others. Susan Martin describes NGOs as “the backbone of the humanitarian system for assisting and, to a lesser degree, protecting forced migrants. As partners with UNCHR and other international organizations, international and local NGOs provide a wide array of services including food delivery, health and mental health care, sanitation, shelter, nutrition, education...In providing the principal staffing at the field level, NGOs offer protection by their very presence.”¹⁷

While there is a large body of international law and many organizations established to assist and protect refugees, there are also many challenges and tensions inherent in international refugee law and the international refugee regime. Lack of enforcement mechanisms, multiple options for interpretation, and stringent implementation of laws, and lack of state capacity to address the rights of refugees can lead to a lack of rights protection.

There is a palpable lack of enforcement measures built into refugee law and compliance rests on a voluntary basis. This can lead to lack of on the ground protection for refugees. For instance, Helton expresses that although the norms of refugee protection are “broad and treaty-based, the implementing and enforcement mechanisms under these treaties are relatively weak.

¹⁷ Susan F. Martin, “Forced Migration and the Evolving Humanitarian Regime,” *New Issues in Refugee Research*, Working Paper No. 20, 2000 (Geneva: UNCHR), 16.

As a result, there is often a disjunction between refugee rights and realities.”¹⁸ The international mechanisms that have been established are voluntary and therefore have little capacity to enforce the obligations that they have signed onto. The enforcement piece lies in the hands of other states, which tend to be unwilling to react to violations. In addition, much of the enforcement that is done is based on foreign policy objectives of states.¹⁹

The interpretation of international law can vary greatly from state to state. Often, rights protection depends on how the states interpret the international refugee laws. For instance, one of the foundation blocks of refugee protection is *non-refoulement*, but there is no definition of what constitutes safe or unsafe return. Another norm of refugee law is refugee status determination. There is a definition of refugee status in the 1951 Convention as well as the OAU Convention. However, there has been no international consensus on the method for determining refugee status nor is there an article which lays out determination procedures in the 1951 Refugee Convention. Interpretation of how to define what is *refoulement* and how to determine refugee status is left solely up to the refugee host state.²⁰ Therefore, how states address refugee rights can vary greatly depending on the states’ interpretation of the law.

States have the authority to decide how to implement refugee law into their national domestic law. States can sign and ratify instruments and incorporate them into their national laws or they can adopt them directly as domestic law. In practice, however, some states sign and ratify international treaties and then choose to ignore them. This seriously reduces the impact of the international refugee laws.

¹⁸ Helton, 122.

¹⁹ Helton, 125.

²⁰ Helton, 122-123.

Finally, states can be hampered back lack of legal and administrative capacity to address the rights of refugees living in their borders.²¹ Therefore, implementation of the laws, national, regional, or international, can be uneven. In Africa, this is probably the most problematic reason for states to ignore their obligations under international law. With weak governmental structures and little capacity or funding, some refugee host states are willing, but unable to enact the laws on which they have signed.

IV. From Liberal to Stringent Policies and Practices

This section will explore the ways in which refugee host states, particularly developing countries in Africa, have shifted their policies and practices from relatively liberal to relatively stringent in the past two decades.

a. Liberal Policies and Practices

Refugee scholar Bonaventure Rutinwa called the years of liberal policies and practices of African host states in the 1960s through the late 1980's and early 1990's the "Era of the Open Door Policy."²² He argues that this was the 'golden age' of asylum in Africa. It was marked, across the continent by a liberal refugee definition, commitment to asylum and *non-refoulement*, inter-African burden sharing, durable solutions, and refugee rights.²³

There are some critics of Rutinwa's 'golden age' of asylum policy. Jeff Crisp and James Milner argue that Rutinwa's 'golden age' had less to do with an inherent generous attitude of refugee host states in providing a safe haven for refugees than the political and financial

²¹ Monica Kathina Juma and Peter Mwangi Kagwanja, "Securing Refuge from Terror: Refugee Protection in East Africa after September 11," in *Problems of Protection: The UNCHR, Refugees, and Human Rights*, eds. Niklaus Steiner, Mark Gibney, and Gil Loescher (New York: Routledge, 2003), 227.

²² Rutinwa, 4.

²³ *Ibid.*, 4-8.

circumstances that Africa was facing during the post-Independence period.²⁴ Despite this, both critics admit that policies and practices of African host states have become more stringent. Crisp states the following: “Even if one allows for a considerable degree of humanitarian pessimism, there is now a broad consensus amongst refugee agencies and analysts that these [liberal] conditions no longer prevail. Indeed, refugee protection principles are now being challenged and undermined in many parts of Africa.”²⁵

I would argue that some African host states, like Mozambique and Guinea, have held onto the ‘golden age’ of asylum throughout the 1990’s. Due to shifting international relations and pressure from the international refugee regime, these countries have shifted their policies and practices relatively recently, in 2000 and 2001. Their extended ‘open door’ era is marked by the following policies: providing refugees with legitimate identity documentation, allowing refugees to work like citizens of the host country, allowing for freedom of movement within the host country, providing for physical protection and safety, and offering refugees durable solutions to their displacement, such as the possibility to remain and integrate into local society.

b. Stringent Policies and Practices

A general shift toward stringent policies and practices of refugee host states in Africa occurred in the late 1980’s and early 1990s. Refugee scholars including Rutinwa, Crisp, Whitaker, Gorlick, and Martin provide myriad examples of how states have disregarded the fundamental principles of international refugee law and implemented severe procedures towards refugees. The main trends in shifting policies and practices are the following: containment of refugees to their country of origin, particularly through ‘safe zones’, limited access to borders

²⁴ See Crisp and James Milner, “Golden Age? What Golden Age? A critical history of African asylum policy,” Unpublished paper presented to the Center for Refugee Studies, York University on January 28, 2004.

²⁵ Crisp, 4.

and restriction of access to asylum and refugee status determination procedures, forced expulsion of refugees, disregard for the basic rights of refugees and poor treatment of refugee and asylum seekers in host countries, and retreat from durable solutions.

Gorlick addresses how states have used techniques to contain refugees to their countries by the establishment of “safe zones”. These were first used in Yugoslavia and Northern Iraq during the 1990’s.²⁶ They were later imported to Africa. The Presidents of the then-Zaire and Tanzania, refugee host states, called for the use of safe zones within the borders of Rwanda and Burundi to quell the tide of refugees flowing out of those countries following the Rwandan genocide.²⁷ The purpose for Zaire and Tanzania was to keep refugees out of their borders.

In limiting refugees’ access to asylum, some states have implemented practices to block refugees from being admitted into their countries and seeking refuge through practices such as closing the physical borders.²⁸ One example of this is the Tanzania’s policy of closing its borders with Burundi in 1993 and Rwanda in 1994 to prevent further influxes of refugees.²⁹ Through closing of borders have lead to restriction of access to asylum and refugee status determination procedures.³⁰

Refugee host states have also employed the harsh practice of forced expulsion, violating the right of *non-refoulement*. Beth Elise Whitaker cites that in 1996, more than 20 refugee host countries expelled refugees from their territories.³¹ For instance, the forced repatriation of Rwandan refugees from Tanzania in the mid-1990’s from Tanzania was not unique. Sometimes host countries pressure refugees to repatriate when they are tired of hosting refugees for long

²⁶ Brian Gorlick, “Human Rights and Refugees: Enhancing Protection Through International Human Rights Law,” *New Issues in Refugee Research*, Working Paper No. 30 (2000), 2.

²⁷ Rutinwa, 9.

²⁸ Juma and Kagwanja, 226.

²⁹ Rutinwa, 11.

³⁰ Gorlick, 2.

³¹ Beth Elise Whitaker, “Changing Priorities in Refugee Protection,” in *Problems of Protection: The UNHCR, Refugees, and Human Rights*, eds. Niklaus Steiner, Mark Gibney, and Gil Loescher (New York: Routledge, 2003)

periods of time or if there is a decrease in donor assistance if there is an expectation that refugees will be returning.³²

Finally, some refugee host countries have increasingly been treating refugees and asylum seekers inside their borders poorly, not respecting the rights which they should be afforded. Some East African countries such as Kenya and Tanzania confine refugees to camps and settlements, restrict their freedom of movement, and do not provide them with access to work.³³ In addition, refugees face human rights abuses while they are seeking asylum in host countries. These abuses can vary from lack of legal due process to arbitrary arrests and detention to brutality, harassment, and extortion.³⁴

V. Factors Which Shift Policies and Practices

It is imperative, then, to explore the factors that lead states to shift their policies and practices from liberal to more stringent. There is little consensus between scholars as to what are the most important factors leading to this shift. The list of factors include the following: magnitude of the enormous refugee problem, the bureaucratic choices made by governments, national security concerns of host governments (refugees as a threat to social and political security), the changing nature of refugee populations from civilians to participants in the conflict, international and inter-state relations, the erosion of international asylum/refugee regime, a shift of international attention from past to present humanitarian emergencies, international donors' lack of funding allocated for long-term refugee problems, the economic insecurity of and impact of refugees on local host communities, environmental impacts, social impacts, resource impacts, xenophobia and racism, and democratization.

³² Martin, 4.

³³ Juma and Kagwanja, 226.

³⁴ Ibid.

To illustrate this visually, below is a partial chart of potential factors from 10 publications³⁵ reviewed for this thesis.

Factor	# of authors cited
Magnitude of refugee problem	3
Bureaucratic choices made by government	1
National security concerns (threat to social and political security)	7
Changing nature of refugee populations (participants in conflict)	1
International relations	4
Erosion of international asylum/refugee regime	5
Shift of international attention/ generosity of host states forgotten	3
Donor states lack of funding for long-term problems	3
Economic factors/capacity of local host community	6
Environmental impacts	3
Social impacts	2
Resource impacts	2
Xenophobia	2
Democratization	1

It would be an enormous task to review each factor that is leading to shifting state policies and practices. Therefore, in the sections below, I will focus my discussion on those factors most relevant to the context of developing countries in Africa, weighing particular importance on those which may be influencing the governments of Mozambique and Guinea to tighten their policies and practices towards refugees inside their borders. International theory suggests that national domestic policies are often shaped by international relations. Using this general theoretical perspective, I argue that refugee policy, as a subset of population-related policy, is strongly affected by international relations. Three factors which are the most important in shifting refugee policy are the following: inter-state or international relationships, the influence

³⁵ See **Crisp, Gorlick, Helton, Karen Jacobsen**, "Factors Influencing the Policy Responses of Host Governments to Mass Refugee Influxes," *International Migration Review*, Vol.30, No. 3 (Autumn 1996): 655-678, **Daniele Joly**, "A New Asylum Regime in Europe," in *Refugee Rights and Realities: Evolving International Concepts and Regimes*, eds. Frances Nicholson and Patrick Twomey (New York: Cambridge University Press: 1999), **Juma and Kagwanja, Gil Loescher**, *Beyond Charity: International Cooperation and the Global Refugee Crisis* (New York: Oxford University Press, 1993), **Reinhard Lohrmann**, "Migrants, Refugees and Insecurity. Current Threats to Peace?," *International Migration* Vol. 38 (4) (2000), **Rutinwa, and Whitaker**.

of the international refugee regime which includes political attention and funding, and national security concerns, particularly political and security threats to the sovereignty of the host country by forced migrants.

Prior to delving into these three factors, however, I would like to frame the discussion of refugee policy in developing countries by placing it in the context of general trends in the international refugee regime – the magnitude of the refugee problem and the erosion of the international refugee protection regime.

The problem of forced migration in Africa is widespread and great. In the early 1970's, there were approximately 1 million refugees in Africa, and by the 1990's, there were almost 6 million.³⁶ In 1994, nearly 3 million refugees sought safety in Tanzania and the then-Zaire in a matter of months.³⁷ The numbers of refugees in Africa has recently been decreasing. UNHCR reported that on January 1, 2002, there were 3.3 million refugees in Africa.³⁸ The US Committee for Refugees and Immigrants (USCRI) reports that the total number of refugees in Africa at the end of 2003 was 3,245,500.³⁹ Although the numbers continue to decrease, the problem is still immense. Crisp and Rutinwa both explore the idea that the sheer numbers of refugees moving throughout Africa started the trend of host countries to the reduction of their warm welcome towards refugees.⁴⁰

There have also been shifts in the international refugee protection regime from a more liberal 'old regime' to a more stringent 'new regime.' Traditional asylum countries, particularly in Europe, the United States, and Australia, have been implementing tighter policies, procedures,

³⁶ Rutinwa, 6.

³⁷ Crisp, 16.

³⁸ Relief Web, *UNCHR Africa Fact Sheet Jun 2002*, posted June 30, 2002. (Accessed on May 4, 2005); available from <http://www.reliefweb.int/rw/rwb.nsf/0/58b1d6bed720162285256c8a0072930a?OpenDocument>.

³⁹ USCRI, "Refugees and Asylum Seekers Worldwide," *World Refugee Survey*, 2004 (Accessed on May 10, 2005); available from <http://www.refugees.org/data/wrs/04/pdf/page6.pdf>.

⁴⁰ See Crisp, 16 and Rutinwa, 6.

and restrictions to prevent arriving asylum seekers from reaching their targeted destinations. These countries are leading the way for developing reception countries to tighten up their liberal practices towards refugees. Crisp writes: “when African countries close their borders to refugees, they justify their actions by referring to the precedents which have already been set in more prosperous parts of the world.”⁴¹ Crisp shares an anecdote of an African minister’s desire to close a his country’s border to prevent a refugee influx in which he noted “‘if this was a western country, it would have been well accepted.’”⁴²

The 1970s and early 1980’s, called the ‘old asylum regime’ tended to be years of expanding rights afforded to arriving refugees, with a coinciding economic boom that demanded labor shortages in Europe.⁴³ The ‘asylum crisis’ started in the mid 1980’s with a large influx of asylum seekers from Africa, Asia, Middle East, and Central America.⁴⁴ The ‘new asylum regime’ evolved throughout the late 1980’s and early 1990’s, marked by a steadily increasing of restrictive practices towards refugees and asylum seekers, designed to reduce the number of asylum seekers and refugees seeking access.⁴⁵ Today, in the post-9/11 era, restrictions have only become worse.

Traditional asylum countries like the U.S., Australia, and European countries have undertaken changes to their asylum procedures. They have scaled back their liberal policies practices through the following methods: (1) limiting access to refugee status determination procedures through interdictions at sea,⁴⁶ off-shore or extraterritorial procedures,⁴⁷ and expedited

⁴¹ Crisp, 6.

⁴² Ibid.

⁴³ Daniele Joly, “A New Asylum Regime in Europe,” in *Refugee Rights and Realities: Evolving International Concepts and Regimes*, eds. Frances Nicholson and Patrick Twomey (New York: Cambridge University Press: 1999).

⁴⁴ UNCHR, “The Asylum Dilemma,” *The State of the World’s Refugees* (Geneva: UNCHR, 1997).

⁴⁵ Joly.

⁴⁶ UNCHR, “The Asylum Dilemma”

⁴⁷ Helton, 165.

removal, a fast-track deportation process at airports and borders,⁴⁸ (2) narrowing recognition of asylum status, through applied ‘safe third country’ principles, internal flight alternatives, first country of asylum restrictions, higher standards of proof of persecution, and limitation of state actors as persecutors to limit asylum seeker’s ability to be granted status,⁴⁹ and (3) and putting forth stringent deterrence measures such as administrative detention, lack of a limit to the length of detention,⁵⁰ the U.S.’s 1-year filing deadline, and the lack of social benefits like right to work, identity and travel documents.⁵¹

The policies and procedures of traditional asylum countries have led to a curbing of the rights of people seeking refuge. They have shown developing countries severe approaches to dealing with arriving asylum seekers and refugees. With this context of the international refugee protection regime and the magnitude of the refugee problem in Africa, I will now explore the three main factors which have led the shift from liberal to stringent policies and practices of African host states: interstate or international relations, influence of the international refugee regime, and national security concerns.

a. International and Inter-State Relations

The impact of inter-state and international relations have shifted state response towards refugees.⁵² Lohrmann, Jacobsen, Rutinwa, and Loescher argue that negative relations between refugee host states and their neighbors, whether refugee sending countries or not, tend to drive states to turn their policies from liberal to stringent. Jacobsen writes: “Refugees are manifestations of the problems of another country which suddenly become the problems of one’s

⁴⁸ Human Rights First, *In Liberty’s Shadow: U.S. Detention of Asylum Seekers in the Era of Homeland Security* (New York, 2004), 2.

⁴⁹ Joly.

⁵⁰ Human Rights First, 9-14.

⁵¹ UNCHR, “The Asylum Dilemma,” and Joly.

⁵² Juma and Kagwanja, 228.

own. The extralegal crossing of people from one country to another usually affects international relations between those governments, thereby drawing the attention of other governments with interests in the region.”⁵³ The international relations that affect refugee policy can be based on the relationship between the receiving country and the sending country and the receiving country and neighboring or nearby countries in the region.

First, the mass migrations of people across borders affects county relations by creating tensions and burden on bilateral relations.⁵⁴ Jacobsen argues that the sending and receiving countries can manipulate the flows of refugees so as to embarrass or pressure each other, depending on their political goals. The goals can include objectives to destabilize the receiving country, force recognition of the sending country, or to stop interference by the receiving country in a sending country’s affairs.⁵⁵

Loescher argues that the sending country can manipulate refugee flows in order to project its economic and political influence, seek to affect politics of the receiving country, or compel neighboring countries to deliver assistance.⁵⁶ The exportation of refugees by the sending country can be used as a bargaining chip in inter-state relations. The country can argue that it is unable to control the migration of its people, and can manipulate the receiving country for foreign policy concessions.⁵⁷ For example, the Albanian government negotiated aid from Italy when there were mass migrations of boat people from Albania to Italy in 1991.⁵⁸

⁵³ Karen Jacobsen, “Factors Influencing the Policy Responses of Host Governments to Mass Refugee Influxes,” *International Migration Review*, Vol.30, No. 3 (Autumn 1996), 662.

⁵⁴ Reinhard Lohrmann, “Migrants, Refugees and Insecurity. Current Threats to Peace?,” *International Migration* Vol. 38 (4) (2000).

⁵⁵ Jacobsen, 665.

⁵⁶ Gil Loescher, *Beyond Charity: International Cooperation and the Global Refugee Crisis* (New York: Oxford University Press, 1993), 19.

⁵⁷ Loescher, 20.

⁵⁸ *Ibid.*

The refugee host country, in turn, can manipulate the flow of refugees intending to embarrass or pressure unfriendly sending countries or prevent embarrassment to friendly sending countries.⁵⁹ Although granting asylum can be seen as a peaceful and humanitarian act, Rutinwa argues that a host country granting asylum to refugees can be resented by the refugee sending country. It can lead to deteriorating relations between the sending and receiving countries.⁶⁰ For example, the tensions between Burundi and Tanzania were strained by the decision of Tanzania to grant asylum to Burundian refugees who were fleeing from violence.⁶¹

Second, migrations of refugees can affect neighboring state or regional relationships. Refugee protection is constantly compromised by the changing dynamics of regional conflicts and insecurity. Two examples of this regional insecurity and tension-filled regional relations are in the Greater Horn and Great Lakes region of Africa. For instance, refugees in East African host countries as “diplomatic burdens, political irritants, and embarrassments,”⁶² to countries which consider themselves neutral such as Kenya and Tanzania. The regional tensions have led East Africa, as a refugee host region, to become more restrictive than expansive in providing refugee rights.

b. Influence of the International Refugee Regime

The international relations that influence a host states’ refugee policy can also be affected by the relationship between the receiving country and the international refugee regime, which includes Western donor countries, international organizations like UNHCR, and non governmental organizations. Although states are the signatories to instruments of international law and are therefore responsible parties to address the legal and physical needs of refugees, their

⁵⁹ Jacobsen, 665.

⁶⁰ Rutinwa, 16.

⁶¹ Rutinwa, 17.

⁶² Juma and Kagwanja, 228.

policies and procedures are influenced by the international refugee regime. Crisp, Rutinwa, Helton, Loescher, Juma and Kagwanja, and Ferris all argue that this international influence, due to political and financial influencing, shifts the policies and practices of refugee host states in Africa.

In terms of Western donor governments affecting how host states respond to the protection and physical needs of refugees, Crisp argues that “donor states can be said to have exacerbated the decline in protection standards in Africa by making it increasingly clear that they are no longer prepared to support long-term refugee assistance efforts.”⁶³ Programs which had been in existence for extended periods of time should be ended as quickly as possible and efforts to support new refugee flows should be designed in a way to ensure that repatriation occurs as soon as possible to avoid the need for care and maintenance programs.⁶⁴ A prime example of this phenomenon is the U.S. Government’s alerting UNCHR that resources for Rwandan refugees in Tanzania and Zaire were limited and therefore, there was a need for prompt repatriation in 1996. A ‘voluntary’ repatriation campaign ensued for approximately a half a million Rwandans returning to their home state.⁶⁵

In the debate over UNCHR’s role in the international refugee regime and influence on host countries, some authors argue that states are abdicating their responsibility to international organizations. On the other hand, others argue that international organizations are eroding the capacity of states to protect refugees.

Juma and Kagwanja argue that states have systematically abdicated their responsibilities to protect refugees to implementing partners like UNCHR and NGOs. They argue: “While many analysts lament the marginalization of the state in the relief sector by humanitarian agencies and

⁶³ Crisp, 7.

⁶⁴ Crisp, 7.

⁶⁵ Crisp, 7.

non-state actors, it is clear that the problem of refugee protection has much to do with a deliberate decision by the state to withdraw from the refugee arena and to abdicate its responsibilities as stipulated in international refugee law.”⁶⁶ They use the case examples of Tanzania and Uganda to show that states have put the obligations of fulfilling human rights of refugees often in the hands of UNCHR. In Tanzania, they argue that humanitarian actors are the sole conduit of aid given to refugees, which puts them in the lead position to determine who is deserving of assistance and protection. In Uganda, the government has allowed humanitarian actors, including UNCHR an “untrammeled sway in refugee affairs.”⁶⁷

Although some critics may disagree with Juma and Kagwanja’s assessment of Tanzania and Uganda, refugee scholars tend to agree on the influence of UNCHR on Kenya’s policy and practice towards refugees. The Kenyan government decided to turn over responsibility of refugee affairs to the UNHCR.⁶⁸ Decisions about refugee protection and national security for Kenya are therefore in the hands of UNCHR. Kenya conceives refugees as ‘UNCHR’s problem’ and this complicates UNCHR’s responsibility to advise governments, monitor assistance and protection standards, set the norms for other actors, and mobilize resources.⁶⁹ This problem of state abdication is perhaps less due to the state’s desire to dump the issues on the international community, but the states’ inability to address the needs of refugees.

On the other hand, some authors argue that it is instead the encroaching international refugee regime which has eroded or taken away the responsibility of the refugee protection from refugee host states. Juma and Surhrke argue that the states have become ‘systematically sidestepped’ by humanitarian organizations in their book, *Eroding Local Capacity*. They agree

⁶⁶ Juma and Kagwanja, 227.

⁶⁷ Ibid., 226.

⁶⁸ Helton, 161.

⁶⁹ Juma and Kagwanja, 230.

that at times it is the state that has abdicated responsibility, but more over, the international community has instituted a direct intervention approach for delivering humanitarian assistance, rather than channeling aid through host countries. The international donor community has played a role in this, as they are generally unwilling to recognize the role of the state in providing humanitarian assistance.⁷⁰

Regardless of whether states are abdicating responsibilities or international organizations are taking over responsibilities, the international refugee regime has had influence on how states interact with refugees to address their legal protection and physical needs. UNCHR, mandated by international law to provide protection and humanitarian assistance for refugees, has faced difficulties, particularly tightening budgets in some host countries, which have led to a decrease in their ability to provide assistance and has influenced refugee policy. NGOs, too, have become involved in shaping state response to refugees through their presence as international agents.

The UNCHR, often the main partner of host states in assisting forced migrants, is challenged by tightening budgets in some refugee host countries, particularly in Mozambique and Guinea, as shown in the case studies below. In some countries, there has been a marked decrease in the amount of funds, which are allocated and donated to UNCHR. In Guinea, for instance, in 2000, UNHCR's budget in Guinea was 60 percent underfunded at mid-year.⁷¹ In 2000, UNCHR put forward a budget of \$31.5 million to cover its programming operations in 2001. However, by the first quarter, it already stated that its funds would only cover 25% of the needs for West Africa.⁷² This has affected UNCHR's work, particularly in terms of staffing. In addition, the fiscal reductions to UNCHR has meant that they have had to shrink their numbers

⁷⁰ Monica Kathina Juma and Astri Suhrke, "Introduction" to *Eroding Local Capacity: International Humanitarian Action in Africa*, eds. Monica Kathina Juma and Astri Suhrke (Spain: Grafilur Artes Gráficas, 2002), 14.

⁷¹ USCRI, *World Refugee Survey: Guinea*, 2001.

⁷² Amnesty International, *Guinea and Sierra Leone: No Place of Refuge*, October 24, 2001 (Accessed on April 19, 2005); available from <http://web.amnesty.org/library/Index/ENGAFR050062001?open&of=ENG-GIN>.

of implementing NGO partners, which often receive grants for programming from UNCHR.⁷³ This has resulted in less aid and development programs for refugees, which has the potential to lead to increased insecurity for refugees and the host states.

Ferris argues that NGOs are involved in refugee protection, which would otherwise be provided by the host state or UNHCR. One way that NGOs are becoming involved is through providing an international presence with staff members in camps.⁷⁴ In the absence of UNCHR's ability to address the humanitarian and protection needs of refugees in all situations, NGOs are stepping in. Ferris called the phenomenon the 'privatization of refugee protection,' which she assumes will likely continue, particularly with UNCHR's increasing budgetary constraints.⁷⁵ NGOs, she argues, face a tension between becoming involved in protection in the field because they are, on the one hand adding to the erosion of UNCHR and state responsibility by filling the gaps of these bodies to protect refugees, but on the other hand, they are calling for additional protection by UNCHR and local governments.⁷⁶

c. National Security Concerns

Finally, refugee host states shape their policies and practices towards refugees due to concerns over their national security. In this context, I understand threats to national security as meaning the political and physical threats to the sovereignty of the host country by forced migrants. Some host states hold the perception that the populations of international refugees living in their territories are threatening to their political stability and physical security. Overall, national security concerns tends to be the most cited factor that causes states' shift in policies

⁷³ Juma and Kagwanja, 230.

⁷⁴ Elizabeth G. Ferris, "The Role of Non-Governmental Organizations in the International Refugee Regime," in *Problems of Protection: The UNHCR, Refugees, and Human Rights*, eds. Niklaus Steiner, Mark Gibney, and Gil Loescher (New York: Routledge, 2003), 131-132.

⁷⁵ Ferris, 129.

⁷⁶ Ferris, 135.

towards refugees. This argument is put forth by Jacobsen, Crisp, Rutinwa, Whitaker, Lohrmann, Helton, and Loescher. The heightened security threats, such as mixed refugee populations, refugee camps and elite, politically influential refugees, have caused states to increasingly clamp down on the rights of refugees and asylum seekers in their borders through stringent policies and practices towards refugees.

The sheer mass movement of migrants can pose a threat to the security of a host country. If the refugees are fleeing wars, the population on the move can be mixed with non-combatants and combatants, some of whom may still be carrying weapons. The host country may not have the time or resources to separate armed combatants and unarmed refugees. The host government also has little time to make decisions regarding placement of camps. In the Great Lakes region, the mass migration of refuge-seeking Rwandans in 1994, immediately following the Rwandan genocide, sparked political and security crises. The fleeing populations of mixed migrants – including *genocidaires*, ex-FAR (*Forces Armée Rwandaise*) soldiers, *interhamwe* militants, and genuine refugees – caused major upheaval in a region that had just suffered a genocide. Despite the mixed nature of the populations, which included whole formations of *interahamwe*, military units, ex-FAR militants, town councils, and civilians, the fleeing Rwandans were received by the UN and humanitarian agencies and accommodated as refugees. Camps were set up within 50 miles of the Rwandan border in Tanzania, Burundi, and Zaire.⁷⁷

In terms of physical security, refugees living in host countries' camps or settlements are of particular concern to the physical security of the host country. Refugees living in camps can act as a destabilizing factor on the physical security of the country. With condensed numbers of people living together, relative safety, close proximity to their home country, and access to

⁷⁷ Philip Gourevitch, *We wish to inform you that tomorrow we will be killed with our families: Stories from Rwanda* (New York: Farrar, Straus and Giroux, 1998): 166.

resources, camps can be logistical bases for political and military activities.⁷⁸ Militias and militaries use camps to organize and recruit new fighters. For instance, militias fighting in southern Sudan and Somalia have used Kakuma and Dadaab camps in Kenya to control and exercise authority over refugee populations.⁷⁹

Using camps as a base for provisions, medical treatment, and re-arming, fighting factions can continue fighting in wars across the border of the country from which they fled. The militarization by Hutu extremists of United Nations sponsored refugee camps in Tanzania, Kenya, then-Zaire, and other neighboring African States led to continued violence. Particularly in Goma, Zaire, the ex-FAR and *interahamwe* took control of the distribution of goods and services to the refugees. Within weeks of their arrival, Hutu extremists launched offensives against Rwanda, recruited and trained Zairean Hutus to fight with them, and attacked genocide survivors and witnesses.⁸⁰ These refugee camps were seen as a threat to national security by the new, post-genocide Rwandan government. President Kagame himself visited Washington in July 1996 and pleaded that the international community gain control over the refugee camps.⁸¹ In 1996, Rwanda and Uganda invaded the camps in Zaire, in an attempt to eliminate the re-organizing and re-arming of former Rwandan army and militias.⁸² Violence against camp residents caused a second major exodus of Rwandans, causing some to repatriate to Rwanda and others to flee into the forests of Central Africa. The continuation of violence in the Great Lakes causes threats to the surrounding refugee host countries.

At the local level, camps can be unsafe living areas: violent crimes can occur; arms trading can happen; gun violence can be a result of this insecurity and availability of arms.

⁷⁸ Lohrmann, 10-11.

⁷⁹ Juma and Kagwanja, 231.

⁸⁰ Philip Gourevitch, 267-268.

⁸¹ *Ibid.*, 292-293.

⁸² Human Rights Watch, "Ten Years Later," in *Leave None to Tell the Story: Genocide in Rwanda* (March 1999).

Refugees living in camps can potentially aid rebels or terrorists and in turn, cause instability in the camps or areas where refugees are living.⁸³ Camps tend to be in remote border areas, where there may be little governmental presence or oversight and therefore violent and illicit behavior can go unchecked. In the case of Tanzania, the government decided that refugees should leave in 1995, due in part to “insecurity and instability in the border areas.”⁸⁴

In terms of political security, international migrants across borders affect the national security agendas due to the political influence of the individuals. Former elite refugees are seen as threats to host countries,⁸⁵ as they can disrupt politically the stability of a host country. Powerful political players living in exile can establish relations with the host country government, building political alliances. These players can be viewed as threats to good relations between refugee generating and refugee hosting neighbors. If these refugees settle in urban areas, they fall outside of the protection mandate of UNCHR and therefore outside of the safety net of protection and relief assistance.⁸⁶ For instance, as will be shown below, ties between the Conte government of Guinea and LURD militia leaders from Liberia who reside in Guinea have contributed to the continued violence in Liberia and regional destabilization in the Mano River region of West Africa.

There are additional factors of domestic character which refugee host countries face in receiving large numbers of refugees. Although they will not be addressed at length in this thesis, they are important to list because they shape government refugee policy. Major factors of concern to refugee host countries are the following (1) economic resources, as many refugee host states face limited economic growth and refugees can be seen as a burden to state systems of

⁸³ Juma and Kagwanja, 232.

⁸⁴ Crisp, 17.

⁸⁵ Juma and Kagwanja, 228.

⁸⁶ Ibid.

education, health, housing, and employment; (2) natural and environmental resources, as refugees can be seen by host states as a drain on their natural and environmental resources like wood, water, and land in an often already resource-scarce country; and (3) social dynamics, particularly if there are ethnic, religious, or linguistic differences between the refugee population and host population. These three domestic factors influence the response of host governments towards refugees.

As expressed, I argue that international relations have a significant impact on state response to refugees. The three main factors that influence African host states to shift from liberal to stringent policies and practices are interstate or international relationships, the influence of the international refugee regime, and national security concerns. In order to better understand the three factors in context, I explore my hypothesis in two case studies. Mozambique and Guinea are two refugee host countries which have recently shifted their policies and practices towards refugees. Both are recent refugee host countries, which have also been, in the not too distant past or present, refugee-sending countries. They both have traditionally afforded refugees liberal rights, but in 2000 – 2001, they have tightened their liberal practices. It is critical to compare what influenced these two countries, with relatively different contexts, on opposite sides of an enormous continent, to shift their policies and practices towards refugees.

VI. Case 1 - Mozambique

a. Overview of Refugees in Mozambique

The history of Mozambique as a refugee host country has been relatively short and recent. Mozambique's displacement of its own citizenry subsided in 1997, after decades of war

and forced migration.⁸⁷ Refugees started arriving in Mozambique in the mid-1990's primarily due to the outflow of refugees from the Rwandan genocide. Most of the refugees came from the Great Lakes region of Africa, predominantly Rwanda, Burundi and the Democratic Republic of Congo. In the years 1995-1999, there were approximately 500 officially registered refugees living in the Maputo area.⁸⁸ Through the years, a steady flow of refugees from this region continued to arrive in Mozambique, with approximately 2,000 by 2000.⁸⁹ Most of the refugees were housed in two refugee camps, Bobole and Massaca, just outside of Maputo.

The number of refugees in Mozambique rose dramatically in the early years of the 2000's. The entire population of refugees in Mozambique more than doubled in the year 2001 to approximately 5,000.⁹⁰ Around February 2001, the Mozambican government laid plans to close the Bobole and Massaca camps in Maputo and to construct the Maratane Refugee Camp in a poor, rural area about 20 km away from Nampula, the informal capital of the northern region of Mozambique.

As Bobole and Massaca were closing, approximately 1,600 refugees were moved from Maputo to Nampula in planes chartered by the government and UNCHR. Some refugees resisted the move to Nampula and chose to remain self-settled in Maputo. The Mozambican government later provided these refugees with official permission and documents to remain in Maputo.⁹¹ During the massive move to Nampula, other refugees left Mozambique, seeking to settle in neighboring countries, including Swaziland. There have been a few cases of voluntary repatriation.

⁸⁷ USCRI, *World Refugee Survey: Mozambique*, 1997 (Accessed on May 8, 2005); available from www.refugees.org.

⁸⁸ Interview with Aderito Matangala, Camp Administrator for INAR on August 3, 2004.

⁸⁹ USCRI, *World Refugee Survey: Mozambique*, 2002 (Accessed on May 8, 2005); available from www.refugees.org.

⁹⁰ Ibid.

⁹¹ The "official permission" was not refugee status, but permission to remain living in Maputo. After the move to Nampula, all refugees in Mozambique were required to live within the borders of the Nampula region, unless they had authorization by the government to live outside of Nampula's boundaries.

The number of refugees in Mozambique jumped significantly in years 2001-2002. Around the time of the opening of Maratane, a large influx of refugees, mostly from the eastern region of South Kivu in the Democratic Republic of Congo, fled to Northern Mozambique, via Lake Tanganyika and Tanzania, seeking refuge. By 2003, the number of refugees in Mozambique tripled from the 2000 numbers, jumping to approximately 8,000 refugees.⁹² This number has been continually growing, with approximately 100 to 120 new arrivals, mostly from the Democratic Republic of the Congo, each month.⁹³

Today, Mozambique is a host country for approximately 10,130 refugees.⁹⁴ A majority of these refugees, approximately 5,000, live in the Maratane Refugee Camp. Other significant populations of refugees, more than 4,000, live in major cities including approximately 2,500 in Maputo, the capital city. There are a few skilled refugees, including teachers and nurses, who have been sent by the government to other regions of Mozambique to work in their particular professions, as there is a lack of skilled Mozambicans in these fields.

b. Liberal Policies and Practices Towards Refugees

Although there is a marked lack of documentation about Mozambique as a refugee host country, it seems that up until 2001, the Mozambican government tended to approach refugees with a relatively laissez-faire attitude. Some credit this positive attitude towards refugees because of the history of forced migration of Mozambicans themselves. After more than 2 decades of war, many Mozambicans were themselves refugees or knew people who were refugees. It also seems as though the limited numbers of refugees who sought asylum in Mozambique may have

⁹² USCRI, *World Refugee Survey: Mozambique*, 2004 (Accessed on May 8, 2005); available from www.refugees.org.

⁹³ Interview with Ana Palao, UNCHR Field Officer, on August 2, 2004.

⁹⁴ The total number of refugees living in Mozambique is estimated to be 10,136, as quoted by Olivia Shannon, Program Officer, UNCHR in Maputo on August 16, 2004.

influenced this liberal attitude towards refugee policies and practices of the Mozambican government.

In general, refugees in Mozambique were provided with their basic needs by the government and their implementing partners, UNCHR and NGOs. Many refugees received food aid, health care, and partial access to schools. Refugees benefited from language training and support for income-generation projects. New arrivals also received cooking utensils, mattresses, and personal sanitary supplies.⁹⁵ The government allowed NGOs to work with refugees in income generation and business development programs. Refugees were afforded the opportunity to participate in the economic infrastructure of the community. Many refugees in the Maputo area participated in the Mozambican economy by opening shops in the city and selling goods in the market. Through microfinance institutions such as *Fundo de Credito Comunitario*, which gave small loans to refugees without permanent refugee documents, they were able to grow their businesses. Today, some of the most successful businesses in Maputo are run by refugees.⁹⁶

c. Stringent Policies and Practices Towards Refugees

However, policies and practices of the Mozambican government towards refugees started shifting from more laissez-faire to stringent in 2000 and 2001. The general attitude towards refugee shifted as well. According to USCRI, in 2001, the Mozambican government expressed negative attitudes toward refugees, with Delegação Provincial do Instituto Nacional de Apoio aos Refugiados (INAR), the Mozambican government's main refugee agency, "accusing refugees and other foreigners near Maputo of car thefts, drug trafficking, and currency

⁹⁵ USCRI, *World Refugee Survey: Mozambique*, 2002 (Accessed on May 8, 2005); available from www.refugees.org.

⁹⁶ See Alchemy Field Report by Naohiko Omata titled "Alchemy Field Report on FCC Microcredit Programs to Refugees in Mozambique," available from http://famine.tufts.edu/pdf/alchemy/2004_7_mozambique.pdf

counterfeiting.”⁹⁷ Some of the policies and practices include forcibly moving refugees from Maputo to Nampula, limitation of refugee status determination, lack of refugee and identity documentation, imprisonment of refugees due to lack of documentation, and limitations on freedom of movement, and lack of attention to the basic rights of refugees such as the ability to work and educational opportunities.

The agreement between the UNCHR and the Mozambican government to move all of the refugees to the northern Nampula in 2000 and 2001 marked a turn toward stringent policies and practices for refugees, because it meant that they would be moved from a relatively well off area, with many access to resources and markets, to an extremely rural and poor area. The government’s justifications for this move were that refugees should not live in the capital city and that the refugees living in the Maputo area were causing problems and confusion in Maputo (i.e. bothering diplomatic agencies).⁹⁸ There are rumors, however, that the decision to move the refugees from Maputo to Nampula came about because of pressure from the South African government. The proximity of the refugees to the border of South Africa provided a route for refugees to self-settle across the border in cities, including Johannesburg, in South Africa.

The Mozambican government limited refugees’ right to legitimate refugee status. Although there has been little shift, per se, towards providing refugees with permanent status, the government did not amend its procedures towards refugee status determination as the numbers of refugees seeking asylum grew larger. When refugees cross into Mozambique, they are registered with the government and are permitted to live in Mozambique on a temporary basis. They are offered a *Declaração*, a sheet of paper with their name and photo, which indicates that they have declared themselves as asylum seekers. The paper is only valid for 2 months, and then it must be

⁹⁷ USCRI, *World Refugee Survey: Mozambique*, 2002 (Accessed on May 8, 2005); available from www.refugees.org.

⁹⁸ Interview with Aderito Matangala.

renewed. Most refugees, even those who have lived in Mozambique for more than 3 years, still only hold the status of asylum seeker in Mozambique.

Official refugee status is a permanent protection given to a limited number of refugees in Mozambique. The procedure to receive refugee status is extremely delayed. Although the government claims that the procedure does not take “too long,” when pressed for a specific timeframe, the Camp Administer responded in the following manner (to paraphrase): “I can’t tell precisely how long it takes to get the status of a refugee. We use ‘easy integration’ with refugees. That is why we don’t have specific controlled time for completing refugee status.”⁹⁹ I encountered only one refugee with status, a Burundian WR employee, who was just granted status in 2004, after arriving in Mozambique in 1999. As of August 16, 2004, 618 refugees had been granted permanent refugee status.¹⁰⁰ Nearly half of those refugees granted status, 307 in total, were granted in 2004, reportedly after pressure from UNCHR to move the process forward. Up until 2002, the number of recognized refugees was 207.¹⁰¹ This lack of permanent refugee status severely limits refugees’ lives in Mozambique.

The government has also limited the issuance of identity documentation for refugees. Following the move of a large number of refugees from Maputo to Nampula in 2001, the Mozambican government declared that they would, grant refugee documentation only to refugees who transferred to Nampula area.¹⁰² Overall, other than the *declarações*, refugees are not given any identity or travel documentation. Because they do not have the proper documentation, refugees are often the targets of police harassment in Nampula. Perceived as

⁹⁹ Interview with Aderito Matangala.

¹⁰⁰ Interview with Olivia Shannon.

¹⁰¹ Breakdown of refugees with status up until 2002: 64 from Burundi, 33 from DRC, 100 from Rwanda, 9 from Somalia, and 1 from Sudan.

¹⁰² USCRI, *World Refugee Survey: Mozambique*, 2002 (Accessed on May 8, 2005); available from www.refugees.org.

outsiders and potential threats, police often demand papers from refugees. When refugees present their *declarações*, police often ask for permanent refugee documents, which, as described above, are almost never granted to refugees. The UNCHR reported that some refugees were imprisoned because they lacked legal documentation.¹⁰³

The government's decision to move refugees to Nampula and contain them in the Maratane Refugee Camp also decreased refugees' access to basic rights including movement, work, and education. In 2001, Mozambican authorities expressed "serious reservations" about refugees' property rights, employment rights, and freedom of movement, according to UNHCR.¹⁰⁴

The government's decision to move refugees to Nampula reduced refugees' freedom of movement. Refugees, in theory, have complete freedom of movement in Mozambique. In practice, however, there are serious limitations. According to the government, refugees are only allowed to reside in the northern region of Nampula. The government must provide refugees who live outside of the Nampula region with official documentation to legally remain outside of this region.¹⁰⁵ Since the opening of the Maratane camp, refugees who lived in the camp had the freedom to leave and enter as they pleased, however this movement has been recently restricted. In August 2004, the government will implement a new program, which will severely restrict refugee's freedom of movement. In order to leave Maratane, refugees will have to request special permission. They will have to apply for this permission in advance of their departure. They must state the length of time they will be away from the camp and their reasons for

¹⁰³ USCRI, *World Refugee Survey: Mozambique*, 2002 (Accessed on May 8, 2005); available from www.refugees.org.

¹⁰⁴ Ibid.

¹⁰⁵ Interview with Aderito Matangala.

traveling. The government will then grant or deny them permission to leave the camp. The time allotments are for 24, 48, and 72 hours.

Restricting refugees' movement to the camp and the Nampula region practically means that refugees have less opportunity to engage in employment opportunities. The right to work granted to refugees are already limited by the Mozambican government's policies and procedures with respect to refugee documentation. Although refugees are able to work, employers are remiss to hire displaced persons without refugee status identification. Additionally, there is basically no proper work in the camp, other than informal shops. If refugees leave the camp to open shops and live in Nampula, they are cut off from UNCHR assistance, including food distribution. Overall, refugees are encouraged to work by both the UNCHR and the government, however it is extremely challenging to find work, to be hired, and to live outside of the camp.

Refugees in the Maratane Refugee Camp have a marked lack of access to education. Refugees are provided with the right to attend local Mozambican, Portuguese-language schools. The government pays the same school fees for Mozambican and refugee children. There is a Mozambican primary school in the camp, which 120 refugee children attend. However, the majority of this school's population is comprised of local Mozambican children. The Mozambican secondary school is located in Nampula. The refugee families of secondary-school aged children must pay for the transportation of their children to attend school. As many of the refugees are French speaking and would prefer that their children learn lessons in French, they established their own French language school at the camp and have been assisted by UNCHR in running the school. The vast majority of school-aged children attend the French language school. It seems that only families who have had problems with other refugees at the camp send

their children to the Portuguese language school. The French language school is not recognized by any government, including the Mozambican government. Therefore, when the children finish their studies, their degrees will not be recognized.¹⁰⁶

For urban refugees who chose to remain in Maputo, USCRI reported that they “received little or no humanitarian assistance.” The Mozambican government placed restrictions on urban refugees’ property rights, employment, freedom of movement, and access to education. Despite this, many refugees and asylum seekers chose to remain in the Maputo area where they evaded employment restrictions and, in some cases, sought entry into neighboring South Africa.¹⁰⁷

d. Factors Shifting Policies

I will argue below that there are three main factors which have spurred the government of Mozambique to shift its policies and practices from liberal to stringent. These three factors are international and inter-state relations, the influence of the international refugee regime, and national security.

i. International and Inter-State Relations

The relationships between Mozambique and its neighbors, particularly South Africa and the Great Lake states, have lead the government to implement more stringent practices and policies towards incoming refugees and those who reside in the country.

It is rumored that tensions between South Africa and Mozambique have caused the Mozambican government to relocate refugees to Nampula. This evolved, it is assumed, over the growing concern about refugees who have used the relatively loose border between the two countries to enter South Africa. The Mozambican government moved refugees from Maputo to

¹⁰⁶ Interview with Aderito Matangala.

¹⁰⁷ USCRI, *World Refugee Survey: Mozambique*, 2002 (Accessed on May 8, 2005); available from www.refugees.org.

Nampula and then pressured refugees who did not move to the north and instead remained in Maputo by denying them aid and asylum. USCRI reported that “According to the government, Marrantane camp provided refugees with agricultural land, promoted self-sufficiency, and reduced illegal immigration into South Africa.”¹⁰⁸ The result of this move of refugees far from the border shared by Mozambique and South Africa reduced, as stated above, reduced immigration to South Africa. For the refugees meant a severe reduction in access to refugee rights, particularly freedom of movement, employment opportunities, and access to resources such as schools and education.

ii. The Influence of the International Refugee Regime

The second main factor spurring the Mozambican government to shift its policies and practices is the influence of the international refugee regime. In particular, the influence of UNCHR has reduced refugees’ access to and the quality of protection and humanitarian assistance provided by the government and international agencies. This is primarily due to a severe budget reduction.

The UNCHR is the main partner in refugee affairs to the Mozambican government. UNCHR’s ability to address the needs of refugees has been greatly reduced because of tightening budgets. In Mozambique, they have been faced with decreasing financials with an ever increasing number of refugees. As the Mozambican government is unable to provide refugees with humanitarian assistance such as food rations, the UNCHR is obligated to provide the funding support them. With a reduction in budgets, the UNCHR has less money to put towards programming and relief towards refugees. USCRI reported in that in 2002, “Local government authorities complained that the UN High Commissioner for Refugees was expanding the

¹⁰⁸ USCRI, *World Refugee Survey: Mozambique*, 2002 (Accessed on May 8, 2005); available from www.refugees.org.

infrastructure of Maratane camp too slowly to accommodate the camp's growing population. Adequate supplies of drinking water were a particular concern.”

iii. National Security

Finally, national security is the third factor that has led Mozambique to shift its policies and practices from liberal to stringent. The Mozambican government perceives the refugees living within its borders as a threat to its national security. In particular, the makeup of the refugee population poses security concerns for the government. Also, the interactions between different factions of the refugee population could cause serious national security threats to the government, causing them to implement restrictions on their rights.

Prior to delving into the discussion, it is important to note the limitations of the Mozambican government to provide security for the refugees. It is the government's responsibility to protect refugees, but they are limited in their financial and administrative capacities. Security personnel are hired, but not paid salaries, by INAR. Fourteen police officers are stationed at the Maratane Refugee Camp; ten of those were formerly retired and have been called back to service. The officers do not wear uniforms, except for the police commander and the chief of police. Equipment is limited (i.e. the officers do not have radios), which makes logistics and overall security work difficult. There have been personnel issues, as well, including officers who have low vision and alcohol problems.¹⁰⁹ There are also a group of refugee guards who live in the camp called “Tzungo Tzungo,” but they work as a community security force, paid by UNCHR.

The population of the Maratane Refugee Camp is of concern to the Mozambican government. As stated above, the refugee population includes those who fled wars in the DRC,

¹⁰⁹ Interview with Ana Palao.

Burundi, and Rwanda. Some of the current refugees fled camps in Tanzania where local officials were pressuring them to repatriate.¹¹⁰ The Maratane Refugee Camp is home approximately 2,000 Rwandan refugees. USCRI reports that these Rwandans are mostly Hutus allegedly complicit in Rwanda's genocide who are unwilling to repatriate.¹¹¹

In addition, the Maratane Refugee Camp is home to a diverse group of refugees. The majority of the camp residents are from the Democratic Republic of Congo with smaller but significant populations from Burundi and Rwanda. There are just a few refugees from other countries, as well, including Uganda, Ethiopia, and Angola, to name a few. The population mix is blamed for many problems of security at the camp.

The more significant and dangerous security concerns, however, lie within the Congolese community. The largest group at the camp, the Congolese population is divided between many different ethnic groups. There are populations of Bembes and Banyamulinges. Many of the tensions from which people fled the Democratic Republic of Congo have been replicated in the camp.¹¹² The Congolese population has the highest rate of violence in the camp.¹¹³ Crimes resulting from insecurity at the camp are frequent. There have been reports of houses burned, stabbings, rape, and threats.¹¹⁴ USCRI reported that in 2002, "Ethnic tensions among Congolese refugees triggered violence at Maratane camp in September, resulting in the arrest of some refugees. Local officials warned that tensions could peak again if services at the camp fail to keep pace with new refugee arrivals."

¹¹⁰ USCRI, *World Refugee Survey: Mozambique, 2004* (Accessed on May 8, 2005); available from www.refugees.org.

¹¹¹ Ibid.

¹¹² Interview with Aderito Matangala.

¹¹³ Ibid.

¹¹⁴ Interview with Ana Palao.

In conclusion, it seems that Mozambique has changed its policies and procedures in an ad hoc manner, addressing the problems of the growing refugee population within its borders as they arise. Their intention may be to treat refugees well, stemming from their long history of displacement, as an estimated 1.7 million Mozambicans were, until relatively recently, displaced. Mozambique, therefore, has a sense of the responsibility it bears to address the legal and physical needs of refugees within its borders. However, its limited capacity and finances cramp ability to address the needs of refugees. The country has only recently begun to make economic progress, slowly rebuilding after the devastating 17-year civil war.

The influence, then, of the international refugee community and the political pressure from its neighbors, particularly South Africa, are evident in how it has shifted its policies and practices towards refugees. The UNHCR in Mozambique has strong influence on the decisions that are made in responding to refugees. Their limited budget and the rising refugee numbers has caused some negative consequences for refugees and shifted government policy to be more stringent. As for international relations, Mozambique is somewhat dependant on South Africa for trade. With economic and power discrepancies between the two countries, it is conceivable that South Africa's irritation at too many refugees crossing into their country through Mozambique shaped the government's decision to move the majority of refugees to Nampula. Finally, the political and security concerns that Mozambique may face due to the refugees are relatively limited at this point, because of the numbers of refugees living within its borders. If this number grows significantly, however, and tensions between refugee groups increase, there is a potential for this population to become a serious destabilizing factor for Mozambique.

VII. Case II – Guinea

a. Overview of Refugees in Guinea

Guinea has been host to displaced population since 1989, when refugees from Liberia fleeing the civil war started entering the country.¹¹⁵ Large numbers of refugees from Liberia continued to seek asylum in Guinea due to the war through the 1990s. In 1996, some refugees were able to repatriate due to a tentative peace in Liberia. However, approximately 25,000 newly displaced Liberian refugees were forced to flee to Guinea during the renewed fighting in mid 2003 between rebel groups seeking to oust President Taylor and government soldiers. Sierra Leonean refugee started fleeing to Guinea in the 1990's, because of civil war and human rights violations in their country. Tens of thousands repatriated when the Sierra Leonean civil war ended in 2002. More recently, refugees from Côte d'Ivoire have sought and continue to seek protection Guinea, due to unrest, despite the peace agreement which marked the end of civil war in Côte d'Ivoire in early 2003.¹¹⁶

The number of refugees in Guinea was at its height in 1998 and 1999, when the country hosted approximately 450,000 to 515,000 refugees from Liberia, Sierra Leone, Guinea Bissau, and a few other African countries. No other African country hosted more refugees in 1999.¹¹⁷ And, moreover, between 1996 and 2001, Guinea hosted more refugees per citizen than any other country in Africa.¹¹⁸

In 2003, the US Committee for Refugee and Immigrants (USCRI) reported that Guinea was a host country for approximately 223,000 refugees. The majority of these refugees are from Liberia, Sierra Leone and Côte d'Ivoire. There are an estimated 170,000 from Liberia, approximately 43,000 refugees from Sierra Leone, and about 10,000 refugees from Côte

¹¹⁵ USCRI, *World Refugee Survey: Guinea*, 1997 (Accessed on May 8, 2005); available from www.refugees.org.

¹¹⁶ USCRI, *World Refugee Survey: Guinea*, 2004 (Accessed on May 8, 2005); available from www.refugees.org.

¹¹⁷ USCRI, *World Refugee Survey: Guinea*, 2000 (Accessed on May 8, 2005); available from www.refugees.org.

¹¹⁸ Human Rights First, "Refugees in West Africa," (Accessed on April 19, 2005); available from http://www.humanrightsfirst.org/intl_refugees/regions/africa/west_africa.htm.

d'Ivoire.¹¹⁹ Also in 2003, there were significant numbers of Guinean citizens who were displaced. In the border areas, many Guineans remained internally displaced after they were forced to flee their homes in 2001-2002 during the civil war in Sierra Leone, when fighting spilled into Guinea and thousands became internally displaced in the border areas. Also, about 50,000 Guineans who had settled in Côte d'Ivoire had to flee back to Guinea after the civil war broke out in late 2002. Most of these returnees were internally displaced in the Forest Region of Guinea, where there is a critical lack of social services.¹²⁰

The majority of the approximately 170,000 Liberian refugees live in camps and transit centers. Some are more integrated into society and live in villages and urban areas, including some 15,000 who live in the capital, Conakry. One camp, Kouankan, in the Nzerekore area of the Forest Region, is home to about 32,000 Liberian refugees. Another large camp, Lainée, was built in 2002 and was expanded to house the more recent influx of refugees in 2003.¹²¹ As for the approximately 43,000 Sierra Leonean refugees who remained after the many UNCHR-sponsored waves of repatriation, they live in different areas. A large number live in three main camps near Albadariah in the Kissidougou area. An estimated 25,000 or more are self-settled in the border areas. Smaller populations live in other refugee camps.¹²²

b. Liberal Policies and Practices Towards Refugees

In general, in the 1990's through 2000, Mozambique was generally friendly host country in their policies and procedures towards refugees. Guinea is a state party to the United Nations Convention Relating to the Status of Refugees and its Protocol, as well as the International Covenant on Civil and Political Rights and its First Optional Protocol. The government and

¹¹⁹ USCRI, *World Refugee Survey: Guinea*, 2004 (Accessed on May 8, 2005); available from www.refugees.org.

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² Ibid.

local Guineans had a long-standing tradition of welcoming refugees in their borders.¹²³ In 1999, USCRI described the relations between Guineans and refugees as the following: “Despite occasional complaints of petty harassment by police, the Guinean government was generally hospitable to refugees and provided them school buildings and access to local medical facilities...Despite worsening insecurity in border areas, relations between refugees and the local population remained good at many locations. The presence of refugees brought international donor resources to otherwise impoverished rural areas.”¹²⁴

c. Stringent Policies and Practices Towards Refugees

The Guinean government’s policies towards refugees shifted dramatically in 2000 and 2001, after years of relative hospitality towards refugees. In 2000, the wars in Sierra Leone and Liberia were starting to spill over the shared borders with Guinea. In September, violence erupted along the border of Sierra Leone, Liberia, and Guinea. On September 9, 2000, President Lansana Conte expressed the government’s new attitude towards refugees. Following three cross-border attacks into Guinea, President Conte said, in a nationwide broadcast, the following: “I am giving orders that we bring together all foreigners... and that we search and arrest suspects... They should go home. We know that there are rebels among the refugees. Civilians and soldiers, let’s defend our country together. Crush the invaders.”¹²⁵ Some of the policies and practices which the Guinean government used were forced repatriation of refugees, arbitrary arrest and detention of refugees, improper screening of refugees for the presence of rebels, closing of borders to displaced persons seeking refuge, limitation of refugee status determination,

¹²³ Human Rights Watch, *Guinea: Refugees Still at Risk: Continuing Refugee Protection Concerns in Guinea*, July 2001 (Accessed on April 19, 2005); available from <http://www.hrw.org/reports/2001/guinea/guinea0701.PDF>.

¹²⁴ USCRI, *World Refugee Survey: Guinea*, 1999 (Accessed on May 8, 2005); available from www.refugees.org.

¹²⁵ Relief Web, “Sierra Leone and Liberia violence spills into Guinea: Backlash endangers hundreds of thousands of refugees,” on September 13, 2000 (Accessed on April 17, 2005); available from <http://www.reliefweb.int/rw/rwb.nsf/0/E59F7718AB26C29785256959006CCC16?OpenDocument&Start=1&Count=1000&ExpandView&StartKey=West+Africa>.

lack of refugee and identity documentation, limitations on freedom of movement, lack of attention to the basic rights of refugees such as the ability to work.

Forced repatriation of refugees residing in Guinea was one extremely stringent policy of the Guinean government, which violated the right of refugees to *non-refoulement*. The announcement of President Conte that refugees were aiding and abetting rebels spurred growing resentment of the Guinean government towards refugees, which led to severe persecution and harassment of refugees by local populations. In September and October, local militia or rebels destroyed two refugee camps in Forecariah, forcing refugees to flee back to Sierra Leone. In December, two refugee camps in the Gueckedou area were attacked and burned by unknown assailants during repeated rebel incursions in the area. Rebels destroyed telephone lines, cut major roads, and burned buildings. Thousands of refugees were forced to flee along with the local population. The violence was blamed on the refugees. There is some speculation, though that the majority of rebel forces which participated in this campaign against refugees were from Sierra Leone, but it is assumed that there were also Guinean dissidents and Liberian allies who also participated in the attacks. One of the hardest hit areas was Macenta, where dozens of people were killed, including the head of the UNHCR field office.¹²⁶

A second stringent policy, which the Guinean government implemented since the violence in 2000, was arbitrary arrest and detention. Just following Conte's announcement, in urban areas, militias started targeting and rounding up refugees from Sierra Leone and Liberia. Refugees were beaten, raped, and had to flee towards their embassies. Several thousand refugees were temporarily detained. Also, at borders and checkpoints, refugees tend to be targeted during

¹²⁶ Tania Kaiser, *A Beneficiary-Based Evaluation of UNHCR's Programme in Guinea*, West Africa (Geneva: UNHCR, January 2001). (Accessed on May 10, 2005); available from <http://www.unhcr.ch/>

security checks because of their status as non-nationals and their lack of ID documents.¹²⁷ Often accused of being rebels or rebel supporters, refugees are often detained at the checkpoint or arbitrarily arrested and placed in prison with exceedingly poor conditions. Human Rights Watch documented cases where refugees who were detained were subject to beatings, torture, rape, and lack of food and water.¹²⁸ In 2000 and 2001, large groups of refugees were detained *en masse*, including one case when approximately 450 refugees were detained in the area of the Massakoundou refugee camp, after there was a rumor of a rebel attack.¹²⁹

The government has also employed improper screening techniques for rebels at borders, checkpoints, and refugee camps. Liberians and Sierra Leoneans are targeted and singled out in searches and raids for rebels and rebel supporters. The criteria for declaring a refugee as a rebel are arbitrary, including seeing marks on a body, which could be interpreted as scars inflicted on recruits of rebel groups or evidence of firing a gun on the ‘trigger finger.’¹³⁰ If refugees are accused of rebel association, they are most likely detained and subject to abuse and torture. They can be detained without being charged and without evidence against them. There is no limit to their detention,¹³¹ and often, some refugees pay bribes to Guinean security forces in order to secure their release from detention.¹³²

The Guinean government has also limited refugees’ access to the borders. Refugees heading to Guinea, particularly from Liberia, have been prevented from seeking asylum due to the tensions between the government of Guinea and the leaders of the Liberian rebel group Liberians United for Reconciliation and Democracy (LURD), which will be addressed more

¹²⁷ Human Rights Watch, “Guinea: Refugees Still at Risk,” 13.

¹²⁸ *Ibid.*, 13-15.

¹²⁹ *Ibid.*, 16.

¹³⁰ *Ibid.*, 10.

¹³¹ Human Rights First, *Country by Country Review of Detention Procedures and Practices: Guinea*. (Accessed on April 19, 2005); available from http://www.humanrightsfirst.org/refugees/reports/cntry_rev_02/Guinea.pdf.

¹³² Amnesty International, “No Place of Refuge.”

fully below. Since March 2002, some Liberian civilians seeking asylum in Guinea have been prevented from entering the country or have been driven back across the border into Liberia by Guinean soldiers.¹³³ USCR reported that “in late March 2003, Guinean border officials prevented some 6,000 Liberian refugees fleeing violence near the Guinea-Liberia border from crossing a bridge to enter Guinea. The Liberian refugees massed at the border eventually broke through a locked gate. During the daylong delay, several Liberian children and pregnant women drowned while trying to cross a swollen river separating the two countries.”¹³⁴ Prevention of refugees from accessing safely is a clear violation of international refugee law. In addition, returning refugees to a country where they fear persecution is a violation of the cornerstone of refugee law, *non-refoulement*.

The Guinean government has limited refugees’ access to permanent refugee status determination. Refugees in Guinea face a precarious legal status, as they are considered *prima facie*, or automatic refugees and have limited access to individual recognition of status as a refugee or asylee. There very limited numbers have actually been granted individual refugee status in Guinea. In the approximately 184,341 refugees which UNHCR reported that Guinea hosted in 2003, only 3,343 have been granted individual recognition through either the 1951 UN Convention & 1967 Protocol definition or the 1969 OAU Convention. The other 179,514 have been granted on a *prima facie* basis.¹³⁵ However, because of lack of identity documentation, explained below, refugees are generally unable to prove that they fall under this protected category.

¹³³ Human Rights Watch, “Liberian Refugees in Guinea: Refoulement, Militarization of Camps, and Other Protection Concerns,” November 2002 Vol. 14, No. 8 (A) (Accessed on April 19, 2005); available from <http://www.hrw.org/reports/2002/guinea/>.

¹³⁴ USCRI, *World Refugee Survey: Guinea*, 2004 (Accessed on May 10, 2005); available from www.refugees.org.

¹³⁵ Data found at “Table 9. Refugee population by legal status and type of recognition, end-2003,” of UNHCR’s *2003 Global Refugee Trends: Overview of Refugee Populations, New Arrivals, Durable Solutions, Asylum-Seekers and Other Persons of Concern to UNCHR*, June 15, 2004 (Accessed on April 19, 2005); available from <http://www.unhcr.ch/statistics>.

Another policy used by the Guinean government relates to the issues of refugee identity documentation. Because of a dispute between the Guinean government and UNCHR over a printing contract, refugee identity cards have never been issued to refugees living in Guinea.¹³⁶ This has made them extremely vulnerable to harassment by local police and officials. Often, refugees are detained at checkpoints for several hours for having no ID documents and they must pay bribes to be released.¹³⁷ As Kaiser suggests, “The single most common form of harassment suffered by refugees at the hands of the local authorities, is being held up at roadblocks for having no ID document. The [UNHCR] Protection department is not strongly placed to combat this, as refugees have no papers.”¹³⁸ After the violent outbreaks in 2000, some ‘protection papers’ were given to refugees living in the capital city of Conakry, as some form of legal protection. And, starting in 2002 and 2003, some Sierra Leonean refugees received identity cards, after years of delay, however many still lacked proper identification.¹³⁹ In general, official refugee cards have not been given out as a matter of course in Guinea.¹⁴⁰ Local authorities continued to harass and arbitrarily arrest and detain those without identity cards during 2003.

The Guinean government also limits refugees’ basic rights to a dignified life. This includes limitations on freedom of movement and access to work. The freedom of movement of refugees is limited due to the lack of refugee identity documentation. Also, following the violence in 2000 and 2001, daily life was made difficult by tensions in the local communities. There were negative reverberations in the local-level interactions between Guinean villagers and Liberian and Sierra Leonian refugees in the rural areas. The Guinean government did nothing to prevent the violence that ensued. The escalation of violence and tensions led to severe

¹³⁶ USCRI, *World Refugee Survey: Guinea*, 2003 (Accessed on May 10, 2005); available from www.refugees.org.

¹³⁷ Kaiser, 20.

¹³⁸ Kaiser 8.

¹³⁹ USCRI, *World Refugee Survey: Guinea*, 2004 (Accessed on May 10, 2005); available from www.refugees.org.

¹⁴⁰ *Ibid.*

persecution and harassment of refugees by local populations. This made daily life in the rural areas unsafe for refugees. In particular, it made it particularly difficult to participate in subsistence agriculture, which was a main source of livelihoods for refugees. In the Kola camp, Refugee International reports, “relations with the local Guinean community were strained and the refugees were viewed as a hostile presence; the government did not allow them to engage in farming, at least not for themselves --- some worked for next to nothing as labourers on the farms of Guineans; the local authorities were in the habit of arresting and cruelly mistreating any refugee caught collecting firewood, without which they could not cook their WFP food rations.”¹⁴¹

d. Factors Contributing to Tightening of Liberal Practices

As shown above, Guinea had been a relatively friendly host country for refugees living inside of its borders until 2000. However, since the violence that erupted, the Guinean government has instituted policies and practices which are stringent and have severely restricted the rights of refugees. There are three main factors that have contributed to this phenomenon. They are international and inter-state relations, the influence of the international refugee regime, and issues of national security.

i. International and Inter-state Relations

The interstate relations between Guinea and its neighbors, particularly Liberia and Sierra Leone, are tenuous. The Mano River region has been struggling with civil and cross-border wars for more than a decade. These conflicts have led to massive movements of people from country to country. The major movements have been refugees from Sierra Leone fleeing to Guinea and

¹⁴¹ Refugees International, *West Africa: Political Gains and Refugee Welfare Depend on Stability in Guinea*, September 3, 2003 (Accessed on May 8, 2005); available from <http://www.refintl.org/content/article/detail/899/>.

Liberia; Liberian refugees fleeing to Guinea and Sierra Leone; a small number of Guinean refugees fleeing to its neighbors; most recently, Ivoirian refugees fleeing to the Mano River area. The international relations between these neighboring states have become more and more tense with mass movements of populations and relationships between rebel factions and states.

Guinea, often thought of as the outlier in that it has not been ravaged by decades of civil war and has been somewhat hospitable towards refugees, has been negatively affected by these tension-filled relations. The tension, conflict, and violence have led to increasingly harsh treatment of the government towards refugees. The underlying factors leading to these tensions and the resulting stringent practices towards refugees include cross border warfare and collaboration between the government and non-national rebel groups.

Warfare in neighboring Sierra Leone and Liberia spilled into Guinea in 2000, with cross-border incursions from both Liberia and Sierra Leone. In September and October, along the border of Sierra Leone and Guinea, militias crossed in Guinea and launched attacks, with resulting deaths of several hundred people and massive displacement. The attacks continued in November and December, with rebels coming from Sierra Leone into southeastern Guinea.¹⁴² As stated above, President Conte blamed the attacks on refugees living in Guinea, which spurred a rash of violence against refugees. This cross border violence and conflict between the bordering countries was the catalyst for Guinean to clamp down on its liberal policies and practices towards refugees. After these events, Guinean refugee policy became much more harsh than it had been in the 1990's.

Inter-state relations between Guinea and Liberia have been increasingly tenuous because of the Guinean government's support of the Liberian rebel group LURD. An investigation by Human Rights Watch found that Guinean military officials were often acting in close

¹⁴² USCRI, *World Refugee Survey: Guinea*, 2001.

collaboration with the LURD. The rebels were able to organize themselves in Guinea and often traveled through Guinea in the border towns, where many refugee camps are located. The Guinean military targeted refugees who were being returned in Liberia and handed them over to LURD rebel leaders.¹⁴³ The International Crisis Group calls President Conte's support of LURD an "open secret."¹⁴⁴ Although he denies the ties publicly, even Guineans along the border know that this is not the case. For instance, Guinea has provided arms to LURD or facilitated their receipt.¹⁴⁵

On the other hand, LURD rebels also prevented many Liberian civilians from crossing into Guinea seeking refuge.¹⁴⁶ One could argue that the support of LURD by the Guinean government has provided the state with a cheap alternative to securing the border. With LURD patrolling the borders, Guinea does not have to provide Guinean military forces in the area.¹⁴⁷ However, this relationship has factored into the continuation of the conflict in Liberia. And, in turn, this conflict continues to drive refugees out of Liberia. It also increases tensions between the two country's governments. For instance, in March 2003, Liberia's President Charles Taylor send the UN Secretary General a letter which criticized Guinea's support of LURD. Although Taylor has been ousted, there is a potential that this tension between the two governments could be sparked into conflict.¹⁴⁸

Relations between Guinean and Côte d'Ivoire have also been tenuous, with the eruption of civil war in late 2002. The violence spurred movements of Ivoirians towards Guinea. In the onset of this conflict, Guinean closed the border with Côte d'Ivoire, stopping refugees from

¹⁴³ Human Rights Watch, "Liberian Refugees in Guinea."

¹⁴⁴ International Crisis Group, *Tackling Liberia: The Eye of the Regional Storm*, April 30, 2003 (Accessed on April 19, 2005); available from <http://fmo.qeh.ox.ac.uk/Repository/getPdf.asp?Path=Oxford4I/1600/11/20&PageNo=1>, 10.

¹⁴⁵ International Crisis Group, 10.

¹⁴⁶ Human Rights Watch, "Liberian Refugees in Guinea."

¹⁴⁷ International Crisis Group, 11.

¹⁴⁸ International Crisis Group, 11-12.

entering their borders, due to security concerns. The border was not reopened for weeks, and many Ivoirians seeking refuge hid themselves in the countryside.¹⁴⁹

The increasingly tenuous inter-state relations between Guinea and its neighbors as well as the ever-present conflict and violence in the Mano River Region has cause the Guinean government to implement stringent policies and practices towards refugees approaching and living within its borders.

ii. Influence of the International Refugee Regime

In general, refugee protection in Guinea falls under the mandate of the Guinean government. It is the government's obligation to provide services and basic needs to the refugees, including the provisions for refugees' security. If, however, the host state is unwilling or unable to fulfill its obligations under international law, it may call on the assistance from international organizations like UNCHR to address the needs that it is unable to fulfill. The influence that international organizations can have on the host state government can lead to a shift in policies and practices towards refugees. In particular, the influence of UNCHR, donors, and other international organization can shift a government's response to refugees' physical and legal protection needs, particularly affected by lack of resources and lack of coordination.

The Guinean government is dependent on assistance from the international refugee regime to assist them in addressing the needs of refugees. There is a critical lack of resources allocated to Guinea. UNCHR and partner organizations complain that they do not have adequate resources to fulfill their programming objectives. For instance, in 2000, UNHCR's budget in Guinea was 60 percent underfunded at mid-year, forcing a 20 percent budget cut across the board

¹⁴⁹ USCRI, *World Refugee Survey: Guinea*, 2003 (Accessed on May 10, 2005); available from www.refugees.org.

for all NGOs.¹⁵⁰ In 2000, UNCHR put forward a budget of \$31.5 million to cover its programming operations in 2001. However, by the first quarter, it already stated that its funds would only cover 25% of the needs for West Africa.¹⁵¹ The underfunding of programming has led to the international organizations' abilities to protect refugees and provide humanitarian assistance.

UNCHR is mandated to provide legal protection to refugees, and the lack of resources has contributed to the UNCHR's lack of ability to provide that protection. For instance, in 2002, UNCHR had to cut back on the number of protection officers. Normally, protection officers are sent to border crossings to ensure the rights of refugees are protected. With an increase in refugees crossing into Guinea from Liberia and a decrease in the number of officers who are able to monitor border crossings, the result is a critical lack of protection for the refugees. Refugees International reported that there were refugees who had to pay Liberian officials and others to get across the borders.¹⁵²

The lack of funds allocated to refugees is linked to limited humanitarian assistance. The Guinean government and UNHCR's implementing partners, NGOs such as Save the Children, IRC, and others which provide much needed health services, food, education, and livelihoods programs, have been negatively influenced by this lack of funding. In 2002, UNHCR did not have enough money to pay an implementing partner, OCPH, which distributed food to refugee camps, for four months.¹⁵³ In 2001, food security became a major issue for refugees in Guinea as the number of refugees receiving food benefits dropped dramatically in 2001 and 2002, not due to need, but due to funding. UNCHR cut their distribution lists and 42,204 refugees, who

¹⁵⁰ USCRI, *World Refugee Survey: Guinea*, 2001 (Accessed on May 10, 2005); available from www.refugees.org.

¹⁵¹ Amnesty International.

¹⁵² Refugees International, "West Africa: UNHCR Funding Crisis Threatens Refugees," (Accessed on April 19, 2005); available from <http://www.refugeesinternational.org/content/article/detail/813/>.

¹⁵³ Refugees International, "West Africa: UNHCR Funding Crisis Threatens Refugees."

had been defined as vulnerable by UNCHR, were taken off food rations.¹⁵⁴ The limited funding and attention by the international donors has left the Guinea government and its implementing partners with a difficult problem of being unable to address the needs of the refugees living within its borders. Not only is it a problem for refugees who need food rations, but the lack of humanitarian assistance has the potential to cause competition, unrest, and security concerns.

This serious lack of funding for programming has also been used as an excuse for the sexual exploitation scandal that rocked international and non-governmental organizations operating in the Mano River region. A report was released in 2002 by UNCHR and Save the Children UK which charged that aid workers, security personnel and refugee leaders were forcing young female refugees to provide sexual favors in return for assistance.¹⁵⁵ Over 40 aid agencies and 67 individuals were implicated in the scandal. Most of the girls who were being exploited were under the age of 18.¹⁵⁶ This scandal affected girls living in refugee camps in Guinea. Excuses for the proliferation of the abuse include a lack of international workers, although some were implicated in the scandal, lack of regulation over employees, and, overall, mass poverty and desperation on the part of the refugees.¹⁵⁷ USCR blames “poor management by UNHCR, insufficient UNHCR protection staff, artificially low budget requests by UNHCR, poor refugee funding by international donor nations, exploitation of refugees by refugee leaders, and social deterioration caused by 12 years of war” in West Africa.¹⁵⁸

In addition to a critical lack of resources dedicated to Guinea, the Guinean government’s policies and practices towards refugees have also been shifted by the international refugee

¹⁵⁴ Kaiser, 5.

¹⁵⁵ USCRI, *World Refugee Survey: Guinea*, 2003 (Accessed on May 10, 2005); available from www.refugees.org.

¹⁵⁶ BBC, “Child Refugee Sex Scandal,” 26 February 2002. (Accessed on April 19, 2005); available from <http://news.bbc.co.uk/1/hi/world/africa/1842512.stm>.

¹⁵⁷ Ibid.

¹⁵⁸ USCRI, *World Refugee Survey: Guinea*, 2003 (Accessed on May 10, 2005); available from www.refugees.org.

regime's lack of coordination. The UNCHR does not coordinate or collaborate effectively with the Guinea government. One example is that of identification cards. There are varying explanations for the reasoning behind not issuing refugee documents, including lack of a comprehensive accurate registration of the numbers of refugees in Guinea by the UNHCR or the government¹⁵⁹ and a dispute between the Guinean government and UNCHR over a printing contract.¹⁶⁰ Regardless of the exact reason, the problem is based on a lack of coordination between the UNHCR and the Guinean government. This has had negative effects on refugees including rape, arbitrary detention, beatings, extortion, and harassment. Movements of refugees have been restricted because of this lack of proper documentation. Moreover, refugees are often targeted by local authorities because they do not possess refugee documents. It has also causes serious problems for returnees to Sierra Leone to access assistance provided by UNCHR.¹⁶¹

iii. National Security

Finally, the third major factor, which has spurred the Guinean government to shift its policies and practices from liberal to stringent, is national security concerns. In particular, the Guinean government faces threats from the population of refugees living within its borders and trafficking along its borders.

The population of refugees trying to access Guinea's borders potentially threatens its national security. The population seeking access to Guinea's borders in 2000 were of serious security concern to the Guinean government, because they tended to be mixed with non-combatants and armed combatants. The cross border violence from Liberia and Sierra Leone in

¹⁵⁹ Amnesty International.

¹⁶⁰ USCRI, *World Refugee Survey: Guinea*, 2003 (Accessed on May 10, 2005); available from www.refugees.org.

¹⁶¹ Amnesty International.

2000 and 2001 highlighted the threat that arriving migrants may pose to the government of Guinea, as combatants and non-combatants can be seeking refuge together.

Refugees residing within Guinea's borders, particularly in refugee camps, are also of concern to the government. Refugee camps in Guinea are known to be home to rebel and militia activities. Some refugee camps are extremely close to the borders with Sierra Leone and Liberia. The Forest Region continues to be an area of concern to the Guinean population, as genuine refugees are mixed with a combatant population. IRIN reports that "Although UN peacekeepers disarmed more than 100,000 former combatants in Liberia during 2004, there have been continuing rumors of infiltrators from that country coming into the Forest Region."¹⁶²

Although there are ties, as expressed above, between the Guinean government and LURD, this is potentially dangerous for the government's national security, particularly after the ousting of Liberian president Taylor. For example, the Macenta refugee camp is considered the political headquarters of LURD.¹⁶³ The head of UNCHR's field operations was killed in Macenta during the cross border attacks in 2000, and there has been little or no presence of international organizations in Macenta following the murder. Information about Liberian refugees in the area is scarce, other than reports of refugees in need of assistance and protection from armed Liberian groups. Refugees International reported that conditions for the refugees are "unacceptable."¹⁶⁴ With little oversight of activities in camps such as Macenta, there are legitimate national security concerns.

The national security of Guinea is also threatened presently by trafficking along its borders. Refugees International cites the porous borders in the Forest and Haute regions of

¹⁶² IRIN, "Guinea's Forest Region: Living on the Edge", in *Guinea: Living on the Edge IRIN Web Special*, January 2005 (Accessed on May 8, 2005); available from <http://www.plusnews.org/webspecials/guinea/Guinea-Living-on-the-edge.pdf>.

¹⁶³ International Crisis Group, 10.

¹⁶⁴ Amnesty International.

Guinea as particularly susceptible to “trafficking of weapons and people, as well as diamonds and gold.” The organization also cites that minors, former combatants, and unemployed youth are recruited as combatants from these areas. “If this continues unchecked,” RI reports “there will be a rise in forced conscriptions of children into armed groups, higher incidences of gender-based violence, and overall instability in the region.”¹⁶⁵

iv. Domestic Concerns

The international factors that have influenced the shift in refugee policy of the Guinean government are, as shown above, significant. However, it is important to note that Guinea is in a unique position of being a small country with relatively few resources, and host to an extremely large number of refugees. This poses a potential threat to Guinea’s national economic, natural and environmental resources. These domestic concerns features play an important role in shaping the government’s policies and procedures towards refugees. Guinea suffers from scarce resources, so a large refugee population is an added burden on the already taxed economic base and scarce resources.

Economically, the refugee population has had an impact on the Guinean government and population. According to a 2000 report by the United Nations Environment Program (UNEP), the World Bank confirmed that prior to the refugee crisis, the Guinean government was able to balance its national budget. However, supporting the military presence in the region was a serious financial burden for the government. At first, the arrival of refugees boosted the local economies in the Forest Region, because of the emergency situation, but by 2000, the

¹⁶⁵ Refugees International, “Forgotten People: Displaced Populations in Guinea,” January 28, 2005, (Accessed on May 8, 2005); available from <http://www.refintl.org/content/article/detail/4994?PHPSESSID=9ca7e5c620765c218634bc4cdcb852f5>.

government had to call on outside funders for appropriate and sustained support.¹⁶⁶ The Forest Region was particularly hit, as chronic poverty in the Forest Region of Guinea was sparked by rebel fighting in 2000 and 2001. The area is still trying to recover.¹⁶⁷

In terms of natural and environmental resources, the impact of the large populations of refugees was found by the UNEP to be great in rural and urban areas. Guinea suffers from scarce resources, so a large refugee population is an added burden on the already taxed scarce resources.¹⁶⁸ In urban areas, the UNEP reported in 2000 that the overall degradation of the environment of the Forest Region was caused by high demand for natural resources, especially land, forest wood, and water.¹⁶⁹ In particular, the impacts of refugees in the environmental and natural resources of refugee-affected areas like the Forest Region include the following: shortening of the fallow periods, converting swamps into agricultural lands, forest degradation, and loss of biodiversity.¹⁷⁰ In the urban areas affected by refugee population, the environmental impacts were found to be focused on the dramatic increase in the generation of solid wastes, which the towns and cities were not able to deal with. This has led to “a serious decline in the health status of urban centers and is adversely affecting vulnerable groups such as children and the aged.”¹⁷¹ Other impacts on urban areas are increased demand for drinking water, sanitation problems, and natural resources in the areas surrounding cities and towns.¹⁷²

In conclusion, for Guinea, the domestic factors that may have influenced the shift in policy and practices of the government are significant and must be taken into consideration when analyzing refugee policy. The sheer impact of a half a million refugees on an already resource-

¹⁶⁶ UNEP, *Environmental Impact of Refugees in Guinea*, March 2000, (Accessed on May 8, 2005); available from <http://www.grid.unep.ch/guinea/reports/reportfinal3b.pdf>, 8.

¹⁶⁷ Ibid.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid, 10.

¹⁷⁰ Ibid., 10-12.

¹⁷¹ Ibid., 14.

¹⁷² Ibid., 14-15.

poor country would be staggering. The economic and natural resource concerns are important for Guinea, particularly in the border areas.

The refugee policies of the Guinean government are significantly shaped by international factors. The policies and practices of the Guinean government shifted dramatically in response to souring international relationships with Sierra Leone and Liberia and the negative impacts of violence and conflict spilling into its borders. Ten years of war and conflict in the Mano River region and a recent civil war in bordering Côte d'Ivoire have caused serious international tensions in the region for the past decade and a half. Guinea has been the lone country in a sea of conflict-affected neighbors which has not been wracked by a civil war. It has taken on the burden of accepting hundreds of thousands of refugees and sharing its resources with these populations. It is understandable, then, that after hosting refugees, at times over a half a million, for over a decade, Guinea would react negatively when combatants from the refugee sending countries started attacking across their borders.

VIII. Conclusion

International refugee law provides a framework in which the basic rights of refugees should be respected by the host states in which they are living. The laws, however, have been formed and changed through political processes in which states are protecting their national interests and addressing their concerns of international security. The expansion of international refugee law is matched by increasingly stringent policies and practices which host states are employing to protect their interests. Some refugee hosting countries, which have signed onto refugee rights instruments and have had, at one time, quite friendly approaches toward refugees, have scaled back their liberal practices and reduced the rights afforded to refugees within their borders.

I am particularly interested in the impact of international relations on refugee policies of developing countries in Africa. Three factors, I argued, influence shifts in policies and practices toward refugees from liberal to stringent: international and inter-state relationships, the international refugee regime, and national security concerns. In exploring two case studies, Mozambique and Guinea, I conclude that these international factors have significant influence on shaping refugee policy and practice. Both countries had provided refugees with a warm welcome up until the years 2000 and 2001, when the influence of these international factors led to a shift in their approach.

For Mozambique, the shift is primarily due to the influence of the international refugee regime and the political pressure from its neighbors, particularly South Africa. The UNHCR in Mozambique has a strong influence on the decisions that are made in responding to refugees, due in part to the government's lack of capacity and resources. UNHCR's protection and humanitarian programming has been hurt by a rising number of refugees and a limited budget, which has influenced Mozambique's policies. As for the international relations, Mozambique is significantly influenced by the policies of its powerful neighbor, South Africa, which shaped the government's decision to move the majority of refugees to Nampula.

For Guinea, it is important to address the domestic factors, including economic and natural resource concerns, which have influenced the shift in policy and practices of the Guinean government. However, international factors have significantly shaped the policy and practices of the government's response toward refugees. In particular, the civil wars, which have been brewing on Guinea's borders for the past decade and a half, have led to souring international relations with Sierra Leone and Liberia. The critical shift in policy was spurred by the spilling over of conflict and violence into Guinea's borders in 2000 and 2001. Implicating all refugees in

the violence, inciting violence against genuine refugees, and putting into place stringent policies and procedures are exceedingly harsh reactions. However, the impact of this cross border violence on Guinea was significant in shaping the shift of its refugee policy from liberal to stringent.

The different contexts, history, and scale of refugee hosting in Guinea and Mozambique are noteworthy. Despite their differences, however, they share similar shifts in refugee policy. The factors, which have led to their shifting policy and practice in 2000 and 2001, are key to highlighting the importance of international factors in shaping international refugee policy of host countries.

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