Refugees in a Chess Game:

Reflections on Botswana, Lesotho and Swaziland Refugee Policies

Research report no. 88

Medard Xwelamira

The Scandinavian Institute of African Studies, Uppsala 1990
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Acknowledgments

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# Abbreviations

<table>
<thead>
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<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>ANC</td>
<td>African National Congress</td>
</tr>
<tr>
<td>BLS</td>
<td>Botswana, Lesotho and Swaziland</td>
</tr>
<tr>
<td>BNP</td>
<td>Basutoland National Party</td>
</tr>
<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
</tr>
<tr>
<td>ICARA</td>
<td>International Conference on Assistance to Refugees in Africa</td>
</tr>
<tr>
<td>MNR</td>
<td>Mozambique National Resistance</td>
</tr>
<tr>
<td>OAU</td>
<td>Organization of African Unity</td>
</tr>
<tr>
<td>PAC</td>
<td>Pan-Africanist Congress</td>
</tr>
<tr>
<td>RMA</td>
<td>Rand Monetary Area</td>
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<tr>
<td>SA</td>
<td>South Africa</td>
</tr>
<tr>
<td>SACU</td>
<td>Southern Africa Custom Union</td>
</tr>
<tr>
<td>SADCC</td>
<td>Southern Africa Development Coordination Conference</td>
</tr>
<tr>
<td>SAS</td>
<td>Special Air Services (U.K.)</td>
</tr>
<tr>
<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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<td>UN</td>
<td>United Nations</td>
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Introduction

Refugee flows in Botswana, Lesotho and Swaziland (BLS) have increased dramatically over the last twenty years. In 1967 the refugee population in Lesotho and Swaziland was estimated at 100 and 200 respectively. Botswana had the largest number of refugees, totalling 220, of which 70 were from South Africa, 130 from Namibia and the rest from Southern Rhodesia. The total refugee population in BLS countries was therefore no more than 500 refugees.

However, by 1977 events in Southern Africa notably in South Africa and Southern Rhodesia, drastically changed the refugee picture in the sub-region. The events in South Africa in 1976 including the Soweto students demonstrations against apartheid, resulted in massive flows into neighbouring countries in search of asylum. It is estimated that in 1976, 4,500 refugees from Namibia, South Africa and Southern Rhodesia crossed to Botswana. A similar upsurge is noticeable in Lesotho and Swaziland where estimates of refugee flows were put at 200 and 300 respectively.

Already at this time the continuing influx of refugees was causing scarce resources in the BLS countries to be directed from essential development needs into facilities to receive and accommodate refugees or alternatively to augment their national capacities to resist external aggression from their countries of origin.

In a report of a UN Mission to Botswana to assess the ways in which the international community could assist Botswana, it was estimated that some $27.98 million would be diverted to unplanned and unbudgeted security needs to provide protection, transport and supervision for refugees and to meet part of the current costs of emergency projects during the first three years of the 1976–1981 plan period. The Mission further noted that this would amount to 70% of the domestic resources which it had budgeted for normal development. In addition, some $25.6 million would have to be spent on emergency projects during the following two to three years with corresponding increase in current expenditure. Similar observations have been made with regard to Lesotho following the South African attack on Maseru on 9th December 1982. Not only did these developments increase the number of refugees, but more importantly, they gave a new dimension to the refugee situation and its social, economic and educational characteristics.
By 1981 when the Office of the United Nations High Commissioner for Refugees convened the First International Conference on Assistance to Refugees in Africa (ICARA I), the number of refugees in the BLS countries had soared to 23,400—a fifty-fold increase compared to 1967. The number had not reduced significantly at the time of ICARA II in 1984.¹ On the contrary, the refugee population in the region is now estimated to be in the region of 50,000 with all the possibilities of an upsurge in view of the continued civil war in Mozambique and the deterioration of the political situation in South Africa.
The refugee problem in the BLS countries is an intricate and perplexing one. It can best be understood through an analysis of not only the geopolitical forces that are operative in the region but also of the infrastructural linkages which have deepened the dependency relationship between the BLS countries on the one hand and South Africa on the other. While the former have taken concrete form in the nature of destabilization, the latter have provided economic and political leverages which South Africa has often manipulated to her advantage. It is against the scope and nature of interaction of these forces that one can meaningfully analyze the BLS refugee policies.

The Geopolitical Factors as Determinants of BLS Refugee Policies

The refugee problem in the BLS countries must primarily be viewed in the broader context of the political economy of the subregion and particularly in the context of South Africa's regional and domestic policies. One must take cognizance of South Africa's regional strategy to control the tide of liberation, reduce economic and political isolation as well as to protect the broader economic interest of western countries. For instance, according to a recent study of the US Bureau of Mines, a ban on imports of strategic metals from South Africa would cost the U.S. economy well over 1 billion dollars a year and lead to shortages of a key component of auto pollution equipment. About 94 per cent of the costs would result from a cut-off of South African shipments of platinum and rhodium with the rest spread among other metals including palladium, manganese, chromium, titanium and vanadium. For all the metals concerned, South Africa is either the largest or second largest producer in the world. The study pointed out that such costs would be incurred in the form of higher prices for alternative supplies, for expanding US production and recycling and for switching to substitutes.

This regional strategy of South Africa must also be analyzed against the developments that have taken place in the seventies and eighties. Up to the beginning of the seventies, South Africa's policy was es-
sentially outward in nature. Before 1975 South Africa's regional policy was geared towards some measure of regional cooperation with her neighbours. This manifested itself in a number of economic overtures made to neighbouring countries as well as a series of diplomatic initiatives to win sympathy from conservative and moderate African governments. The objective of this policy, as succinctly summarized by Henry Kissinger, was to induce African countries largely through economic incentives to enter into some degree of cooperation with South Africa thus breaking South Africa's isolation and eventually reducing liberation pressure. However, whatever gains may have been achieved by South Africa through these initiatives, they were soon to be overtaken by the regional developments in the second half of the seventies and beginning of the eighties.

Firstly, the independence of Mozambique, Angola and later Zimbabwe did fundamentally affect South Africa's internal and external policies. Their victory through armed struggle gave renewed vigour and inspiration to the oppressed peoples of South Africa and provided a timely reassurance that white minority regimes were not, after all, invincible.

But more importantly, these developments upset in a profound way the balance of forces in the sub-region. South Africa, with its considerable resources, had hitherto been regarded by western countries as a moderating if not a stabilizing force, indeed a bulwark against communist penetration. It was against this context, for instance, that Kissinger in the late 1960s recommended a more positive "tilt" towards South Africa, a policy still much at the centre of U.S. constructive engagement policy. In return, South Africa had slowly but systematically embarked on policies which ensured her control over major economic and political decisions affecting the subregion by providing active support to the adoption of "open-door policies" by her neighbouring black states. The independence of these colonies therefore introduced a new dimension and upset the geopolitical equilibrium. Besides, their positive disposition towards radical development strategies as well as their commitment to support national liberation movements enkindled fears of communist advance, thus providing South Africa with an excuse to interfere with their internal affairs.

The second important development was the radicalization of the South African domestic situation. The 1976 Soweto uprising was almost immediately followed by the increased militancy amongst Africa's black population, thus dealing a fatal blow to Voster's earlier initiatives for peaceful co-existence. The continued outflow of young South African militants into neighbouring countries marked, in a significant way, the demise of the dialogue policy. Its impact was not confined to the internal situation and immediately neighbouring countries, but could also be felt in western metropolitan cities as busi-
nessmen withdrew their assets and capital from the Republic. These developments, coupled with a costly war in Namibia as well as the intensified radicalization of the internal situation as a result of the activities of the ANC, prompted South Africa's economic and political military strategists to think of new options. In the ensuing search, South Africa has adopted the so-called "total strategy" designed to ensure her control over the subregion and insulate it against the "total onslaught" posed by what are regarded as communist forces. Thanks to the emergence of conservative western governments who are willing to view the world in terms of the East/West politics, South Africa has increasingly come to view her role, more now than ever, as that of a protector of western values and civilization in Southern Africa. It is indeed this perception which underlies the analogy that South Africa has made to the Monroe Doctrine in her effort to justify interventionist activities in the neighbouring countries.

The post–1976 era is, however, more significant for its confrontation and destabilization by South Africa of its neighbours. This phenomenon was well captured by Callaghy when he observed:

By early 1983 there was little accommodation and much more confrontation than a decade earlier. South Africa has changed its mode of operation, its rules of the game. It is pursuing a sort of 'lebanonization' of southern Africa. South African officials appear to have the Israel example constantly in mind over a wide range of tactical, strategic and diplomatic issues. This increased use of military and military based economic and political destabilization as well as the support of surrogate groups has been made possible by a substantial military build up and a more general militarization of South African society since 1976. A total strategy has been devised to meet a "total onslaught".

This trend received an additional back-up from the Reagan Administration's policy of "constructive engagement" which saw regional stability and development primarily in terms of supporting South Africa's evolutionary and piece-meal initiatives as well as maintaining its neighbours' infrastructural links. The constructive engagement policy perceives South Africa as a major and crucial regional power, a partner in the defence of western strategic and economic as well as western democratic values. This renewed support on the part of the Reagan administration indeed gave South Africa a new lease of life at a time when she was increasingly being relegated to the position of a prodigal son by the rest of the international community.

The immediate paradoxical consequence of these developments has been that South Africa has once again felt reassured and has since embarked on destabilization crusades towards her neighbours. Through a combination of military and economic interventions South Africa has tried to curb for itself a greater role in the subregional politics. More specifically this strategy has manifested itself in four major approaches.

Firstly there has been a renewed South African determination to flush out militants of the African National Congress from neighbour-
ing countries through military intervention. This was tragically dramatized by South African raids into Lesotho in 1982 in which 42 people were killed (30 South African refugees); 1985, 9 people including 6 South African refugees and in early 1988 a South African refugee was killed in cold-blood on his bed at the country's Queen Elizabeth II Hospital in Maseru. Similar raids were made in Botswana and Swaziland causing loss of life and extensive damage to property.

Secondly, South Africa has applied or threatened to apply selective economic sanctions on countries unsympathetic to South African policies with the view to beat these countries into political and economic submission and eventually to stop them from supporting or giving refuge to South African exiles. This latter approach has been dramatically pursued in the case of Lesotho where in early 1982 South Africa withheld millions of rands in revenue due from South African Customs Union as well as helicopter spare parts to encourage Lesotho to renegotiate the Customs Union to include the homelands of Transkei and Bophuthatswana. This would have implied recognition of the Bantustans. Again in January 1986, South Africa imposed an economic blockade which finally led to the ousting of Chief Leabua Jonathan. This followed a speech by Chief Leabua Jonathan in which he vowed to continue giving support and asylum to the victims of apartheid at the funeral of ANC activists killed by South African agents in Maseru on 20th December 1985. It is on the same consideration that South Africa threatened to cut grain sale to and expel migrant workers from neighbouring countries if they voted against South Africa at the United Nations.

Thirdly, South Africa has given extensive support to local groups who to challenge the internal structures of those neighbouring countries which help members of the national liberation movements, particularly the ANC. Mozambique has been the greatest victim of this strategy with South Africa's continued support of the MNR.

The long-term effects of this destabilization policy remain to be felt. In the short-term however, it is clear that the policy represents an attack on the independence of the BLS states. Also, the signing of the non-aggression treaties in the region have put the burden of policing the groups struggling for liberation in Southern Africa, particularly ANC, into the neighbouring states. In the process not only has the policy wrecked the national economies of the countries concerned, e.g. Mozambique, but has induced within the BLS countries the adoption of policies which have inhibited the granting of asylum to refugees, particularly if the latter have any connections with the liberation movements. At the same time, the ruthless implementation of the destabilization policy by South Africa in Mozambique has precipitated massive flows of refugees into neighbouring Swaziland where the influx is estimated to be in the region of 200 Mozambicans per month.
The BLS ability to evolve meaningful refugee policies has also been hampered by the fact that their economies are deeply integrated with the South African economy. Besides sharing a common colonial heritage as High Commissioner's territories, they are all landlocked countries with relatively small populations. Historically they were conceived as native reserves whose economic and to some extent social destinies were umbilically linked to the economic system of their powerful neighbour, the Republic of South Africa. Secondly, the BLS economies are heavily dependent on migrant labour. Migration of able-bodied males and females seeking employment in South Africa still remains a major feature of their economies. Those severely affected by the migrant labour system are Lesotho and Botswana where one-third and one-fifth of the labour force respectively are working abroad at any given moment and mainly in South African mines and farms. This has, in turn, reinforced these countries' dependency on South Africa. In Lesotho for instance, employment of Basotho in the Republic is over six times the total employment in Lesotho and over 40 per cent of Lesotho's national income comes from earnings of migrant workers in South Africa. Termination of this system without compensatory financial transfer from other sources would pauperize the great majority of Basotho households. Besides, migrant labour remittances play a significant role in the financing of balance of payments deficits.

Finally, the BLS countries are linked to the South African economy through the Customs Union. In the early 1970s, revenue from the Customs Union amounted to 50 per cent of the total revenue of the BLS countries. In addition, they were, until the mid-1970s in a de facto monetary union with South Africa and their financial institutions are still closely integrated to South African banking and finance houses through the Rand Monetary Area and the Customs Union. Besides these legal, economic links there are also strong commercial, institutional and infrastructural links. Almost invariably all the large, modern-sector commercial and industrial enterprises in the three countries have their origins in South Africa and in most cases function as subsidiaries of South African companies.

It will therefore be realized that the economies of the BLS are deeply integrated with the South African economy. To a large measure the latitude of the BLS countries to adopt and pursue consistent positive refugee policies is largely predicated on the extent to which South Africa is willing to manipulate this organic linkage. Consequently, the economic subsystem presently dominated by South Africa has been constructed, enlarged and vigorously defended because it enables the
Republic to enrich itself at the expense of its neighbours. This would explain why the economy has been a major factor in South African foreign policy and is bound to be resorted to frequently in future to provide "stability" for the region in the Republic's effort to protect domestic and international capital working for the perpetuation of white domination in the region.\textsuperscript{15} Given this outlook, it is inevitable that refugees in the BLS countries will and indeed have become a critical element in both South Africa and BLS countries' equation for political and economic survival. In the process many refugees may continue to be victims of South African military arrogance or convenient pawns in the SA-BLS power game.
The Impact of South Africa's Strategy on BLS Domestic Refugee Policies

We have endeavoured to argue that the refugee policies in the BLS cannot be properly understood outside the macro South African strategy for the region. They are indeed largely a product of regional politics, particularly South Africa's policy of destabilization. In the following discussion we shall look more closely at the nature and extent of its impact on each of the BLS state's refugee policies.

Swaziland

Swaziland is one of the smallest countries in Africa with an area of 17,000 square kilometers and a population of 720,000. The country is landlocked, bounded on the north, west and south by the Republic of South Africa and on the east by the Republic of Mozambique. Its climate is predominantly sub-tropical. The country part of the Swaziland plateau has an interesting topography, with four regions of nearly equal width, but with varied climate, natural resource distribution and development potential. These regions can be conveniently classified into four agro-ecological zones consisting of the Highveld, the Middleveld, the Lowveld and the Lubombo Range.

The Highveld, in the west is mainly mountainous and has relatively higher rainfall than the others. Although it contains valuable forests and asbestos, the region is largely unsuitable for agricultural crop production. The area is seriously overgrazed and soil erosion has emerged as a major problem. Adjacent to it is the Middleveld. Unlike the Highveld, its climate and soils are amenable to mixed farming of maize, citrus fruits, cotton, tobacco, and rice under irrigation. Maize, fruit and cotton are the most important crops grown on freehold farms. The Lowveld is a savannah type region endowed with large coal deposits and fertile soil. A hot climate and erratic rainfall make this part of the country particularly vulnerable to drought. Ranching, large-scale production of sugar and citrus fruits on irrigated land, and to a lesser extent, cultivation of cotton and rice are the foremost activities in this region, the non-irrigated areas being used for animal husbandry. However, overstocking has led to severe land depletion and in a succession of dry years the threat of soil erosion becomes pronounced. On Swaziland's eastern border with Mozambique the land rises to an
altitude of 600m. This region, referred to as the Lubombo Plateau covers 8 per cent of the land area. It is climatically similar to the Middleveld, but it is thinly populated.

Although the country has less than one million people, its population is growing very rapidly. The provisional results of the 1986 census indicated a total population of 706,137 against an approximately 500,000 from the 1976 census. The average growth period over the period 1976–1986 was thus an annual 3.5 per cent, one of the highest in Africa. The existing unemployment will be exacerbated by the speed of population growth, by the few job opportunities in South Africa, and by the likelihood of slow economic growth. In turn the present growth rate is bound to exert considerable strain on government resources and infrastructure, particularly health and education. The fertility rate of 6.9 births per women in 1976 is high and Swaziland's population is young with about 48 per cent of the total population under the age of 15. It is estimated that by the year 2000 it would have reached 4 million. The population growth projection are summarized in Table 1.

Table 1. Projected Size, and Growth of Population in Swaziland

<table>
<thead>
<tr>
<th>Year</th>
<th>Population size (million)</th>
<th>Average annual rate of growth (%)</th>
</tr>
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<tbody>
<tr>
<td>Assumptions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. No fertility decline</td>
<td>0.76</td>
<td>1.34</td>
</tr>
<tr>
<td>B. Gradual fertility decline</td>
<td>0.76</td>
<td>1.25</td>
</tr>
<tr>
<td>C. Accelerated fertility decline</td>
<td>0.76</td>
<td>1.19</td>
</tr>
</tbody>
</table>


Despite its small and landlocked location, Swaziland is a relatively prosperous country. Its estimated per capita income of $800 in 1984 was among the highest in sub-Saharan Africa and placed it among the middle-income developing countries overall. The key to its relative prosperity has been its ability to overcome geographical limitations by specializing the economy to a high degree in areas where it has compa-
rative advantage, particularly agricultural and forestry based industries. The structure of the GDP is therefore dominated by agriculture and industry (Table 2).

Table 2. Structure of Swaziland’s GDP at Constant 1980 Prices by Industrial Origin

<table>
<thead>
<tr>
<th></th>
<th>1980</th>
<th>1985</th>
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<tr>
<td></td>
<td>Emm</td>
<td>%</td>
</tr>
<tr>
<td>Agriculture &amp; Forestry</td>
<td>90.2</td>
<td>24.9</td>
</tr>
<tr>
<td>Mining &amp; Quarrying</td>
<td>14.1</td>
<td>3.9</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>79.6</td>
<td>22.0</td>
</tr>
<tr>
<td>Construction</td>
<td>16.2</td>
<td>4.5</td>
</tr>
<tr>
<td>Wholesale &amp; Retail</td>
<td>27.0</td>
<td>7.4</td>
</tr>
<tr>
<td>Finance &amp; Real Estate</td>
<td>23.6</td>
<td>6.5</td>
</tr>
<tr>
<td>Hotels &amp; Restaurants</td>
<td>8.6</td>
<td>2.4</td>
</tr>
<tr>
<td>Transport &amp; Telecommunications</td>
<td>20.6</td>
<td>5.7</td>
</tr>
<tr>
<td>Government Services</td>
<td>61.1</td>
<td>16.9</td>
</tr>
<tr>
<td>Other</td>
<td>21.5</td>
<td>5.9</td>
</tr>
<tr>
<td>GDP at Factor Cost</td>
<td>362.6</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: Central Statistical Office, Mbabane.

However, given a high population growth rate and a depressed national economy whose annual real growth rate was 2.3 per cent per annum over the 1982/84 period, unemployment is likely to be a serious problem in the future. Part of the solution lies in bringing the majority of the land into productive use. Focusing on this particular problem, the Prime Minister, in his 1987 New Year message, emphasized the need to find ways to raise substantially the productivity of peasant production on Swazi Nation Land which covers over 50 per cent of the country’s total land area, but which currently makes an insignificant contribution to the GNP.

Although Swaziland’s major commodities—sugar, wood pulp, asbestos, canned fruits and coal showed an overall increase in value of 4.4 per cent in 1985, customs receipts remain a major source of government revenue. As a member of the Southern African Customs Union, Swaziland receives considerable annual compensation for customs duties by South Africa. A renegotiation of and subsequent amendment of revenue-sharing formula in 1976 saw customs receipts climbing to 67 per cent of total government revenue in 1982/83 (Table 3).
### Table 3. Swaziland: Significance of Customs Receipts in Government Revenue and Expenditure, 1982/83 – 1987/88 (E million)

<table>
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<tbody>
<tr>
<td>Customs Union</td>
<td>120.7</td>
<td>130.4</td>
<td>136.6</td>
<td>119.8</td>
<td>134.9</td>
<td>162.4</td>
</tr>
<tr>
<td>Total Revenue</td>
<td>179.6</td>
<td>210.1</td>
<td>232.3</td>
<td>243.3</td>
<td>330.7</td>
<td>386.2</td>
</tr>
<tr>
<td>As % of total revenue</td>
<td>67.2</td>
<td>62.0</td>
<td>58.8</td>
<td>49.2</td>
<td>40.7</td>
<td>42.0</td>
</tr>
<tr>
<td>Total expenditure &amp; net lending</td>
<td>205.1</td>
<td>225.2</td>
<td>269.8</td>
<td>305.9</td>
<td>315.7</td>
<td>378.7</td>
</tr>
<tr>
<td>As % of total expenditure &amp; net lending</td>
<td>58.8</td>
<td>57.9</td>
<td>50.6</td>
<td>39.1</td>
<td>42.7</td>
<td>42.8</td>
</tr>
</tbody>
</table>

1. This figure excludes grants which were 5.4; 5.7; 3.2; 12.5; 11.8; and 12.8 respectively.
2. This was the figure forecast for 1988/89.

Source: Compiled from economic review and outlook, Dept. of Economic Planning and Statistics, Prime Minister's Office, Mbabane.

In the second quarter of 1984 the Customs Union revenue constituted 71 per cent of the total revenue. This was much higher than projected in the Third National Development Plan which had forecast 55 per cent for 1982/83. The introduction of Sales Tax in the 1985/86 fiscal year has obviously reduced the proportion of Customs Union receipts in total revenue, but its impact is still disproportionately higher than any other source of revenue. The abolition of the import surcharge by the South African Government and the closure of a number of manufacturing enterprises in 1983/84 (which slowed down the growth of imports) led to the decline in the receipts from the Customs Union in the year 1986/87 (see Table 1). However, receipts from the Union increased by 12.6 per cent in the 1987/88 fiscal year to almost E135m. Although the receipts were still slightly below their 1985/86 level, and in real terms these receipts have continued to decline, they still are the most important single revenue source and in the 1988/89 fiscal year their contribution is forecast to be in the region of 42.0 per cent.

Similar dependency patterns are discernible in the energy and foreign trade sector. Sixty per cent of Swaziland electricity needs are imported from South Africa while over 90 per cent of her total imports come from South Africa. At the same time the external value of the Swazi currency (the Lilangeni) continues to be pegged to the South African Rand. Thus movements in the exchange rate of the rand have often affected adversely Swaziland's trade and balance of payments and have been major factors influencing Swaziland's economic perform-
It should, however, be noted that membership in the Rand Monetary Area (RMA) and Customs Union have so far been economically advantageous to Swaziland. Interest and exchange rate policies are adequate and Swaziland receives substantial revenues, equivalent to about 18 per cent of GDP per year, from the Customs Union without incurring any major collection costs. The economic and political risks of such membership are nevertheless, considerable. Foremost among them is the fact that about 75 per cent of Swaziland exchange reserves are held with the South African Reserve Bank, as well as the country's high dependency on the Customs Union for its revenue. Any major crisis in South Africa's economy has therefore tended to have an amplified impact on Swaziland as well as other on members of the RMA and SACU.

**Nature and Magnitude of Refugee Problem in Swaziland**

Swaziland has a long tradition of giving refuge to genuine asylum seekers. During the 1960's hundreds of refugees from white-controlled neighbouring countries in Southern Africa either passed through or sought refuge in Swaziland. A majority of these were South Africans and normally regarded Swaziland as a stop-over on their long journey to independent countries further north. However, a few decided to stay and normally took up employment in urban centres. This picture of a seemingly peaceful transition continued uninterrupted until the 1970s. In the aftermath of the Soweto riots in 1976, many South Africans were forced to leave the Republic of South Africa. Often Swaziland was the first country of refuge and by 1981 when ICARA I was held the refugee population in Swaziland was estimated to be in the region of 10,000 refugees. Of these over 8,000 are of South African origin and 6,600 live at and around Ndzevane Refugee Settlement in South-Eastern Swaziland, while another 350 registered refugees live among nationals in urban areas.

There are also about 2,000 refugees in the same area but spontaneously settled with the local population. Most of the refugees at Ndzevane Refugee Settlement are ethnic Swazis from South Africa, mainly of the Matsenjwas and Mngomezulu clans who came to Swaziland between 1974–1977. All these clansmen are agriculturalists and although not registered as refugees, they are obviously in a refugee-like situation. Since they are subsistence farmers the government has made available to them some 6,000 hectares of land on which cotton as well as drought-resistant crops like sorghum and beans are currently tested. Some of these refugees are employed in the neighbouring sugar plantations. Both the refugees in the settlement as well as those who are spontaneously settled have equal access to the
social services in the settlement. These service are also extended to nationals living in the neighbourhood as part of an attempt to facilitate closer contact between the refugee community and the local population.

While the refugee population in Swaziland has for a long time been characterized by South Africans, the picture is changing drastically. As the war in neighbouring Mozambique continues unabated greater numbers of Mozambican refugees find refuge in Swaziland. The number has increased dramatically in the last five years from a couple of hundred Mozambicans in 1983 to thousands in 1985. By 1985 the Ndzevane Refugee Settlement accommodated 4,000 Mozambican refugees and according to the latest UNHCR report this has brought the total refugee population in the settlement to well over 13,000 refugees. According to the report, Mozambican refugees in Ndzevane exceed 5,000. This represents an increase of over 100 per cent in the population of refugees at Ndzevane. The number of Mozambican refugees flocking into Swaziland fluctuates between 100-200 a month. In March 1988 the registered Mozambican refugee population in Swaziland totalled 8,200, mainly of rural background. Consequently the need for alternative land to accommodate the continuing influx of Mozambican refugees is now urgent. This would ease the pressure on Ndzevane Settlement which is at present overcrowded — a situation which has often given rise to tension among South African and Mozambican refugees. In the outlaying border area of Lomahasha Shewula a number of Mozambicans have spontaneously settled along the Swazi-Mozambique border. This number, which has not yet been registered, is estimated to be in the region of 12,000 persons.

Since the bulk of refugee population in Swaziland is rural the critical problem has been the inadequacy of land which limits the scope for productive agricultural activities. The Ndzevane Rural Settlement occupies a land area of 6,000 hectares, 1,200 - 2,000 hectares of which are considered arable. Its establishment was geared towards the needs of the initial group of ethnic Swazis who came from South Africa in 1977. The settlement of Mozambicans in Ndzevane has therefore resulted in congestion and increased pressure on the land as well as infrastructural facilities and services. On the other hand, inadequacy of land limits any attempts at agricultural self-reliance for the Mozambicans who must increasingly depend on relief assistance.

The situation at the Malindza Centre is not markedly different from that obtaining at Ndzevane. The Centre was originally built for 112 refugees, but due to a continuous inflow of Mozambicans the centre now accommodates over 2,800. The Centre occupies 4 hectares of land and only limited land is available for small garden plots. As a result of this congestion, tensions have developed between the local communities and refugees. The problem is more acute in the case of spontaneously
settled refugees. The homesteads have complained that the situation is increasingly becoming unbearable since they have to look after refugees in addition to their own families. Acquisition of additional land to accommodate the ever-increasing number of Mozambican refugees would certainly ameliorate the situation quite significantly. The long term solution, however, lies in the internal political stability of Mozambique itself. So far close to 100,000 people have been killed, 5.5 million have been internally displaced, while over 1.5 million peasants have sought refuge in the neighbouring countries. In addition, banditry has affected the network of essential services with well over 600 health centres and 35 per cent of primary schools now out of operation. Similarly, there are serious nutritional problems, particularly among children in the most war affected areas. It is believed that as many as 1.5 million children now show nutritional problems and an estimated 200,000 children have been orphaned, abandoned or have otherwise lost contact with their parents during the process of displacement. There is little doubt that the picture is a gloomy one and probably the worst is still to come unless the internal situation is brought under military control. To a large extent this will depend on South Africa's willingness to withdraw support for the MNR as well as the pace of meaningful democratic change in South Africa itself.

Swaziland Refugee Policy: Nature and Scope

For a long period of time Swaziland pursued a liberal policy towards asylum seekers. Refugees were given asylum and since the influx usually was small they neither posed a real danger to Swaziland's internal security nor were they a real burden on her national resources. Besides, in the early sixties and seventies the internal situation in South Africa was relatively insulated by the cordon of colonial states around the Republic.

In so far as Swaziland has any refugee policy, it can be inferred from the Refugee Control Order 1978 which was passed to regulate better control of refugees in Swaziland. The legislation is quite brief containing no more than eighteen provisions. It vests considerable discretion in the Minister as to admission or characterization of asylum seekers. At the time it was passed the refugee problem in Swaziland had not assumed its present day intensity, not to mention complexity. The prevalent view was that refugees constituted a temporary and certainly not a serious problem. In that context only measures designed to establish an orderly handling of refugee flows were given preeminence. Similarly, the Order anticipated by and large non-political refugees and this is clear from the fact the legislation goes
to considerable length to set out provisions primarily regulating refugee settlements. Section 12 provides that the Minister may:

a. require any refugee to reside within a reception area or refugee settlement.

b. require any person within a reception area to move to and reside in some other place being a reception area or refugee settlement.

The same provision makes it an offence to fail to comply with such an order or having arrived at a reception area or refugee settlement in pursuance of the Order to leave such area or settlement without a permit issued by the Permanent Secretary.

The Minister is also empowered to make rules for the control of refugee settlements including organization, safety, discipline and administration of such settlements; reception; treatment of health and well-being of refugees; and powers of refugee officers in respect of such settlement. Under the Order, refugee officers are given extensive powers and their major functions include ensuring orderly and efficient administration of settlements, performance of any work or duty necessary for the maintenance of essential services in the settlement, and the preservation of health and well-being of refugees in the settlement.22

The Order was passed in the aftermath of the Mngomezulu and Matsenjwas mass exodus into Swaziland in 1977, and understandably the legislation was reacting to that influx of rural communities. The primary concern of the government was to set up structures which would ensure the continuation of their existing cultural and rural life patterns. Moreover, since strictu sensu their exodus was not politically induced, the Order did not concern itself with security issues except in a general way. Except for Section 7 which sets out general rules restricting possession of firearms, weapons and ammunition, the legislation is inadequate as an instrument to contain the present refugee climate characterized by a small but significant group of South African refugee militants committed to change the internal structures of the Republic. The radicalization of the South African domestic situation has generated refugees whose presence in Swaziland can no longer be taken for granted or ignored.

Indeed, the irony of the BLS refugee policies is that although South African militant refugees constitute a small percentage of the total refugee population in each country, yet they have played a pivotal role in the evolution of their domestic policies. In a way they do provide a matrix within which refugee policies in the BLS in general and Swaziland in particular have to be analysed.
Refugee Policy: Crisis and Dilemma

Of late, Swaziland has been under considerable pressure from South Africa to expel South African refugees, particularly those who have political connections with militant groups inside South Africa. South Africa has in this regard pursued a two-pronged approach, diplomatic cum economic, and military.

In a diplomatic offensive South Africa pushed for a conclusion of a non-aggression pact. This pact was signed in 1982 although it was officially acknowledged in 1984 after the Nkomati Accord between Mozambique and South Africa. Under the agreement, the Contracting Parties undertake to combat terrorism, insurgency and subversion individually and collectively as well as to call upon each other whenever possible for assistance. The Agreement further emphasizes the need to develop and maintain friendly relations with each other. In that context the Parties agree not to allow any activities within their respective territories directed towards the committing of any act which involves a threat or use of force against each other's territorial integrity. They undertake, further, not to allow within their respective territories the installation or maintenance of foreign military bases or the presence of foreign military units except in accordance with their right to self-defence in the event of armed attacks as provided for in the Charter of the United Nations and only after notification of the other party. The inclusion of the latter provisions could only have been influenced by South African experience with Angola, and the need to forestall any possible intervention by third parties.

The Agreement is probably more significant for South Africa than it is for Swaziland. Firstly, it marks a significant diplomatic victory for South Africa in as much as it symbolizes some form of recognition by an independent African state. Secondly, it clouds South Africa's status as an aggressor in the region by depicting her as a peacemaker little interested in the escalation of armed confrontation in the region.

At the same time South Africa announced its intention to cede to Swaziland the KaNgwane and Ingwavuma bantustans. This was seen as a reward for Swaziland commitment to clamp down on South African liberation movements, particularly the ANC, and was also a cunning attempt to slip in recognition of the bantustan policy via the backdoor. Broadly viewed, the land deal also fell well into South Africa's foreign and strategic interests. Firstly, the plan was an attempt to lure Swaziland into a constellation of states. Had it succeeded this would have had the advantage both of rejuvenating the constellation plan as well as of weakening Southern Africa Development Coordination Conference (SADCC) to which Swaziland is committed, but which is viewed by South Africa as a counter-constellation strategy.
which threatens the country's traditionally firm economic grip on the
sub-continent. Secondly, viewed from the "total strategy" perspective
the plan could be viewed as a means of persuading Swaziland to take
action against the ANC so as to close off its use of Swaziland as a base.26

Despite these concessions by Swaziland, South Africa, has continued
to pursue military options against Swaziland, at times with utmost
callousness and ruthlessness. As noted earlier, the geopolitical changes
in the 1980s and the increased radicalization of the South African
domestic scene, has led South Africa to view the entire region as an
operational area. The struggle for change in South Africa has become a
regional war. Given the alteration of balance of political forces in the
region, South Africa could no longer rely exclusively on its economic
power or even its diplomatic leverage, and has had to resort to military
means to protect the apartheid system. The immediate manifestation
of this campaign is to punish those who give assistance to the ANC
and to dissuade those governments who might be tempted to do so.
However, the ultimate objective seems to be the recreation of the pre-
1974 "Cordon Sanitaire" by pressuring the governments of the region
or so cripple their economies that their survival would require the expu-
sion of the ANC refugees. Consequently, since 1981 South African
military and security operatives have undertaken acts of aggression in
a number of neighbouring countries including Swaziland.

While relations between South Africa and Swaziland warmed up,
there has been a steady crackdown on South African refugees, particu-
larly those belonging to the ANC. In the meantime, Swaziland went
through a rather turbulent political phase in the days immediately fol-
lowing the death of King Sobhuza II in 1982.27 King Sobhuza's death
made a difference. He had a long historical association with ANC and
is known to have accepted its top leadership. As such he was prepared
to allow a limited presence in the country, provided Swaziland was
not used as a springboard for attacks on South Africa. However, as the
tempo and effectiveness of ANC operations increased and evidence
mounted that Swaziland was being used as a transit route for ANC
guerrillas, Pretoria increased the pressure on Swazi authorities. This
development, together with feuds within the Swazi aristocracy, have
had the effect of compounding the already desperate refugee situation
in Swaziland. It is against this background that one has to analyze the
various measures that have been taken against refugees, particularly
those with militant leanings.

The ANC’s relations with the Swazi government began to deterio-
rate after the death of King Sobhuza II. Then, after Prime Minister
Bhekimi announced that Swaziland has signed with South Africa an
"anti-terrorist" pact two years before Nkomati, the relation-ship turned
to open hostility. But even before that there were indications of a
strained relationship. In early 1982 the ANC representative in Swazi-
land was expelled and six months later his deputy and his wife were assassinated and no replacements were authorized by the Swazi government. At the same time laws regarding arms and ammunition were more strictly enforced. After the signing of the Nkomati Accord, the Swaziland operations against the ANC became far more systematic and assumed a dimension of a small-scale war. In the aftermath of the Accord many ANC cadres crossed into Swaziland from Mozambique to evade expulsion northwards because of the Accord. This led to a number of bitter confrontations between the ANC and security forces which left five dead including a Swazi soldier and police officer. A total of 91 ANC members were subsequently detained and some of these complained of being assaulted during their captivity.

As relations deteriorated, in April 1984 Prime Minister Bhekimp made a speech in which he outlined a major shift in policy towards the ANC. He accused members of the ANC, some 300 of whom had resided in Swaziland for long periods, of violating their conditions of asylum and declared that the government would consider expelling the ANC members particularly where the latter constituted a threat to Swazi lives and property. He called upon the Swazis to report to the police any strangers acting suspiciously. The bitterness grew worse as four ANC detainees disappeared from Swazi police cells in Bhunya. The Swazi authorities claimed they had been freed by their comrades; the ANC claimed that they had been kidnapped by South African agents. Shortly after this, South African Minister of Law and Order, Louis le Grange announced the arrest of four ANC men "on the Reef".

Eventually, in August 1984 following intensive behind the scenes negotiations, approximately 100 ANC members were deported from Swaziland. Following talks hosted by President Kaunda in Lusaka, the ANC and Swaziland were able to reach some kind of modus vivendi. However, these attempts to normalize the situation suffered yet another setback in December 1984 following the killing of the deputy security police Chief, Superintendent Petros Shiba, who was gunned down near the Mbabane Police Officers' mess after attending an annual police officers' Christmas party. The Swazi authorities attributed the crime to the ANC, and within a week an alleged ANC "hitman" was cornered and shot by the Swazi police. Within a few days the Swazi authorities ordered 23 ANC members still in the country to surrender immediately to the police or face deportation to South Africa. It was also announced that the ANC representative in Swaziland, Bafana Duma, had been ordered to leave the country thus ending his twenty years' stay in the Kingdom.

Shortly after this, South Africa's Foreign Minister, Pik Botha and his Swazi counterpart Mhambi Mnisi, signed an agreement for the exchange of trade representatives between the two countries. Botha said that the trade representatives would "enjoy the same rights and privi-
leges as diplomats do". According to the agreement the governments of South Africa and Swaziland were convinced that the exchange of representatives would significantly contribute towards the strengthening of the friendly relations between them and the maintenance and promotion of peace, stability and cooperation in the region of Southern Africa. This optimism was given further impetus by President Botha's invitation to King Mswati's coronation in 1986 together with President Samora Machel and President Kaunda of Zambia. However, just before the coronation a number of Mozambican and South African refugees were arrested. Police mounted extensive roadblocks around the country and later announced that about 306 Mozambicans and 14 alleged members of the ANC had been arrested.

Despite this semblance of a rapprochement, South Africa has continued to apply pressure on ANC supporters and sympathisers in Swaziland. In December 1986 South African agents kidnapped four people including two Swiss citizens, and murdered two, including a 15 year old boy. The Swazi government strongly condemned the actions of "South African government forces". A statement issued by the Prime Minister, Mr. Sotsha Dlamini, referred to the raids as "illegal acts of aggression" and urged the South African government to "desist from violating our sovereignty and respect Swaziland's commitment to peace".

The protests went unheeded as two days after the first attacks, South African agents kidnapped a South African man. It was later confirmed by the Times of Swaziland, that he was in fact in South Africa and was being held under Section 29 of South Africa's Internal Security Act, which provides for indefinite detention without trial.31

Although the intensity of South African incursions into Swaziland then subsided there were still occasional incidents of kidnapping and attacks on refugee residences. At the same time, authorities are becoming increasingly uneasy about the ANC presence. The latter is partly prompted by an increase in armed robberies in the country involving the use of AK 47 rifles. In January 1987 it was reported that four members of the ANC had been arrested in Mbabane. According to the report, police also seized a large cache of explosives and other weapons. In early January 1988 Sipho Ngema, a South African refugee known to have strong connections with ANC was shot dead in front of stunned diners in a Manzini restaurant. Besides, the government has recently deported about six ANC refugees including one who was involved in a shoot-out with a South African soldier.

Swaziland is still committed to giving asylum to genuine asylum seekers. However, its ability to provide durable solutions is largely constrained by the Realpolitik of the region in which South Africa is a major actor. As far as militant South African refugees are concerned
Swaziland can only be regarded as a temporary refuge. Swaziland neither has the military capacity to protect them from South Africa's attacks nor would it be in furtherance of her long-term national interests to antagonize South Africa. Since South Africa has considerable economic and military leverage over Swaziland, the latter's refugee policy is increasingly becoming a function of the extent to which she is able to withstand that pressure.

For politically neutral refugees such as Mozambicans, security may not be such an important consideration as the infrastructural ability to sustain the flows. However, even with regard to this category of refugees one cannot underestimate the impact of ANC experience on the overall official attitudes. At the beginning of September 1987, police began a systematic clamp down on aliens from neighbouring countries "illegally" resident in Swaziland. The move is believed to have been prompted by the crime rate which has shot up and has involved a spate of armed robberies, some of which are alleged to have been planned and executed by Mozambican refugees. The police attributes the rise in armed robberies to the pressure of Mozambican refugees and seriously believe that there is an increasing amount of gun running between Mozambique and Swaziland. Besides, given the size of the population and country, the inflow of large numbers of refugees is increasingly becoming an issue of political concern.

Lesotho

Lesotho is a small landlocked country completely surrounded by the Republic of South Africa. Lesotho's socio-economic problems are largely a result of the country's geographical position. Bordering wholly on an economically more advanced and dominant neighbour, the Republic of South Africa, Lesotho is a country with a limited national market. These factors together with a restricted resource base, have led to chronic dependence on migrant labour and to the emergence of strong negative economic policies in the whole Southern African region. In addition, South Africa's socio-political policies scare away potential investors. On the whole, therefore, these factors operate collectively and in a complex manner to render Lesotho vulnerable to external economic and political pressure.

Lesotho has the least developed economy of the BLS countries. Two-thirds of the land area consists of almost impenetrable rugged mountain ranges so that only 9 per cent of the land is suitable for cultivations. It is considered to be one of the least developed countries with the GNP per capita of $530. This figure, however, does not reflect economic conditions at household level as the majority of the people are poor. Agriculture is the most important economic sector in
Lesotho in terms of its size and as generator of domestic employment. This sector, together with mining employment in South Africa, provide the main sources of income for about 90 per cent of the population. In Lesotho it is estimated that some 60% of the rural families have direct access to migrant worker's earnings and according to the 1976 census these earnings contributed 71% of rural household incomes. There are very few domestic employment opportunities, which accounts for the fact that 60 per cent of its adult population (20–40 years) is employed in South Africa's mining sector. Consequently, in the foreseeable future the economy will continue to be dominated by the agricultural sector.

Lesotho's inability to provide employment for its population has resulted in a growing dependency on earnings remitted by migrant workers. The number of Basotho employed in the mines and collieries rose steadily from 1967 to 1977 at an average rate of 5.5 per cent. Basotho migrants constituted about 20 per cent of the total mine labour force of the Republic in 1978 compared to 13 per cent 10 years earlier. Rural economic conditions, including population pressure on the land and low agricultural productivity, together with lack of adequate work opportunities in the modern sector, augment and encourage migration, which is reinforced by the presence of more lucrative employment options in RSA. Lesotho's total labour force in 1980 was estimated as 611,000 of whom 171,000 were employed as migrant workers in South Africa and only 40,000 were employed in the modern sector in Lesotho. While South Africa has progressively been reducing its dependency on foreign migrant labour since the 1970s this has not had a strong impact on the level of Basotho migrant employment. The employment of mining migrants, 80 per cent of whom work in skilled jobs in the gold mines where they are not readily replaceable, fell from a peak of 130,000 in 1977/78 to 115,397 in 1985, at which it has since been stabilized. However, in order to understand the vital role that migrant labour plays in Lesotho's economy, the earnings of migrants and the share they repatriate to Lesotho has to be assessed.

As will be observed from Table 4, remittances and deferred payments play a proportionately crucial role in generating government revenue as well as financing the balance of payments. Recent changes in wage structure and small increase in the number of Basotho gold mine workers led to a 12 per cent increase in total migrant payments to M108 mn for the first six months of 1986. Deferred payments were M59 mn compared with M55 mn in the corresponding period of 1985. The fully revised IMF figures for 1980–86 indicate that in dollar terms both exports and imports rose about 13 per cent in 1986 with the trade deficit widening to $318mn. This was partly compensated by a 10 per cent increase in exports, largely workers' remittances, which was however insufficient to prevent the current account recording a small deficit.
Table 4. Basotho Miners in South Africa\(^1\) and the Deferred and Remittance Payments 1975–1985

<table>
<thead>
<tr>
<th>Period</th>
<th>average number employed (\text{(4)})</th>
<th>deferred payments (\text{'}000) Maloti (\text{(2)})</th>
<th>payments % change over a year ago</th>
<th>remittance payments (\text{'}000) Maloti (\text{(3)})</th>
<th>payments % change over a year ago</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>112,507</td>
<td>12,836</td>
<td>75</td>
<td>7,160</td>
<td>39</td>
</tr>
<tr>
<td>1976</td>
<td>121,062</td>
<td>17,822</td>
<td>39</td>
<td>8,240</td>
<td>15</td>
</tr>
<tr>
<td>1977</td>
<td>128,941</td>
<td>16,648</td>
<td>-6</td>
<td>10,956</td>
<td>33</td>
</tr>
<tr>
<td>1978</td>
<td>124,491</td>
<td>20,343</td>
<td>22</td>
<td>12,925</td>
<td>18</td>
</tr>
<tr>
<td>1979</td>
<td>124,393</td>
<td>22,696</td>
<td>12</td>
<td>15,441</td>
<td>19</td>
</tr>
<tr>
<td>1980</td>
<td>120,733</td>
<td>24,440</td>
<td>8</td>
<td>17,682</td>
<td>15</td>
</tr>
<tr>
<td>1981</td>
<td>123,538</td>
<td>35,813</td>
<td>47</td>
<td>26,928</td>
<td>52</td>
</tr>
<tr>
<td>1982</td>
<td>117,641</td>
<td>76,720</td>
<td>114</td>
<td>51,004</td>
<td>89</td>
</tr>
<tr>
<td>1983</td>
<td>115,327</td>
<td>103,586</td>
<td>35</td>
<td>74,207</td>
<td>45</td>
</tr>
<tr>
<td>1984</td>
<td>114,071</td>
<td>123,550</td>
<td>19</td>
<td>82,923</td>
<td>12</td>
</tr>
<tr>
<td>1985</td>
<td>115,397</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


Notes:
1. Covers all mines, with gold having by far the biggest share.
2. Sixty per cent of wages are transferred by mining companies directly to Lesotho; miners draw on these deferred pay deposits when they come home.
3. These are part of disposable wages (the remaining 40 per cent) transferred by mining companies to Lesotho as requested by the miners. The latter also bring into the country significant amounts of cash and goods when visiting home.
4. The marked rise in deferred pay and remittances which began in the 2nd quarter of 1981 may be attributed partly to an improved coverage of the deferred pay scheme, increased re-engagement bonuses paid to miners who return to work within a specified period, and a greater need for miners families to receive remittances in recent months during drought.

One may also hasten to add in this regard, that while migrant remittances are beneficial as a major element in the financing of Lesotho's trade deficit, the loss of skilled manpower is a disadvantage for the economy, particularly in the agriculture sector. However, with progress being made on the massive Lesotho Highland Water Scheme, there is reason for optimism that there will be an upswing in the net official transfers through royalties of water and SACU compensation payments. Lesotho as a member of the South African Customs Union also receives significant revenue from duties collected on imports and exports to Lesotho. Such receipts increased from 2.3 million rands in FY 1972/73 to 21.1 million rands in 1979/80. Lesotho's share of M160 mn in 1985/86 was equivalent to 70 per cent of all recurrent revenue for the government. Apart from this heavy domination by the South
African economy, Lesotho has a poor resource base and large areas in the lowlands suffer from an acute soil erosion due to population pressure and overgrazing. It is against this depressing socioeconomic background that Lesotho's ability to adequately sustain refugee flows has to be analyzed.

**Magnitude of Refugee Problem in Lesotho**

Refugees began arriving in Lesotho in the 1960s. They consisted mainly of South Africans running away from the system of apartheid, particularly after the Sharpville Massacre in 1960. Most of these refugees numbered less than one hundred at any one time and normally made their own arrangements for accommodation. In 1974 there were close to 180 refugees and by 1976 the number had increased to 200, a large portion consisting of the aged and the sick. In 1977 the number of registered refugees totalled 135, of which 125 were from South Africa, 5 from Zimbabwe and 5 from Uganda, although according to the Government a large number of South African refugees were not formally registered and occupied 1,000 places in secondary schools and a still larger number in primary schools. This sudden upsurge in the refugee population was largely due to the exodus caused by the Soweto riots in South Africa. The refugee population was estimated as 187 at the end of 1987 and 250 by mid-1979, all from South Africa, most of whom were students. By the end of 1979 there were 503 refugees: 456 were South Africans, 30 Zimbabweans, 11 Ugandans, 3 Mozambicans, 2 Angolans and 1 Swazi. The government estimate of refugees in the country in 1981 raised the number to 11,000, 98 per cent of whom were considered to be students. It was then reported that refugees were arriving at the rate of 40 a month and at least 2500 were believed to have been given asylum. Thus at the time of the Second International Conference on Assistance to Refugees in Africa, held in 1984, the refugee population in Lesotho was estimated to be 11,500. Of these, 1,300 were registered with the government and in need of assistance from the international community. The rest, though not officially registered with the government or the UNHCR, were nevertheless people living in "refugee-like" situations. This category of asylum seekers include those who decided to leave South Africa for reasons such as unemployment, ethnic or familial ties and those who for some security reasons or otherwise would prefer not to have their presence in the country officially known. The majority of the refugees in Lesotho remain predominantly South African and close to 70 per cent are of school-going age, mainly between ages of 16 and 26. However, the numbers have decreased due partly to the resultant insecurity on the part of South African refugees. In 1986 there
were 294 refugees officially registered with UNHCR and 152 in 1987. Children still constitute a high proportion of refugee population and this can be explained in terms of student unrest which has characterized the South African political landscape since the mid-1970s.

Lesotho Refugee Policy: A Model for Altruism

Despite the economic and security vulnerability, Lesotho has generally adopted liberal policies towards genuine asylum-seekers and refugees, and indeed tried to treat them with a modicum of human dignity. Such a commitment is traceable to the early post-independence era. In 1970, while addressing the United Nations General Assembly, Chief Leabua Jonathan, then Prime Minister of Lesotho said:

“Having stated the limitations of our situation, we cannot ignore the moral responsibility towards our brothers and sisters who are still denied their basic rights, and we shall continue to make our modest and practical contributions towards the solution of their problems. We have already made contributions in the past in several ways, including providing refugee support and opening doors of our schools and colleges to students from those areas. We are however not able to contribute to the use of violence.”

In pursuance of this stance, Lesotho acceded to the United Nations 1951 Geneva Convention Relating to the Status of Refugees as well as the 1967 Protocol without reservation. In addition, Lesotho is a party to the 1969 Convention governing the Specific Aspects of Refugee Problem in Africa. By these actions, the government of Lesotho has endorsed the fundamental principles relating to the conditions governing the treatment of refugees and asylum-seekers generally. Recently, Lesotho also enacted a fairly comprehensive refugee legislation with the view to strengthening the determination of refugee status procedures. Although the Refugee Act was passed in 1983 it did not come into force until 1986.

The delay in its enforcement was partly attributed to pressure from South Africa, which suspected Lesotho's intention in passing such a law. It may also be worth noting in this regard that the law was introduced in Parliament within a year of the Maseru raid by South African Defence Forces in which forty-two people were killed.

The Lesotho domestic legislation is based on both the United Nations 1951 Geneva Convention Relating to the Status of Refugees and OAU Refugee Convention, and as such it caters for basic humanitarian considerations. At the same time, its definitional scope is sufficiently wide to include not only the traditional categories under the UN
Convention but also the enlarged focus of the OAU Convention. It defines a refugee as:

"a person who, owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion

i. is outside the country of his nationality and is unable or owing to such fear is unwilling to avail himself of the protection of that country; or

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

b. Owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either the whole or part of his country of origin or nationality, is expelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality; or

c. belongs to a class of persons declared by the Minister to be refugees for reasons set out in paragraph (a) or (b)."\(^4\)

In essence the legislation has reproduced the provisions of the two major refugee instruments. Moreover, by adopting the OAU definition, Lesotho has taken a major stride ahead of its neighbours. The OAU Convention affords protection to a much larger group of persons than envisaged under the 1951 UN Convention.

Firstly, under the OAU Convention, the term "refugee" has been extended to include persons who are obliged to leave their countries of nationality or habitual residence as a result of or under the pressure of an illegal act such as aggression by another state or as a result of partial or full scale invasion. This would seem to be implicit in "events seriously disturbing public order." The significance of such an approach cannot be overemphasized in a region torn by civil strife and characterized by public emergencies.

Secondly, the definition is sufficiently wide to include members of the liberation movements whose sole objective is to free their countries from social and political injustices.\(^4\) The legislation has also to be lauded for its elaborate provisions of eligibility procedures, more significantly the incorporation of a strong appellate and consultative mechanism. The UNHCR is given a noticeable role at all major levels for determination of refugee status and the organisation's protective role is given due recognition. One hopes that both Botswana and Swaziland will emulate the example of Lesotho, or at least adopt
legislation which reflects the major humanitarian concerns in refugee law.

Internal Constraints to **Refugee Policy**

We have tried to argue that refugee policies in the BLS countries have been largely a product of regional politics, particularly South Africa's policy of destabilization. However, it would be naive to ignore the contributions of domestic policies towards the predicament of refugees in Lesotho. In this regard three major developments on the socio-economic and political scene in Lesotho have played a significant role since the seventies.

Firstly, Lesotho had its first election since independence in 1970. The elections were nullified by the Prime Minister, Chief Leabua Jonathan, when he realized that his Basutoland National Party was losing the elections. He suspended the Constitution and declared a state of *emergency*. In order to consolidate his position he enlisted the support of the South African government for financial and other logistical support. It was the expectation of Chief Leabua Jonathan that South Africa would be a convenient partner in Lesotho's economic development efforts. It soon transpired, however, that South Africa's economic support, if forthcoming, would be limited in nature and scope. Paradoxically, it was Lesotho's reliance on South Africa's economic support that led her to a relentless search for new economic allies and strategies.

As the economic benefits of association with South Africa dwindled or stagnated, Lesotho became faced with mounting internal economic crisis, and began looking for new partners to meet the shortfall, particularly amongst the donor community. By dramatizing its vulnerability as a small country completely surrounded by South Africa, Lesotho was able to win considerable financial assistance from the donor community. With time it is also became clear to Lesotho's political elite that such sympathy could only be sustained if they adopted a militant stand towards South Africa's policy of apartheid. Concretely, this manifested itself in liberal asylum policies towards South African refugees who were now flowing into Lesotho in large numbers. In this sense, refugees became a critical element in Lesotho's domestic as well as foreign policy.

The diplomatic shifts in the early eighties must also be seen in this light. In 1984 Lesotho decided to open diplomatic relations with Soviet Union, People's Democratic Republic of Korea, People's Republic of China and Cuba. The significance of these moves in economic and political sense were that firstly, they exposed Lesotho as a nation in search of its own identity and a respectable place in the community of
nations. Viewed that way they represented an affront to the South African policy of homelands as well as its life-time ambition to form a constellation of Southern African States. The second significance of these moves was that they exposed Lesotho as an ally with communism, thereby endangering the development of "civilized and democratic" values in Southern Africa. Her position further provided South Africa with a good excuse for agitating and attacking refugees and refugee residences in Maseru as a way of curbing the so-called communist onslaught on Southern Africa. In this sense, attack on South African refugees came to be a crucial factor in the diplomatic offensive and provided her with a plausible justification for violating the territorial sovereignty of Lesotho.

Lastly, the internal instability due to the volatile political situation within Lesotho has gone a long way to influence refugee policy. In this connection two major elements have played a singularly crucial role. Following the diplomatic shift in favour of communist countries, the traditional elements within Lesotho society, mainly consisting of the Catholic Church and rightist elements within the ruling Basutoland National Party (BNP), accused the government of communist flirtation. They also viewed refugees, particularly those belonging to the African National Congress, as conduits for communism, thereby providing support to forces in favour of expulsion of refugees.

It is also important to note that this view was being orchestrated shortly after the 1982 Maseru raid in which forty-two people including twelve Basotho nationals were killed. This general animosity reflected itself in a number of incidents of refugee harassment as well as calls for their expulsion by certain leading members of opposition parties.

Secondly, the presence in South Africa of the Lesotho Liberation Army, a dissident group committed to overthrow the government of Chief Jonathan, provided South Africa with an additional diplomatic leverage. As a quid pro quo for withholding support for the Lesotho Liberation Army's dissidents, South Africa was demanding expulsion of South African refugees from Lesotho. South Africa insisted on concluding a non-aggression pact as a sure way of curbing ANC infiltration into South African territory. These pressures were resisted by Chief Leabua Jonathan's government which was now being accused of being insensitive to South Africa's security needs. In retaliation, South Africa decided to withdraw from certain joint economic understandings and threatened to cut down the number of Basotho migrant workers in South African mines and industry.

Faced with relentless intransigence of Chief Jonathan, Pretoria finally decided to impose a quasi-total economic blockade in January 1st, 1986. She was now determined to influence fundamentally the internal policies of Lesotho. The measure was meant to bring the government in line with South Africa's terms and, if need, be generate
the necessary domestic momentum to oust Chief Jonathan. In the latter, South Africa was generously vindicated. Within two weeks of the blockade, Lesotho had run out of essential goods. The country was virtually brought to a total standstill and petrol rationing was introduced. On 20th January, Jonathan's government finally succumbed to the crippling economic siege and members of the military forces took over power on 20th January 1986. This marked a new era of uncertainty and one characterized at least initially by an ambivalent refugee policy.

South Africa's mood after the coup was one of jubilation and optimism and she wasted no time in making this known to the new rulers in Maseru. Within a few hours of the coup d'etat, South Africa had opened the border and trains carrying essential goods started arriving in Maseru. While the events dramatized in a peculiar way Lesotho's vulnerability to South Africa's manoeuvres, Pretoria came out of the whole saga as the greatest beneficiary. The blockade had achieved at least three objectives. Firstly, it demonstrated to the West that sanctions, when sanctions are finally imposed, would hurt more the neighbouring countries than South Africa. Secondly, it elicited Lesotho's support against economic sanctions. The new government has categorically stated that it would not support any sanctions initiative against South Africa. Lastly, it is reliably known that South Africa has come to some understanding with the military government in Maseru regarding the presence in Lesotho of members of the ANC.

However, shortly after the coup the government came under heavy pressure from South Africa for the total expulsion of members of the ANC. Seven refugees, including four men high on South Africa's list, left for Zambia in late April. In early June, a further 63 refugees were expelled, following which all remaining ANC and Pan-Africanist Congress (PAC) refugees were required to register with the Ministry of Interior, or face expulsion by the end of April 1987. Lesotho signed an agreement with South Africa for the exchange of trade representatives. Besides trade and investment promotion, they perform consular functions previously exercised through labour representatives. The significance of this agreement however, lies in the fact that they have created structures for permanent relations from which Lesotho may increasingly find it difficult to disengage, and which in the main auger well for the evolution of full diplomatic relations.

Quite predictably, these initiatives have earned the military government a lot of criticism from both the Basotho elites as well as the larger international community. Increasingly, Lesotho has come to be relegated to a status of a bantustan. In a move aimed at deflecting this criticism, Major General Lekanya gave two interviews in late 1987 in which he defended the government's position. He insisted that improved relations were being sought in the interests of peaceful co-
existence and in recognition of the strong economic interdependence between the two countries. This was followed by another interview by the Minister of Information, in which he underlined that Lesotho would not be used as a springboard for attacks against South Africa. Genuine refugees would continue to be welcome, although in the interests of their own safety and of Lesotho's own security he admitted that most could be expected to be moved to third countries. This policy has effectively ended any significant presence of the ANC in Lesotho since 1986.

In the meantime, Lesotho has experienced several South African raids on refugee homes during 1987 and 1988. In August 1987 attacks were launched by unknown assailants against the homes of ANC refugees resident in Lesotho. In September the PAC official representative M. Mpondwane, was arrested and later released without explanation. In early 1988 a South African refugee was shot dead in Queen Maseru Hospital while convalescing from earlier attacks.

These attacks have given rise to accusations that the government was permitting organized South African "hit squads" to operate fully in the country. These allegations remain to be substantiated. What is clear, however, is that the conditions are becoming increasingly difficult for political refugee of any affiliation to remain in the country.

Botswana

Botswana, like other BLS countries, is a landlocked country and shares borders with Namibia and the Republic of South Africa. It has only a limited border with Zambia near the Caprivi strip. The country occupies a total area of 582,000 square kilometers. Its population was estimated in 1986 at 1.1 million and its population growth rate is estimated at 3.4 per cent per year.

Botswana is one of the few independent countries which have made spectacular economic strides. For a long time since independence, Botswana's economy was dominated by beef production. Overall the economy remained undiversified with agriculture and mining playing the crucial roles. However, the discovery in the mid 1970s of extensive mineral resources led to the transformation of the country's economy and a shift, in relative importance among exports, from beef to minerals namely diamonds, copper, nickel and coal. Due largely to increased diamond export revenues, the government has been able to finance major infrastructural projects as well as substantial improvements in educational and health provision. It is again one of the few sub-saharan African countries to have enjoyed a sizeable real per capita growth rate in recent years while sustaining an average growth rate of
13 per cent per annum in real terms over the entire post-independence period.46

The country's external economic position has also improved significantly in recent years. With the opening of the new diamond mine at Jwaneng, coupled with the rise in world prices for diamonds, Botswana has been experiencing a rise in foreign exchange reserves. In 1985, foreign exchange reserves were equivalent to 14 months' imports, and according the preliminary figures for 1986/87 financial year, released by the Bank of Botswana, there was a surplus on both the current account and balance of payments.

Despite this spectacular economic performance, Botswana still has a number of problems to face. More than two-thirds of the country's land mass lies in the Kalahari Desert and less than 5 per cent of its total land area is estimated to be arable. Drought with its usual negative impact on crops and livestock, has plagued the country during the 1980s. It poses the most serious threat to the country's economic prospects, making a significant contribution to the government's most serious political and social problems—the growing rural exodus and rising urban unemployment, which began to accelerate in the early 1970s in line with the expansion of the formal economic sector and more attractive urban wages. As has been aptly observed, this process has further accelerated with the deepening impact of the drought on the rural population and the failure of job opportunities to keep pace with population growth.

Then there is the challenge of its vulnerability to events outside its control. This is partly due to its geographical position as a landlocked country but also to its historical links with South Africa. South Africa is still the major trading partner, while the agricultural and mineral productions which form the basis of its economic prosperity are largely marketed as an integral part of South African production. In addition, Botswana still has strong institutional and infrastructural links with South Africa. It is a member of the South African Customs Union and until 1978 the Union was the largest single source of revenue for the Botswana government. In fact, the data shows that revenue from the Customs Union has always been on the increase. It constituted 20 per cent in 1976, 35 per cent in 1977, and 30 per cent in 1978 of the total government revenue. At the same time the Union's free trade provisions have played a major role in reinforcing dependency on South Africa.

Lastly, one has to take cognizance of the fact that existing formal employment, which totalled 110,000 in 1984 provides opportunities for only 20 per cent of the population aged 15 and over. The National Development Plan VI employment forecast envisages 21,000 entering the labour market in each year of the plan, while projected employment growth over the period 1985/86–1990/91 is only 7,600 a year, to
about 160,000. It is clear therefore that a large number of Botswana will remain unemployed. It is in this context that employment opportunities available for Botswana nationals in South Africa remain a critical factor. Although the number of Batswana working as migrants in South Africa has declined over the past decade, their threatened repatriation would exacerbate the unemployment problem. From a peak of 25,500 in 1976, the number of migrants fell to 17,500 by 1981 but rose again to 19,500 in 1984, reflecting the contraction in local employment opportunities, especially in rural areas due to drought. Indeed, much as the new mining ventures have revolutionalized the sources of revenue and increased the overall GNP, Botswana's dependency on South Africa is still quite considerable and will remain a factor in their bilateral relations.

Nature of Refugee Problem in Botswana

Since independence Botswana has adopted an open door policy towards asylum seekers, particularly those fleeing from the racist regimes of South Africa, Namibia and Southern Rhodesia. Such a disposition is no better captured than by the speech of Botswana's first President, Sir Seretse Khama. In 1969, while addressing the General Assembly, he publicly declared Botswana's intention to provide asylum and assistance to genuine refugees. In his lucid statement he stated:

"Botswana recognizes a responsibility to those victims of political circumstances and we are trying to discharge that responsibility as well as our resources permit. On our part, we have granted refugees recognition of their status, we have allowed them to settle in various parts of our country and find jobs or open their own businesses as where possible, we educate them as well as our limited educational and training facilities permit. Equally important, we issue United Nations Travel Documents with a return clause to those refugees who wish to travel to other countries where suitable training establishments are able to accept them."

In pursuance of this commitment, Botswana has in the past twenty years given asylum to refugees from Namibia, Southern Rhodesia/Zimbabwe and South Africa. Despite this liberal policy, the flow of refugees into Botswana remained relatively small until the mid 1970s. The 1960s witnessed a few asylum seekers, particularly following the Sharpville Massacre in 1960, so that by 1967 Botswana had in all only 207 refugees. This number was to go up thirty times ten years later in 1976. As the war for national liberation gathered momentum in the then Southern Rhodesia in the 1970s, Botswana felt an increasing pressure from refugee influxes estimated to be 30,000 persons at the time of Zimbabwean independence. Although the number dropped sharply following the repatriation of most Zimbabweans after independence, the inflow of asylum seekers into Botswana has remained continuous.
The escalation of the war in Namibia, the 1976 Soweto uprising together with eruption of civil unrest in the southern part of Zimbabwe in 1982 have all engendered significant flows of refugees. At the time of ICARA II in 1984 the refugee population in Botswana was in the region of 5,000 persons. The number has not changed significantly ever since, although the inflow of South African refugees tend to change with the radicalization of the internal situation. As for Namibian refugees, the implementation of UN Resolution 435 remains a critical factor. The prospects for repatriation, as well as future influxes, will largely depend on the extent to which the parties to the pact on the implementation of Namibian independence, particularly South Africa, are committed to its success. At the end of 1987 the refugee population in Botswana totalled 5,225 registered refugees. Of these, some 4,225 live in a multinational settlement at Dukwe located approximately 570 kilometers from Gaborone. The remaining refugees, estimated to about 1,000, are concentrated largely in the urban areas of Gaborone, Francistown, Serowe and Lobatse. About 3,800 or 89% of the refugees at Dukwe are Zimbabweans. In addition there are 157 South Africans, 138 Angolans, 117 Namibians and about forty refugees from other African countries. The presence of such large numbers of refugees, apart from political and security concerns, imposes a heavy burden on the social infrastructure. Although refugees constitute only 0.48% of the Botswana population, the impact of their presence is felt particularly in areas where service, resources and opportunities are already inadequate to meet the needs of nationals.

Refugee Policy in Botswana

Botswana is a signatory to the 1951 UN Convention and its 1967 Protocol relating to the status of refugees. It has, as yet, not ratified the 1969 OAU Refugee Convention but necessary consultations are taking place. In addition Botswana has a domestic legislation. It is a bit out-dated and not geared towards the refugee complexities in Botswana. With the assistance of the UNHCR it is now considering adopting a more comprehensive legislation on refugee protection.

Despite Botswana's outward policy on refugees, its efforts to grant asylum have largely been constrained by security concerns. The South African regime has, in the recent past, attacked specific targets in Botswana on the pretext that these locations are "training bases" for what it describes as "terrorists" or used to facilitate infiltration into and subversion against South Africa by the national liberation movements. During 1984–85 Botswana was pressurized by South Africa to sign a mutual security pact, which South Africa claimed was necessary to curb cross-border attacks by members of the ANC.49
President Masire refused to sign a formal pact but reiterated Botswana's commitment to its existing policy of not allowing its territory to be used for launching of armed attacks. However, as the struggle against apartheid continues to escalate so do South Africa's accusations. Botswana is increasingly being accused of insensitivity to South Africa's security needs and its ability to control the activities of the ANC. Quite predictably this has provided South Africa with a justification for mounting incursions into Botswana under either the pretext of "hot pursuits" or "anticipatory self-defence".

February and March 1985 witnessed several raids on South African refugee homes in Gaborone, to be followed in mid June by a commando raid against alleged ANC military targets in Gaborone in which eleven including several Botswana nationals, were killed. The raid got worldwide condemnation and in September the UN Security Council unanimously based a resolution calling on South Africa to pay full compensation for the loss of life, injury and damage to property (estimated to \$20mn) and recommended a \$14mn emergency aid programme to assist Botswana improve its security capabilities and refugee facilities.

After the coup in Lesotho in 1986 (following the South African border blockade), South Africa repeated its warning to Botswana to stop giving assistance to members of the ANC. After consultations between the two countries and the diplomatic intervention of the British Government, South Africa seemed to have agreed not to carry out further attacks in return for government action to curb the ANC. In the meantime the Botswana police had already stepped up action against "illegal immigrants", including ANC members; at the end of February eleven ANC members were arrested as "illegal immigrants" while in mid-January a further 18 were detained following police raids on houses in several towns, including Gaborone. In early March, the Office of the President announced that the ANC top leadership had agreed to withdraw from Botswana the ANC representative since his security could no longer be guarantied. This ended weeks of speculation and rumour that the government had changed course in favour of exclusion of any political or military presence of the ANC in the country. In the same month a new Bill, the National Security Act, was gazetted. Its provisions provided inter alia for extensive police powers, including arrest without warrant and imprisonment up to 30 years to combat "acts of terrorism and sabotage". The purpose and timing of the bill appeared calculated to reassure South Africa that the government was faithful to its pledges to tighten security and provide it with a more effective means of controlling ANC infiltrations across the border. This is evident from the bill provisions which provided for maximum penalties for those found guilty of passing over, being near or
entering any defence establishment and those hindering or interfering with any necessary service.

A brief lull of peace then ensued, but certainly a short-lived one. In 1987 South Africa resumed its campaign against Botswana. Early in the year the South African homeland of Bophuthatswana imposed visa requirements on Botswana nationals, obviously as part of Pretoria’s strategy to curb ANC infiltrations and also force Botswana into recognizing the homeland through direct negotiations. This move was followed by a bomb blast in Gaborone in April in which three people were killed. Although South Africa vehemently denied any connection with the incident, evidence tendered at a subsequent trial involving a former member of the UK’s Special Air Services (SAS) regiment clearly implicated South African security.\textsuperscript{52} The move seems to have been promoted by South Africa as a way of putting more pressure on Botswana to sign a non-aggression treaty. It seems quite obvious that South Africa is now determined to keep pressure on Botswana through continuous military raids. In 1988 alone there were not less than four such incursions, the most serious one being in March 1988 in which five civilians were killed in Gaborone. In the long run this state of tension can only have serious implications both for Botswana’s security and its economic resources. Already Botswana has been forced to spend a sizeable amount to upgrade its military capability. After the 1985 Commando raid several helicopters were delivered by USA under its $10 mn military aid programme for the 1986 fiscal year. In the same year it was disclosed that 90 members of UK’s Special Air Services regiment were to carry out a six week training exercise, including techniques to resist future South African raids. The government has also increased spending on the armed forces, with an appropriation of P46mn in 1987/88 up from P17 mn in the previous year. In 1988/89 it has allocated an even bigger sum of P63 mn within the expanded development budget. These are certainly in addition the other resource dislocations Botswana has had to endure to accommodate refugees.
Future and Prospects for Meaningful Refugee Policies in the BLS Countries

It has been argued that the refugee phenomenon in the BLS countries is bedeviled by rather unique and peculiar characteristics. Unlike other parts of Africa where the refugee problem is discernible, the refugee population in Southern Africa is primarily a by-product of racist policy whose main purpose is to maintain white supremacy as a sure way of guaranteeing western interests.

The significance of this observation lies in the fact that among the refugees there are members of liberation movements committed to the pursuit of a more equitable socio-economic and political dispensation in South Africa and Namibia. This peculiar characteristic poses specific problems for the countries of refuge. These have manifested themselves in various forms such as economic sanctions for countries harbouring such refugees and frequently full-scale military attacks on refugee homes in the countries of asylum under the guise of "hot pursuit" or self-defence. Where possible South Africa has supported surrogate groups in the countries of refuge with a view to weakening their economies and forcing them into withdrawing support for liberation movements.

Indeed, as South Africa braces itself to face the advancing tide of liberation, its attitude towards neighbouring countries is bound to have profound implications for their refugee policies. Since the South African internal situation is increasingly being radicalized, the regime is bound to be more repressive in its response to political discontent. At the same time one can anticipate a more aggressive and vicious policy towards its neighbours who are seemingly sympathetic to "terrorists" aspirations. This is already quite evident from a variety of measures taken under the state of emergency. Similarly, the destabilization strategies for Mozambique and Zimbabwe are likely to continue, at least as long as the revolutionary fervour in South Africa is still significant. This will inevitably precipitate more refugees in the region to a proportion hitherto unknown. For instance, the situation is already depressing with regard to Mozambican refugees spread out amongst Zimbabwe, Malawi, Zambia, Tanzania and Swaziland. Malawi has the largest number of Mozambican refugees, estimated to be in the region of 500,000 persons or 7 per cent of the Malawi population. It is
against this scenario that one should try to predict the future refugee policies of the region.

The long-term solutions to refugee problems in the context of the BLS countries are very difficult to conceive outside the dismantling of the system of apartheid in South Africa. Short of that, the BLS countries are unable to adopt long-term policies which would ensure protection of asylum seekers, particularly where the latter are members of the liberation movements. One notices, however, a significant number of refugees whose plight cannot, sensu strictu, be characterized as political. These are persons essentially running away from a war situation. This is certainly the case with the majority of Mozambican refugees as well as Zimbabwean refugees in Botswana. For the latter category of refugees the most viable solution would seem to be repatriation. A number of Zimbabwean refugees have already been repatriated from Botswana. In 1987 a total of 277 refugees were repatriated under the auspices of the UNHCR. Of these 256 were Zimbabweans, bringing to 972 the number of Zimbabwean repatriants between 1985 and 1987.

Further, such movements are likely to occur in view of the recent moves made in Zimbabwe to strengthen national unity. Also, as a result of the declaration of amnesty in Lesotho in 1986, some 75 Basotho refugees were repatriated by the end of 1987. One can also hope that as UN Resolution 435 for the independence of Namibia assumes a more concrete form, Namibian refugees will also be going back in large numbers.

As for the Mozambican refugees in Swaziland, the prospects for repatriation are rather bleak, unless South Africa decides to halt support for the MNR in Mozambique.

Swaziland is not in a position to exert any significant leverage over Pretoria on this issue and despite the Nkomati Accord the situation seems poised for escalation.

The alternative solution could be integration into the local communities in their countries of asylum. Indeed in each of the BLS countries a number of opportunities are available under UNHCR programmes to promote integration and self-reliance of refugees within the local society and decrease their dependency on relief aid. But then one should not lose sight of the size of these countries and strengths of their economies. Swaziland is certainly unable to sustain heavy refugee flows without a major injection of external aid. Currently, the major problem seems to be getting additional land for the soaring Mozambican refugee population. It remains a fairly sensitive issue since land is quite central to the Swazi social and political fabric. Besides, the land tenure system which vests a large proportion of the country’s land under Swazi nation land, makes it difficult for non-Swazis to have access to this resource.
The situation would be different if there were enough alternative employment opportunities. It is a shared characteristic of the BLS countries that employment demands far exceed the opportunities annually generated by their economies. Moreover, given the fact that refugees are confined to organized settlements, integration within the local society is bound to remain a constrained alternative.

Ultimately, for urban refugees, the majority of whom are members of the liberation movements, resettlement remains the more realistic option. It also blends well with the BLS declared policy that they regard themselves as places of temporary refuge. An additional factor is that most urban refugees normally would have attained a reasonable level of education to enable them to cope in the new environments in the countries of resettlement.

As for rural refugees, slightly different considerations would have to be taken into account. Their rural/peasant background makes them less amenable to this solution. Very few countries if any are likely to accept them. Consequently, solutions would have either to be found in the context of their countries of origin or their present countries of asylum. For the former, international pressure may go a long way to remove the causes of flight, while for the latter, international solidarity and burden sharing could go a long way to ameliorate the situation in the present countries of refuge.

Lastly, the regional factors as well as the economic dependency of the BLS countries will continue to be major determinants of refugee policies. So long as South Africa is able to exercise military and economic leverage on the BLS countries, the position of refugees will remain quite precarious and at times unpredictable. However, one should also not lose sight of the internal contradictions in the BLS. As their economies increasingly get integrated with the South African economy, one can expect more reluctance to antagonize South African capital. In the long-run, their ability to generate sound economic strategies may be crucial in the evolution of meaningful and stable refugee policies. Short of that, the BLS will remain vulnerable to South African pressure with disastrous consequences for asylum-seekers.
BASIC INDICATORS FOR BOTSWANA, LESOTHO, AND SWAZILAND

<table>
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<tr>
<th>COUNTRY</th>
<th>POPULATION (millions) mid 1979</th>
<th>AREA (thousands of sq. km)</th>
<th>GNP PER CAPITA Dollars 1979</th>
<th>GNP PER CAPITA Average annual growth rate (per cent) 1960-70</th>
<th>INFLATION Average annual rate (per cent) 1960-70</th>
<th>ADULT LITERACY (per cent) 1976</th>
<th>LIFE EXPECTANCY AT BIRTH (years) 1979</th>
<th>FOOD PRODUCTION PER CAPITA Average index (1979–71=100) 1977-79</th>
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<tr>
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<td>9.1</td>
<td>-</td>
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<td>49</td>
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<td>30</td>
<td>340</td>
<td>6.1</td>
<td>2.5</td>
<td>52</td>
<td>51</td>
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<tr>
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<td>650</td>
<td>7.2</td>
<td>-</td>
<td>65</td>
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### MIGRANT WORKERS FROM BOTSWANA, LESOTHO AND SWAZILAND TO SOUTH AFRICA 1965–85

<table>
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<tr>
<th>YEAR</th>
<th>TOTAL BLACK LABOUR</th>
<th>LESOTHO</th>
<th>BOTSWANA</th>
<th>SWAZILAND</th>
<th>TOTAL BLS</th>
<th>BLS WORKER: AS % OF TOTAL BLACK LABOR</th>
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<td>19 000</td>
<td>4 300</td>
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<td>14 800</td>
<td>5 000</td>
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<tr>
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<td>16 600</td>
<td>7 200</td>
<td>109 300</td>
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<td>24 810</td>
<td>11 756</td>
<td>136 470</td>
<td>32.4</td>
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<tr>
<td>1982</td>
<td>4 303 692</td>
<td>140 719</td>
<td>26 262</td>
<td>13 659</td>
<td>180 640</td>
<td>4.19</td>
</tr>
<tr>
<td>1983</td>
<td>2 260 163</td>
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<td>16 773</td>
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Notes:

The Government of the People's Republic of Mozambique and the Government of the Republic of South Africa, hereinafter referred to as the High Contracting Parties:

RECOGNISING the principles of strict respect for sovereignty and territorial integrity, sovereign equality, political independence and the inviolability of the borders of all states;

REAFFIRMING the principle of non-interference in the internal affairs of other states;

CONSIDERING the internationally recognised principle of the right of peoples to self-determination and independence and the principle of equal rights of all peoples;

CONSIDERING the obligation of all states to refrain, in their international relations, from the threat or use of force against the territorial integrity or political independence of any state;

CONSIDERING the obligation of states to settle conflicts by peaceful means, and thus safeguard international peace and security and justice;

RECOGNISING the responsibility of states not to allow their territory to be used for acts of war, aggression or violence against other states;

CONSCIOUS of the need to promote relations of good neighbourliness based on the principles of equality of rights and mutual advantage;

CONVINCED that relations of good neighbourliness between the High Contracting Parties will contribute to peace, security, stability and progress in Southern Africa, the Continent and the World;

Have solemnly agreed to the following:

ARTICLE ONE

The High Contracting Parties undertake to respect each other's sovereignty and independence and, in fulfilment of this fundamental obligation, to refrain from interfering in the internal affairs of the other.

ARTICLE TWO

1. The High Contracting Parties shall resolve differences and disputes that may arise between them and that may or are likely to endanger mutual peace and security or peace and security in the region, by means of negotiation, enquiry, mediation, conciliation, arbitration
or other peaceful means, and undertake not to resort, individually or collectively, to the threat or use of force against each other's sovereignty, territorial integrity or political independence.

2. For the purpose of this article, the use of force shall include inter alia—
   a. attacks by land, air or sea forces;
   b. sabotage;
   c. unwarranted concentration of such forces at or near the international boundaries of the High Contracting Parties;
   d. violation of the international land, air or sea boundaries of either of the High Contracting Parties.

3. The High Contracting Parties shall not in any way assist the armed forces of any state or group of states deployed against the territorial sovereignty or political independence of the other.

ARTICLE THREE

1. The High Contracting Parties shall not allow respective territories, territorial waters or air space to be used as a base, thoroughfare, or in any other way by another state, government, foreign military forces, organisations or individuals which plan or prepare to commit acts of violence, terrorism or aggression against the territorial integrity or political independence of the other or may threaten the security of its inhabitants.

2. The High Contracting Parties, in order to prevent or eliminate the acts or the preparation of acts mentioned in paragraph (1) of this article, undertake in particular to—
   a. forbid and prevent in their respective territories the organisation of irregular forces or armed bands, including mercenaries, whose objective is to carry out the acts contemplated in paragraph (1) of this article;
   b. eliminate from their respective territories bases, training centres, places of shelter, accommodation and transit for elements who intend to carry out acts contemplated in paragraph (1) of this article;
   c. eliminate from their respective territories centres or depots containing armaments of whatever nature, destined to be used by the elements contemplated in paragraph (1) of this article;
   d. eliminate from their respective territories command posts or other places for the command, direction and coordination of the elements contemplated in paragraph (1) of this article;
   e. eliminate from the irrespective territories communication and tele-communication facilities between the command and the elements contemplated in paragraph (1) of this article;
   f. eliminate and prohibit the installation in their respective territories of radio broadcasting stations, including unofficial or
clandestine broadcasts, for the elements that carry out the acts contemplated in paragraph (1) of this article;
g. exercise strict control, in their respective territories, over elements which intend to carry out or plan the acts contemplated in paragraph (1) of this article;
h. prevent the transit of elements who intend to plan to commit the acts contemplated in paragraph (1) of this article, from a place in the territory of either to a place in the territory of the other or to a place in the territory of any third state which has a common boundary with the High Contracting Party against which such elements intend or plan to commit the said acts;
i. take appropriate steps in their respective territories to prevent the recruitment of elements of whatever nationality for the purpose of carrying out the acts contemplated in paragraph (1) of this article;
j. prevent the elements contemplated in paragraph (1) of this article from carrying out from their respective territories by any means, acts of abduction or other acts, aimed at taking citizens of any nationality hostage in the territory of the other High Contracting Party; and
k. prohibit the provision on their respective territories of any logistic facilities for carrying out the acts contemplated in paragraph 1 of this article.

The High Contracting Parties will not use the territory of third states to carry out or support the acts contemplated in paragraphs 1 and 2 of this article.

ARTICLE FOUR
The High Contracting Parties shall take steps, individually and collectively, to ensure that the international boundary between their respective territories is effectively patrolled and that the border posts are efficiently administered to prevent illegal crossings from the territory of a High Contracting Party to the territory of the other, and in particular, by elements contemplated in Article Three of this Agreement.

ARTICLE FIVE
The High Contracting Parties shall prohibit within their territory acts of propaganda that incite a war of aggression against the other High Contracting Party and shall also prohibit acts of propaganda aimed at inciting acts of terrorism and civil war in the territory of the other High Contracting Party.
ARTICLE SIX
The High Contracting Parties declare that there is no conflict between their commitments in treaties and international obligations and the commitment undertaken in this Agreement.

ARTICLE SEVEN
The High Contracting Parties are committed to interpreting this Agreement in good faith and will maintain periodic contact to ensure the effective application of what has been agreed.

ARTICLE EIGHT
Nothing in this Agreement shall be construed as detracting from the High Contracting Parties’ right to self-defence in the event of armed attacks, as provided for in the Charter of the United Nations.

ARTICLE NINE
1. Each of the High Contracting Parties shall appoint high-ranking representatives to serve on a Joint Security Commission with the aim of supervising and monitoring the application of this Agreement.
2. The Commission shall determine its own working procedure.
3. The Commission shall meet on a regular basis and may be specially convened whenever circumstances so require.
4. The Commission shall—
   a. Consider all allegations of infringements of the provisions of this Agreement;
   b. Advise the High Contracting Parties of its conclusions; and
   c. Make recommendations to the High Contracting Parties concerning measures for the effective application of this Agreement and the settlement of disputes over infringements or alleged infringements.
5. The High Contracting Parties shall determine the mandate of their respective representatives in order to enable interim measures to be taken in cases of duly recognised emergency.
6. The High Contracting Parties shall make available all the facilities necessary for the effective functioning of the Commission and will jointly consider its conclusions and recommendations.

ARTICLE TEN
This Agreement will also be known as "The Accord of Nkomati".
ARTICLE ELEVEN

1. This Agreement shall enter into force on the date of the signature thereof.

2. Any amendment to this Agreement agreed to by the High Contracting Parties shall be effected by the Exchange of Notes between them. IN WITNESS WHEREOF, the signatories, in the name of their respective governments, have signed and sealed this Agreement, in quadruplicate in the Portuguese and English languages, both texts being equally authentic.

THUS DONE AND SIGNED AT the common border on the banks of the Nkomati River, on this the sixteenth day of March 1984.

SAMORA MOISES MACHEL
MARSHALL OF THE REPUBLIC
PRESIDENT OF THE PEOPLE'S
REPUBLIC OF MOZAMBIQUE
PRESIDENT OF THE COUNCIL OF MINISTERS
FOR THE GOVERNMENT OF THE
PEOPLE'S REPUBLIC OF MOZAMBIQUE

PIETER WILLEM BOTHA
PRIME MINISTER OF THE
REPUBLIC OF SOUTH AFRICA
FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA
12 February 1982

His Majesty
King Sobhuza II of Swaziland
Mbabane
SWAZILAND

Your Majesty

I have the honour to refer to various discussions and correspondence between the Foreign Ministers of the Kingdom of Swaziland and the Republic of South Africa which resulted in mutual agreement between our respective Governments to the effect that both Governments are aware of the fact that international terrorism, in all its manifestations, poses a real threat to international peace and security and that our respective Governments should take steps to protect our respective states and nationals against this threat.

Therefore, I now have the honour to inform you that the Government of the Republic of South African proposes the following Agreement between our respective Governments:

ARTICLE 1
The Contracting Parties undertake to combat terrorism, insurgency and subversion individually and collectively and shall call upon each other wherever possible for such assistance and steps as may be deemed necessary or expedient to eliminate this evil.

ARTICLE 2
In the conduct of their mutual relations the Contracting Parties shall furthermore respect each others independence, sovereignty and territorial integrity and shall refrain from the unlawful threat or use of force and from any other act which is inconsistent with the purposes and principles of good neighbourliness.
ARTICLE 3
The Contracting Parties shall live in peace and further develop and maintain friendly relations with each other and shall therefore not allow any activities within their respective territories directed towards the commission of any act which involves a threat or use of force against each other's territorial integrity.

ARTICLE 4
The Contracting Parties shall not allow within their respective territories the installation or maintenance of foreign military bases or the presence of foreign military units except in accordance with their right of self-defence in the event of armed attacks as provided for in the Charter of the United Nations and only after due notification to the other.

Should the Government of the Kingdom of Swaziland agree with the abovementioned provisions, this letter and your affirmative reply thereto shall constitute an Agreement between our two Governments.

Please accept, Your Majesty, the renewed assurance of my highest consideration.

P.W. Botha
Prime Minister of the Republic of South Africa

17th February, 1982

My Dear Prime Minister,

You are hereby authorized to sign on behalf of Swaziland the Letter of Understanding on Security Matters between the Kingdom of Swaziland and the Republic of South Africa in reply to the letter dated 12th February, 1982 from the Prime Minister of the Republic of South Africa.

Sobhuza II
Ingwenyama, King of Swaziland
Honourable Prime Minister

"I have the honour to refer to various discussions and correspondence between the Foreign Ministers of the Kingdom of Swaziland and the Republic of South Africa which resulted in mutual agreement between our respective Governments to the effect that both Governments are aware of the fact that international terrorism, in all its manifestations, poses a real threat to international peace and security and that our respective Governments should take steps to protect our respective states and nationals against this threat.

Therefore, I now have the honour to inform you that the Government of the Republic of South Africa proposes the following Agreement between our respective Governments:"

ARTICLE 1
The contracting Parties undertake to combat terrorism, insurgency and subversion individually and collectively and shall call upon each other wherever possible for such assistance and steps as may be deemed necessary or expedient to eliminate this evil.

ARTICLE 2
In the conduct of their mutual relations the Contracting Parties shall furthermore respect each other's independence, sovereignty and territorial integrity and shall refrain from the unlawful threat or use of force and from any other act which is inconsistent with the purposes and principles of good neighbourliness.

ARTICLE 3
The Contracting Parties shall live in peace and further develop and maintain friendly relations with each other and shall therefore not allow any activities within their respective territories directed towards the commission of any act which involves a threat or use of force against each other's territorial integrity.

ARTICLE 4
The Contracting Parties shall not allow within their respective territories the installation or maintenance of foreign military bases or the presence of foreign military units except in accordance with their right of self-defence in the event of armed attacks as provided for in the
Charter of the United Nations and only after due notification to the other.

Should the Government of the Kingdom of Swaziland agree with the abovementioned provisions, this letter and your affirmative reply thereto shall constitute an Agreement between our two Governments.

Please accept, Your Majesty, the renewed assurance of my highest consideration.

Duly authorized by His Majesty King Sobhuza II, I have the honour to inform you, Mr Prime Minister, that the Government of the Kingdom of Swaziland agree to the abovementioned provisions and regard our letter and this reply as constituting an agreement between our two Governments.

Please accept, Mr Prime Minister, the assurance of my highest consideration

Mabandla Fred Dlamini
Prime Minister of the Kingdom of Swaziland

The Honourable P. W. Botha
Prime Minister of the Republic of South Africa
Cape Town

EMBARGOED AND TO BE CHECKED AGAINST DELIVERY

Agreement between the Government of the Republic of South Africa and the Government of the Kingdom of Swaziland relating to Security Matters


During discussions between the Honourable R F Botha, Minister of Foreign Affairs of the Republic of South Africa, and the Honourable R V Dlamini, Minister of Foreign Affairs of the Kingdom of Swaziland, in Pretoria today, it was decided to make public, on behalf of their respective Governments, the existence and contents of an Agreement relating to Security Matters.
After having been granted full powers by the South African State President in Council and His Majesty the late King Sobhuza II of Swaziland, respectively the Honourable P W Botha, Prime Minister of the Republic of South Africa, and the Honourable H F Dlamini, former Prime Minister of the Kingdom of Swaziland, concluded the Agreement, which came into force on 17 February 1982, on behalf of the two Governments.

The introductory paragraph of the Agreement expresses the awareness of the two States that international terrorism, in all its manifestations, poses a real threat to international peace and security as well as their agreement that they should take steps to protect their respective States and nationals against this threat. The Agreement accordingly records the undertaking of the Parties to combat terrorism, insurgency and subversion individually and collectively as well as their right to call upon each other for such assistance and steps as may be deemed necessary or expedient to eliminate this evil.

The parties are required to respect each other's independence, sovereignty and territorial integrity in the conduct of their mutual relations and to refrain from the threat or use of force as well as any other act which would be inconsistent with the purposes and principles of good neighbourliness.

In order to facilitate the maintenance and development of peace and friendly relations between the two States, they are required not to allow any activities within their respective territories which are directed towards the commission of any act which involves a threat or use of force against each other's territorial integrity.

The Parties are also required not to allow the installation or maintenance of foreign military bases or the presence of foreign military units within their respective territories except in accordance with their right of self-defence in the event of armed attacks and only after due notification to the other.

PRETORIA
31 March 1984
Footnotes


Callaghy *op. cit.*, p. 5.


19. The exact statistics of refugees in neighbouring countries are not available due to the continuous inflow. However, at the time of the above mentioned SARRED conference in Aug. 1988 the distribution of Mozambican refugees among the neighbouring countries was as follows:

- Malawi 452,000 (recent estimates: 750,000)
- Tanzania 72,000
- Zambia 30,000
- Swaziland 7,800 (current estimates: 15,000)
- Zimbabwe 66,000 (December 1988: 166,000)

Many thousands of refugees have sought refuge in South Africa but accurate statistics are not available.


23. For a fuller discussion of this view, see Phyllis Johnson & D. Martin, op. *cit.* pp. 139–170.

24. Appendix IV.

25. Articles 1, 3, 4. The then Prime Minister, Mr. Mabandla Dlaminis, was authorised to sign on 17th February 1982.


28. Appendix III.


34. *Quarterly Economic Review*, *op. cit.*, footnote 29 supra p. 54.

35. Appendix II.


44. For a general analysis of the January Coup, see *Special Report on Lesotho, Africa Events*, February 1986, particularly articles by Yusuf Hassan and Rok Ajulu.


47. Appendix II.

48. *County Profiles on Refugees, Returnees and Displaced Persons*, SARRED *op. cit.* p. 27.

49. *County Reports, Namibia, Botswana, Lesotho and Swaziland*, Economist Intelligence Unit, 1985/86.

50. In fact it was reported that the President of the ANC in exile, Mr. Oliver Tambo, had agreed to this arrangement.

51. In a memorandum released with the Bill, four terrorist incidents during 1985 were cited as reasons for introducing legislation. These were the bomb explosion at a house in the Gaborone suburb of Jinja in February, the death of a South African refugee in a car bomb attack in April, the South African raid in June in which twelve people including several Botswana nationals were killed and a bomb blast at Mochudi 40 km north of Gaborone in October.

Bibliography

Books

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Articles and Papers


Morgenstern  "The Right of Asylum", *British Yearbook of International Law* 1948.


Patronogenic  "International Protection of Refugees in Armed Conflict" *Annales de Droit International Medical* 1981.


Simmonds

Spring

Weis, P.

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Weis, P.

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Weis, P.

**Reports**


Conclusions of Round Table on Protection of Refugees in Armed Conflicts and International Disturbances, International Institute of Humanitarian Law, San Remo, Italy, Sept. 1982.


Research Reports available for purchase from the Institute


In 1967 there were less than 500 refugees in the three southern African states of Botswana, Lesotho, and Swaziland. Twenty years later the figure had soared to more than 50,000. To analyse the complex refugee policies which evolved Medard Rwelamira places these countries in the broader context of the political economy of the subregion.

Apartheid South Africa has been able to destabilize through the infrastructure links between the BLS states and South Africa, and also to manipulate the various forms of dependence to her advantage. All this has reduced the ability of these states to evolve meaningful refugee policies.

After giving the general background the author proceeds to analyse each of the three countries in terms of how South African policies have affected their refugee policies. The study is of interest well beyond the regional setting — as a contribution to knowledge on how political and economic contingencies override humanitarian and even political ambitions on the part of weaker neighbours to a powerful oppressive state.

**Medard R. Rwelamira** is a Tanzanian national. He earned his first Law degree at the University of Dar es Salaam, and his LL.M. and J.S.D. from Yale Law School in Connecticut, USA. He has taught at the universities of Dar es Salaam, the National University of Lesotho, and is currently Associate Professor at the University of Swaziland.