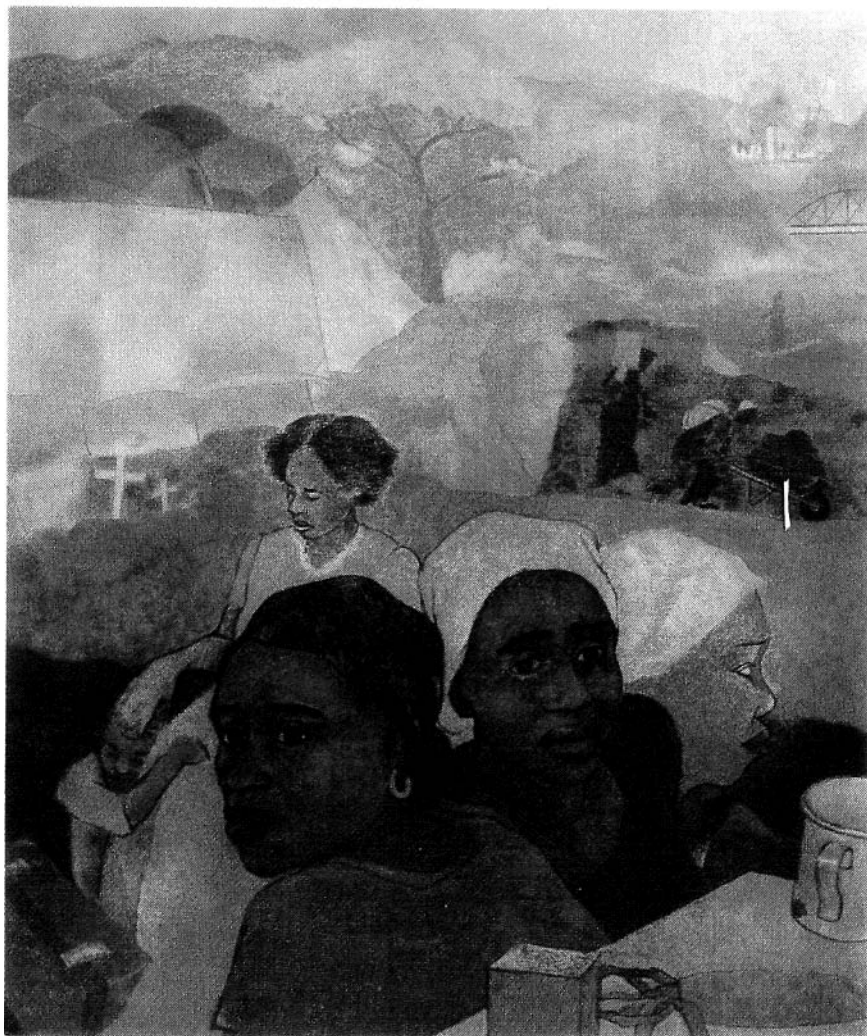


# REFUGEES AND DEVELOPMENT IN AFRICA

Edited by  
*Peter Nobel*



Seminal- Proceedings No. 49  
Scandinavian Institute of African Studies



Seminar Proceedings No 19

# **REFUGEES AND DEVELOPMENT IN AFRICA**

*Edited by*  
PETER NOBEL

Scandinavian Institute of African Studies, Uppsala 1987

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# Preface

For the Scandinavian Institute of African Studies it is a pleasure to present this report on the important issue of refugees and development.

The African refugee problem has been a concern of the Scandinavian Institute of African Studies since the beginning of its life more than twenty years ago.

In 1966 the Institute held an international conference on refugee problems in Africa under the direction of Dr. Sven Hamrell, the results of which were published. The following year, when Dr. Hamrell became Director of the Dag Hammarskjöld Foundation in Uppsala, he organized, together with OAU, UNHCR and UNECA, the first major conference on refugees in Africa, which took place in Addis Ababa.

The Institute was very encouraged by the initiative in 1977 of the All Africa Conference of Churches to call a new major conference on the subject. At the end of the same year the Institute therefore convened a seminar on African Refugees and the Law, which also resulted in a publication. Through Dr. Göran Melander, Assistant Professor of international law at the University of Lund, and Dr. Peter Nobel, attorney at law in Uppsala, the Institute participated actively in the planning and realisation of the Pan-African Conference on Refugee Problems in Africa, in Arusha, Tanzania, in 1979. Several documents and the recommendations of the conference were also published by the Institute, as well as other contributions, including a comprehensive collection of international legal instruments relating to refugees in Africa, which appeared in a bilingual English and French edition.

Under the auspices of the Institute a multi-disciplinary research project named 'Refugees and Development in Africa' was conceived in 1981. This project, which was funded by SAREC from 1982 to 1985, has been aiming to produce studies on the legal, economic and social aspects of the situation of refugees in Africa. We extend our thanks to Dr. Peter Nobel for directing the project, to the researchers, Mekuria Bulcha and Gaim Kibreab from the departments of sociology and economics at the University of Uppsala, and to SAREC for funding both the research project and the seminar in 1985.

This report is one outcome of this research project, and brings together the findings and views of both the researchers engaged in the project and international experts invited to a seminar in 1985. We hope that the volume will contribute to the efforts to solve one of Africa's urgent problems, that of the refugees. It is timely both in bringing forth a discussion on the concept of people's rights, and at the same time stressing the importance of the improvement in the legal status of the refugees, while emphasizing that assistance to refugees should be seen as part of the general development effort in the regions concerned.

*Anders Hjort & Ornäs*  
*Director*

# Introduction

The seminar reported in this volume in a way marked the end of the research project which, funded by SAREC and under the name Refugees and Development in Africa, had been running since July 1982.

The research has included field-work and much lively contact with African and other specialists. The researchers also participated in the efforts in support to the second International Conference on Assistance to Refugees in Africa (ICARA II) in Geneva in the summer of 1984. Thus the Institute reported the meeting in Arusha in 1983 between the OAU-Secretariat and the Voluntary Agencies and gave a seminar at the Swedish Ministry of Foreign Affairs in May 1984.

Most of the research findings remained to be published in the autumn of 1985. It had long been felt that an international seminar, bringing together individuals with thorough theoretical and practical experience of the refugee situations in Africa, should precede any publication. The purpose would be to give these experts an opportunity to discuss at this stage a few highlights of the research results.

This was the background to the seminar 'Refugees and Development in Africa', which took place in Uppsala, under the auspices of the Institute, from 28 to 30 October 1985. When planning for the seminar the researchers had benefited from consultations with the Director, Enrique Oteiza, and the Project Leader; Hanne Christensen on UNRISD in Geneva to whom we extend our gratitude. We also wish to thank Mr. Adama Dieng of the International Commission of Jurists in Geneva for accepting the assignment of rapporteur for the seminar.

We wish to thank Ms Asa Kockum and Ms Wendy Davies for their assistance to the editor of this report.

*Peter Nobel*





# The Concept of 'Peoples' in the African (Banjul) Charter on Human and Peoples' Rights

*Peter Nobel*

Among the trends which may be discerned in the United Nations human rights programme in recent years, great emphasis has been placed on what I may call the 'grass-roots' approach to human rights - that is to say an approach which seeks to call upon the creativity, the energy and activity of the peoples themselves to work for the defence of their rights and to adopt measures best suited to their respective needs.'

(Theo van Boven, then Director of the UN Division of Human Rights, in an address at a UN Seminar on the establishment of regional commissions on human rights with special reference to Africa, in Monrovia, Liberia, 10 September 1979).<sup>1</sup>

## BEARERS OF RIGHTS AND CARRIERS OF DUTIES

The African Charter on Human and Peoples' Rights was adopted by the OAU Assembly of Heads of State and Government at their Ordinary Session in Nairobi in June 1981.<sup>2</sup> In January 1981 the OAU Ministerial Conference had agreed on a draft of the charter when they assembled in the Gambian capital, Banjul. Therefore it is sometimes referred to as the Banjul Charter to avoid confusion with the Charter of the Organization of African Unity, adopted at the inception of the organization in 1963. In these notes the former will be named the African Charter and the latter the OAU Charter.

In the African Charter there are various categories of beneficiaries or bearers of rights. For example, the term 'every individual' is used in articles 2, 3, 5, 6, 7, 8, 9, 10, 11, 12.1-3, 13.3, 15, 16 and 17.1-2. These articles cover a spectrum of rights ranging from the classic civil and political rights to those concerned with health-care, education and cultural life.

Article 14, which deals with the right to property also covers a wide category of beneficiaries.

'Every human being', according to article 4, shall be entitled to respect for his life and the integrity of his person.

'Non-nationals' shall be protected by article 12.4-5 against unlawful expulsion and mass-expulsion as defined in the provision.

'Every citizen' is granted certain political and civil rights in his country in article 13.1-2.

Article 18.1. protects 'the family'.

'Women' are protected against discrimination by article 18.3, which also extends protection to 'the woman and the child'.

Finally article 18.4. protects the rights of the 'aged and disabled'.

The following six articles, 19 to 24, are devoted to the rights of 'all peoples'. People who are denied certain rights are referred to as 'colonized or oppressed peoples' (article 20.2), and 'dispossessed people' (article 21.2). The catalogue of these 'all peoples' rights' includes the equality of all peoples and the principle of non-domination; the right to existence and self-determination; the right to free themselves from colonial or other oppression; the right to dispose of their wealth and natural resources, (which right shall be exercised in the exclusive interest of the people); the right to social and economic development; the right to national and international peace and security; and the right to a satisfactory environment. These are collective rights as distinguished from the individual rights of 'every individual', 'every citizen' etc, which represent human rights in the established sense of the word.

The concept of 'peoples' in the African Charter, and its possible extension or limitation, offer questions to which it is important to find convincing answers, if the African Charter is ever to be effective in protecting the oppressed from those who have other priorities than humanitarian values and respect for human beings, in the individual as well as in the collective sense. Admittedly, collective rights, like the Peoples' Rights declared in the African Charter, may be seen more as emerging rights than established rights on the wider stage of the international code of human rights. But the expression 'peoples' rights' has a long standing in legal history, as will soon be exemplified. Indeed, the development in this field is sufficiently fast to relieve us of some of the pessimism, which might otherwise be the natural reaction when considering all the evil, cruelty and horrible suffering in the world. The Charter has been carefully and elaborately drafted as a response to need expressed many times and in various contexts. This fact constitutes a good enough platform for moral, legal and political action and argument. For these reasons - and coming back to the problem of the meaning of 'peoples' in the African Charter - it is the responsibility of humanitarian minds, among them those of lawyers, to grapple with the problem and seek agreement on a solution.

Before going further it should briefly be noted that the African Charter does not only guarantee rights, but also allocates duties. Thus in article 25, states have a general duty to promote the rights and freedoms of the Charter by disseminating those principles and instilling respect for them. Article 26 obliges states to guarantee the independence of the courts and to establish appropriate national institutions for the implementation of the Charter. In other articles the rights of individuals or peoples are directly balanced by a corresponding duty imposed on the state.

Articles 27 to 29 contain duties of the individual towards his family and society, the state, his national community, African cultural values and African Unity.

It is the inclusion of peoples' rights and the imposition of duties on the individual that differentiates the African Charter from all the other and older human rights' instruments of the international code.

#### THE CONCEPT OF 'PEOPLES' IN OTHER INTERNATIONAL INSTRUMENTS

##### The Charter of the United Nations:<sup>3</sup>

The principle of equal rights and self-determination of peoples is mentioned in articles 1.2. and 55. Articles 73 and 76 are related to these provisions. The former refers to the inhabitants of territories which are not self-governing and the latter to those inhabiting trust territories.

##### The Universal Declaration of Human Rights:<sup>4</sup>

The Preamble refers to 'the peoples of the United Nations' as the authors of the Charter of the organization. It also proclaims the Declaration itself as 'a common standard of achievement for all peoples and all nations'. Article 20.3. provides that the will of the people shall be the basis of authority of government.

##### The Declaration on the Granting of Independence to Colonial Countries and Peoples:<sup>5</sup>

This Declaration, the aims of which have almost completely been fulfilled, expresses the conviction that all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory, and it declares *inter alia* that the subjection of peoples to alien subjugation constitutes a denial of fundamental human rights.

##### The Declaration on 'Permanent sovereignty over natural resources':<sup>6</sup>

This right to sovereignty shall be exercised by peoples and nations.

The Charter of the Organization of African Unity, OAU, 1963:<sup>7</sup>

The preamble refers to the inalienable right of all people to control their own destiny and the desire to unite all African states in order to assure the welfare and well-being of their peoples. The purpose laid down in article II.1. therefore include the promotion of the unity and solidarity of African states, the achievement of a better life for the peoples of Africa, and the defence of their sovereignty, territorial integrity and independence.

This defence obviously refers both to the African states and the peoples of Africa. It is important to note in this context that the OAU, for the purpose of self-determination, has endorsed the rule of respect for existing borders. This principle of preserving the status quo was adopted at a summit in Cairo in 1964 in a resolution 'Border Disputes among African States', which declares that the member states pledge themselves to respect the borders as they were when national independence was achieved.\* This principle may have prevented many conflicts but it has also left unsolved others which were inherited with the colonial boundaries.<sup>9</sup> This policy, in combination with the principle of non-intervention, held sacred at least until the Tanzanian intervention into Idi Amin's Uganda in 1978-79, can, to some extent, obstruct a spontaneous understanding of the concept of people in the African Charter.

The International Convention on the Elimination of All Forms of Racial Discrimination:<sup>10</sup>

This convention is of the greatest importance; first, because of its wide recognition - about one hundred states are bound by it, of which almost one third are African; second, because of the far-reaching measures against discrimination provided for; and third, because of the wide definition of the term 'racial discrimination'. In the Convention it means 'any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life'.<sup>11</sup> This Convention, like a number of other international instruments, does not prohibit different treatment being accorded to citizens in relation to non-citizens.<sup>12</sup> But the basic human rights of aliens are, on the other hand, protected in international law. Further, a number of specific provisions like those of refugee law and those which prohibit expulsion of an alien other than in accordance with a legal decision, do apply to non-citizens. This Convention on non-discrimination is the definitive answer to any attempt to justify discrimination by restricting the application of the concept of peoples. The Convention is therefore complementary to the peoples' rights in other instruments.

The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights:<sup>13</sup>

Article 1 of each of these Covenants affirms that all peoples have the right to self-determination and to dispose freely of their natural wealth and resources. It is emphasized that in no case may a people be deprived of its own means of subsistence. There are references to peoples both of dependent territories and sovereign states, including national and ethnic groups constitutionally recognized as component parts of multinational or multi-ethnic states and societies. The article therefore must be seen as enshrining the rights in question, both as external and internal self-determination. External self-determination refers to action in the face of foreign oppression and exploitation, and internal self-determination to people's action in the face of the similar oppressive policies and measures by the government of their own country. The right to self-determination is a continuing right and not a 'once-for-all right'.

The Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the UN:<sup>14</sup>

Under the principle of equal rights and self-determination of peoples this declaration in clause 2 refers to peoples subjected to alien subjugation, domination and exploitation and in particular to peoples under colonial rule. The right to full external self-determination, however, can only be applied once, since clause 7 states that the declaration shall not be construed as authorizing or encouraging any action which would dismember or impair, even in part, the territorial integrity or political unity of sovereign and independent states conducting themselves in compliance with the principle (of the declaration) and thus under a government representing the whole people of the territory without discrimination. The final clause confers the right of internal self-determination on peoples living under racist regimes.

#### THE CONNECTION WITH THE REFUGEE PROBLEM

The refugee populations of Africa have grown from about 800,000 at the end of the 1960s, to about four million ten years later and probably more than five million now in the middle of the 1980s. No continent is burdened with more refugees.

Many efforts have been made to solve the problem. Landmarks were the Conference in Addis Ababa in 1967 and the adoption in 1969 of the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.<sup>15</sup> The latest major meeting was the conference on the Situation of

Refugees in Africa, held in Arusha, Tanzania in May 1979.<sup>16</sup> The recommendations of the conference were then fully endorsed by the UN General Assembly.<sup>17</sup>

In Recommendation 7.4. the principle was reaffirmed that human beings shall enjoy fundamental rights and freedoms without discrimination, and the need to view the legal problems of refugees in the wider context of respect for human rights was emphasized. The African states who had not done so were therefore called upon to accede to and implement the various human rights instruments adopted within the framework of the UN and to participate in the seminar on the establishment of regional commissions for human rights, which was addressed by Dr van Boven. Part of Dr van Boven's address is quoted on the first page of this essay.

Having debated the causes of asylum-seeking in Africa, the conference *inter alia* recommended that a number of efforts should be launched or strengthened to eliminate the racist regimes in Southern Africa (at this time still including Rhodesia) and to assist and protect their victims. Further, an appeal was made to all African governments to make every effort fully to implement the basic instruments in relation to human rights, namely the two International Covenants of 1966, already mentioned, and to include the provisions of international human rights and refugee instruments in their national legislations.

These events do also belong to the background to the African Charter and can be helpful to its proper understanding and application.

In Arusha in 1983 another meeting, of the OAU Secretariat and Voluntary Agencies, saluted the African Charter, hoped for further ratifications and recognized the link between the violation of human and peoples' rights and the lack of adequate economic, social and cultural development, as emphasized by the Charter.<sup>18</sup>

## PEOPLE - NATION - STATE

Paragraph 4 of the preamble of the African Charter considers the virtues of African historical tradition and the values of African civilization. These notions undoubtedly played a great role in the drafting history of the Charter.<sup>19</sup> It was also necessary to overcome many African suspicions that Western industrialized countries used 'human rights' as political propaganda instead of contributing to freeing Africans from starvation and absolute poverty.<sup>20</sup> Another obvious source of inspiration lay in the experience of recent African history. If colonization were in itself to be regarded as a denial of human rights, then the right of the people to self-determination should be the first and most important human right on which all the others depend.<sup>21</sup>

Paragraph 5 of the preamble of the Charter states that the reality of and respect for peoples' rights should necessarily guarantee human rights.

The African Charter emphasizes the right to development, stating that civil and political rights cannot be dissociated from economic, social and cultural rights and that the satisfaction of the latter is a guarantee for the enjoyment of the former, as spelled out in paragraph 7 of the preamble. On the other hand, as stated by the President of Senegal, Abdou Diouf: "Without respect for the fundamental human rights, without consideration for the individual, without a minimum of liberty to speak and to act; there is no real development."<sup>22</sup> Positive development can hardly be achieved without the participation of the people. Planning with the people, engaging and motivating the people and the participation of the people in decisions, including political decisions, are elements of such development. In Africa the problems of minorities and the plurality of cultures must be considered in steps towards integrated development. Such were the conclusions of a colloquium in Dakar in September 1978 on development and human rights.<sup>23</sup>

The peoples' rights in the African Charter are diverse. The right to self-determination looks very different in character from the right to a satisfactory environment. Does this mean that the concept of 'people' takes on a different meaning depending on which of the rights is being exercised, enjoyed, endangered or denied? Without having penetrated the question, I must confess that I find it rather awkward to labour with the idea that the same word in one international legal instrument should be interpreted in several ways - unless of course the instrument itself says so. As we know, there is no definition of the term 'peoples' in the charter, and we are informed that it was left out on purpose.<sup>24</sup> Whatever the purpose, any attempt at a definition would probably have ignited a debate and raised issues which would effectively have blocked the adoption of the charter. It is not unusual in law-making to leave murky issues out, to be solved in practice.

In any case, and in order to be absolutely clear, the concluding discussion in these notes will relate exclusively to the right to self-determination.

Article 20.2. of the charter gives colonized or oppressed peoples the right to free themselves, while article 23.2. prohibits refugees from engaging in subversive activities against their country of origin or any other state party of the charter and prohibits them from using the territory of such states as bases for subversive or terrorist activities against another state party.<sup>25</sup> Against this background the established view seems to be that colonized and oppressed peoples have a right to free themselves from the bonds of domination as long as their actions are consistent with current OAU principles concerning sovereignty, non-intervention and the *status quo* of international borders.<sup>26</sup> Clearly, however, the term 'peoples' in the African context is not limited to being identical with the concept of a sovereign state.<sup>27</sup>



But these cannot be the last words on the subject. The objectives of governments, administrations and political parties shall be the service of the people and not the unbridled exercise of power. International human rights and humanitarian law is a system created in response to the needs of people and it is above governments. Law-breaking is still law-breaking even if we cannot, for the time being, bring the guilty party under jurisdiction and lack the mechanisms to take remedial action. Correctives are found above all in the Convention on non-discrimination with its very wide definition of the term 'racial discrimination', thus extending the legal protection and the enjoyment of rights to many groups which would otherwise be left unprotected.<sup>28</sup> The African Charter in article 2 makes every individual a beneficiary of the Charter without 'distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status'.

Another point to be made is that a people has often acquired its national identity through the struggle for independence. A people defines itself through its actions, battles, struggles, needs, dreams and sufferings, forming the common memory and cementing the national feeling.<sup>29</sup> This is true today about the peoples of Algeria and Vietnam. It is going to be true for South Africa's peoples. Is it not also true for the peoples of Western Sahara and Eritrea?

It cannot be argued that Western Sahara was within the borders of Mauritania, Morocco or any other member state of the OAU when it won its independence.

In the case of the conflict over Eritrea, it must first be noted that Ethiopia has never been under colonial or foreign domination except for the few years of the conquest of fascist Italy before and during the Second World War. The original Amharic heartland around Addis Ababa has been successively enlarged through conquest and treaties negotiated with other powers or between them during the last hundred years. Eritrea however was not under Ethiopian sovereignty. Eritrea had become an Italian colony in 1890. When Italy invaded Ethiopia in 1935 the Italian army came through Eritrea. After the defeat of the Italians in the area, Eritrea passed to British military government from 1941 to 1945 when it came under the supervision of the UN. Then in 1952, following the Ethiopian Emperor's claim, Eritrea became federated into the Ethiopian Empire.<sup>30</sup> Eritrea was within Ethiopia's borders when Haile Selassie hosted the summit at which the OAU Charter was signed in May 1963. But it is impossible to say that this was the case when Ethiopia became independent.

The modern concept of the sovereign national state with its strict and often guarded frontiers, its carefully regulated citizenship and control of immigration - (and regrettably, in many cases, of emigration) - its jurisdiction and

centralized administration, has no tradition in Africa. The African traditional system, which still exists, seems characterized by a high degree of decentralization and autonomous structures corresponding to the multi-ethnic and multi-cultural composition of most state-peoples in Africa. This should also bear on the application of the concept of 'people' when considering a charter which, among other things, is based on African historical tradition and civilization. Problems affecting only a part of a country or its population and which should be solved in accordance with the provisions of the Charter, will also be easier to handle if the part of the population concerned is identified as a people in the meaning of the **Charter**.<sup>31</sup>

Suffering and victimized human beings or humanitarian minds cannot be expected to accept that people shall be denied their rights simply because they are not or do not represent the entire population under a state's jurisdiction.

## NOTES

1. Van Boven, T, *People Matter*, Amsterdam, 1982, p. 162.
2. OAU Resolution **CAB/LEG/67/3/rev.5**.
3. 1 UNTS xvi.
4. GA (General Assembly) Res.217 (**III**) of 10 December 1948.
5. GA Res.1514 (XV) of 14 December 1960.
6. GA Res.1803 (XVII) of 14 December 1962.
7. 479 UNTS 39.
8. Cervenka, Z, *The unfinished quest for unity. Africa and the OAU*, Julian Friedmann Publishers, London, 1977, pp. 70-71.
9. Widstrand, C.G. (ed.), *African Boundary Problems*, Scandinavian Institute of African Studies, Uppsala, 1969.
10. 660 UNTS 195, adopted in March 1966, came into force on 4 January 1969. African states contracting are Algeria, Botswana, Central African Republic, Chad, Egypt, Ethiopia, Ghana, Guinea, Ivory Coast, Lesotho, Liberia, Libya, Madagascar, Mali, Mauritius, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Swaziland, United Republic of **Cameroon**, United Republic of Tanzania, Upper **Volta** (now Burkina Faso), Zaire and Zambia.
11. Part I, Art.I.1.
12. *Ibid.*2.
13. GA Res.2200 A (XXI) of 16 December 1966, came into force on 3 January 1976 and 27 March 1967 respectively.
14. GA Res.2625 (XXV) of November 1970.
15. UNTS No. 14, 691.
16. Official Records of the General Assembly, 34th Session, Suppl. No.46 (A/34/46): the Recommendations published in English and French by the Scandinavian Institute of African Studies, Uppsala, 1980, and in *An Analysing Account of the Conference on the African Refugee Problem Arusha*, May 1979, by the same publisher, 1981.

17. GA Res. 34/61 of 29 November 1979.
18. The Recommendations (P. Nobel, ed.) have been published in English and French by the Scandinavian Institute of African Studies, **Uppsala**, 1983.
19. Gittleman, R., 'The African Charter on Human and Peoples' Rights: A Legal Analysis', *Virginia Journal of International Law*, 1982, pp. 670-673; Benedek, W., 'Peoples' Rights and Individuals' Duties as Special Features of the African Charter on Human and Peoples' Rights', in Kunig, P., Benedek, W. and Mahalu, C. (eds.), *Regional Protection of Human Rights by International Law: the Emerging African System*, Hamburg, 1985, pp. 60-62.
20. Nobel, P., 'Refugees, Law and Development in Africa', *Michigan Yearbook of International Legal Studies*, 1982, p. 272.
21. M'Baye, Keba, 'Human Rights in Africa', in Vasak, K. (ed.), *The International Dimensions of Human Rights*, UNESCO, 1982, p. 584
22. In the opening address to the 'Symposium international sur la charte africaine des droits de l'homme et des peuples', held in **Dakar** in October 1982 (translation by the author).
23. *Revue Sénégalaise de droit*, No. 22, December 1977, pp. 99-132 and recommendations on pp. 208-210.
24. Judge Keba M'Baye, who was chairman of the drafting committee, has made this point to a number of questioners.
25. Compare similar prohibition in article III of the OAU Refugee Convention, *supra* note 15.
26. Gittleman, *supra* note 19, p. 680.
27. *Ibid.*, p. 679.
28. See note 10.
29. Diaite, ■. 'La notion de peuple et l'application de Charte africaine des droits de l'homme et des peuples', paper submitted to the Symposium, *supra* note 22, pp. 5-6.
30. Davidson, B., *Modern Africa*, **Longman**, 1983, pp. 55 and 101.
31. See Benedek, *supra* note 19, p. 71.

# Historical, Political and Social Causes of Mass Flight from Ethiopia

*Mekuria Bulcha*

## INTRODUCTION

### *The question of cause in the debate on the problem of refugees*

Refugees are one of the major problems facing the international community today. The causes of refugeeism are complex and people flee their countries for a wide variety of reasons. Persecution, for racial, political, or religious reasons, war, famine and starvation, or fear of these phenomena, cause the major mass exoduses which we know are taking place in the world today.

The international community has shown solidarity and generosity in providing assistance to meet the physical needs of millions of refugees and has prevented a massive loss of life. Many countries have provided asylum to tens of thousands and sometimes millions of uprooted people, bearing the great burdens of accommodating them with a great degree of perseverance.

However, the international community, particularly the international organizations which deal with refugee problems, have shown a great deal of reluctance to address the root causes of refugee exoduses. I would maintain that by avoiding paying the necessary attention to these causes they are also delaying, to some extent, the mitigation of this global problem.

One reason for avoiding dealing with 'cause' is well known: non-interference in the internal affairs of a sovereign state. The principle of non-interference in the internal affairs of other states needs to be respected for the sake of international peace and security. But sometimes what is seemingly an internal affair of a certain sovereign state becomes an international problem too. The problem of refugees is one such area because once refugees cross international borders they become an international problem. It is the international community that assumes the responsibility for providing legal and material security for refugees; I consider it is logical that it should also have the prerogative to examine the situations that cause mass exoduses.

The investigation of the cause of refugee flows is imperative for both theoretical and practical reasons.

1. An understanding of the refugee phenomenon requires a thorough sociological investigation. It involves millions of people; more than a third of the countries in the world are producing refugees. In economic terms it is a great burden on the international community. Therefore, there is an obvious need to examine the problem at all stages.

2. The matter of cause is directly related to the question of finding a lasting solution. It is only when the cause of flight is well investigated that plans for lasting solutions can be worked out. Knowledge of cause is needed to answer basic questions when appropriate responses are sought in any mass flow situation.

3. Avoiding the question of cause has its consequences and implications. (a) It tends to free the countries and regimes responsible for the mass flows of their responsibilities and obligations. In such a situation the consideration of solution will be limited to the country of asylum. Repatriation becomes less feasible as the cause of flight is not dealt with. (b) It can encourage authoritarian regimes to send their opponents into exile with the use of violence. In multinational states minorities can be endangered. Regimes controlled by national minorities who have political and military power and resources at their disposal can send into exile members of other nationalities with whom they do not want to share territory and resources. These are some of the considerations that make investigation into specific causes of mass refugee flows relevant.

### *Causes of refugee flows in Africa*

There are two major factors behind most mass exoduses in the Third World today. The first is that the ending of the colonial era has inevitably brought with it enormous conflicts and changes. Some of these changes are violent and have produced and keep on producing refugees. New states which were born at the end of the colonial rule are entangled in the process of 'nation-building'. This process has not been free of conflicts and problems, and hence has also given rise to refugee flows. Uganda, Chad, Angola and the Sudan are some examples in Africa.

Secondly, the competition between the super-powers for areas of influence in the Third World has the effect of further complicating the difficulties of nation-building. In their efforts to solicit support they ally themselves with local power-holders and supply them with large amounts of sophisticated war weapons with which the local power-holders seek to maintain their control over their subjects. The consequences in some cases have been colossal destruction of property, massive loss of human lives and mass exoduses. The Horn of Africa, Central America and Afghanistan are current examples of the havoc caused by super-powers.

The African continent is one of the major areas with refugee problems. The flow of refugees in Africa became acute in the 1960s, coinciding with the struggle for the attainment of independence by most African states. The process of decolonization brought new and powerful political forces into play and released new conflicts which created mass displacements. The Biafran conflict in Nigeria and the Katangan problem in the Congo in the 1960s are some glaring examples.

Even decades after independence most of the problems that give rise to refugee flows are linked to the effects of colonialism. The scramble for territory and the trend which led to the partition of Africa disregarded ethnological and cultural considerations, resulting in boundary and ethnic conflicts that produce displaced persons. The Horn of Africa is one such area.

Colonialism has stunted the socio-economic development of Africa. On independence many African societies simply lacked political traditions. After a century of disruption it was difficult to go back to the previous African political systems. The only political system that most Africans knew about was that of colonial rule. And the colonial powers did not teach the principles of democracy, but taught and practised authoritarianism right up to the time when their rule was brought to an end.

Many African countries had to start their economic development from scratch after independence, because the colonial powers, interested only in the extraction of raw products did not build factories and trained very few Africans. Many African societies were poorer, in several senses, at the time of their independence than at that of their first contact with Europeans.<sup>1</sup>

In many parts of Africa the effects of colonialism have created a barrier to healthy socio-political and economic development and have led to conflicts and refugee exoduses.

However, we cannot blame Africa's refugee problem only on colonialism. Africans have also contributed to its creation. Instead of working against the legacies of colonial rule many African states are spending much energy and resources to maintain them. The colonial boundaries which separate the same peoples under several states are venerated in the name of national integration. This boundary 'fetishism' has created conflicts instead of unity and integration.<sup>2</sup>

Most African countries today are ruled by men who think that only they can be right and who do not tolerate dissident opinions. The allocation of scarce funds to prestigious projects, lack of priorities in economic development, corruption, and disparity in the distribution of social and economic resources make the struggle against poverty ineffective. These attitudes and practices of African leaders in their own right make conflict inevitable in many African societies and trigger the mass flight of refugees across international borders.

## THE HISTORICAL BACKGROUND TO THE ETHIOPIAN REFUGEE PROBLEM

As noted above, the effects and after-effects of colonialism constituted some of the major factors underpinning refugee flows in Africa. The Ethiopian refugee problem is no exception; it is a consequence, partly, of the colonial division of the Horn of Africa. Contrary to popular belief, Ethiopia did not escape a colonial era. Instead of this era being characterized by European rule, several formerly independent peoples were conquered and dominated by the Abyssinian state. This is why Ethiopia remains 'a state only precariously held together by military and bureaucratic power with ever-present fissiparous tendencies'.<sup>3</sup>

### *The facts of conquest and colonization*

The foundation of the present Ethiopian state took place mainly in the last two decades of the 19th century when a ferocious process of conquest and annexation of independent territories, and subjugation of formerly independent peoples, was carried out by the Abyssinian kings.

Abyssinia's conquest of several large and small territories in the Horn of Africa was stimulated by the European scramble for Africa which was taking place at the same time. The Abyssinian king, Menelik II, who was primarily responsible for the conquest and colonization, clearly put his intention in his letters to the European heads of state of his time. He wrote: 'If powers at distance come forward to participate to partition Africa between them, I do not intend to be an indifferent spectator'.<sup>4</sup> He was in the midst of the conquest of his neighbours when he wrote these lines. Menelik was not only stimulated by the European scramble for Africa in his expansive conquests but also received their assistance in fulfilling them. The European powers of the time poured arms and military advisors into Ethiopia, in a competition to acquire a corresponding measure of local leverage. This influx of military equipment was put to use by Menelik to extend the Abyssinian conquest on an unprecedented scale at the expense of the surrounding Oromo, Somali, Afar, Sidama and other peoples.<sup>5</sup>

The imbalance in arms resulted in catastrophe for the conquered peoples. In some cases the peoples of the conquered territories were reduced by half. Many were sold into slavery by the conquerors and others fled into neighbouring territories under European rule.<sup>6</sup> This was perhaps the beginning of large refugee exoduses from the Ethiopian territory in modern times. The conquest also laid down the foundation for future conflicts and refugee flows within the Horn of Africa. In fact many Oromo and other refugees in the Sudan and elsewhere tend to see themselves as the victims of that episode.

The motivating force of the Abyssinian conquest and colonization of other territories in the Horn of Africa was mainly economic. Immediately after conquest, the Abyssinian Emperor confiscated all land from the conquered peoples and their vanquished leaders and distributed it between the royal family, the Abyssinian nobility, the church and the participants in the conquest campaigns. Menelik needed not only land but also the wealth of the conquered territories - coffee, gold, slaves, civet, ivory, gum and other resources - to pay for his weapon imports from Europe.<sup>7</sup>

The indigenous peoples not only lost their lands and property but a feudal-like system involving a patron-client relationship known as '*naftanya* - *gabar*' was imposed upon them. The term *naftanya* means an armed settler and *gabar* means, approximately, a serf.

The *naftanya* or Abyssinian colonist was given rights and privileges over his gabars who were obliged to provide him with goods and labour, the quantity being determined by the patron himself. On top of that, since the gabars were dispossessed of their land they were forced to hand over up to 75 per cent of their harvests to the landowner. If land was transferred from one *naftanya* to another the gabars were also transferred to the new owner.<sup>8</sup>

Economic exploitation was not the only consequence of the Abyssinian conquest. It was also followed by cultural and linguistic repression. A policy of Amharization was applied and indigenous place names were given Amharic names. The use of the Amharic, the language of the conquerors, was enforced in the administrative and other institutions of the territories which were also controlled by the settlers. Indigenous cultures and languages were suppressed and in some instances forbidden.<sup>9</sup>

The conquest and colonization, which is often wrongly referred to as the unification of Ethiopia, led to continuous confrontations between the conquered and the conquerors in every aspect of social and political life. The peoples in the conquered territories rose against the Ethiopian government on numerous occasions and were each time put down only by brutal use of military force.

### *Conflicts in the conquered territories*

The Oromo people are numerically the largest nation in the Horn of Africa. They were subjugated after several decades of war and destruction, often with European involvement on the side of the Abyssinian kings. The Oromo people rebelled several times in all parts of their territory against the Abyssinian overlords.<sup>10</sup>

These rebellions, which were spontaneous and uncoordinated, had only local effects. However, internal and external displacement of people and



refugee flows were reported to have occurred most of the time when such conflicts took place. Oromo rebellion against the Abyssinian conquerors took an organized form only in the beginning of the 1960s: two organizations, an urban based organization known as the Macha Tulama Association which had a very large support all over the Oromo country, and the Bale Peasant Rebellion in the southern province of Bale, emerged as the major forces opposing the Haile Selassie government in the 1960s. Although the Macha Tulama Association was created by the petty bourgeoisie and the Bale movement was organized and led by peasants, the two organizations worked in cooperation to dismantle the colonial socio-political structure.

The Macha Tulama was banned and its leaders were imprisoned or killed at an early stage in 1967. The Bale uprising lasted from 1963 to 1970. It controlled the large province of Bale for a number of years. The involvement of foreign military experts in 1968-69, and more importantly the change of government and policy in neighbouring Somalia which has supplied the rebels with their weapons, enabled the Ethiopian army to suppress the uprising in Bale in 1970.<sup>11</sup> The suppression of the Macha Tulama movement and the Bale peasants uprising lasted only until 1973. Just before the outbreak of the Ethiopian revolution in 1974 the former members of the two movements came together and formed the Oromo Liberation Front (OLF) which is now fighting against the military government in the south-western parts of the country.

In the south, conflict between the centre and the periphery is not confined to the Oromo areas but also involves the Ogaden Somali. The conflict was acute in the Ogaden where successive Ethiopian regimes had failed to pacify the inhabitants. The Ogadenese revolted several times before 1960. Their resistance to the presence of the Ethiopian administration in their territory intensified after the independence of Somalia from the British, and the West Somali Liberation Front (WSLF) was formed to liberate the Ogaden. The war between the WSLF and the government forces, together with the border disputes between Somalia and Ethiopia, has caused a large refugee exodus from the area.

### *Conflicts in the Abyssinian region*

Conflict between the central Ethiopian regimes and the provinces was not limited to the annexed territories of the South. Uprisings also took place in the traditional Abyssinian regions, such as Tigray and Gojjam, against the central government.

Most of the conflicts in the Abyssinian area were of intra-class nature, which means they were contests between the different feudal chiefs and the

kings over political power. However, there were occasional peasant uprisings caused by dissatisfaction. Some of these uprisings, like the ones which took place in Tigray, had regionalist overtones.

The Amhara and Tigre peoples are ethnically and culturally related. Tigray was the centre of the Abyssinian Kingdom for a long time. The expansion of the Abyssinian empire in the 19th century, and the transfer of the centre of the empire south to Addis Ababa into the newly conquered Oromo territory, reduced Tigray into a periphery. The Tigrayan feudal lords lost their political power and importance as they were reduced to provincial chiefs. This caused longstanding contradictions between the Amhara-Tigre ruling class and occasional regional rebellions.

Besides, under Haile Selassie, bad administration, recurrent drought, locust invasions and feudal exploitation reduced the Tigrayan peasantry to destitution. The condition of the Tigrayan peasantry became even worse after the removal of Haile Selassie and led to the birth of the Tigray People's Liberation Front (TPLF) in 1975, one year after the Ethiopian revolution. The conflict between the TPLF and the government forces, combined with famine, has so far produced more than 200,000 refugees from the province. In 1985 alone more than half a million people in this province are estimated to have died of starvation, a plight which is exacerbated by war.

### *Eritrea*

Eritrea became a geographical entity as an Italian colony following the division of the Horn of Africa between European powers and the Abyssinian Emperor Menelik II. It has exchanged hands between several colonial rulers. In 1941 when Italian forces were defeated in Africa, Eritrea became a British protectorate and was later federated with Ethiopia in 1952 by the United Nations. The United Nations resolution gave Eritrea an autonomous status with a government of its own in the field of domestic affairs. However, Haile Selassie dissolved the federation and Eritrea was made an ordinary province in the Empire of Ethiopia. The move created opposition which developed into the Eritrean Liberation Front.

The Eritrean Liberation movements have been fighting against the Ethiopian military forces for the last 24 years and the conflict has so far produced more than half a million refugees, the majority of whom live today in the Sudan.

The above account of the formation of the Ethiopian Empire at the turn of the century illustrates that Ethiopia did not escape a colonial era. Instead of the era being characterized by European rule and exploitation, several indigenous peoples were conquered and dominated by neighbouring Abyssinians with the help of European powers.

Several of the traits widely recognized as identifying features of colonialism are also apparent in the Abyssinian conquest and annexation of these territories.<sup>12</sup> Such identifying characteristics are:

1. settlements of aliens in a territory originally in the possession of a distinct group or groups;
2. use and redirection of the labour of the indigenous population;
3. surplus extraction from the conquered area;
4. importation and reliance on externally derived personnel and ideas to administer the occupied areas and to control the inhabitants;
5. suppression of the organization and cultural life of the inhabitants; and
6. extension of an ideological justification from within the socio-economic system generating the colonization.

The response which colonialism generated from indigenous peoples elsewhere was not lacking in the Ethiopian Empire. It was bloody uprisings which have gradually evolved into national liberation fronts with growing support among the different conquered peoples.

Under Haile Selassie the annexed territories were exploited economically and benefitted little from whatever social and economic development took place in the empire. The inhabitants of these territories were generally excluded from political participation and administration at the regional and national levels.<sup>13</sup> The facts of conquest and subsequent occupation led to revolts in the peripheries of the empire and had an awakening role in the centre, particularly among the students and intelligentsia. It also had a demoralizing effect on the army which was stationed in the peripheries to suppress opposition. The outcome of all these actions and events was the Ethiopian revolution of 1974 and the demise of Haile Selassie.

In spite of initial promises, the military regime that replaced Haile Selassie has failed, in many respects, to avoid the mistakes of the former regime. This is particularly obvious on the question of nationalities. The concentration of political power in the hands of the Amharas, who form only 15 per cent of the population, became almost total under the military regime.<sup>14</sup> This was against 'the aims of the revolution which was not only to destroy the autocratic feudal order, but to destroy the very essence of power in Ethiopia - its Amhara identity'.<sup>15</sup> Opposition to the regime broke out in every part of Ethiopia as the various peoples demanded a share in political power, regional autonomy and in certain cases total independence from the centre. The response of the regime was uncompromising and carried out with full military force. The result of the continued demands from the people, and the belligerent responses of the Dergue, created a situation that made life in Ethiopia impossible for millions of people. About two million people have fled Ethiopia so far, and about half of these are now living in the Sudan.

## CURRENT CAUSES OF FLIGHT

The study described in this section was conducted among refugees in 1982-83 and covers all types of refugee settlements (rural, urban, organized and spontaneous); 413 heads of households were randomly selected and interviewed. One of the questions asked was: "Why did you leave Ethiopia?" The main responses given were: fear, persecution, war, loss of property, poverty, heavy taxation, military conscription, forced labour and finally the resettlement projects. A short description and analysis of some of these causes of flight is necessary in order to gain some insight into the problem.

### *Fear*

About 27 per cent of the respondents attributed their flight to a fear that their lives were in danger. There were two main reasons for fear: persecution (political and religious) and war. Fear was also aroused from witnessing the experiences of others and hearing rumours about incidents that happened to others. The escalation of war, and repeated bombardment from the air of villages in conflict zones, forced thousands of families to flee and to leave everything behind.

### *Persecution*

Nearly 38 per cent of the refugees interviewed gave persecution as the cause of their flight. Political persecution began to mount in 1976 to reach its peak during 1977-1978. The Dergue declared a reign of terror, which it officially and proudly called the 'Red Terror', to eliminate the supporters of the national liberation fronts and the leftists political organization, the Ethiopian Peoples Revolutionary Party (EPRP), which was assassinating the supporters of the regime mainly in the urban areas. As the EPRP was primarily an urban-based organization, the main targets of the Red Terror were young militants from high school and the university, intellectuals and workers who were opposing the regime. But since most of the job was carried out by a disorganized and undisciplined militia force, drawn mainly from the ranks of the lumpen proletariat, the Red Terror equally and indiscriminately affected the uninvolved and innocent urban population. Although the Red Terror was directed from the Central Committee of the Dergue, ideological immaturity and the junta's lack of experience in public administration made the Red Terror a still more terrifying experience for the vast majority of the urban population in Ethiopia.

Detention and liquidation became the fate not only of those individuals who were directly involved, but also of their families and relatives. The property of those who were arrested or executed was automatically confiscated and their families were left without any means of survival.<sup>16</sup>

The Red Terror became more devastating in the middle of 1978. The defence guards of the neighbourhood associations or Kebeles and the farmers associations were given total freedom to arrest or execute on the spot anybody they suspected as 'anti-revolutionary'. Many of them used the total immunity they enjoyed and the enormity of power conferred upon them to revenge old grudges and vendettas. The distortion of the concept of class struggle by the state-owned mass media misled the unemployed shanty-town dwellers to declare war on anybody who was better fed, clothed or educated than themselves.<sup>17</sup>

The Dergue used not only class contradictions to justify the Red Terror but also exploited the contradiction between town and countryside to exterminate its opponents, particularly the radical youth, in the urban centres. Defence squads recruited from the countryside were used against 'dissidents' drawn up on the basis of the most elementary criteria - irregular attendance of classes. House by house, the militia hunted down the suspects and executed them summarily. For example, in one incident alone (on April 29, 1977) more than a thousand school children were killed in Addis Ababa in this manner.<sup>18</sup> The killing continued on a large scale and between December 1977 and February 1978 over 5,000 Ethiopian young people between the ages of 12 and 25 were victimized.<sup>19</sup>

The excess of the Red Terror spread panic in every household and family all over Ethiopia. Thousands of young men and women left the country, the majority on foot, braving weeks and sometimes months of journeying through waterless and inhospitable areas to find refuge in the neighbouring countries.

It was not only fear of persecution but actual persecution that caused many people to flee from Ethiopia. Fourteen per cent of our respondents had direct experience of political persecution. They themselves or members of their households were imprisoned or tortured before they fled to the Sudan. The number of political prisoners in Ethiopia between 1977 and 1981 increased tremendously; large as well as small prisons proliferated in every corner of the country.<sup>20</sup> In Addis Ababa alone there are at least 335 large and small prisons. During the Red Terror about 125,000 people were estimated to have been detained in Addis Ababa.<sup>21</sup>

The prison conditions in Ethiopia are said to be extremely sordid and brutal. The prison cells are overcrowded to such an extent that as many as 85 people are crammed in a room only 16 metres squares. The government does not provide food. Families of the prisoners deliver food - if they live nearby

and if they can afford it. Particularly in 1977/78 these conditions created such fear among the population that parents encouraged their young children to leave the country. Many families sold their property, including the houses they lived in, and paid exorbitant fees to guides who took their children through jungles and deserts into the neighbouring countries.

## **War**

Those areas which lay in war zones increased dramatically after 1974. In 1975 anti-Dergue groups increased their activities in the northern regions of Wallo, Gondar and Tigray. The several clashes, particularly around the town of Humera, between the Dergue and the EDU, produced a large number of refugees. Further west, in Tigray, the war which broke out between the TPLF and the Dergue, and between the TPLF and other fronts active in the area, caused additional refugee flows.

In Eritrea, with the failure of a half-hearted effort for the peaceful solution of the conflict in 1976, was escalated and the Eritrean liberation forces succeeded in controlling the entire countryside. By 1977 it was only the capital city of Asmara and a few other towns which were in the control of the government forces. Bitter and intensive battles were fought for months in and around these urban centres. Many of the inhabitants of these beleaguered cities, and later on the inhabitants of thousands of villages that were recaptured by government forces, crossed the border to join the ever increasing refugee population in the Sudan.

The situation in the South and South-east was not less dramatic. The Ogaden was overrun by the Somali regular forces in 1977. The invading forces and the retreating Ethiopian troops competed with each other in destroying human settlements, water wells, herds and farms in the vast semi-desert of the Ogaden. In 1978, when the Dergue managed to throw out the Somali army with the help of Russian weapons and Cuban soldiers, the nomadic population of the area, fearing repression from the Ethiopian forces, followed the retreating Somali army into Somalia.

The conflict between the Somali and Ethiopian armed forces affected not only the Somali-speaking people of the Ogaden but also the neighbouring peoples. The Oromo peasants of Hararghe, Bale and Sidamo regions suffered from the presence of the Somali troops and the Ethiopian army in their areas. The Somalis looted and destroyed Oromo property, raped women, killed the men and claimed their lands. The Ethiopian forces, suspecting the people of siding with the Somalis, treated them in a similar manner.

Sandwiched between the two warring parties and militarily attacked by both sides, the Oromo peasants had few alternatives but to flee from their

homes either to join the Oromo Liberation Front (OLF), which was also expanding its influence in the area at the same time, or to become refugees in the neighbouring countries.

After its victory over the Somali forces and the WSLF in the Ogaden in 1978, the Dergue directed a series of 'mop-up operations' in Oromo areas, where the OLF guerrillas were active. The consequences were enormous for the civilian population and led to mass flight, particularly to Somalia. In Somalia, the refugee camp population increased from 100,000 to 475,000 in a matter of 12 months in 1979<sup>22</sup> and rose to 700,000 by mid 1980. The total refugee population in the country was estimated at 1.5 million or more by 1981. This figure was later challenged by international voluntary agencies, and the UNHCR adopted an estimate of 700,000 camp population from planning purposes. At least an equal number of selfsettling refugees are said to live in various urban and rural areas of the country.<sup>23</sup> About 40 per cent of the refugees are Oromos.<sup>24</sup>

### *Economic causes of flight*

A variety of economic problems caused refugee flows from Ethiopia. Factors such as the loss of property, heavy taxation and poverty due to the loss of family breadwinners, contributed to economic problems which led to flight.

Seven per cent of the refugees interviewed in the different settlements in the Sudan fled because they were impoverished after losing property. Such loss of property was attributed to destruction by war or confiscation by the state. Excessive taxation and forcible contributions which the government imposed in order to finance the war against the fronts were also given by more than 8 per cent of the interviewees as the reasons for their flight.

Some of the respondents indicated that they were forced to sell their last possessions, like oxen, goats and even corrugated iron-sheets from the roofs of their houses, to pay taxes and their contributions to the defence budget.<sup>25</sup> The consequence of this was absolute poverty and flight to the Sudan.

In general, poverty was found to be the cause of migration of 35 per cent of the respondents. Some of the households interviewed had fled because of famine. Although famine is a recurrent phenomenon in Ethiopia flight across international borders is a new development. During previous famines, people moved freely from the affected areas to unaffected regions. Today movement is not as free, and even if it were, there are no areas with surplus food, after a decade of war and political turmoil. Even traditional surplus areas are visited by famine, not because they are affected by natural catastrophe, but because of war and its attendant problems.

### *Military conscription*

The conscription of hundreds of thousands of men contributed to the flow of refugees in two major ways. Firstly, there are thousands of young men who flee to the neighbouring countries to avoid conscription into the militia and others who flee after conscription when brought to the border areas to fight against the liberation fronts.

Such cases constituted 10 per cent of our respondents. According to a UNHCR survey 14 per cent of refugees who arrived in Gedaref in September 1982 were former militia or military men.<sup>26</sup>

Secondly, the families whose breadwinners were conscripted fled because of starvation. Given the size of the Ethiopian military force, conscription was and remains one of the prime causes of the decline of agricultural production in Ethiopia, general poverty and lack of food commodities in the country, and is becoming a major cause of flight.<sup>27</sup>

The first militia conscription on a large scale started in May 1976 when the first peasant march on Eritrea was conducted. Having failed to solve the Eritrean problem by peaceful means, the Dergue sent its first militia force into the area. The idea was to overwhelm the Eritrean liberation forces and to awaken and mobilize the Eritrean masses against 'secessionist groups'.

The adventure was a fiasco from beginning to end. The militia was decimated along the road by guerilla fighters of various fronts operating in northern Ethiopia. In the face of total extinction, retreat was made in complete disorder and the majority of the militia men who escaped the slaughter and capture by the guerrillas made their way back home on their own. Those who surrendered to the guerrillas continued their march west-ward when released and joined the swelling Ethiopian refugee population the the Sudan.

In spite of this experience, and to meet the rising armed opposition to the regime everywhere in the country, conscription continued and by the summer of 1977 more than 500,000 <sup>29</sup> men had been recruited. When recruited, the militia were promised release after a short service. So far, after seven or eight years, only those who have been wounded and handicapped in action have returned to their villages and families.

In the war fronts the militia were considered as an exhaustible source and tens of thousands of youngsters between the ages of 18 and 25 years were literally used as battle fodder. Casualties were very high on every front <sup>30</sup>, and it is highly probable that most of the 500,000 men recruited in the first round were wiped out in the battles over the Ogaden and during the several campaigns against the liberation fronts. There have been many rounds of conscription and between one and one and a half million young men are estimated to have been recruited to date. This means a loss of one and a half million of the most productive workers for the peasant economy. It also



partly explains the severe food shortage in Ethiopia for the last several years.

The conscription of the militia is harmful to economic production as it is conducted in the most productive agricultural areas. Peasants from the least fertile areas of the North and the nomads of the lowlands are not affected as much as peasants in the central and southern provinces which are the agricultural backbone of the country.

### ***Forced labour***

The war and its expenses, and the consequences of the Red Terror, brought the economy of Ethiopia into more serious straits than ever before. The loss of skilled labour crippled the industrial sector and disrupted transport, exacerbating the severe shortages of food and goods all over the country. In an attempt to improve the economy, particularly through agricultural production, the Dergue decided to use forced labour on a larger scale than before. The state farms which produce commercial crops were primarily designated to use such labour.

Labour was recruited from towns and the countryside. The method employed was similar to that of militia recruitment and the same infrastructure, like the Tatak military camp near Addis Ababa, was used to gather and transport labourers. As there were very few volunteers, force was used to recruit people. In the cities, masses of people - men and women from 15 to 65 years of age - were pressganged by the army and the militia<sup>31</sup> and taken to the state farms.

In the countryside the peasant associations were given quotas to fill. They selected labourers where possible; otherwise people were rounded up in the market places and forced into army trucks which took them directly to the labour camps hundreds of kilometres away. The recruits experienced very harsh situations on the journey. In some cases between 65 and 70 people were transported in a truck built for 30-35 people. Very little food was provided and many people became ill. Death was common because of the suffocating conditions in the trucks and the long non-stop journey which many of the sick and elderly recruits were unable to endure.<sup>32</sup>

According to our respondents, many of the recruits began thinking of flight right from the start of the journey. In Humera, from where many refugees of this category come to the Sudan, there were no shelters for the labourers against sun or rain. On arrival, they were told to gather wood and grass to build their shelters. But many of them, particularly women, were unable to do so. This is said to have created a lot of health problems and suffering in the camps, particularly between 1979 and 1982.

The food rations which the workers received barley kept them alive. Water was very scarce and sometimes not available at all. Lack of food, water and shelter, combined with the hot weather conditions of the lowlands of Humera, caused sickness to which thousands succumbed. In several labour camps of Humera, about four thousand labourers were reported to have died in 1981 alone.<sup>33</sup>

The duration of service was unlimited and during that time the labourers were not allowed to visit their families. Therefore, the only alternative to staying on the farms, and dying of disease and hunger, was to flee to the Sudan: naturally many chose flight. The exodus from the Humera and Assossa state farms started in 1980-81. Of a total of 17,983 people who crossed into the Sudan in a period of a month, about 90 per cent came through Humera<sup>34</sup>. According to the UNHCR, 30 per cent of the refugees who turned up at its headquarters in Gedaref, between May 10 and 31 in 1982, were escapees from labour camps.<sup>35</sup>

### *Resettlement projects as cause of refugee flows*

The relocation or resettlement programme which the Dergue has carried out since 1979 is also found to be a contributory factor to refugee flows from Ethiopia. Among the refugee groups covered by this study more than 10 per cent of the respondents fled Ethiopia because of such a programme.

The Dergue has, since 1979, transferred about 800,000 peasants from the Amhara-Tigre region of the north to the south and south-western Oromo provinces. The official explanation for the settlement programme is to enable drought-affected peasants from the north to become selfsufficient farmers in the new environments. The motivation of the government is however questioned<sup>36</sup> and opposed by different groups. The opposition could be gauged by the accounts of the refugees who have fled to the neighbouring countries owing to the relocation programme.

Those who were relocated oppose the settlement programme and fled because they were transferred involuntarily. According to our respondents who have fled from settlements in Wollo and taken to Assosa, about 1200 km away, without even saying goodbye to their families. It was mostly men who were relocated, and in many cases families were separated and dis-integrated as a result.<sup>37</sup>

Those who were taken to the settlements, particularly in 1979, were not the poorest or those threatened by famine. The respondents said that they had food and oxen and were planting their fields at the time of their 'deportation'. Similar reports have been given by those who stayed in the settlements. What causes flight from the settlements is however the difficulties these relocated people meet in the new environment.

The programme is also opposed by the local population which often dispossessed to make room for the incoming settlers and shifted to new sites.<sup>39</sup> 10 per cent of the refugees in Yabus and Muguf areas were pushed out of their areas in Wollega by such settlements.

According to other observers the objective of this mass relocation is not primarily economic but political and military. It is argued that the relocation programme is designed to weaken the liberation fronts in the north by draining the source of their support.<sup>40</sup> This method of 'draining the lake to kill the fish' has been used by many regimes that have fought against guerrilla movements elsewhere and it would not be surprising if the Dergue was using it to avert its own fall and perhaps the disintegration of Ethiopia.

It is also suggested that the settlement programmes serve as instruments to check the nationalist movements in the south and south-west. It is argued that the people who are moved from north to south are used to 'control' the local population and that for this purpose the settlers are armed.<sup>41</sup>

The above arguments are supported when we look at the location of the settlements. Between 1979 and 1981 all the people who were moved from the north were settled in areas, like Arsi and Bale, where the Oromo liberation front is active. The indigenous people in these areas were also 'regrouped' into controlled and guarded 'settlements with refugee-camp characteristics'.<sup>42</sup> The recent relocations are concentrated in Wollega and Illubabor where the Oromo Liberation Front is currently on the offensive<sup>43</sup> and is posing security problems.<sup>44</sup>

Whatever the intentions of the Dergue may be, the relocation of people is deepening the conflict between the state and the people. The policy tends to conflicts between the different nationalities and will only go on increasing the flow of refugees from Ethiopia, particularly if the political problems of the regions remain unsolved for a long period.

## NOTES

1. Rodney, W., *How Europe Underdeveloped Africa*, Tanzanian Publishing House, Tanzania, 1972.
2. Touval, S., 'The Sources of Status Quo and Irredentist Policies' in Widstrand, C.G. (ed.), *African Boundary Problems*, Scandinavian Institute of African Studies, Uppsala, 1969, pp. 101-111.
3. Keller, E., 'Ethiopia: revolution class and the national question', *Africa Affairs*, Vol. 80, No. 321, Oxford University Press, Oxford, 1981, pp. 519-549.
4. Greenfield, R., 'An Historical Introduction to Refugee Problems in the Horn', *Horn of Africa*, Vol. 2, No. 4, 1979, pp. 14-26, foot note 28.
5. Lewis, I.M., 'Introduction' in Lewis, I.M. (ed.), *Nationalism & Self Determination in the Horn of Africa*, Ithaca Press, London, 1983, pp. 1-22.

6. Greenfield, R., *op.cit.*
7. Darkwah, R., *Shewa, Menelik and the Ethiopian Empire*, Heinemann, London, 1978, p. 96.
8. Pankhurst, R., *State and Land in Ethiopian History*, Institute of Ethiopian Studies, Addis Ababa, 1966, pp. 137.
9. Baxter, P., 'The Problem of the Oromo' in Lewis, I.M. (ed.), *Nationalism and Self Determination in the Horn of Africa*, Ithaca Press, London, 1983, pp. 129-148.  
Melbaa, G., *Oromia*, Finefine, 1980, pp. 68-71.  
Gilkes, P., *The Dying Lion: Feudalism and Modernization in Ethiopia*, Julian Friedman Publishers, London, 1975, p. 218.  
Holcomb, B., 'Crisis in the Colonies: Ethiopia and Portuguese Dependent Colonialisms Compared', Paper presented at the Oromo Conference held in Berlin, July 29-30, 1984.
13. Clapham, C., *Haile Selassie's Government*, Longmans, London, 1969, pp. 75-78.
14. Africa Events, 'Wedded to the Imperial Ideal', London, October, 1984.
15. Lefort, R., *Ethiopia: An Heretical Revolution?* Zed Press, London, 1983, p. 59.
16. Habte Selassie, B., *Conflict and Intervention in the Horn of Africa*, Monthly Review Press, New York and London, 1980, p. 42.
17. Lefort, R., *op.cit.*, p. 200.
18. *Ibid.*, p. 201.
19. Habte Selassie, B., *op.cit.*, p.41.
20. There are about 23,500 peasant associations each with one prison, 600 *woredas* with at least 2 prisons each, 100 *awarajas* with 3 or more large prisons each, about 2,000 urban associations or *kebeles* with at least as many prisons. Total, about 27,500 prisons.
21. Bekele, M., 'Prison Conditions in Ethiopia', mimeo, December 1980.
22. Melander, G., *Refugees in Somalia*, Scandinavian Institute of African Studies, Uppsala, 1980, p. 20.
23. Zolberg, A., and Suhrke, A., 'Social conflict and Refugees in the Third World: The Cases of Ethiopia and Afghanistan', Paper presented at the Center for Migration and Population Studies, Harvard University, March 22, 1984, p. 52.
24. Waldron, S., 'Somali Refugee Background Characteristics: Preliminary Results from the Qoriooley Camps', *Northeast African Studies*, Vol. 4, No. 3, London, 1983, pp. 17-24.
25. With more than half a million men in its armed forces the Dergue was spending at least US\$1.5 million per day in 1977-79 on its war efforts. In addition, weapons worth US\$2 billion were imported. Much of these expenses were covered by 'contributions' from the people.
26. United Nations High Commissioner for Refugees (UNHCR), 'Survey of 100 New Arrivals at the Gedaref UNHCR Sub Office between 10 and 31 May 1982', Gedaref, 1982.
27. Legum, C. and Lee, B., *The Horn of Africa in Continuing Crisis*, Africana Publishing Company, New York, London, 1979, p. 62.
28. Lefort, R., *op.cit.*, p. 178.
29. Provisional Military Administrative Council (PMAC), 'The Ethiopian Revolution', Addis Ababa, 1977, pp. 26-28.
30. Legum and Lee, *op.cit.*, pp. 30-36.

31. The Anti-Slavery Society, 'Forced Labour in Ethiopia - Slavery in the Sesame Fields', Report to the UN Working Group on Slavery, Mimeo, London, 1979.
32. Ibid.
33. Ibid.
34. Ibid.
35. 'Survey of 100 New Arrivals at the Gedaref UNHCR Sub Office', op.cit.
36. Survival International, 'Ethiopia, Resettlement: the Evidence', mimeo., London, 1985, p. 9.
37. Ibid., p. 3.
38. Oste, S., 'Svalten loser problemet med de upproriska', *Dagens Nyheter*, November 25, 1984.
39. 'Refugees in the Horn', *Horn of Africa*, Vol. 4, No. 1, 1981, p. 39.
40. Oste, S., op.cit.
41. Melbaa, G., op.cit., p. 65.
42. International Council of Voluntary Agencies, 'ICVA Mission to Ethiopia to Assess the Situation of Displaced Persons and Returnees', Geneva, 1982.
43. Nduru, M.K., 'Ethiopia's Oromos take on the Dergue', *New African*, IC Publications Ltd., No. 217, October 1985, p. 22.
44. Survival International, op.cit., p. 9.

# Rural Eritrean Refugees in the Sudan: A Study of the Dynamics of Flight<sup>1\*</sup>

*Gaim Kibreab*

Since the phenomenon 'refugee' conceals a great variety of reasons for flight, it is often very difficult to establish with any certainty the precise factors that generate mass exodus. Owing to the differences that exist between refugees and emigrants, most of the hitherto existing theories on migration are not applicable, without modification, to refugee movements.

While the decision to migrate is based on the desire to *positively improve* one's social or economic conditions of existence, the decision to flee is based on the desire to escape from drastically deteriorating conditions of existence. In essence, emigration is a movement *towards something perceived to be better and more attractive* while flight is a movement *away from something perceived to be dangerous or expulsive*. Most migration theories are based on the analysis of so called 'push-pull' factors, whereby the motivation to migrate is inferred from structural factors. Amelioration of one's social or economic conditions is the driving force behind the decision to migrate, while in the case of refugees, deteriorating political conditions, which may lead to the destruction of lives and property, or political or religious persecution are the factors that force people to flee. The 'pull' factor is either very small or non-existent at the time of decision-making.

However, the causes underlying refugee movements in Africa are more complex than what is commonly believed to be the case. In the African situation, it is an oversimplification to perceive the presence of over 4 million refugees as merely symptomatic of existing political problems; they are, as well, manifestations of the structural socio-economic crisis that has gripped the continent.

Mass flight and the search for asylum elsewhere are often perceived as physical reactions to external military or political pressures. Flight is perceived as a physical expression of the refugees' feeling of being helpless and powerless to protect themselves against persecution, moral insult or physical assault.

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In general, refugee movements are caused by wars, political persecution, flagrant violation of human rights and other catastrophes. It is important to guard against perceiving flight as a sole function of the fear of political persecution or of violence.

Detailed research has been carried out on the economic and socio-cultural background of **Eritrean** refugees in the settlements in Eastern Sudan, and of the peasantry in the **Eritrean** highland in the *Kebessa* area. The research shows that the decision to flee or not was not determined randomly.

Whether populations become refugees or not, when faced with an actual or perceived threat is **determined** by an interplay of various structural and socio-cultural factors. It is true that many refugees have no choice but to flee, or they would lose their lives. For the majority of rural refugees, however, flight involves a deliberate decision based on a comparison of different alternatives.

Despite the fact that the whole **Eritrean** countryside was subjected to air-raids and infantry attacks during different periods from the mid 1960s onwards, the overwhelming majority of those who fled the country were the **Saho** national group from Eastern and Northern Akeleguzai, the **Tigre** from the Eastern and Western lowlands and the **Baria** from the **Gash-Setit** area. The **Eritrean** highlands and the villages around Keren have produced few or no refugees.<sup>2</sup> All areas were subjected to similar kinds of intensive violence, measured in the destruction of lives and property, but only the Western and Eastern lowlands produced hundreds of thousands of refugees. It is clear that flight is a complex phenomenon.

There are also some refugees from the **Eritrean** highlands in the **rural** areas of Eastern Sudan. However, these are very few and all of them lived in the border areas before they fled their country. Thus their flight is explained by geographical proximity to the country of asylum.

## THE REFUGEES' STATED REASONS FOR LEAVING

The sample households were asked to state the three major causes of their decision to leave their country of origin, and the results show that for the clear majority these were fear of massacre, destruction of homes and villages, and fear of air attacks. The political circumstances that prevailed during and after their flight are incontestably in keeping with the provision of the OAU and UN Conventions governing refugee status. The reported reasons tell us little, however, about the other factors that influenced their decision to flee. Many of them have been in the Sudan for over 10 years, their memories may have become blurred and they may tend to focus on certain dramatic events, overlooking other factors that might have directly or indirectly influenced their decision to flee.

## ALTERNATIVES TO FLIGHT

Did the refugees have any alternative to flight? If military and political pressures were the only causes of flight, why did all the people who were exposed to actual or perceived threats resort to different alternatives? *If* flight can be explained solely by external pressure, the response of those people in the affected areas should have been similar, and all those physically fit should have fled their areas of origin.

Flight was by no means a last resort; there were several alternatives to flight. Firstly, the refugees, like their counterparts in the highlands, could have adopted a 'wait-and-see' attitude and remained in their areas of origin. Secondly, they could have moved to the liberated areas; thirdly, they could have displaced themselves internally; fourthly, they could have moved into the Ethiopian 'strategic hamlets', and fifthly, they could have joined the liberation fronts. Flight is but one alternative.

Why do some ethnic and national groups resort to flight while others stubbornly cling to their areas of origin, despite the dangers this alternative entails? Our empirical study of the dynamics of flight suggests that the different causes of action are due, not to different perceptions and evaluations of the dangers involved (although this can be a contributing factor), but to factors that *countervail* or reinforce the decision to flee.

The countervailing or reinforcing factors are, firstly, the distance between the area of origin and the possible country of asylum; secondly, the basis of economic life and the socio-cultural values emanating from the same; and thirdly, the perceived conditions of existence on the other side of the frontier.

## FLIGHT AND DISTANCE

Our findings show that flight is a decreasing function of geographical distance. The significance of distance as a factor countervailing migration was recognized in scientific literature as early as the end of the 19th century. The overwhelming majority of Eritrean rural refugees in the settlements have only had to go a relatively short distance to cross into the Sudan. About 90 per cent have travelled on foot, and about 65 per cent covered the distance in less than 10 days. Only 13 per cent reported having travelled for more than 20 days.

Since children and old people were included in the journey and since the refugees travelled at night for reasons of security, the distance covered per day was very little.

*Distance and Impediments.* Unlike voluntary migrants whose movement is *inter alia* governed by the 'opportunities' at the destination, refugees are



influenced by the number of obstacles, which increase with geographical distance. The risk of being detected or attacked, of starving or falling sick, increases with the distance covered. Those who flee from the border areas do not face such impediments.

*Distance and Shock.* Migration theorists argue that the psychological pressure among voluntary migrants increases with distance, but in the case of refugees our evidence suggests the opposite, i.e. the 'push' pressure decreases radically with distance, assuming that the refugees are not being chased from behind until they cross an international boundary. In other words, distance gives the refugees a chance to recover from their state of shock; their movement, which was governed by blind panic, is now brought under control. At this stage, the people in flight can make a decision by comparing the different alternatives. Those who flee from the border areas may often cross an international boundary before recovering from their state of shock.

*Distance and Information.* Our results also show that accessibility to information about the conditions in the country of potential asylum increases with proximity and decreases with increased distance. This relationship is even stronger in cases where the major source of information, in the absence of radio and newspapers, is personal contacts. The information is often carried by black market traders, herdsmen or seasonal labourers.

*Distance and Historical Contacts.* The likelihood of there being historical contacts based on migration (border crossing) is higher between places separated by shorter distances than those a long way apart. The Eritrean lowlanders have a long tradition of migration in search of water and pasture. The Eritrean lowlands have historically been under the rule of the Fung of Sennar and later under Egyptian rule until the advent of Italian colonialism. There was, however, no such contact between the presentday Sudan and the distant areas inside Eritrea.

*Distance and Culture Gap.* It seems that social distance increases in proportion with geographical distance. The degree of culture shock experienced by Eritrean highlanders in the Sudan is much greater than that experienced by the lowlanders. Among other things this is due to religious and language differences.

*Climatic Conditions.* Another countervailing factor linked to distance is the question of climate. There is a tremendous climatic difference between the hot and dusty climate in the Sudan and the cool and pleasant climate in the Eritrean highlands. The peasantry from the highlands has always been reluctant to migrate to the lowlands, even when faced with serious economic problems caused by land shortage resulting from over-population and colonial land alienation.

### *Sedentary Agricultural and Pastoral Areas*

Our findings also show that the propensity to flee when exposed to actual or perceived threat seems to be higher among pastoral and agro-pastoral communities which inhabit marginal areas than among communities with a long history of being sedentary.

### *The Sedentary Agricultural Areas*

The social and economic costs of flight seem to vary from people to people because the forces that bind potential refugees to their areas of origin are not the same. This can be illustrated by a comparison of the peasant communities of the Eritrean highlands with the pastoral and agro-pastoral communities of the Eastern and Western lowlands.

In the Eritrean Plateau sedentary agricultural group life concentrated in large villages, which later became a focus of traditional social life, began to take shape some time between 1000 and 700 B.C. The attachment of the peasants to their plots of land as a focus of social status and kinship identity, and to the village as a focus of social life, has always been of paramount importance and has created the base from which all social and political status has evolved. As noted by Nadel:

It has been said of the African that he does not possess his land but is possessed by it. The attitude of the Eritrean peasant towards his land cannot be more aptly described. Indeed, his preoccupation with his landed possessions shows a depth and passion not often paralleled among African races.<sup>3</sup>

Among the Eritrean peasants, possession of land provides a base for identity and social cohesion with the clan and family members. A person's identity emanates from this kinship system. The commitment of the peasants does not only emanate from land possession, but also from their attitude towards their village and community which was originally founded by their forefathers. The present generation is culturally bound to maintain and transfer this to the coming generation. Even those who live outside the traditional home or village often return to maintain their ties. They maintain land rights, not for their economic benefit, but as a means of preserving the social link, without which one is considered to be rootless. Highlanders living outside their villages frequently visit them, pay land taxes, build houses and prefer to be buried there. This commitment is difficult to understand unless one considers the 'social pull' of the village, as manifested in *resti* (paramount land title which is deeply rooted in the social structure), *tobot* (village church), village cemetery, and *tisha* (stone house). The peasants in the highlands have always looked down upon newcomers.

Such a structure is likely to have a strong inertia that binds the inhabitants to it, even at the cost of their lives and property. They are reluctant to resort to flight, mainly because of the social cost that flight entails. A community that has always looked down upon immigrants is likely to have a lesser propensity to emigrate. There are many examples in the highlands where villagers were repeatedly subjected to violence and yet remained in their villages.

*Pastoral and Agro-pastoral Communities.* The refugees from the Eastern and Southern Akeleguqai (the Saho) and those from the Eastern and Western lowlands (the Tigre) are mainly pastoralists who moved from area to area in search of water and pasture. Unlike the Eritrean Plateau, where large village centres represent the focal point of all forms of social, political and economic organization, the settlement patterns among the Saho and the Tigre are widely scattered; the social pull represented by village life is absent among them. Nadel states:

Indeed not even the Beni Amer clan grazes its herds collectively; clan sections and kinship groups may choose widely scattered pastures: even individual families and herdsmen move independently. The economic habits foster a kindred outlook and mentality. The individual male is born into a scattered and broken up group. From the age of 12-14 he lives with the herds, guided solely by their needs of grazing and watering. He knows intimately his few neighbours on the pastures or in the nearest camp. His knowledge of the rest of the clan ... is by comparison, of indirect and secondary interest.<sup>4</sup>

This social organization is diametrically opposed to that of the sedentary peasants.

*The Baria and Kunama National Groups.* Except in the case of the Baria, the overwhelming majority of rural Eritrean refugees have come from the pastoral and agro-pastoral communities. How do we explain the deviation of the Baria from the general pattern which we identified above? In the pre-colonial period, there were no chiefs in the social organizations of the Baria and Kunama communities. When the Egyptians extended their rule after the second half of the 19th century, they appointed a Baria chief called Totil to 'collect taxes and execute their orders'. Later the Italian colonialists converted the 'position held by the Totil into a hereditary chieftainship, extending to Kunama as well as to Baria'.<sup>5</sup> This was resented by the Kunama, and the Baria allied themselves with the Beni Amer. Gradually a closer cultural and religious affinity has developed between the two groups and when the Beni Amer in the area fled, the Baria found it necessary to flee with them.

The evidence presented above suggests that some structures, owing to their ecological and consequently, due to the prevailing modes of economic and social organization, generate more or less mobility-prone cultural values which are necessitated by the ecosystem in which most of the pastoralists and agro-pastoralists live. These environments, as we saw earlier, are

characterized by seasonal drought, pasture spread over wide areas and by a shortage of water. Hence, in order to take advantage of seasonal variations of rainfall, the pastoralists have to move from one place to another. Therefore, the propensity to flee, when faced with a threat, is higher among the pastoral and agro-pastoral communities than among peasants with a long history of sedentary life tied to the land.

For flight to take place among the sedentary peasants, the actual or perceived threat must outweigh the economic, social and cultural costs. The capacity of people inhabiting arid and semi-arid areas to absorb shocks caused by outside pressure seems also to be less, because the pastoralist, unlike the sedentary peasant who depends on his annual crop-saving, mainly depends on milk which is based on daily supply. Thus the pastoralist's life can very easily be disturbed. The pastoralists also lack a collective and cohesive social organization with which to resist natural or man-made disasters. On the other hand, unlike the sedentary peasant whose food supply can very easily be destroyed if his house is set on fire, the pastoralist can easily avoid this catastrophe by moving, together with his base of subsistence - livestock - to escape detection.

During the *dry* season, availability of water in the pastoral areas is limited to a few water holes. A simple act of poisoning or sealing the well could not only disturb the transhumance routes but even force the pastoralists to abandon their areas of origin. The peasants in the highland plateau on the other hand, have alternative water sources, even during the *dry* season.

The results of our research also suggest that there may be a relationship between mass exodus and lack of economic, political and social development in the place of origin. The people living in the relatively more developed Eritrean Plateau were evidently more resistant to the onslaught of military violence than the pastoralists and agro-pastoralists.

During the successive colonial periods, the Western lowlands have always been peripheral in regard to political participation, provision of infrastructural services and **integration** into the colonial economy. Whatever services were provided by the colonial governments were mainly concentrated on the plateau. No efforts were made by the Italians, British or Ethiopians to improve the pastoralists' access to physical and social infrastructural services. This suggests that, in a situation of **crisis**, underdevelopment becomes a factor that reinforces mass exodus. By the same token, good development policy measures can have countervailing effects on mass exodus. These measures are those that aim, firstly, at the elimination of social injustices, increased supply of social and physical infrastructural services such as housing, clean water, health, and education; secondly, at the improvement of material life of the inhabitants; and thirdly, at the creation of structures through which the inhabitants can participate in the decision-making process.

## PROVISION OF ASSISTANCE IN THE COUNTRY OF ASYLUM AS A 'PULL' FACTOR

The question of whether the provision of assistance, such as health services, housing, clean water, education, food rations and in some cases long-term development assistance, pulls refugees or not is an elusive issue. As noted earlier, the problem of African rural refugees is generated by the interplay of political, economic, social and ecological crises. This is exacerbated by the rigid principles that govern the assistance activities of intergovernmental and other donor organizations.

In those areas where the political and economic situation is expulsive and unbearable, where internal movements are curtailed by political instability and military activities, and where emergency relief and development assistance do not get through, the population are potential refugees even when they do not know what they will find on the other side of the frontier.

## CONCLUSION

Our findings, therefore, show firstly, that flight is a decreasing function of geographic distance. Secondly, the propensity of populations to respond to external pressure by resorting to flight is higher among pastoral and agro-pastoral than among communities with a long history of being sedentary. Thirdly, a region with relatively adequate economic, social and political opportunities is characterized by a stronger inertia which countervails mass exodus, partly by increasing the inhabitants' commitment to their places of origin and partly by increasing their capacity to cope with natural or man-made disasters. It seems that people in neglected areas do not feel that much is at stake when they flee. This suggests that development projects initiated by developmental international organizations together with the population may countervail mass exodus in the potential refugee-producing areas.

## NOTES

1. A more detailed account of the account of the causes underlying the flight of Eritrean rural refugees is given in my Ph.D. dissertation - *Refugees and Development in Africa: The Case of Eritrea*, The Red Sea Press, 556 Bellevue Av., Trenton, New Jersey. 08618, U S A 1987..
2. It is important to note that we are only referring to the flight of rural refugees.
3. Nadel, S.F., 'Land tenure of the Eritrean Plateau', *Africa: Journal of the International African Institute*, Vol. 16, No. 1, 1946
4. Nadel, S.F., 'Notes on Beni Amer Society', *Sudan Notes and Records*, Vol. 26, part 1, 1945.
5. Trevaskis, G.K.N., *Eritrea: A Society in Transition, 1941-52*, Greenwood, Westport, Connecticut, 1960, p. 16.

## Seminar Discussion: Peoples - Rights - Refugees

In the African (Banjul) Charter there is no definition of the term 'peoples'. In view of this the seminar participants agreed, after some discussion, that it should be advantageous to have a loose definition. This would be flexible enough to include many categories - not least refugees.

It was also suggested that differentiation should be made between the strict concepts of international law on the one hand and definitions emanating from the modern code of human rights in its widest sense on the other. Such differentiation could give positive results.

Rigid distinctions between 'group rights' and 'peoples' rights' should be avoided as these tend to overlap. One of the great difficulties when projecting development programmes is the lack of basic demographic knowledge and the unreliability of statistics. This is particularly the case where refugees are concerned. Refugee statistics can too easily be manipulated. Refugees are also very mobile. A situation can change overnight. In many countries in Africa there is a constant difficulty in knowing the numbers of refugees and their whereabouts.

Mention was made of the advantages that refugees could bring to their host countries, sharing with them their know-how, their culture and their manpower. They could even be seen as a peace-generating factor, as one speaker phrased it; the more peoples mix the less important appear the boundaries between states. Another speaker reminded the seminar that being compelled to cross the border, as in the case of the refugee, does however always leave a certain scar.

Repatriation of refugees must always be voluntary, which requires the fulfilment of three conditions:

1. Socio-economic: the returnees must be assisted towards their proper resettlement in their home country. This might in many cases require as much as any successful settlement project in the country of asylum. Failing to comply with this condition merely risks increasing the serious problems of internal displaced persons and urbanisation.

2. Political: the cause of the original flight must be eliminated and the basic human rights of the returning refugees and humanitarian law must be respected.

3. Legal, including a valid amnesty which is clearly worded and properly observed, so that it instils confidence.

Field-research showed clearly that the great majority of Ethiopian refugees in the Eastern Sudan intend to return to their home country as soon as conditions allow them to do so in safety. This is probably equally true of most

### *Seminar Discussion*

refugees in the Third World today. But the cause of flight has first to be eliminated. Considering this, repatriation on a voluntary basis stands out as an illusion in many places in Africa today. The UN and its various bodies have not been able to address themselves to the main causes of refugee problems.

# Notes on the Right to Development

*Peter Nobel*

Last year's International Conference on Assistance to Refugees (in Africa) - popularly known as ICARA II - must be regarded as a milestone in the development of a strategy for dealing with the African refugee situation. For the first time, there was international acknowledgement of the fact that the solution to refugee situations requires a concerted and integrated strategy combining the humanitarian with the developmental and, where necessary, the political approaches.

Abdulrahim Abby Farah, Under-Secretary General of the UN for Special Political Programmes, and Co-ordinator, Special Economic Assistance Programmes<sup>1</sup>

## ON THE CONCEPT OF DEVELOPMENT

Development should not be defined solely in terms of economic growth, increase of **GNP**, income per capita, decrease of external debt, improvement of trade balance etc. The economic factors may be basic to a development process but in order to take stock of eventual progress or failure one has to emphasize the well-being, happiness and potential of the people as a whole, and of individuals, and to realize that their aspirations are equally crucial. I would like to refer to the answers, given in the 1975 Dag Hammarskjöld Foundation Report *What now?* to the questions: Development of what? - for whom? - how?<sup>2</sup>

The right to development is a human right, sometimes classified as a collective right or a right of the third generation. Anyhow development, economic, social and cultural is inseparably related to peace, internal and external, and to human rights including also peoples' rights. Each of them is a necessary condition for the two others. If only one is lacking the two others will be in serious danger and probably be caused immeasurable harm.



## A FOUNDATION IN INTERNATIONAL LAW

Articles 55 and 56 of the UN Charter, which is based on the principle of equal rights of peoples, provide that member states should promote higher standards of living, employment, economic and social progress and development, seek solutions to economic, social, health and related problems, and encourage cultural and educational co-operation.<sup>3</sup>

The 1966 International Covenant on Economic, Social and Cultural Rights in article 2, obliges states individually and through international assistance and co-operation, to take whatever economic and technical steps that are within their power and resources, to achieve progressively the full realization of the rights of the Covenant.<sup>4</sup> In particular, legislative measures are recommended. Developing countries, taking into full consideration both human rights and the national economy, may determine to what extent they will guarantee the economic rights contained in the Covenant to non-nationals.

The 1963 Charter of the Organization of African Unity, (OAU)<sup>5</sup>, in article II, lists amongst the declared aims of member states, 'to co-ordinate and intensify their co-operation and efforts to achieve a better life for the peoples of Africa'; it recommends international and inter-African co-operation in a number of fields as the appropriate means of achieving this goal.

The African (Banjul) Charter on Human and Peoples' Rights states, in paragraph 7 of the preamble,

that it is henceforth essential to pay particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as their universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights.<sup>6</sup>

Article 22 reads:

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.
2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

## A SUMMARY OF THE INTERNATIONAL LEGAL DEBATE ON THE RIGHT TO DEVELOPMENT

This right has been much discussed, and the debate dates from about the time of the first *travaux préparatoires* for the African Charter of Human and Peoples' Rights. The economic conditions in many countries in the Third World and particularly in Africa are such as to deprive their inhabitants of many human rights. Further, some programmes for economic change or

development have themselves resulted in violations of human rights and fundamental freedoms for these inhabitants. The African provision that development shall take due account of the freedom and identity of the peoples, is therefore of great **significance**.<sup>7</sup>

There follows a brief report, in chronological order, of some contributions to this debate, with a special emphasis on how the right to development shall be put into effect.

A seminar on human rights and development in the **Caribbean** in 1977 recognized that the full realisation of the economic and social rights of the peoples in the regions primarily depended on individual governments but also required radical transformation of international economic and social relations.<sup>8</sup> These were the times when 'the North-South dialogue' and 'the New International Economic Order' formed the topics of the day. This seminar, as so many to follow was organised by the International Commission of Jurists (ICJ), together with a local regional organisation.

A productive meeting was convened in Dakar in September 1978, by ICJ and the Senegalese Association for Legal Study and Research, on development and human rights.<sup>9</sup> Economic and social development was found to be a demand of our times (une exigence de **notre temps**), a right for the individual and for the state, and a duty for the state and for the international community. Human rights are not only civil and political rights but also include economic, social and cultural rights; all these rights are equally essential and not to be ranked in a hierarchy. This meeting, too, advocated a new economic order in international relations. The importance of the participation of the people in the developmental process was stressed, as well as the effective participation of the masses in political decisionmaking. The functionaries of the administration should be protected whilst carrying out their duties, and afterwards, and individuals should likewise be protected against the abusive and unlawful exercise of public power (**détournement de pouvoir**). The independence of the judiciary and of advocates was regarded as the effective remedy against denial of justice in those cases where debates were conducted without objectivity and impartiality.

In a seminar in the Netherlands in December 1980 Dr Theo van Boven remarked: 'I do not care so much about the term "right to development", but I would like to use this right-to-development-debate as a vehicle, as a means to introduce human rights in the development process. Up until now, in the United Nations and in many national administrations, the human rights dimension is lacking in projects and programmes for development. One of the essential things is to get human rights integrated in development programmes and projects'.<sup>10</sup> van Boven, then Director of the UN Division of Human Rights, but speaking in a personal capacity, also gave the example of a development project that would force an indigenous population to

change its way of life against its will and which could also be suspected in reality to serve a military purpose. Other speakers at this seminar described legal aid as an instrument in the struggle for human rights and **development**.<sup>11</sup> It seems that the direct results of legal aid are modest, but that legal aid can create awareness and teach the oppressed that organized efforts form a way of winning justice through social liberation. Trade unions and **non-governmental** organizations were also seen as having important roles in the realization of the rights to development.

Of all meetings hitherto convened to discuss the right to development, probably the most important was the conference convened by ICJ in the Hague in April 1981, on Development, Human Rights and the Rule of Law.<sup>12</sup> The concept of development was found to refer to the kind of society one is aiming to build. It should be a society giving everyone real access to all human rights. Development should be seen as a global concept that includes, with equal emphasis, civil and political rights and economic, social and cultural rights. Smct application of the principle of non-discrimination was seen as an essential element. After prolonged discussion agreement was reached on the following formulations concerning the right to development:

-Development should be understood as a process designed progressively to create conditions in which every person can enjoy, exercise and utilise under the Rule of Law all his human rights, whether economic, social, cultural, civil or political.

- Every person has the right to participate in, and benefit from development in the sense of a progressive improvement in the standard and quality of life.

- The concept of the right to development needs to be more fully elaborated as a legal concept. Nevertheless it already serves to express the right of all people all over the world and of every citizen to enjoy all human rights. The duty of governments of promote the development of their people is often a legal obligation which can be derived from the constitution. At the international level it is, as yet, largely based on a moral obligation of solidarity. There are however clear beginnings of recognition of the right to development as a general substantive principle of international law.

- Implementation of the right to development implies the realisation of a number of conditions... These include the participation of those concerned in the formulation and application of development policies.

- The primary obligation ... rests upon each state ... As development is a necessary condition for peace ..., it is a matter of international concern ... (The following three conclusions deal with international collaboration and the need for a more just and equitable distribution of the world's wealth and resources.)

- In promoting human rights of all kinds, priority should be given ... to positive rather than negative measures. Experience has shown that sanctions against impoverished countries tend to provoke defiance rather than compliance. In cases of the breakdown of the rule of law, or other grave violations of human rights, the response of the international community should aim primarily at the restoration of these rights and the provision of assistance to victims, rather than the mere condemnation of the violations and the punishment of the **offenders**.<sup>13</sup>

The conference also commented critically on **militarisation**.

For a redefinition of international law under the new aspects of development professor Konrad Ginther has found sufficiently realistic assumptions in Africa in the notions of decolonisation, development, African unity, non-alignment and collective **self-reliance**.<sup>14</sup> Ginther speaks about 'myth' while van Boven in his above mentioned essay regards human rights as 'a new religion' and himself and other UN officials as 'missionaries'.

The seventh ICJ seminar of this kind in the Third World on Rural Development and Human Rights in South Asia, was held in **Lucknow**, India in December 1982.<sup>15</sup> The seminar focused on the brutal exploitation of poor people in rural and in urban areas. Legal aid and the role of lawyers could usefully be expanded. Lawyers should review rural development policies and programmes to ascertain whether and how the law aids and abets those practices which contribute to the political exclusion and impoverishment of the poorest people, and whether and how the law could be used for alternative self-reliant development. Legal aid and legal resources for the rural poor should be directed foremost to co-operation between concerned lawyers and grassroots non-governmental organizations at village level, in order to inform the poor of their rights and to train '**paralegals**' to help them in asserting and defending these rights.

A veteran in rural development research, Dr. Robert Chambers, also stated that there are many laws in many countries which, if enforced, would help the rural poor. But he was also bound to find that law is a profession which has a strong urban, industrial and commercial **orientation**.<sup>16</sup>

The VI Assembly of the World Council of Churches in Vancouver, Canada, in July-August 1983 had on its agenda a number of issues related to human rights and also adopted a statement on the 'International Food Disorder'.<sup>17</sup>

The importance of the ICARA II Conference in Geneva in July 1984 has already been touched upon through the quotation from Dr Farah on the first page of these notes.

## NOTES

Address to the 1985 general conference of the international council of voluntary agencies, ICVA, ICVA News, September 1985.

Report of the Dag Hammarskjöld Foundation in Uppsala on Development and International Co-operation, prepared on the occasion of the Seventh Special Session of the UN General Assembly in New York in September 1975.

3. 1 UNTS xvi.

4. GA Res.2200 A (XXI) of 16 December 1966.

5. 479 UNTS 39.
6. OAU Doc. CAB/LEG/67/3/Rev.5. The Charter came into force on 21 October, 1986.
7. Sieghart, P., *The International Law of Human Rights*, Oxford, 1983, p. 375.
8. Report published by ICJ in 1978.
9. *Revue Sénégalaise de droit*, No. Spécial, No.22, December 1977.
10. Seminar on Human Rights & Development Co-operation, December 1980, mimeograph issued by the Nederlandse Organisatie voor Internationale Ontwikkelingsamenwerking, NOVIB, The Hague: van Boven references on pp. 35-36. van Boven's essay 'The Right to Development and Human Rights' was also published in ICJ's periodical *The Review*, No. 28, June 1982, p. 49.
11. Ibid. pp. 79-94.
12. Published by ICJ, Pergamon Press, 1981.
13. The recently adopted Convention against torture etc. aims at bringing the offenders under jurisdiction, ECOSOC Doc. E/CN.4/1984/L.2.
14. Ginther, K., 'Re-defining international law from the point of view of decolonisation and development and African regionalism', *Journal of African Law*, Vol. 26, No. 1, 1982, p. 63.
15. Report published by ICJ and the Human Rights Institute in Lucknow, Geneva, 1983.
16. Chambers, R., *Rural Development - Putting the Last First*, Longman, 1983.
17. The Official report of the Assembly 'Gathered for Life', WCC, Geneva, 1983. It has been suggested that this WCC document holds the States which are signatories to the Final Act of Helsinki responsible for violations of human rights in developing countries. See Skriver, A., *Entwicklungspolitik und Menschenrechte*, *Aus Politik und Geschichte*, December 1983, p. 32.

ON DEVELOPMENT

An excerpt from *What Now?*, The 1975 Dag Hammarskjöld Report on Development and International Cooperation

Development of *what?* Development for *whom?*

Development of every man and woman--of the whole man and woman— and not just the growth of things, which are merely means. Development geared to the satisfaction of needs beginning with the basic needs of the poor who constitute the world's majority; at the same time, development to ensure the humanization of man by the satisfaction of his needs for expression, creativity, conviviality, and for deciding his own destiny.

Development *how?*

Development is a whole; it is an integral, value-loaded, cultural process; it encompasses the natural environment, social relations, education, production, consumption and well-being. The plurality of roads to development answers to the specificity of cultural or natural situations; no universal formula exists. Development is endogenous, it springs from the heart of each society, which relies first on its own strength and resources and defines in sovereignty the vision of its future, cooperating with societies sharing its problems and aspirations. At the same time, the international community as a whole has the responsibility of guaranteeing the conditions for the self-reliant development of each society, for making available to all the fruits of others' experience and for helping those of its members who are in need.

Quoted with the permission of Dr. Sven Hamrell,  
Director of the Dag Hammarskjöld Foundation



# Background to and Growth of the Right to Development: The Role of Law and Lawyers in Development<sup>1</sup>

*Adama Dieng*

It was in 1972, on the occasion of an inaugural lecture at the René Cassin Institute in Strasbourg, that Judge Kéba Mbaye introduced the concept of 'right to development'; not to be confused with 'development law', which is a legal technique involving an aggregate of legislative methods suitable for sustaining the economic and social development of the backward countries.

The Senegalese judge's temerity soon brought results at the 33rd session of the United Nations Commission on Human Rights when Resolution 4 (XXXIII) was adopted. Paragraph 4 thereof asked the Economic and Social Council 'to invite the UN Secretary-General in cooperation with the competent specialized agencies, to arrange a research project on the international dimensions of the right to development as a function of human rights ...'.

Five years after the adoption of this resolution the Human Rights Commission set up a working party of fifteen governmental experts charged with studying the scope and content of the right to development, and the most satisfactory ways of ensuring the achievement in all countries of the economic, social and cultural rights laid down in the various international instruments, paying special attention to the obstacles arising in developing countries in their efforts to ensure the enjoyment of human rights.

A preliminary remark is called for: development does not refer to fundamental human needs. 'Development', as defined by Malcolm Adiseshiah, is a form of humanism. 'It is a moral and spiritual fact rather than material and practical. It is an expression of man's integrality, answering to his material needs (food, clothing, housing), as well as to his moral demands (peace, compassion and charity). It is the expression of man in his grandeur and in his weakness, pushing him ever onward and further, though never quite ensuring redemption from his errors and follies'. This definition departs perhaps from strict scientific rigour, to adopt Judge Kéba Mbaye's finding, but it does refer to Man. So Man is the beginning and the end in the matter of development.

Another point which must not be passed by in silence concerns the controversies surrounding the right to development. Is it an individual right, or should it be considered as a strictly collective right? Is the struggle for recognition of the right to development the affair of a category of peoples or



states? Could it not be the struggle of Third World Countries versus the rich countries? Such an approach would have carried the discussion into the sphere of conscience or even ethics. But fortunately the struggle has been well-defined: its scope is universal, and it is carried on in Man's name.

At the present stage in the work of the group of governmental experts, the right to development seems as if it should be recognized as the prerogative of all peoples and each individual to satisfy needs with equal opportunity to the fullest extent permitted by the goods and services produced by the community. This draft definition brings out the notions of 'recommendatory power', 'needs' and 'participation', and comes close to the affirmation contained in the UN Secretary-General's report on the international dimensions of the right to development in relation to the necessity of basing the concept of development on the following principles:

- the fulfilment of each human being in harmony with the community should be considered to be the prime aim of development;
- the human being should be treated as the subject and not the object of the development process;
- the human being should be enabled to participate fully in the shaping of his own destiny.

Moreover, in the planning for the third Development Decade, and in the Charter of States' economic rights and duties, it is stated that:

- the development process must promote human dignity;
- its aim is the constant improvement of the welfare of the whole population on the basis of its full participation in the development process and an equitable distribution of gains;
- it is the right and the responsibility of each State to choose its ways and means of development, to mobilize and fully utilize its resources, to progressively put into operation economic and social reforms, and to ensure the full participation of all its citizens in the process and advantages of development;
- all States, individually and collectively, have the duty to cooperate in eliminating obstacles which impede such mobilization and utilization.

With regard to this last affirmation, it must be pointed out that in its resolution 4 (XXXV) the Human Rights Commission invited the Secretary-General 'to pay special attention to the obstacles that the developing countries have to meet in their efforts to ensure the exercise of the right to development'. In other words it is the task of each state, separately or in co-operation, to ensure the exercise of the right to development. Consequently the right to development has both a national and a regional dimension. We would like to put an emphasis on these two dimensions, while remembering that at the international level the exercise of the right to development presupposes the reign of peace.

While Africa has to face a serious food shortage, the International Peace Research Institute of Stockholm has revealed the disturbing calculations that in 1983 between 750 and 800 billion dollars were devoted to military expenses. It has become a truism to say that the unjust international economic order has had catastrophic effects on the economies of the developing countries, and hence on the right to development. So what hope is there for Africans following the adoption of the African Charter of Human Rights? Article 22 of this document states that:

1. All peoples shall have the right to their economic, social and cultural development, with due regard to their freedom and identity, and in equal enjoyment of the common heritage of mankind.

2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

This affirmation of a right to development could hardly be incompatible with the aim of all African governments, which in principle is development. It is clear that these governments encounter innumerable difficulties and serious obstacles in their attempts to overcome underdevelopment. The obstacles which lead to the breakdown of such attempts, which could be called 'development strategies', are both exogenous and endogenous. In such a situation what could be the contribution of the concept 'right to development' to the elaboration of strategies?

On the occasion of the Dakar Symposium on 'Development and Human Rights' Judge Kéba Mbaye sounded a warning note: 'Development, how many crimes have been committed and are being committed in thy name?'

Undoubtedly, in a number of African states development strategies have been based on repression and on the denial of economic, social and cultural rights and/or civil and political rights. Such strategies constitute a negation of the very notion of development.

In working out strategies it is important not to lose sight of the fact that human rights are an essential element in development. Consequently the right to development should clearly emphasize that respect for all human rights, economic, social and cultural as well as civil and political, is an essential element in the development process, and that all these rights are interdependent and inseparable.

What we feel to be fundamental in the contribution of the concept 'right to development' can be perceived through the content of this new right, comprising:

- the principle of autonomy
- equality of opportunity
- participation in development
- access to resources, governments and institutions
- responsibility.

The above-mentioned elements can contribute to the generation of the spirit and the will to create and to transcend, of a sense of responsibility and autonomy, of a feeling for freedom, justice and democracy, of an understanding of the factors which encourage development perceived as a human good and right.

Conclusions adopted during the course of meetings organized by the International Commission of Jurists in April 1981 at the Hague, and in October of the same year in Geneva, jointly with the International Center for Law in Development, provide eloquent support for our thesis. They could be partially summarized as follows:

A. The principle of autonomy, when it is applied to individuals and to groups, implies their right to organize themselves, both as individuals and collectively, with a view to determining their own needs and the ultimate purposes of their development, as well as pursuing them so far as possible with their own means and through their own efforts.

B. Equal opportunity is at the most a step towards achieving development as a human right. It is essential to redress the outrageous inequalities that have resulted (from development policy) and to ensure rapid progress in satisfying certain fundamental needs at the individual, collective, national or international levels.

Individuals, social groups and states all should have effective access to:

- the material resources necessary to satisfy their 'fundamental needs' for productive and fairly paid work, sound diet, health care, hygiene, shelter, fuel, drinking water and clean air;
- the necessary material resources, especially as regards education and information, to enable them to use such resources more effectively and to participate in the development process;
- the governments and the institutions, public and private, which distribute these material and non-material resources.

These three types of access are never separable or alternative, but are wholly interdependent.

C. Participation in development implies

- that, thanks to the guaranteed right of association, the beneficiaries, individual and collective, of the development process, shall be able to organize themselves as producers, workers, consumers, whether as disadvantaged collectivities or citizens, or both at once, on the local, national and international levels;

- that through these associations they shall be able

- a) to participate effectively in the decision-making process for the formulation and application of development policies at the local and national levels, and also to ensure that their needs and hopes are taken fully into account;

b) to formulate and undertake economic, social, political and cultural tasks of their own choosing, and consequently with such policies to improve the quality of their life, preserving and developing their own culture.

D. What is required, to give effect to the right to freedom of association in relation to development, is:

- that freedom of expression and all the other civil and political rights be guaranteed; and
- that positive encouragement and support be given to disadvantaged collectivities, by establishing conditions which would allow them to exercise this right effectively, freely and without interference.

E. Putting development as a human right into effective operation demands a continuing process of:

- checking and reviewing development decisions taken at each level, the steps taken to give them effect, and their results;
- responsibility to the beneficiaries on the part of those who have been entrusted with such decisions.

F. Participation at all levels should include participation in drawing up and applying procedures for checking, reviewing and responsibility.

In the light of these conclusions it is clear that participation is the key concept in the right to development. That is why the strategies to be worked out should be directed towards an autonomous development leading appropriately to participation. However, a concern for justice and respect for human rights speak for the necessity to elaborate a development strategy that concentrates more on the poorer peasants. The latter have up to now been the sacrificial victims of national development policies. More than anyone, they have had to bear the brunt of the vulnerability of national economies. This is the context for the programme of legal aid initiated in African rural areas by the International Commission of Jurists.

As Mr Clarence Dias has so rightly emphasized: 'knowledge of one's legal rights permits the substitution of one's feelings of alienation, resignation and dependence by a new consciousness of one's dignity and rights - the essential condition for self-sufficiency'. Starting from the fact that about 70 per cent of Africa's population gets its livelihood from agriculture, it becomes clear that the right to development primarily concerns the rural communities. In some African countries, such as Senegal, experiments in 'micro-development' are being made as a result of action by certain NGOs concerned with development. Admittedly, they cannot change the power structure at the national and international levels; but what they can do is to set up the necessary conditions to ensure that sooner or later the poor rural producers will have greater influence, nationally and internationally.

As and when the rural population becomes increasingly aware and

launches out with new initiatives, the role and powers of the administration will be reduced. Developments of this kind will not be unchallenged, because the awakened and responsible peasant will be less inclined to accept arbitrary action. That day may not be far off in Africa becomes convinced that the solution to its problems is to be found in African territory, and above all if Africa dares to shoulder its true responsibilities. One step has been taken with the adoption of the African Charter on the right to development; we look to Africa to make full use of it in planning the strategies. But that presupposes, as we have already indicated, full popular participation and consequently respect for freedom of association.

In the African context, where the majority of the population lives in rural areas, means must be found to reach this rural population, in order to help it to bring about greater progress in achieving its rights. For that purpose we feel that the support of NGOs in the legal profession is vital. How can this be done when there is such a deep divide between lawyers and rural dwellers? Especially as the latter are apt to hold lawyers and the law as responsible for their oppression. Hence the point made by the President of Senegal, Mr Diouf: 'The law must be brought down to the level of the people, and up from the people to the state institutions'.

In some Asian and Latin American countries it has been possible for individual legal experts and particularly human rights activists to get together with the local populations, thanks to close collaboration between lawyers and NGOs (Non-Governmental Organizations) concerned with development. Following a seminar held in a rural area of Senegal, a Committee of lawyers and representatives of NGOs in the development field has been set up to provide legal services for the benefit of peasants. This meeting was in fact organized by the International Commission of Jurists in conjunction with the Council of Non-Governmental Organizations on Development Aid, which comprises about thirty NGOs.

At Limuru in Kenya, from 1 to 4 October 1984, a seminar was jointly organized by the African Bar Association, the All Africa Conference of Churches and the International Commission of Jurists on the subject 'Legal services in rural areas'. The seminar was intended for the English-speaking countries of Africa. The keynote was 'from theory to practice' or 'from awareness of human rights to their achievement'. Quite a programme. An ambitious programme, but humanly possible, and one which the African NGOs could undertake with material and financial assistance from NGOs elsewhere.

## NOTES

1. This report is based on a lecture given by the author in 1985 at the Department of Economics and Social Sciences at the University of Neuchâtel, Switzerland

## Seminar Discussion: A Right to Development

The discussion under this heading covered a number of aspects. It was first noted that the issues can be confused because aid for development can be misused, e.g. for military purposes. Moreover, the participants recognised the link between positive development and respect for human beings, their rights and their dignity.

The international community, however, lacks an organization for the realisation of human rights. Furthermore, NGOs working within the various countries have to respect and abide by their laws and regulations. A solution to many of the problems might be to inform the peoples of their own law as well as of their human rights. Development assistance can be directed at educating the peoples (the soldiers, the refugees, the grass-roots) about the law, and their rights and duties. Locally intelligible handbooks may be one such method, like the training of local paralegals.

Turning to the subject of **education** in the wider and more traditional sense, it was emphasized that education must not be used as a method to buy time. Education must be given realistically, so that the educated, be it a refugee can utilize his education in productive work after having completed his training.

Development programmes, further, should be conceived almost as preventive measures designed to assist people so that they are able to remain in their home countries and indeed in their home areas.

Attention was drawn to the underdevelopment of rural areas in relation to the increasing problem of **urbanisation** in a number of African countries. Rural populations are generally provided with poor services, investment and administration often being concentrated in the cities. The voluntary agencies should therefore play a much more important role in **rural** areas.

It was considered important that a continuous dialogue should take place between the three parties involved in the process of development:

1. The money spender - the donor community.
2. The government of the receiving country.
3. The peoples concerned.

Only with a continuous evaluation of the funds spent, the human rights aspects, and the effect of the project on the people directly concerned, is it possible to assess whether a project in question is becoming a success. There must be an end to the kind of silence after failure that prevents us from learning from our mistakes. Trial and error is of paramount importance in development.

Even though development is primarily a process taking place inside a country, it is also an international process insofar as other countries are involved in giving assistance; their motives exert a strong influence on the prospects and the outcome. Moreover it should not be possible to say that

### *Seminar Discussion*

one political process or another is entirely the internal affair of a sovereign state, if it results in the generation of thousands - or hundreds of thousands - of refugees pouring into neighbouring countries, some of which are amongst the poorest **countries** in the world. These asylum-seekers immediately become the concern of the international donor community, although the cause of the flight might quite often be war between states, internal warfare or some other kind of armed conflict. Development processes appear frequently to involve the most serious harassment of people, both rich and poor. Considering human rights as well as development, such aspects have to be taken into consideration.

No development planning should take place if it does not include respect for human rights and the participation of the people. The seminar found this to be an important conclusion.

# Rural Refugee Land Settlements in Eastern Sudan: On the Road to Self-Sufficiency?<sup>1\*</sup>

*Gaim Kibreab*

The Sudan has one of the most generous refugee policies in the world. Despite pressing economic problems, it still keeps its door open to the victims of war, persecution and natural disasters from the neighbouring countries. The problem of refugees is unique in the Sudan. In most other African countries, the number of refugees has either remained relatively unchanged (save an increase resulting from natural population growth) or is decreasing, following repatriation of the refugees to their countries of origin after the cessation of the cause that forced them to flee. The total number of refugees in the Sudan increased from 33,000 in 1967 to about 671,000 in March, 1984. Since then, the number has exceeded one million.

Whenever voluntary repatriation does not seem to be feasible, the government of Sudan, in collaboration with the United Nations High Commissioner for Refugees (UNHCR), World Food Programme (WFP) and other voluntary agencies, settles the refugees away from the border areas as stipulated by the OAU Convention.

The Sudanese government considers voluntary repatriation to be the most enduring solution to the problem of African refugees. However, because voluntary repatriation has not been practicable, especially with regard to Ethiopian, Eritrean and Ugandan refugees, the government has developed Africa's most ambitious settlement programmes which aim at enabling the refugees to become self-supporting and productive members of the host community.

The Sudan has established three types of settlements: rural land settlements based on individual farming; rural wage-earning settlements based primarily on wage employment in the large irrigation projects of New Halfa, Es Suki, and the Rahad; and semi-urban settlement. The settlements in the Eastern and Central regions accommodate about 100,000 refugees. In Southern Sudan

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\*The project was financed by the Swedish Agency for Research Cooperation with Developing Countries (SAREC) and by the Faculty of Social Sciences, University of Uppsala



there were in October 1982 16 settlements and five transit camps, accommodating about 45,150 and 5,127 Ugandan refugees respectively. During our field work, in 1982-83, there were 16 land settlements, six wage-earning settlements and one semi-urban settlement in the Kassala and Blue Nile provinces. There was also one transit camp outside the town of Kassala. Following the large influx of environmental and political refugees from Northern Ethiopia in 1984 and 1985, several transit camps have been established where new arrivals can remain to receive emergency relief.

## THE RURAL LAND SETTLEMENTS

When the repatriation of Eritrean refugees who entered the Sudan proved unfeasible, owing to the escalation of the war, the UNHCR and the Sudanese government assumed that the refugees would need to remain in the Sudan for a considerable period. It was therefore considered desirable that they should become self-sufficient in the production of food crops, as well as having the opportunity to procure some cash income which would enable them to buy goods and services they did not themselves produce. Initial production inputs and services were provided by the Sudanese government and the UNHCR to enable the refugees to develop viable agricultural systems. Land was given by the Sudanese government and other production inputs and infrastructural services were provided by the UNHCR. The fundamental objective was to create viable agricultural economic systems capable of providing the refugee households with levels of material consumption that were the equivalent of the surrounding Sudanese communities.

Since these settlements are agriculturally based, land is a key factor of production. Thus the land available to each family must be adequate to enable the refugee families to achieve the goal of self-sufficiency. Since it is assumed that the refugees will remain in the Sudan for a considerable period, the land made available should be adequate not only for the immediate future but also for the whole period they are expected to stay in the Sudan. The land resource must enable the families to meet customary expenditures on consumption, as well as current farm expenses, and to practise fallowing so that the fertility of the soil is not depleted as a result of continuous cultivation.

In order to achieve these goals the government allocates each family between ten and five feddans of cultivable land.

In the settlement of Qala en Nahal we tried to examine the land register so as to understand the distribution of land among the settlers. This was, however, of no avail because the land records had been rendered out of date by changes that have occurred. The refugees are by law prohibited from disposing of land in any form for the benefit of a third party. However, our

findings show that many holdings have, since the establishment of the settlement, changed hands. Some households have completely lost their possessions; others have accumulated larger holdings than were originally allocated to them; some households' holdings are now less than what was originally allocated to them, while some holdings are fragmented below economically viable levels. All these changes have taken place 'off the record'. The land resource in the old settlement of Qala en Nahal, when looked at in the light of the present population needs, is inadequate to enable all the families to receive the ten feddans of cultivable land which was considered as sufficient to enable a family of average size to become self-reliant. Despite the fact that the settlement has been in existence for about 15 years, there has been no land redistribution; thus the newly established families are either landless or share the holdings of their parents. Because of land shortage, the level of landlessness is very high in Qala en Nahal.

The yield per feddan of many of the family holdings has decreased drastically, owing to continuous cultivation which has led to soil degradation. Soil studies in the area suggest that holdings that have been cultivated continuously for over seven years have to remain fallow for several years to regenerate soil fertility. There is well-documented evidence which shows that the Sudanese farmers in the area apply for new land after having cultivated their allocations for about seven years. Because of the land shortage in the settlements, and because the refugees are not allowed to bring new areas under cultivation, they are unable to practice shifting cultivation, nor can the majority leave part of their plots to remain fallow. In order to meet the basic needs of the family, the plots have to be cultivated every season.

The serious land shortage has led to land-grabbing, whereby the refugees who are well situated socially and economically accumulate land at the expense of those who lack resources and family labour to work their plots. Our results show that no adequate land planning was exercised at the initial stage. The future demand for land, resulting from natural population growth and soil depletion, was not taken into account. This was probably the case because the Sudanese government and even the refugees themselves hoped that the root causes that forced the latter to flee would cease, thus allowing the refugees to return to their own country. Planning refugee settlement is by its very nature fraught with the problem of uncertainty. Determining whether the refugees would return to their country or stay for a long time is a *priori* difficult. However, the best thing would have been to assume that they would stay for the foreseeable future.

Our findings show that lack of land is one of the constraints on agricultural production in the settlement covered by our survey.

## LABOUR AVAILABILITY AND USE

The second important input in the refugee land settlements is labour. Physical labour availability in the settlements is, firstly, determined by demographic factors, i.e., the size of the household, age and sex composition of the household members and the cyclical process of family development. The second factor which determines family labour availability is the social norms and values that regulate the participation of the different segments of the community in farm and other income-generating activities.

Except in rare cases, where the subsistence security of the household is imminently threatened, married women do not take part in farm labour. It is interesting to note that even the women from the non-Moslem communities, who have a long history of participation in farm work, are tending to abstain from farm work; these women are becoming more and more limited to domestic work and **backyard** farm work. This has considerably limited the availability of family labour in the settlements.

However, the problem of labour shortage in the settlements, especially among the poor households, is not only one of physical availability, but is also caused by other factors which prevent the effective utilization of available family labour on the household farm.

The agricultural calendar extends from the second week of June to the beginning of December, which means that agricultural production in the area is highly seasonal. During the rest of the year farm labour is laid off. Many households, especially those with small families and without sufficient resources to hire labour to meet peak labour requirements, face considerable shortage of labour.

Our findings also show that the poor households run out of subsistence funds at the same time as the availability of employment opportunities, both within and outside the settlements, are at their peak, when the morbidity rate is at its highest and the need for labour on the family farm is greatest. Running out of the subsistence fund when labour requirements are at their peak forces the poor families to work for wages, thus postponing the timely weeding of their farms. The high morbidity rate during the rainy season leads to a loss of labour productivity. The poor households enter a vicious circle which can only be broken by the **indroduction** of effective low-interest credit facilities.

During the period under consideration labour represented one of the major constraints on agricultural production.

## THE IMPLICATION OF TRACTOR USE ON LONG-TERM REFUGEE SELF-RELIANCE

The third important input in the refugee land settlements is capital. The requirement of capital in traditional African agriculture is insignificant because neither mechanical nor draught power is used. Thus labour and land are the only important inputs. However, in the rural refugee land settlements, tractors are used for cultivation, and capital input has become as important as the other two input factors.

Under the present system, all capital and operating costs, such as the purchasing and replacement of tractors, spare parts, fuel, oil and lubricants, wages and other associated infrastructural costs, are met by UNHCR and other donor agencies. Since neither the UNHCR nor the other donor agencies can be expected to inject large amounts of capital into the schemes indefinitely, the long-term economic viability of the land settlements depends on the refugees' ability to generate from their own resources sufficient capital and foreign exchange to enable them to replace old tractors and to purchase implements, spare parts, fuel, etc. Unless the settlements can generate the necessary capital, it is inconceivable that they will ever achieve self-sufficiency without imposing a still heavier financial burden both on the Sudanese government and the international community.

The history of the performance of the tractor hire service in Qala en Nahal, measured in the total annual acreage cultivated, shows that the use of tractors on small and fragmented holdings, and in a community with a diverse socio-economic background, is fraught with serious financial, technical, managerial and organizational problems.

In order to shed light on this we shall look very briefly at the history of the Qala en Nahal land settlement.

The settlement was established during the 1969-1972 period. Additional refugees were also transferred in 1978 and 1979. Agricultural production is based on partial mechanization, whereby a centrally managed Tractor Hire Service (THS) provides cultivation services at considerably subsidised charges. The initial objective was to provide the refugees with free cultivation during the first two seasons and later to charge them the full costs of the operation. However, following the withdrawal of the UNHCR assistance in 1974, the THS was faced with serious financial and technical problems. The condition of the tractors deteriorated and the cultivated area declined drastically, to the extent of threatening the settlement with closure. The main problems were financial, technical, managerial and organizational, and the untenable dichotomy between refugee aid and development assistance.

The capital and the recurrent costs were beyond the financial means of the refugees and the People's Local Government. The settlers did not have the

technical skills required to maintain and operate the tractors, and there were no financial resources to hire skilled labourers from outside the settler community. The organization of the farm was also unsuited to the large tractors and the wide level disc harrows. There was no effective management which could exercise control over the flow of resources, maintenance of the agricultural machinery and the allocation of the service to the refugees.

In 1981 the management of the THS was taken over by a development agency - Euro Action Accord - in collaboration with the Sudanese Commissioner's Office for Refugees (COR), and the THS was refurbished. The area cultivated has since then increased drastically.

The total area cultivated by the THS between 1970 and 1982 shows that the system can only operate effectively if there is outside financial assistance. Under the given resource bases of the refugee households and the present farm organization, the use of the large tractors is not cost-effective and is incompatible with the technological, economic, and socio-cultural conditions of the refugee communities.

Generally the factors that justify farm mechanization are increased production resulting from increased acreage, better seedbed preparation, improved timeliness of planting and saving of labour time. In the refugee settlements our empirical study shows that none of these factors justifies the use of tractors to the neglect of other sources of power, e.g. human (seluka) or animal power (oxenization).

Since the objective of the refugee rural land settlements was that they should achieve self-reliance, and not represent a long-term financial and management burden on the host government and the international donor agencies, the long-term economic viability of the refugee land settlements requires the development of an alternative system of cultivation which must be within the reach of the refugee households' financial, managerial and technical means. Since total disregard of existing customs and practices can often lead to serious problems, the alternative method must develop within the existing local organizational, institutional, and cultural milieu. Such an alternative in our opinion must be based on integration of livestock and crop production.

Experiments carried out on soil conditions similar to those in the settlements in the Nuba mountains show that the use of oxen is feasible in the refugee land settlements. The advantages of using oxen are that the prices of oxen and ox ploughs are lower and require little or no foreign exchange. The managerial and technical skills are within the reach of the refugees. Of those refugees growing crops in Eritrea, about 97 per cent used oxen. The use of oxen can also enable the refugee farmer to stagger the sowing of his land over a larger period, thus minimizing risk and overcoming peak labour requirements. The use of oxen can also increase the confidence of the farmer

because he can himself decide on the best time for planting his holding. Oxen can also be owned individually. The use of oxen enables the refugees to preserve and transmit the skill to their children. The refugees will depend on oxen when they return to their country of origin and the use of those animals in the settlements can facilitate their future reintegration in their former communities.

Another possible alternative method to tractor cultivation is *seluka* (plough stick). This method is widely practised in the surrounding Sudanese villages. Some refugee households have learned the method from their neighbours and use *seluka* to cultivate part of all of their fields, especially when tractor cultivation cannot be obtained at the optimal time. The advantage of *seluka* is that it is compatible with the financial, managerial and technical means of the refugee households. The operation does not need any special skill or capital outlay and can easily increase the farmers' freedom to spread risk and peak labour requirement by spreading the date of sowing. *Seluka* cultivation can also enable the farmer to plant the seeds in rows, which makes identification of weeds such as the false sorghum (*adar*) easier.

However, since its operation depends fully on human power, it is considered by the refugee farmers as strenuous and highly energy-consuming. The cultivation period, as we stated earlier, coincides with the running out of subsistence funds by poor households, many of which may not be physically fit enough to carry out such an arduous task. *Seluka* cultivation does not kill weeds effectively and, consequently, the amount of labour required for weeding tends to be higher per unit of land than in the case of plots cultivated by tractors or animal draught. The period of peak labour requirement for weeding also coincides with an acute shortage of food supply and this forces the poor households either into indebtedness or into working for the better-off households, postponing the timely weeding of their own plots.

Despite these problems, if efficient and interest-free or low-interest credit facilities could be provided, the households may be able to improve their dietary situation and to hire labourers to overcome labour bottlenecks which may be faced during the cultivation and weeding periods. The provision of credit during the hungry season can also enable the households to weed their own farms instead of working for others in order to secure their subsistence need. This may also create employment opportunities for the landless and the marginal farmers.

The six villages in Qala en Nahal are often cited as examples of success. There is no doubt that both the Sudanese government and the international communities have exerted enormous efforts to settle former pastoralists with little or no experience in farming, and this in itself is a success. However, it must be admitted that the settlement, a decade and a half after its establish-

ment, still depends on external assistance, not only for its expansion but even for its survival. The other settlements are worse-off than Qala en Nahal.

One of the constraints on agricultural production in the area, beside those discussed above, is low, unreliable and unevenly distributed rainfall. In the settlements outside Qala en Nahal, such as Aburakham, Wad Awad, Tenedba and Umgurgur, there have been continuous crop failures, mainly caused by lack of sufficient rainfall.

The Sudanese government has in principle phased out spontaneous settlement and intends to settle all the refugees in the country. However, over 75 per cent of the refugees are still self-settled in the Eastern region. The failure of the wage-earning settlements is openly admitted by the authorities concerned. The results of the land settlements are encouraging, although they are faced with problems of insufficient resources and a shortage of rainfall. The national economy of the Sudan is in a state of crisis and thus cannot absorb the spontaneously-settled refugees. It must also be pointed out that the conditions for the majority of the local population have been the same as those of the refugees. The issues involved in the politics of refugees and refugee assistance in the Sudan are highly complex and can only be understood if placed and approached within the wider development undertaking encompassing all the populations of the refugee-affected areas.

In order to transform the refugees from a liability to an asset and to enable them to become an important factor in the process of national development, three conditions must exist simultaneously. Firstly, the performance of the national economy must improve, so that the country is able to cope with the challenge and the refugees are able to become productive members of the host community by putting into practice their creativity and industriousness.

Unfortunately, the large refugee influxes are occurring at a time when the economy of the country is on the verge of a collapse and when the world economy is experiencing one of the most serious crises since the Great Depression of the 1930s. However, the international community has a responsibility to help the Sudan to cope with the challenge of development and to alleviate the plight of the refugees, for these two tasks are two sides of the same coin.

The second important factor is the policy of the government. Does government policy treat the problem of refugees as a separate and distinct question or as an integral part of the country's development problem? Even though, as pointed out earlier, the Sudan has very generous refugee policies, there are obstacles that must be removed before the refugees are able to compete with the local population on an equal footing. These obstacles include spacial segregation of the refugees, poor access to education and lack of business licences. The government's settlement policies also suggest that the problem of the refugees is still perceived as transitory.'

The third important factor is the role government policy assigns to the refugees. No matter how skilled and industrious the refugees may be, their enthusiasm and their ability to release their productive energy can be stifled by a policy that does not encourage refugees to become their own motive force in the development process. There is a tendency among all of us concerned with the problem of African refugees to assume that increased assistance to African refugees is a panacea that can improve their social and economic conditions, and ease the strains on the underdeveloped economies and social services of the host countries. Even though increased material assistance is crucial, it is not the only variable on which the alleviation of the economic and social plight of the refugees depends. The right of the refugees to participate in project planning, execution, administration and evaluation must be recognized. It cannot be said that the refugees in the settlements are effectively participating in these activities in the Sudan.

## NOTES

1. For the history and assessment of the refugee land settlements' progress and the factors that affect their performance see Gaim Kibreab, Ph.D. dissertation, *Refugees and Development in Africa: A Socio-economic Study of Organized Land Settlements for Eritrean Refugees in Eastern Sudan 1967-1983*, The Red Sea Press, 556 Bellevue Av, Trenton, 08618 N.J., U S A. 1987.





# Sociological and Economic Factors in Refugee Integration: The Case of Ethiopian Exiles in the Sudan

*Mekuria Bulcha*

## INTRODUCTION

The Statute of the United Nations High Commissioner for Refugees (UNHCR) gives the High Commissioner two main functions:

1. to provide international protection to refugees who fall within the scope of the Statute and
2. to search for permanent solutions to refugee problems as they occur.

A permanent solution is sought in two major ways: voluntary repatriation and, when a return to the country of origin is found impossible, integration within host societies. In the documents of the UNHCR integration as a concept is used interchangeably with assimilation. That means integration was conceived as a lasting solution, at least as far as the UNHCR was concerned. This was how most of the European refugee problems were solved after World War II.

Integration of refugees does not have the same implications today as in the original UNHCR documents, or at least not in practice. In its application to African refugee situations, integration is practised both as a short- and a long-term strategy. It is adopted as a long-term solution wherever the possibilities of repatriation are minimal. As a short-term solution, integration is adopted in cases where repatriation is deemed to be delayed for a long time.

Throughout the 1960s and 1970s a major part of African refugee aid was committed to projects which aimed to promote the local integration of refugees. Two strategies were followed in the integration policy: planned or organized settlements and 'spontaneous' absorption of refugees into the local population.

The dominant policy orientation of UNHCR assistance to African refugees is to achieve local integration through organized rural settlements. During the last two decades dozens of rural settlements have been organized in eleven African countries to enable refugees to become economically self-sufficient.

In the Sudan organized settlement as a long-term solution was adopted in 1969, and when this survey was conducted in 1983 there were 29 small and large settlements, 16 for Ugandan refugees in Southern Sudan and 13 for Ethiopian refugees in Eastern and Central Provinces.<sup>1</sup> By that time about one-fifth of the Ethiopians who had sought asylum, or nearly one hundred thousand people, were accommodated in such settlements.

The spontaneous absorption strategy is based on the assumption that minimal interference and assistance from the UNHCR or the host government is necessary since the African refugee populations 'could fend for themselves'<sup>2</sup> or because African refugees are received by their kinsfolk and are met with hospitality on the other side of the border.

The organized settlements failed to fulfil expectations as instruments for local integration since few of the refugees thus assisted achieved self-sufficiency, even long after the projected time expired. In many of the host countries in Africa, lack of roads and other infrastructure, deleterious ecologies (including the presence of disease-spreading vectors), recurrent droughts and mismanagement have so far made organized rural settlement less viable as a means of moving towards refugee economic self-sufficiency.<sup>3</sup>

Spontaneous integration is also found to be an erroneous assumption. Very few African exiles find refuge in the 'bosoms of their coethnics across borders'. Instead, most refugees run into strange and often hostile social and cultural environments which make adjustment and integration a very slow and tortuous process.<sup>4</sup>

The much talked-about African hospitality is diminishing in many asylum countries, including the Sudan, not because the hosts have become less hospitable but because of the deterioration of their own standards of living. In some cases the initial attitudes of hospitality and accommodation have turned into hostility and resentment because of increasing competition between the local population and the refugees over scarce resources. However, it should be added that none of the African countries have closed their doors against asylum seekers because of these problems.

In literature dealing with refugees, integration is discussed mainly from the economic angle. It is thought that refugees achieve integration once they are 'self-supporting' or 'self-living'. Very little attention is paid to sociological integration because it is assumed that once economic integration is achieved social and cultural integration will follow. But this is not always the case.

Societal integration is a complex process. Whether it is of refugees or ordinary migrants, its achievement cannot be guaranteed by economic self-sufficiency or success. There are various other factors which play determinant roles in the process. Therefore, in our study of Ethiopian refugees in

the Sudan, integration is viewed and analysed from three different inter-dependent dimensions - economic, socio-cultural and social-psychological. The later dimension is not included in this paper at length.

## ECONOMIC INTEGRATION

### *Definition and conditions*

Economic integration of refugees can be defined in terms of the level of economic self-sufficiency attained by them and the degree to which they have succeeded in becoming productive members of the host society. It implies the possibilities and the means for future improvement of their standard of living. It also includes the granting of legal rights by host countries to refugees - as, for instance, the right to work - and the possibility of availing themselves of those rights without being discriminated against as aliens. In sum, economic integration of refugees denotes their participation in the economic activities of the country of asylum under conditions which treat them on a fairly equal basis with the citizens.

Whether refugees or ordinary migrants are able to become economically productive members of their host societies is mainly determined by two sets of factors. The **first** concerns the socio-economic and political conditions in the host country and the second concerns refugee characteristics both at the individual and the collective levels. It is the interplay of these two sets of variables which determine the speed of the integration process.

Productive membership of the host society and economic self-sufficiency both imply gainful employment by refugees. For refugees and for 'voluntary' migrants, social and economic integration in their host societies begins with the acquisition of jobs and with becoming part of the regularly employed labour force.

In this study, 413 heads of households were randomly selected and interviewed in eight settlement sites in the provinces of Blue Nile and Kassala in Eastern Sudan. The interviews were made between November 1982 and March 1983. Refugees from all types of settlements and backgrounds are included in the survey.

### *Summary of findings*

When this study was conducted approximately 63 per cent of the persons interviewed were employed. The interviews were made during a peak employment period, which is the harvesting season in the Sudan, and the responses were found not to hold for the whole year. An analysis was made

of the sample group's employment situation for 1982 as a whole; it indicated high rates of unemployment and underemployment. The majority of the respondents were seasonal or casual labourers, and the average length of employment was found to be only seven months for that year. About 43 per cent of the heads of the households were unemployed for more than half of 1982 and were heavily dependent upon other sources of subsistence, such as loans, support from relatives and humanitarian assistance.

The length of employment is found to be determined not only by what the Sudanese labour market offered, but also by the backgrounds of the refugees themselves. The educational and occupational backgrounds of the refugees correlated very significantly with length of employment. Refugees with a better educational background generally had the highest average length of employment, which was about 9 months for 1982. The relative success of educated and skilled refugees in the Sudanese labour market suggests the need for, and the importance of, vocational training and educational opportunities as components of integration strategy and policy.

Employment statistics by themselves are not an adequate measure of economic integration unless they are considered together with income. Employment indicates only the level of refugee participation in the economic activities of the host society whereas the achievement of a 'reasonable standard' of living can only be measured by level of income or consumption.

It was very difficult to get accurate income figures. The figures used here are therefore very rough estimates based on information given by the refugees. Nevertheless, they provide some insight into the economic conditions of the respondents.

The annual income earned by respondents in this study ranged from 0-LS9000. The mean household annual income was LS486. As income statistics for the Sudan are very fragmentary it is difficult to make any conclusive comparison between the refugees and the local population on the income scale. However some reports give higher average annual income figures for the local population in the refugee affected areas.<sup>5</sup>

The unemployment rate among refugees also contrasts unfavourably with that of the Sudanese. In a study conducted in Port Sudan in 1982, the percentage of refugees who were unemployed or underemployed was found to be markedly higher than among the local working population.<sup>6</sup>

Significant income disparity is even observed between and within refugee groups and categories. Thus urban refugees have, according to our findings, better incomes than rural refugees, those in organized settlements earned more than rural self-settling refugees, and those with a general education earned more than those with no school background.

The data indicates that, in comparative terms, the urban setting provides refugees with more and better subsistence opportunities than the rural areas.

For example the variety of occupations in which urban refugees were engaged are greater in number and better remunerated than those in the rural areas. In the city of Gedaref the 69 respondents included in this study were employed in 22 types of activities, in the semi-urban settlement of Tawawa the 113 heads of households interviewed were distributed in 14 different jobs. The number of occupations decrease as we go further and further into the countryside, and in the rural settlements of the border areas such as Muguf and Yabus there is only one type of activity, subsistence farming, for every household. The lack of variety in economic activities makes survival for the self-settling rural refugees very difficult, particularly when crop failure occurs.

In general, unemployment and underemployment is very high among the refugee population in the Sudan. The majority of the refugees earn incomes that are below subsistence level. Nearly two-thirds of the respondents had to supplement their incomes through other ways and means, in order to avoid starvation.

Our data indicates that humanitarian aid plays no major role, particularly among the spontaneously settled refugees. Few refugees have access to humanitarian aid. Instead, setting up networks of mutual support and solidarity seems to be the most important strategy for survival among the majority of Ethiopian refugees. These social networks function at the local level as well as across international borders.

Refugees assist one another across international borders because of family obligations and ethnic solidarity. Mutual support among family members or relatives is conducted through remittances. Ethiopian refugees in the Sudan get remittances from relatives working mainly in the Middle East, Europe and North America. In many cases the remittances are substantial and constant.<sup>7</sup>

Nearly 16 per cent of the households covered depend upon relatives working abroad for their subsistence. Remittances constitute about one third of their annual incomes. A report by the Sudanese Economic and Social Research Council indicated that 31 per cent of the refugees in Port Sudan were receiving remittances in 1982. 29 per cent of the money came from outside Sudan and two per cent from inside. According to the report, remittances constitute the second largest source of livelihood of refugee households, surpassed only by wages and salaries.<sup>8</sup> Other studies indicate similar trends.<sup>9</sup>

The ethnic or national type of solidarity is conducted in a chain of voluntary organizations which display political as well as humanitarian characteristics. Several of the Ethiopian refugee groups in the Sudan have national (Oromo, Tigray, Eritrean) relief associations which have local and international branches. Assistance is collected from and by nationals living in

Europe and America and is channelled through these organizations to refugees who are not supported by the international organization. In 1982-83 the only support the spontaneously settled refugees in the Blue Nile province in the Sudan were getting was from such an organization.<sup>10</sup>

Another network of mutual assistance among refugees is a loan system. The loan system functions only at the local level and is a survival strategy most frequently used by refugees. According to our findings more than 30 per cent of the refugee households use this network during periods of scarcity and unemployment. The lack of any sort of credit system makes mutual support the only possibility of survival in some of the refugee settlements.

Humanitarian assistance is used mostly by refugees who are quartered in organized settlements. Wherever the humanitarian organizations do not function those refugee families who are unable to borrow or to get remittance from relatives have no other alternative to starvation during the difficult periods. More than 22 per cent of the respondents in our study said they have often been without food because of such a situation.

The dependence of a large percentage of refugees on other sources of support, particularly remittances and humanitarian aid, for their survival is a clear indication of their low level of integration in the economy of their host country. It indicates that in spite of the length of their residence in the Sudan, six years on the average, a very large proportion of the study population are far from attaining economic self-sufficiency. Most of them were not yet able to provide bare subsistence for their families and themselves. The prevalence of absolute poverty among the refugee population becomes clearer when we look at the general living conditions and purchasing power or consumption of the households covered by our study. First, a definition of poverty is in order.

Poverty is defined in different ways. Some sociologists describe the living conditions of the poor, other use objective standards such as income levels. In some affluent societies a household is defined as being 'poor' if its annual income is less than three times the cost of the minimal diet for the people in the family.<sup>11</sup> In general, poverty is defined either in relative or absolute terms.<sup>12</sup> Absolute poverty implies closeness to survival margins in the satisfaction of basic needs. Such poverty is chiefly the problem of societies in the Third World where many people exist at or below subsistence level.

By any measure the majority of our respondents could only be classified under absolute poverty. Nearly all of them live in very crowded conditions. The average dwelling space of the households is about three square metres per member. The median area of the refugee huts and shacks surveyed was 13 square metres and was used by an average of five persons, adults and children, per hut for living, cooking, sleeping and socialization and for

storage. Nearly all of the dwellings are single room units. More than 26 per cent of the households share their premises with one or more households, often strangers. In urban areas where refugees use this method as a means of reducing rental burdens about 50 per cent are sharing their dwelling facilities with other families, often more than one. The living conditions of the Sudanese is less crowded and the sharing of premises with other families is reported to be a rare exception.<sup>13</sup>

The crowded living conditions of the refugee households have a compounding effect on their health problems. As a result of these environmental conditions and other ecological determinants, communicable diseases are prevalent among the refugees and at the time of the survey 54 per cent of the interviewees had health problems. About 56 per cent of those who complained about bad health conditions contracted the diseases after flight. About 13 per cent suffered from tuberculosis, a disease which spreads under crowded living conditions. Tuberculosis constitutes a major health problem among refugees and its high incidence is also observed by researchers in the medical fields.<sup>14</sup> The implications of this for the economic self-sufficiency of many households is clear.

The sociological impacts of the housing conditions are several. Adequate shelter is one of the core human needs, and many basic needs are satisfied in relation to the home - food preparation and storage, child care, early socialization and education. Much of the satisfaction of psycho-social needs are also clustered around the household.<sup>15</sup> Congestion or overcrowding thwarts the satisfaction of these needs.

The absolute nature of the poverty of refugees is also evident even when we look at their purchasing power or consumption. Using this rather crude measurement it was found that 36 per cent of the households in the survey were unable or barely able to buy food. They spent all of their income on just that item. The average household expenditure on food was about 90 per cent of income for all households, and yet many refugees suffer from malnutrition, just because of inadequacy of food.

There is a general assumption that refugees in Africa, particularly those from Ethiopia, flee from poverty, and as such that their conditions in exile cannot be worse than those they left behind. This assumption is contradicted by the results of this study. For many of the refugees, poverty - often absolute poverty - is the consequence of flight. When asked to compare their present standard of living with what they had when they were in their own country, 74 per cent of the respondents answered that they have become poorer, 18 per cent had the same standard of living and 6 per cent were better off.

Although one has to look critically at such subjective evaluation and comparison of socio-economic conditions, particularly by refugees who



might exaggerate their sufferings in exile, the above responses are generally supported by a statistical comparison of respondents' pre-flight and present ownership of property. Prior to their flight nearly 67 per cent of the respondents owned property, some of them in substantial amounts, in the form of domestic animals, farms, plantations, grain stores, bank deposits, business etc. At the time of the survey only 12 per cent had a few possessions which could be considered as property.

### *Institutional and structural impediments to self-sufficiency*

The instant and continued impoverishment of refugees because of their status is a phenomenon which other researchers have also observed elsewhere in Africa.<sup>16</sup> In the Sudan several factors account for the prevalence of absolute poverty among refugees. Some of these relate to the structure of the Sudanese economy; others are of an institutional or bureaucratic nature.

Many of the refugees are dependent on wage employment in the agricultural sector. Weeding and harvesting are the major activities which engage most labour in this sector. These activities together extend over a period of about 5-6 months during the best years. A general lack of other forms of employment forces agricultural labourers to about six months of underemployment or total unemployment every year.

Other factors such as drought worsen the situation since a slight failure in rainfall can drastically reduce employment opportunities. There is also rising competition between refugees and Sudanese migrant labourers, and among the refugees themselves, for the jobs that are available. There is a dramatic increase in the rural proletarian population in the Sudan, owing to the impoverishment of Sudanese nomads and peasants and the enormous influx of refugees. This not only makes employment less available but also has the effect of pulling down wages.

The system of wage bargaining entails tricks and pitfalls which limit the self-sufficiency of agricultural wage labourers. The lack of legislation to regulate wages in the agricultural sector exposes labourers to ruthless exploitation. Refugees are not only paid less but are in some cases refused remuneration after they have completed their assignments.<sup>17</sup>

Among those refugees who are engaged in subsistence farming the inadequacy of arable land at their disposal and the insecurity of tenure are some of the causes of economic underproduction. This was particularly evident in the Um Rakoba land settlement. At the time of the survey only about 15 per cent of the households had access to cultivable land.

Another impediment to refugee social and economic integration is constraint on mobility, particularly from rural to urban areas or between

urban centres. Movement from one place to another requires official permits. One research report indicates that 87 per cent of the refugees interviewed described the acquisition of travel permits as 'difficult'.<sup>18</sup> Restrictions are imposed because of security and other social and economic considerations. Given the size of the refugee influx, the state of congestion in the Sudanese urban centres, and the overstrained and barely expanding urban infrastructures and services, the restriction is imperative. Nonetheless, it has its repercussions regarding integration.

Restriction of movement has several negative consequences. It affects the refugees psychologically because it creates a feeling of confinement, of lack of freedom. But more importantly it is a limitation of the possibilities of achieving self-reliance, because confinement in a highly seasonal agricultural environment condemns refugees to dependence. It denies them the option of combining seasonal work elsewhere with work in the settlement area.

The restriction of qualified refugees to rural areas leads to degradation or loss of **skills** through lack of utilization or practice, which in turn may cause loss of self-respect, depression or general personal disorganization, and block further integration. Such restriction of movement reduces the host society chances to make use of the resources the refugees may have brought with them. According to the ILO the urban labour market was, in 1982, suffering from an acute shortage of **skilled** labour in the building trade, automechanics and other fields while refugees with relevant skills remained unemployed because of restricted **mobility**.<sup>19</sup>

To summarize the main points, the economic integration of refugees in the Sudan is far from reaching the targets and expectations of the host government and UNHCR. Unemployment and underemployment rates are very high among all categories of refugees. Only a minority have jobs of a permanent nature. The majority are dependent on seasonal and casual **wage-labour** employment. Incomes are very low and the majority of refugee households find it extremely difficult to fend for themselves. A large proportion depend of the support of relatives and countrymen or aid from humanitarian organizations.

The lack of self-sufficiency of the majority of the refugees, despite the efforts they themselves, the Sudanese government and the international humanitarian organizations are making, is mainly attributable to the problems which the Sudanese economy has been facing for the last several years. Recurrent drought has minimized the possibilities of peasants and agricultural wage labourers of achieving self-sufficiency. In addition, other factors like the continual influx, the mere size of the refugee population, and the skill and occupational **structure** of refugee groups have made economic self-reliance unattainable by the majority of refugee households.

## SOCIAL AND CULTURAL INTEGRATION

### *Possibilities and constraints*

Host societies differ in their integrative capacities according to their socio-economic structures, the scale of their homogeneity or heterogeneity and their previous experiences of immigration and migrants. Homogeneous societies are less capable of smooth absorption of non-natives. Such societies are likely to demand some uniformity of values, of behaviour and culture. Refugees who seek asylum in such societies often experience a profound degree of social isolation, estrangement and dissatisfaction even when self-sufficiency is achieved in the economic sphere. This is what usually happens to most Third World refugees who seek asylum in Europe.

Pluralistic societies like that of the Sudan may be more accommodating and may put fewer demands on immigrants for conformity. But that does not in any way guarantee spontaneous, conflict-free integration.

Social and cultural integration is a two-way traffic. The social and cultural back-grounds of refugees, the cause of their flights and their orientation regarding their future also play a part in their socio-cultural integration. Refugees with orthodox religious and cultural views may stick to their religion and culture in an exaggerated manner, thereby blocking their entrance into meaningful contacts and relations with members of the host society.

Integration is also affected by the degree of the refugees' 'identification' with the country of origin and their plans regarding the future. Among Ethiopian refugees in the Sudan there are political activists whose sole aim is to remove the military regime in Ethiopia and return home as soon as possible. They do not have any motivation to integrate. Hence, they remain, on the whole isolated from the mainstream of Sudanese social and economic life, irrespective of the duration of their exile.

The other category of refugees consists of the passive lot who oscillate between hope and desperation. They wish to repatriate as soon as possible. But unlike the political activists they are not working for it. They do not often have a clear idea about their future. They tend to make adjustments on an *ad hoc* or temporary basis. When and where humanitarian assistance is available some of them become rather dependent on it or make fewer efforts to achieve self-reliance. It seems that refugees in this category are more susceptible to personal disintegration and anomic behaviour than those in other categories.

Thirdly, there is a small but growing group among Ethiopian refugees in the Sudan whose orientation and disposition differ markedly from those of

the above categories. The individuals in this group are those who are overwhelmed or who feel defeated by the political events and economic catastrophe in Ethiopia and therefore consider repatriation as a closed chapter. Consequently they seek integrated accommodation with the host society. Some of these, particularly the educated section, are seeking resettlement in other countries outside the African continent.

On the whole, empirical findings and general observations indicate that the integration of Ethiopian refugees in the Sudan is remarkably low, not only on the economic but also on social and cultural levels. Let us look at some indicators.

### *Social relations*

Social interaction between refugees and the local people is found to be very inadequate. Few refugees have managed to forge close and lasting friendships with members of the local community. The level of interaction and pace of friendship formation with Sudanese is found to be associated with employment, level of income, sex, knowledge of Arabic and spatial integration/segregation.

For obvious reasons social interaction is determined, to some extent, by economic variables. Refugees who have permanent employment establish lasting relations with Sudanese much more frequently than those who perform casual labour for subsistence. Income is also found to have some influence on refugee-Sudanese social relations. Such an influence presumably obtains because social relations entail certain expenses, where entertaining guests is part of the social code of conduct.

Refugee women are more isolated and less integrated than men. This is accounted for, mainly, by the relative segregation of women in the host society. For female refugees such confinement exacerbates their 'social' handicap. In order to rehabilitate themselves, refugees need to form a network of social relations which could function as substitutes for the ones which were broken up due to flight. Segregation minimizes the chance of female refugees to form such social relations, particularly with the Sudanese. The segregated position of female refugees affects not only their own socio-economic absorption but also that of their entire household, particularly in the case of refugees in the Sudan where a large proportion of the households are headed by women. In the sites we have studied 15 per cent of the refugee households are headed by women. In some settlements the proportion is said to be more than 50 per cent.<sup>20</sup>

For the female refugees adjustment to their new role as heads of households is made difficult by a number of factors. Firstly, back at home most of

the women, particularly those from the central highlands, were responsible mainly for social production and reproduction. They were administrators of the home and the family, while the role of breadwinner was the responsibility of the menfolk.

Secondly, the change to their new role happened all of a sudden and without any prior preparation, psychological or otherwise, by the actors. The change took place in an alien environment. The social and economic conditions in this environment conflict with women's role as heads of households. The host society does not generally appreciate women working outside the home. Employment opportunities are almost non-existent for women. For their survival many women resort to other means, such as producing and selling alcoholic drinks, and prostitution, which is considered both illegal and immoral by the host society.

### *Spatial impacts on social and cultural integration*

The type of settlement (organized, spontaneous, urban or rural) is an important variable which shows significant correlation with different aspects of social integration.

Social interaction is not yet sufficiently intensive between refugees and Sudanese in any of the types of settlement. Nevertheless, social contacts are more frequent when the refugees live as a minority among the local population. The tendency and the necessity for refugees to adapt to Sudanese culture is larger among self-settling refugees than among those living in organized settlements. For instance, spontaneous settlements are much more conducive to learning the Arabic language. It is found that 82 per cent of self-settling refugees speak Arabic, with varying levels of proficiency, as compared with 48 per cent among those in the organized settlements.

The findings indicate that organized settlements are relatively isolated pockets of refugee communities, with very limited social contacts with the hosts. This suggests that the relations between the organized settlements and the local population is that of mere coexistence - of a minimum degree of social and cultural integration.

Organized settlements have, however, practical advantages over spontaneous ones. Refugees in organized settlements can be easily reached with assistance **from** the international organizations. It is also easier to provide or establish services like clinics, schools and water systems, when refugees are concentrated in one locality. If and when repatriation is possible it is relatively easy to send them home in an organized efficient manner than when they are scattered all over the **country**.

Other arguments which favour organized settlements concern social conflicts. Spontaneous settlements take place in border areas, creating the possibility of border tensions and conflicts between states. Such conflicts, it is argued, could be avoided through moving refugees into organized settlements away from border areas. It is also assumed that self-sealing refugees, particularly in the urban centres, have a tendency to concentrate in certain areas, and that they cause social conflict and heavy pressure on social services and infrastructure. Organized settlements are therefore seen as a means of avoiding or at least minimizing the occurrence of such conflicts and problems.

The assumption about the relation between spontaneous settlements and social conflict is only partially true in the Sudanese situation. It is clear that conflict with the local population occurs more frequently among self-settling refugees than among those in the organized settlements. However, conflicts among the refugees plague organized settlements much more than spontaneous ones, and this type of conflict seems to create more damage than refugee-Sudanese conflict.

In addition, even if the concentration of the refugees in one area is a pressure on social services and infrastructure it is not a satisfactory reason for spatial segregation. Firstly, it is wrong to blame shortage of services or pressure on infrastructure on the refugees. They alone are not responsible. The crisis that the Sudanese economy has been experiencing over many years and the stagnation of the social services sector are the major causes of the problem.

Secondly, even if refugees create pressure, segregation is not a logical solution, because the resources used to build services in the new refugee settlements can be used to expand already existing services. Moreover, the spatial integration of refugees with the local people is also supported by recent arguments for integrating refugee aid into the general development efforts of the host country. This means that services that are obtained through international assistance will be used by refugees and Sudanese alike, making the presence of refugees an advantage. This may also minimize resentment and conflict between the two communities.

The choice between the two types of settlement depends on the policy options of the host government. As pointed out above, both types of settlement have advantages and disadvantages. As far as social and cultural integration goes, spontaneous settlements are relatively suitable. Among rural refugees, those who are placed in organized schemes are better integrated economically than the self-settling ones. However, refugees in organized settlements seem to be more dissatisfied with their environment than those in the spontaneous settlements. Among the respondents, 49 per cent from the organized and **38** per cent from the spontaneous settlements

expressed the desire to migrate because their settlements were 'unsuitable to live in'. In spite of the advantages which the organized settlement offers in terms of services and humanitarian aid, and in spite of a heavy 'problem load' in the spontaneous settlements, self-settling refugees are found to be more satisfied with their environment than those in organized settlements. The satisfaction is clearly more of a psychological than a material phenomenon. Insecurity and various types of social problems are felt more in the organized settlements.

### *Voluntary associations*

A low rate of integration is also observed within institutions and social organizations, both formal and informal. Very few refugees are employed by Sudanese institutions and organizations. The school and the mosque play some integrative roles. However, the number of refugees who 'meet' the local population through these institutions is very limited.

Although there are some indications of the existence of voluntary associations where membership is open to both Sudanese and refugees, none of the respondents in our study were members of such associations. This indicates a slow process of integration between the refugees and the host communities at the neighbourhood level.

Voluntary associations exist in most of the refugee settlements. Since they recruit their members only from refugees they have limited inter-community integrative roles to play. Their importance lies in their cohesive functions within the refugee population.

Refugee voluntary associations predominate in spontaneous settlements where 52 per cent of those interviewed are members. In the organized settlements, particularly in the wage-earning schemes, very few refugees (6 per cent) belonged to associations.

Participation in voluntary associations is a sign of internal integration in a community and the lack of it indicates its disorganization. The main reason for low associational participation in the wage-earning settlements is that refugees are resident there for short periods of time only. People in these settlements remain strangers to one another owing to their constant mobility in search of jobs. There is a high level of mutual distrust among the inhabitants of these settlements. In fact settlements which are artificial communities show symptoms of severe social malady.

The refugees are members of several kinds of voluntary associations and gain a number of benefits from them. Voluntary associations provide members with security, mainly psychological but also sometimes physical. Members with economic problems, or those with practical problems such as

difficulties in obtaining identity cards and travel permits, are helped out by their associations. Maintenance of their 'identity' is what respondents often declared to be the major benefit of belonging to an association. In the urban settlements voluntary associations have enabled members to feel less isolated in a foreign environment.

Although the organized settlements are poorly integrated in the society around them, the existence of voluntary associations among refugees is in itself an indication of the dynamism of their communities in meeting the conditions of exile. It indicates that there is internal integration in some sections of the refugee community. This even has some implications for integration in the host country. As indicated, voluntary associations have adaptive functions in a foreign environment; until refugees can first adapt to the conditions of the host country, they will not be able to integrate into its socio-economic systems.

### *Social conflicts and refugee integration*

The refugee problem is more than flight from one country to another. It involves changes in the distribution of scarce resources and services of the host country. Such changes entail conflicts between refugees who aspire to get as large a portion of the resources as possible, often to satisfy their basic needs, and the local population who naturally want to withhold as much as possible to maintain their own standard of living. Furthermore, refugee influx entails, for both exiles and hosts, confrontation with new norms and alien social values to which each side has to adjust. Adjustment to this complex situation cannot always be achieved peacefully but may involve conflicts.

The general attitude of the Sudanese public towards refugees is not only friendly but also sympathetic and accommodating. In spite of the huge influx of refugees into the country and the deteriorating economic conditions there is a remarkable sense of solidarity and hospitality towards refugees from every section of the Sudanese population. However, this does not mean that the relationship between hosts and guests is free from conflicts.

Antagonistic encounters between the local population can occur, according to 28 per cent of our respondents. Such conflicts involve, in the majority of cases (80 per cent), more than two persons. However, it is only on very few occasions that such conflicts become wide enough to pose a real danger to general security, or human lives and property.

Refugees in all categories of settlements, except those in rural spontaneous ones, are involved in conflicts with Sudanese. According to the respondents such conflicts are on the increase.



These conflicts have variegated causes, with subjective and objective elements. The major areas of conflict are economic, cultural and religious incompatibilities between members of the two communities. In addition, there are minor causes such as frustration on the part of the refugees and xenophobic tendencies on the part of some members of the host society.

On the economic front refugees are blamed for causing shortages in the Sudan. The presence of large numbers of refugees obviously places a burden on the economy, but it is difficult to accept this assumption unless it is empirically justified. So far no research has been done in this area.

The other source of refugee-host conflict is in the area of religion and culture. When the majority of the refugees are Christians and the hosts are Muslims, a degree of incompatibility over some basic values is unavoidable. Although no open conflict seems to exist on religious grounds as such, there is in some areas obvious resentment and mutual avoidance, not only between refugees and their hosts but even between Christian and Muslim refugees in some of the settlements studied.

In addition to the religious differences, and partly because of them, most refugees tend to have views that conflict with those of their hosts, on issues like the use of alcohol and the role of women in the society. As was mentioned before the role of women is a major area of cultural and behavioural conflict between the two communities. In addition to acting as heads of household and selling alcoholic drinks, some refugee women are also involved in prostitution, which is regarded by the more conservative circles in the Sudan as a serious affront to their cultural and moral values.<sup>21</sup>

Conflict is not limited to host-refugee relations. Relations among refugees themselves are characterized by antagonisms that have some bearing on their adjustment and integration in the country of asylum. In fact, social conflict occurs more frequently among refugees than between refugees and their hosts.

The main causes for conflict among refugees are structural as well as socio-psychological.

Among the structural causes, political factors constitute a major source of conflict. Almost every spectrum of the Ethiopian political scene is reflected in the refugee communities. The major liberation fronts and the smaller political factions which are in opposition to the Ethiopian military government have followers among the refugee population. The relations between the supporters of these fronts and political organizations are not always free of conflicts. There have been instances when such conflicts have caused the death of several people.

The major sources of conflict among the refugees are the situation of exile in itself and its social and psychological effects. Frustration causes personal and interpersonal conflicts. Idleness and drinking are said to account for

many of the problems in the organized settlements. Idleness, frustration and alcoholism are phenomena which are often interrelated in the lives of **marginalized** individuals and groups, like the refugees in this case.

### *Concluding remarks*

In general, the data in this study suggest a slow process of social and cultural integration of refugees in the host society. The refugee communities display several characteristics of marginality. However, some refugee groups or categories are more marginal than others and less integrated within the global host society. For example, refugees in the organized settlements are not only spatially segregated but are also socially isolated to a greater degree than self-settling ones. There is very little interaction between them and the local population whose language only a minority amongst them speak. The refugee communities of the organized settlements are weak at all social levels. The refugee **family/household**, particularly in the organized settlements, is characterized by the absence of the male head of household because of his employment elsewhere in the Sudan or migration to another country. The household is weakened and disintegrated by a continuous exodus of its young and healthy members in search of jobs and education outside the settlements. At the level of the neighbourhood there is a lack of mutual trust and a very low rate of participation in associational activities. Inter-personal and intergroup conflicts plague settlements, causing material and psychological damage. Thus, organized settlements show signs of profound internal disorganization, with negative implications for integration at the community and inter-community levels.

### NOTES

1. United Nations High Commissioner for Refugees (UNHCR), 'Report on UNHCR Assistance Activities in 1982 and Proposed Voluntary Funds Programmes and Budget for 1982'.
2. Pitterman, S., 'Determinants of Policy in a Functional International Agency: A Comparative Study of United Nations High Commissioner for Refugees (UNHCR) Assistance in Africa, 1963-1981', Ph.D. dissertation, Evanston, Illinois, 1984, p. 161.
3. Ibid., pp. 167-169.
4. Chambers, R., 'Rural Refugees in Africa: What the eye does not see', paper for the African Studies Association Symposium on Refugees, London, 1979.
5. International Labour Office (ILO), *Labour Markets in the Sudan*, Geneva, 1984, p. 110.

6. Post, J., 'Evaluation of the Spontaneous Spatial Integration of the Refugees in Port Sudan', Work Document No. 2, Department of Urban and Regional Planning, Free University, Amsterdam, 1983, p. 10.
7. Economic and Social Research Council, 'Socio-Economic Survey of Spontaneously Settled Refugees in Port Sudan', Khartoum, 1982, p. 101.
8. Ibid.
9. Elias, T., 'The Impact of Eritrean Refugees on the Eastern Region of Sudan', Masters Degree Thesis, Institute of Social Studies, The Hague, 1982, p. 28.
10. Braukämper, U., 'Ethnic Identity and Social Change Among Oromo Refugees in the Horn of Africa', *Northeast African Studies*, Vol. 4, No. 3, London, 1982, pp. 1-15; and Bulcha, M., 'Some Notes on the Conditions of Oromo, Berta and other Refugees in the Kurmuk District of the Blue Nile Province - Republic of Sudan', mimeo, Khartoum, 1983.
11. Baldrige, J., *Sociology: A Critical Approach to Power, Conflict, and Change*, John Wiley & Sons, Inc., New York, 1975, p. 225.
12. McHale, John and Magda, *Basic Human Needs*, Transaction Books, New Brunswick, New Jersey, 1978, p. 32.
13. Post, *op.cit.*, p. 9.
14. Elamin, H.B., 'Our Refugee Guests in the Sudan and their Burden of Ill-Health', paper presented to the Refugee Seminar held in Khartoum, 13-16 September 1982, p. 3.
15. McHale, *op.cit.*, pp. 95-96.
16. Chambers, *op.cit.*
17. International Labour Office, *op.cit.*, pp. 64-67.
18. Economic and Social Research Council, *op.cit.*, p. 98.
19. International Labour Office, *op.cit.*, p. 66.
20. Palmer, I., 'Women Refugees in Urban and Rural Settlements', paper presented to the Refugee Seminar in Khartoum, 13-16 September 1982.
21. Economic and Social Research Council, *op.cit.*, p. 33.

## Seminar Discussion: A Case Study of Refugee Problems in the Sudan

Refugees should be assisted in achieving at least the standard of living reached by the **surrounding** population already resident **in** the area in which the refugees settle. This should at least be the aim **in** most normal cases. The problem is that the local population generally has a very low standard of living, **often** lacking even the barest necessities of life. Thus, the assistance given to refugees may easily create a most unfair situation, granting them a better **livelihood** than that of the surrounding nationals. This is a problem **well-known** to refugee-workers and has grave consequences, which do not need to be gone into fully here.

Therefore, it must be clear from the outset that both the **original inhabitants** and the refugees must be allowed to benefit from any development **programme planned** for the area.

An increase of funding to the agricultural sector, so as to assist both the refugees and the nationals in the area, **stands** out as the best solution. After all, the only way to stop the frightening urbanisation of Africa is to give the people a better life in the **countryside** than they can hope to find in the cities and the slums. At the same time, **bearing in mind** the importance of achieving self-reliance, such improvements to the **agricultural** sector should preferably be **carried** out with **local** manpower, skill, **materials** and resources.

Development programmes should be seen as **part** of the national effort and planned with an eye to the future. The seriousness of the present global financial **crisis** raises questions about what African countries of asylum should do and what will happen there when the funding from the international **community dries** up. National efforts must include planning to meet the foreseeable problems of the near future.

Considering the example of the Sudan, it was clear that in **many** cases infrastructures had broken down following the heavy influx of refugees. This creates a need for reconstruction. The birth rate, as well as the entire demographic picture, was reported to be very much the same for the refugees in the Eastern Sudan as for the Sudanese among whom they have settled. This fact should facilitate the **planning** for reconstruction and development programmes for these populations.

Particular needs were mentioned, including the need for more co-operatives. There was discussion of the negative effects, on the mental health of the refugees, of their unsatisfactory integration into the surrounding society, particularly in the cities. However, raising the level of **mental** health care is a long-term problem with a number of preventive and prophylactic aspects.



# Sociology, Economy and Law: Views in Common

*Mekuria Bulcha, Gaim Kibreab and Peter Nobel*

## INTRODUCTION

Contributions to ICARA II, as well as preparations for this seminar and the papers submitted to it, have brought us together in an interdisciplinary exchange of findings and conclusions. For the three of us it has been an exciting and encouraging experience to see just how much we have, in spite of the differences in our previous experiences and training, arrived at the same results on **all** basic issues.

Although most of the findings of the project remained to be finalised and published by each one of us individually, we feel that, at this stage, we should state to the public what we agree upon since we think it is important for those who deal with refugee-situations in Africa and elsewhere, and for planning assistance to refugees and development.

Our statements are given in the **form** of short observations and rather action-oriented recommendations.

## CAUSES

We would like to quote the head of the Australian delegation to ICARA II, when he addressed the Conference:

**The root causes of the refugee flows are the major part of those problems. A serious effort to understand and remove the causes is the necessary counterpart to responses after an exodus. There is little wisdom in treating only symptoms.**

The refugee-generating conflicts are intricately related to the historical and present development of the society of origin, its structural elements and international processes, intersecting with domestic forces.

The correlation between lasting solutions and the elimination of causes is becoming more and more conspicuous with the increasing refugee **populations** and problems in Africa. Previously, colonialism and the struggle against it produced refugees in Africa. Today only an estimated 10 per cent

of Africa's refugees have fled from South Africa and Namibia. We are also witnessing today what we can hope is the beginning of the end of white minority rule and the racist apartheid constitution in these countries. The overwhelming majority of Africa's refugees are the victims of conflicts among independent Africans themselves, even if most of these conflicts are the after-effects or legacies of the colonial era. This era also affected Ethiopia although this country was never directly under colonial rule. However, more than half of Africa's refugees have come from Ethiopia. There is no indication of an imminent change in those aspects of Ethiopian politics which are known to generate refugees.

Most political observers agree that neither South African nor Ethiopian politics would last long if non-African powers took away their means of support.

Very often a distinction has been made between root-causes and direct causes, the former being attributable to slavery and colonialism and their consequences, the latter of a more contemporary nature. Be this as it may, it is clear that underdevelopment - in our understanding of this concept - and gross violation of human rights are the major causes of mass flows. These violations are in some African countries so outrageous that they call urgently for a reaction by voluntary agencies and researchers in the field of human rights.

In most international meetings which have dealt with the African refugee problem, political considerations and priorities seem to have prevented a presentation of facts as they are known to researchers and fieldworkers. But if in the long run such political considerations and priorities fail to bring about a notable improvement in the lot of the millions of sufferers, it is time to speak with a more honest tongue. After all, the concern is with the peoples of Africa more than with some of its present ring-leaders and dictators.

We think that responsible and well-intentioned African leaders, international organizations involved in development and humanitarian work in Africa (inter-governmental organisations and particularly non-governmental organisations), the mass media and influential and respected individuals should, much more than they do today, act as the eyes and ears of the world's conscience and sound the alarm wherever peoples' or human rights are threatened, violated or denied.

We also feel that development or relief projects, be they for the benefit of nationals in their domicile, internal displaced persons, refugees or other uprooted peoples, must always be conceived in a way that guarantees the well-being and physical security of the people concerned and respect for their human dignity. The importance in this context of the participation of the people, and of human rights as well as other legal aspects, will be further

outlined below in connection with 'Development'. We are further convinced that in cases where both experience and political analysis indicate that a refugee situation must be expected to be of long duration, in spite of the peoples' longing to return, the planning of assistance and development must be on a long-term basis.

## **VOLUNTARY REPATRIATION**

Our own field-research, as well as others', clearly shows that the overwhelming majority of refugees in Africa will return home as soon as they feel safe enough to do so. We have found no support for the opinion, which has sometimes been expressed, that refugees are kept back in the countries of asylum by a powerful 'pull-factor' in the form of the international and national assistance. This observation, and the experience of successful as well as less successful repatriation programmes, lead us to a few conclusions on the preconditions which must be fulfilled in order to guarantee that repatriation of refugees is voluntary and that it succeeds in offering a lasting solution. We feel that the observance of these preconditions is the more important as, for a number of reasons, repatriation of refugees is so attractive to the host country, the country of origin and the assisting international community, that there is a great risk that the true interests of refugees will be overshadowed.

The three types of preconditions which must be met are: A. The political conditions; B. The legal conditions; and C. The socio-economic conditions.

Much can be said about each of these and they are of course all interrelated in various ways. In this paper we can only give a short comment on each of them separately.

### ***A. The political conditions.***

The persecution, or more often the general danger and unbearable conditions (often caused by armed conflict) from which the refugees first fled, must have been brought to an end by a secure political settlement. The political situation and the public order must be such that former refugees can return in absolute safety and take up life in their country of origin, confident that they will enjoy **all** their rights as citizens or lawful residents **witout** discrimination on **an** individual or collective basis.

### ***B. The legal conditions.***

The political will to guarantee the safe return of exiles must be expressed in an amnesty, clear in its wording and binding for all in the country of return. If there are exceptions from the amnesty, as may well be the case if the



government considers some of the exiles as terrorists, criminals or subversive elements, this should be clearly stated, so that no returnee crosses the frontier without having been properly informed about the risks and prospects. To make the amnesty binding it must be in the form of a law, decree or ordinance, gazetted or published according to the constitution and customs of the country. In some cases there are special problems, which also have to be dealt with in the amnesty. If, for example, the returnees risk being drafted into the army and ordered to enter into armed conflict with their own ethnic group on the opposing side, this should be clearly stated so as to allow the returnees the free choice of postponing their repatriation until there is peace. Of course the settlement of such armed conflict should usually be considered another as important political precondition.

### *C. The socio-economic conditions.*

The returnees should, if necessary be assisted in resettling in their own country, until it can fairly be said that they have gained a standard of living which is satisfactory, considering all the circumstances, including objective standards and realistic expectations.

It must be **born** in mind that the resettlement of someone returning to his own country may be a task as demanding as settlement in new and alien surroundings. The homcomer might, more often than not, find that his house has been burnt down, is badly delapidated or is inhabited by someone else, that his property has been scattered, and that his land has been reconquered by the bush or is cultivated by other hands. We **are** referring to the reality that the majority of Africa's refugees are from a **rural** background. Leaving the **returnees** without proper assistance towards their resettlement can only add to the serious problems of internal displaced persons and uncontrolled urbanization. Still, such tragedies are not reflected in the proud statistics of successful repatriation.

## **THE PRESSURE ON THE HOST COUNTRY**

The African countries of asylum are often among the lowest income countries. Some of them are among the poorest countries in the **world**. They are confronted with problems of declining rates of economic growth, soaring inflation and rapidly growing populations, leading to increased pressure on the already strained resources.

In many of these countries the rapid growth of population is causing land shortage which can eventually lead to severe competition between the refugees and the poor local population. The presence of large numbers of exiled aliens often leads to over-exploitation of common property resources

such as water, pasture, wood and charcoal. The poor section of the local population will suffer with the refugees themselves.

The formula of local parity, which has for many decades been the guiding principle of refugee aid, has outlived itself. Unless international assistance aims at alleviating the plight of both the refugees and the locals, there is the impending danger that the poor hosts may attribute their prevailing misery to the presence of refugees and consequently the harmonious integration of the latter may be blocked by hostile local attitudes.

Many refugee settlements, consisting of unnatural concentrations of people and sometimes animals on very limited areas, present serious threats to the ecological balance and may have disastrous and irreparable effects. The need for shelter and the daily need for fuel lead to the destruction of vegetation in large and ecologically sensitive areas, with soil erosion and desertification as the result. According to some estimates, in the Sudan alone close to 100,000 acres of forest has been cut down by refugees for huts and firewood in recent years. This exacerbates the speed of encroaching desert conditions in areas where refugees are concentrated.

The ecological disaster around these refugee camps can easily be seen from the air. The refugees' habit of each family cooking individually, on open fires, instead of collectively on stoves that are more economical, only adds to the problem and must be considered in any attempt to find a way of reducing the ecological destruction.

The refugee movements in recent years have coincided with a deteriorating economic trend in most of the host countries in Africa. The refugee presence has put a severe pressure on social services and infrastructure. School systems and medical services have particularly suffered as a result of the influx. It is not difficult to imagine the strain on the local population's goodwill towards the newcomers when there is so much competition for the few medical facilities that exist. The situation is further aggravated if the refugees bring with them diseases affecting human beings and animals, that were previously unknown in the area, as has been the case in the Sudan.

## THE PROBLEMS OF DEPENDENCY

The studies undertaken in the Sudan show that despite commendable efforts by the host government, substantial assistance from other countries, international organizations and voluntary agencies, and the hard work of the majority of the refugee population, the level of economic integration achieved by the refugees remains very low and most refugee households are very far from economic self-sufficiency. Although we have drawn on field work in the Sudan in the socio-economic part of our studies, we believe that the following observations also have a wider bearing.

The causes of poor performance in moving towards self-reliance can be sought in structural factors. A large percentage of the refugees is unemployed for several months each year because of the seasonal nature of wage employment, particularly in the agricultural sector. In the case of refugees in urban areas the majority is engaged in the informal sector of the economy as self-employed artisans, small restaurant- and shop-keepers; some of the women turn to producing and selling alcoholic drinks, or to prostitution, which is viewed as criminal or contemptible. Only in few cases are the profits from such activities sufficient for self-reliance.

Assistance aiming at self-reliance must take into account the refugees' institutional, socio-economic and cultural background e.g. their preparedness not only to receive assistance but to master the financial, technical, organizational and managerial problems that might arise for a long time after a hand-over period. Otherwise, once assistance has been phased out, it may have to be taken up again, as has been the case in Quala en Nahal settlement in eastern Sudan.

Economic absorption or integration is understood as including the achievement of economic self-sufficiency by the refugees. This in turn is conditioned by the degree to which they are allowed by the host society, and are able through their own efforts, to become productive members of that society. There are two major obstacles to this process. First, refugees are hampered in their efforts or excluded from processes from which they could benefit. Second, they remain socially handicapped because they are refugees; and the social barrier seems as insurmountable to them as the religious, linguistic, cultural and other barriers around them.

Refugees could *be* encouraged to become productive members of the host society if the national and local authorities could bring themselves more actively to work for the economic integration of the refugees.

It has been observed and **confirmed** many times that economic integration is hampered by the denial of work permits, and business and professional licences, by restriction of movement, by infringement of the right to choose habitat, and by insecurity of land tenure. It is to our mind very much a question of educating the authorities concerned and changing their attitudes.

In our view many expensive failures is the price to be paid for excluding the refugees, the people directly concerned, from any participation in decision-making and for creating structures and introducing machinery and equipment whose maintenance and operation require resources and skills which are not inherent in the beneficiary communities.

Experience gained in the field suggests that instead of determining the infrastructure and economic base of a settlement from outside the refugee communities, it is more appropriate and advantageous to design them with the full participation of the refugees, drawing on their capacity for creative

innovation and imagination. The virtual exclusion of refugees from any meaningful participation, and the creation of structures requiring special skills and recurrent and capital replacement-costs beyond the financial means of the refugees and their host-countries, are among the main constraints on the achievement of self-reliance. It should be added that we believe these observations to be of validity in relation to most development projects based on assistance from abroad.

Turning to the difficulties to be found among the refugees **themselves**, we know that a great many depend either on assistance from relatives and friends or on humanitarian aid. There are apparently healthy refugees who seem to be contented to survive for years on handouts from their own kin or from humanitarian organizations.

There are obstacles to social relationships and partnerships between nationals and refugees largely because of cultural and religious factors. Refugees tend to be isolated and thus effectively barred from economic or other integration. In some societies being a refugee is considered a social handicap. Refugees who do not know the language spoken around them are not only excluded from any meaningful communication but also to some extent stripped of their identity and their dignity. They are reduced to helplessness, unable to explain their feelings and their thoughts, and not infrequently talked to like children or as if they were ignorant.

Language-learning aids are very important and could also be used to explain some of the cultural differences to be expected in the new surroundings.

Many individual refugees, households and groups show signs of profound disintegration and an absence of the conditions necessary for successful integration into a new environment. This is particularly the case in the absence of the male head of the household. The woman will then have to take up the role of breadwinner and, contrary to tradition and therefore very difficult, of decision-maker. The majority of refugees in Africa are women they seem generally speaking to be more isolated and less integrated than the **men**. The situation is precarious for the women as they are psychologically and occupationally unprepared for what they have to do - particularly when they are forced to go out and make a living for themselves and their children by performing tasks abhorrent to their own dignity and the moral values of the host society.

Finally, many refugees perceive their **sojourn** in the foreign country as transient. This attitude must of course be seen as positive since it indicates the wish to **return** home and a preparedness for voluntary repatriation when the circumstances allow a safe return. But at the same time it does create a constant dilemma since many refugees are unwilling to invest efforts and **emotions** towards the improvement of their lives in the host country. Those

people in the host government and international organizations who have to administer the assistance are often reluctant, for the same reason, to plan for long-term solutions, let alone permanent ones. In many cases experience has shown that such reluctance is mistaken, because a development programme is seldom a wasted effort even if those originally benefiting from it are no longer around.

## NOTES ON THE LEGAL ASPECT

A majority of the OAU member states are signatories to the 1951 Geneva Convention on the Legal Status of Refugees, the 1967 protocol thereto, the 1969 OAU Convention Governing Specific Aspects of the Problem of Refugees in Africa and, more recently the 1981 African (Banjul) Charter on Human and Peoples' Rights. Refugee law is an integrated part of the international code of human rights, which consists of the entire body of international legal instruments dealing with one aspect or another of human rights, humanitarian law and peoples' rights.

The problematic and enormous task to be carried out is that of implementing and disseminating all these high-sounding and useful rules and principles on the national and local levels. In spite of all the tragedies and setbacks, the positive developments should not be underestimated. Most African countries, their peoples and their governments, have been more generous than most other countries in the world in receiving refugees and according them protection and assistance. In these African states, knowledge of international refugee law has been improving, and a majority have also enacted supporting national legislation. It is important to encourage both the continuation of existing efforts and new initiatives.

But there is a growing awareness, both in and outside Africa, that much more is needed. Adherence to the rules and guidelines of the Charter on Human and Peoples' Rights means that respect must now be paid to the rights, safety and dignity of all Africans, so that they will not continue to be treated in their own countries, by their own governments, soldiers or neighbours in such a way that they have to become refugees in order to save themselves from being butchered, bombed, tortured, raped or plundered. Neither the international donor community nor heavily-burdened neighbouring states, nor indeed human civilization, can any longer accept that any government, shielded by national sovereignty and the principle of non-interference, should treat its own innocent citizens in such a way as to make thousands, tens or even hundreds of thousands seek safety abroad.

In accordance with international conventions, refugees should be accorded the **same** treatment as nationals or at least the most favourable treatment

possible. There are several articles in the existing refugee conventions which are already binding for most African states and which deserve stricter observation. The adoption of the African (Banjul) Charter gives further emphasis to this point.

This leads us to the kind of legal problems or difficulties, that confront refugees in their everyday life and affect them when they attempt to pursue the road towards economic integration. Mention has already been made of legal issues of this kind: the right to work, to exercise one's profession, to move around, to the land one is cultivating, to let one's children inherit it, to decide where to live, to enter into partnerships, to be given a bank loan or a scholarship and so on.

The problem is that in most cases there is little knowledge of precise legal entitlements. Many of the legal questions that arise will probably be solved according to the customary law prevailing in the local area. But customary law will not apply to the refugee unless he belongs to the ethnic group that feels bound by that law. Or the customary law may treat the refugee as an alien and give him less than favourable treatment. There might be a provision enacted in the national legislation, but a serious problem in developing countries is that it will probably be unknown to the local authorities. Higher courts of law but hardly local authorities or **influential** bodies or personalities on the spot will know about how to solve conflicts between different legal systems in the country.

To conclude, there is in many African countries hosting considerable numbers of refugees a great need for handbooks giving basic information to local authorities and people as well as to the refugees and the **refugee-workers** about what the refugees' rights are as well as of obligations in relation to some of the most common of the refugees' everyday legal problems. The production of such handbooks - including of course also the basic international principles of refugee law - should in our mind at a very limited cost add considerably to stability and confidence in the life of refugees.

## CONCLUSIONS ON HOW TO ACHIEVE A GOOD DEVELOPMENT

Assistance to refugees, refugee projects and settlements, and towards refugee self-sufficiency in developing countries, is of course assistance towards development. It is also at last generally accepted nowadays that one cannot simply assist the refugees in an area and leave the local population behind. The entire area covered by the assistance project must be developed. It follows that the lessons learnt from studying refugee assistance, and the degree of economic integration achieved, could in many respects be valid when approaching the problems of development assistance generally.

The planning and implementation of a development project is very often an affair between two parties: the donor and its agents on one side, and the government and its agents in the receiving country on the other. Sometimes a third party is involved in a tripartite arrangement, as may be the case when the donor has an operational partner within the receiving country. The people whose development and betterment is the objective of the entire operation are not invited to participate and are seldom informed before the work in the field is about to start. The negative effects of this exclusion have been touched upon in the previous pages.

Another issue is the relationship between aid to developing countries and human rights, which has been the subject of heated political debate. From one side it has been argued that assistance should be withdrawn from a country whose government does not respect human rights or humanitarian values. Against this it has been said that the assistance is for the people and not to be used as a means to tell the government in the receiving country how to behave. Sympathy or lack of sympathy with the political views of the government in question has often been a decisive factor in the debate, with the result that this kind of discussion seems to have made little progress.

Instead of focusing on the actions and attitudes of the government in general one should pay attention to the people in the area where the developmental process is taking place. It should be clear that it is meaningless to speak about successful or positive development if the people are not secure, or do not feel secure, about their lives and physical safety, their human dignity and the enjoyment of their possessions. Neither can the beneficiaries under such unsatisfactory conditions, be expected to co-operate in the project with motivation, enthusiasm and confidence.

It is not necessary to try to teach governments lessons concerning their overall behaviour, but it should be mandatory, when negotiating a specific development aid programme to extract a valid guarantee to respect the safety and dignity of the people concerned.

As also indicated in the previous pages, it is not only the weighty concept of 'Human and Peoples' Rights' that concerns those involved in a project, however important these may be. It is also important that the people are afforded legal rights and protection. It is of no use to the farmer that his crops are improving if he is not allowed to sell them in the market, if he is being exploited by corrupt local authorities or greedy landlords, and if he has no access to legal remedies to defend his rights. Professional training is of little use if a professional licence is subsequently refused. The cultivation of new land offers little promise if one can be driven off it at short notice. Banditry and the raids of brutalized soldiers should not be overlooked when referring to a continent as over-militarized as **Africa**.

Three conditions are required to make an assistance project a fairly reliable promise of a good development for the people in the area concerned - whether refugees or others. These three factors presuppose each other like the sides in a triangle or the legs of a three-legged chair: one side missing and there is no triangle; one leg broken and the chair will inevitably fall. The requirements are: Assistance; the participation of the people; and guarantees for their safety and dignity.

The assistance is of course the input, the original effort as such, whether it is money, know-how, tools, machinery, seeds or other basic necessities. There is a great risk that they will all be wasted if the people involved do not participate, or because of fear and insecurity, do not feel motivated to do so.

The participation of the people must be at every stage: in conceiving and planning the project from the very beginning, in its implementation and - equally importantly - in the continuous evaluation of its progress, as well as the assessment of the final results. Development assistance is still very much a question of trial and error. Too many fatal and expensive mistakes, from which others could draw valuable experience, have been hidden under the veils of misconceived ambition.

The physical safety of the participants, and respect for their human dignity, should be a crucial measure of the project's final success, as well as the establishment and observance of their rights and duties under the legal system of which they should be part.

We feel that popular participation, the rule of law and legal rights have up to now been widely neglected, but that their observance in the planning, negotiating and implementation of development projects will not only improve the results of these but also increase respect for Human and Peoples' Rights in general.





## Appendix

# African Charter on Human and Peoples' Rights

### PREAMBLE

The African States members of the Organization of African Unity, parties to the present convention entitled 'African Charter on Human and Peoples' Rights',

*Recalling* Decision 115 (XVI) of the Assembly of Heads of State and Government at its Sixteenth Ordinary Session held in Monrovia, Liberia, from 17 to 20 July 1979 on the preparation of a 'preliminary draft on an African Charter on Human and Peoples' Rights providing *inter alia* for the establishment of bodies to promote and protect human and peoples' rights';

*Considering* the Charter of the Organization of African Unity, which stipulated that 'freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspiration of the African peoples';

*Reaffirming* the pledge they solemnly made in Article 2 of the said Charter to eradicate all forms of colonialism from Africa, to coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa and to promote international cooperation having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights;

*Taking into consideration* the virtues of their historical tradition and the values of African civilization which should inspire and characterize their reflection on the concept of human and peoples' rights;

Recognizing on the one hand, that fundamental human rights stem from the attributes of human beings, which justifies their national and international protection and on the other hand that the reality and respect of peoples' rights should necessarily guarantee human rights;

*Considering* that the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone;

*Convinced* that it is henceforth essential to pay particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights;

*Conscious* of their duty to achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence, and undertaking to eliminate colonialism, neo-colonialism, apartheid, zionism

and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, colour, sex, language, religion or political opinion;

*Reaffirming* their adherence to the principles of human and peoples' rights and freedoms contained in the declarations, conventions and other instruments adopted by the Organization of African Unity, the Movement of Non-Aligned countries and the United Nations;

**Firmly** convinced of the duty to promote and protect human and peoples' rights and freedoms taking into account the importance traditionally attached to these rights and freedoms in Africa:

*Have agreed as follows*

## Part I: Rights and Duties

### CHAPTER I: HUMAN AND PEOPLES' RIGHTS

#### Article 1

The Member States of the Organization of African Unity parties to the present Charter shall recognize the right, duties and freedoms enshrined in this Charter and shall undertake to adopt legislative or other measures to give effect to them.

#### Article 2

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

#### Article 3

1. Every individual shall be equal before the law.
2. Every individual shall be entitled to equal protection of the law.

#### Article 4

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

#### Article 5

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

#### Article 6

Every individual shall have the right to liberty and the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

#### Article 7

1. Every individual shall have the right to have his cause heard. This comprises:

- a) The right to an appeal to competent national organs against acts violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force;
- b) the right to be presumed innocent until proved guilty by a competent court or tribunal;
- c) the right to defence, including the right to be defended by counsel of his choice;
- d) the right to be tried within a reasonable time by an impartial court or tribunal.

2. No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender.

#### Article 8

Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.

#### Article 9

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinions within the law.

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### Article 10

1. Every individual shall have the right to free association provided that he abides by the law.
2. Subject to the obligation of solidarity provided for in Article 29 no one may be compelled to join an association.

### Article 11

Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

### Article 12

1. Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law.
2. Every individual shall have the right to leave any country including his own, and to return to his country. This right may only be subject to restrictions, provided for by law for the protection of national security, law and order, public health or morality.
3. Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with the laws of those countries and international conventions.
4. A non-national legally admitted in a territory of a State Party to the present Charter, 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.

### Article 13

1. Every citizen shall have the right to freely participate in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law.
2. Every citizen shall have the right of equal access to the public service of his country.
3. Every individual shall have the right of access to public property and services in strict equality of all persons before the law.

### Article 14

The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.

Article 15

Every individual shall have the right to work under equitable and satisfactory conditions and shall receive equal pay for equal work.

Article 16

1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.
2. State Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

Article 17

1. Every individual shall have the right to education.
2. Every individual may freely take part in the cultural life of his community.
3. The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

Article 18

1. The family shall be the natural unit and basis of society. It shall be protected by the State.
2. The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.
3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.
4. The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.

Article 19

All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.

Article 20

1. All people shall have right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.
2. Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community.

3. All peoples shall have the right to the assistance of the State Parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.

#### **Article 21**

1. All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.

2. In case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.

3. The free disposal of wealth and natural resources shall be exercised without prejudice to the obligation of promoting international economic co-operation based on mutual respect, equitable exchange and the principles of international law.

4. State parties to the present Charter shall individually and collectively exercise the right to free disposal of their wealth and natural resources with a view to strengthening African unity and solidarity.

5. State Parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practised by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources.

#### **Article 22**

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.

2. State shall have the duty, individually or collectively, to ensure the exercise of the right to development.

#### **Article 23**

1. All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organization of African Unity shall govern relations between States.

2. For the purpose of strengthening peace, solidarity and friendly relations, States parties to the present Charter shall ensure that:

a) any individual enjoying the right of asylum under Article 12 of the present Charter shall not engage in subversive activities against this country of origin or any other State party to the present Charter;

b) their territories shall not be used as bases for subversive or terrorist activities against the people of any other State party to the present Charter.

Article 24

All peoples shall have the right to a general satisfactory environment favourable to their development.

Article 25

States parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.

Article 26

States parties to the present Charter shall have the duty to guarantee the independence of the Courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.

CHAPTER II: DUTIES

Article 27

1. Every individual shall have duties towards his family and society, the State and other legally recognized communities and the international community.
2. The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest.

Article 28

Every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.

Article 29

The individual shall also have the duty:

1. To preserve the harmonious development of the family and to work for the cohesion and respect of the family, to respect his parents at all times, to maintain them in case of need;
2. To preserve his national community by placing his physical and intellectual abilities at its service;
3. Not to compromise the security of the State whose national or resident he is;



4. To preserve and strengthen social and national solidarity. particularly when the latter is threatened;
5. To preserve and strengthen the national independence and the territorial integrity of his country and to contribute to its defence in accordance with the law;
6. To work to the best of his abilities and competence, and to pay taxes imposed by law in the interest of the society;
7. To preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well-being of society;
8. To contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African unity.

## Part II- Measures of Safeguard

### CHAPTER I

Establishment and organization of the African Commission on Human and Peoples' Rights.

#### Article 30

An African Commission on Human and Peoples' Rights, hereinafter called 'the commission', shall be established within the Organization of African Unity to promote human and peoples' rights and ensure their protection in Africa.

#### Article 31

I. The Commission shall consist of eleven members chosen from amongst Africa personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matter of human and peoples' rights; particular consideration being given to persons having legal experience.

2. The members of the Commission shall serve in their personal capacity.

#### Article 32

The Commission shall not include more than one national of the same State.

**Article 33**

The members of the Commission shall be elected by secret ballot by the Assembly of Heads of State and Government, from a list of persons nominated by the State parties to the present charter.

**Article 34**

Each State party to the present charter may not nominate more than two candidates. The candidates must have the nationality of one of the State parties to the present Charter. When two candidates are nominated by a State, one of them may not be a national of that State.

**Article 35**

1. The Secretary General of the Organization of African Unity shall invite State parties to the present Charter at least four months before the elections to nominate candidates;
2. The Secretary General of the Organization of African Unity shall make an alphabetical list of the persons thus nominated and communicate it to the Heads of State and Government at least one month before the elections.

**Article 36**

The members of the Commission shall be elected for a six year period and shall be eligible for re-election. However, the term of office of four of the members elected at the first election shall terminate after two years and the term of office of three others, at the end of four years.

**Article 37**

Immediately after the first election, the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity shall draw lots to decide the names of those members referred to in Article 36.

**Article 38**

After their election, the members of the Commission shall make a solemn declaration to discharge their duties impartially and faithfully.

**Article 39**

1. In case of death or resignation of a member of the Commission, the Chairman of the Commission shall immediately inform the Secretary General of the Organization of African Unity, who shall declare the seat vacant from the date of death or from the date on which the resignation takes effect.
2. If, in the unanimous opinion of other members of the Commission, a member has stopped discharging his duties for any reason other than a temporary absence, the Chairman of the Commission shall inform the Secre-

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tary General of the Organization of African Unity, who shall then declare the seat vacant.

3. In each of the cases anticipated above, the Assembly of Heads of State and Government shall replace the member whose seat became vacant for the remaining period of his term unless the period is less than six months.

### Article 40

Every member of the Commission shall be in office until the date his successor assumes office.

### Article 41

The Secretary General of the Organization of African Unity shall appoint the Secretary of the Commission. He shall also provide the staff and services necessary for the effective discharge of the duties of the Commission. The Organization of African Unity shall bear the cost of the staff and services.

### Article 42

1. The Commission shall elect its Chairman and Vice Chairman for a two-year period. They shall be eligible for re-election.
2. The Commission shall lay down its rules of procedure.
3. Seven members shall form the quorum.
4. In case of an equality of votes, the Chairman shall have a casting vote.
5. The Secretary General may attend the meetings of the Commission. He shall neither participate in deliberations nor shall he be entitled to vote. The Chairman of the Commission may, however, invite him to speak.

### Article 43

In discharging their duties, members of the Commission shall enjoy diplomatic privileges and immunities provided for in the General Convention on the Privileges and Immunities of the Organization of African Unity.

### Article 44

Provision shall be made for the emoluments and allowances of the members of the Commission in the Regular Budget of the Organization of African Unity.

## CHAPTER II MANDATE OF THE COMMISSION

### Article 45

The functions of the Commission shall be:

1. To promote Human and Peoples' rights and in particular:

a) To collect documents, undertake studies and researches on African problems in the field of human and peoples' rights, organize seminars, symposia and conferences, disseminate information, encourage national and local institutions concerned with human and peoples' rights, and should the case arise, give its views or make recommendations to Governments.

b) To formulate and lay down, principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Government may base their legislations.

c) Co-operate with other African and international institutions concerned with the promotion and protection of human and peoples' rights.

2. Ensure the protection of human and peoples' rights under conditions laid down by the present Charter.

3. Interpret all the provisions of the present Charter at the request of a State Party, an institution of the OAU or an African organization recognized by the OAU.

4. Perform any other tasks which may be entrusted to it by the Assembly of Heads of State and Governments.

### **CHAPTER III PROCEDURE OF THE COMMISSION**

#### **Article 46**

The Commission may resort to any appropriate method of investigation; it may hear from the Secretary General of the Organization of African unity of any other person capable of enlightening it.

#### *Communication from states*

#### **Article 47**

If a State party to the present Charter has good reasons to believe that another State party to this Charter has violated the provisions of the Charter, it may draw, by written communication, the attention of that State to the matter. This communication shall also be addressed to the Secretary General of the OAU and to the Chairman of the Commission. Within three months of the receipt of the communication, the State to which the communication is addressed shall give the enquiring State, written explanation or statement elucidating the matter. This should include as much as possible relevant information relating to the laws and rules of procedure applied and applicable and the redress already given or course of action available.

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### Article 48

If within three months from the date on which the original communication is received by the State to which it is addressed, the issue is not settled to the satisfaction of the two States involved through bilateral negotiation or by any other peaceful procedure, either State shall have the right to submit the matter to the Commission through the Chairman and shall notify the other State involved.

### Article 49

Notwithstanding the provisions of Article 47, if a State party to the present Charter considers that another State party has violated the provisions of the Charter, it may refer the matter directly to the Commission by addressing a communication to the Chairman, to the Secretary General or the Organization of African Unity and the State concerned.

### Article 50

The Commission can only deal with a matter submitted to it after making sure that all local remedies, if they exist, have been exhausted, unless it is obvious to the Commission that the procedure of achieving these remedies would be unduly prolonged.

### Article 51

1. The Commission may ask the States concerned to provide it with all relevant information.
2. When the Commission is considering the matter, States concerned may be represented before it and submit written or oral representations.

### Article 52

After having obtained from the States concerned and from other sources all the information it deems necessary and after having tried all appropriate means to reach an amicable solution based on the respect of Human and Peoples' Rights, the Commission shall prepare, within a reasonable period of time from the notification referred to in Article 48, a report stating the facts and its findings. This report shall be sent to the State concerned and communicated to the Assembly of Heads of State and Government.

### Article 53

While transmitting its report, the Commission may make to the Assembly of Heads of State and Government such recommendations as it deems useful.

**Article 54**

The Commission shall submit to each Ordinary Session of the Assembly of Heads of State and Government a report on its activities

***Other communications***

**Article 55**

1. Before each Session, the Secretary of the Commissions shall make a list of the communications other than those of State parties to the present Charter and transmit them to the Members of the Commission, who shall indicate which communications should be considered by the Commission.

2. A communication shall be considered by the Commission if a simple majority of its members so decide.

**Article 56**

Communications relating to human and peoples' rights referred to in Article 55 received by the Commission, shall be considered if they;

1. indicate their authors even if the latter request anonymity,
2. are compatible with the Charter of the Organization of African Unity or with the present Charter,
3. are not written in disparaging or insulting language directed against the State concerned and its institutions or to the Organization of African Unity.
4. are not based exclusively on news disseminated through the mass media,
5. are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged,
6. are submitted within a reasonable period from the time local remedies are exhausted or from the date the Commission is seized of the matter, and
7. do not deal with cases which have been settled by these States involved in accordance with the principles of the Charter of the United Nations, or the Charter of the Organization of African Unity or the provisions of the present Charter.

**Article 57**

Prior to any substantive consideration, all communications shall be brought to the knowledge of the State concerned by the Chairman of the Commission.

**Article 58**

1. When it appears after deliberations of the Commission that one or more communications apparently reveal the existence of a series of serious or

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massive violations of human and peoples' rights, the Commission shall draw the attention of the Assembly of Heads of State and Government to them.

2. The Assembly of Heads of State and Government may then request the Commission to undertake an in-depth study of these situations and make a factual report, accompanied by its finding and recommendations.

3. A case of emergency duly noticed by the Commission shall be submitted by the latter to the Chairman of the Assembly of Heads of State and Government who may request an in-depth study.

### Article 59

1. All measures taken within the provisions of the present Charter shall remain confidential until such a time as the Assembly of Heads of State and Government shall otherwise decide.

2. However, the report shall be published by the Chairman of the Commission upon the decision of the Assembly of Heads of State and Government.

3. The report on the activities of the Commission shall be published by its Chairman after it has been considered by the Assembly of Heads of State and Government.

## CHAPTER IV APPLICABLE PRINCIPLES

### Article 60

The Commission shall draw inspiration from international law on human and peoples' rights, particularly from the provisions of various African instruments on human and peoples' rights, the Charter of the United Nations, the Charter of the Organization of African Unity, the Universal Declaration of Human Rights, other instruments adopted by the United Nations and by African countries in the field of human and peoples' rights as well as from the provisions of various instruments adopted within the Specialised Agencies of the United Nations of which the parties to the present Charter are members.

### Article 61

The Commission shall also take into consideration, as subsidiary measures to determine the principles of law, other general or special international conventions, laying down rules expressly recognized by member States of the Organization of African Unity, African practices consistent with international norms on human and peoples' rights, customs generally accepted as law, general principles of law recognized by African states as well as legal precedents and doctrine.

#### Article 62

Each State party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognized and guaranteed by the present Charter.

#### Article 63

1. The present Charter shall be open to signature, ratification or adherence of the member states of the Organization of African Unity.
2. The instrument of ratification or adherence to the present Charter shall be deposited with the Secretary General of the Organization of African Unity.
3. The present Charter shall come into force three months after the reception by the Secretary General of the instruments of ratification or adherence of a simple majority of the member states of the Organization of African Unity.

### Part III General Provisions

#### Article 64

1. After the coming into force of the present Charter, members of the Commission shall be elected in accordance with the relevant Articles of the present Charter.
2. The Secretary General of the Organization of African Unity 'shall convene the first meeting of the Commission at the Headquarters of the Organization within three months of the constitution of the Commission. Thereafter, the Commission shall be convened by its Chairman whenever necessary but at least once a year.

#### Article 65

For each of the States that will ratify or adhere to the present Charter after its coming into force, the Charter shall take effect three months after the date of the deposit by that State of its instrument of ratification or adherence.

#### Article 66

Special protocols or agreements may, if necessary, supplement the provisions of the present Charter.

#### Article 67

The Secretary General of the Organization of African Unity shall inform member states of the Organization of the deposit of each instrument of ratification or adherence.



## *The Banjul Charter*

### Article 68

The present Charter may be amended or revised if a State party makes a written request to that effect to the Secretary General of the Organization of African Unity. The Assembly of Heads of State and Government may only consider the draft amendment after all the States parties have been duly informed of it and the Commission has given its opinion on it at the request of the sponsoring State. The amendment shall be approved by a simple majority of the States parties. It shall come into force for each State which has accepted it in accordance with its constitutional procedure three months after the Secretary General has received notice of the acceptance.

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**Peter Nobel**

are the contributors to this volume on refugees in Africa. It marks the end of a research project under the name Refugees and Development in Africa, funded by the Swedish Agency for Research Cooperation with Developing Countries.

In connection with case studies on refugees in the Sudan, made by Mekuria Bulcha and Gaim Kibreab, the book discusses why refugees flee, how and whether they become integrated, the relations between development assistance and refugee assistance, and the legal status of the refugees.

The concept of 'people's rights' and the right to development is discussed with special reference to the refugees. The book gives several examples on how to improve the status of the refugees while avoiding that the refugees become a favoured group in an impoverished environment. The researchers involved in the project also state their views on how to achieve a repatriation of refugees that is voluntary and provides a lasting solution.

This volume is the twelfth book on refugees published by the Scandinavian Institute of African Studies.



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