The nexus between Sudan's refugee policy and its bilateral relations with Ethiopia and Eritrea

Shelley Burke

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I must acknowledge Africa and Middle East Refugee Assistance (AMERA), as I consider my internship experience there to be a primary component of my graduate studies. The stories of individuals I assisted at AMERA were not only the impetus behind this study, but have inspired me in more ways than I can describe.

Without the encouragement of my close friends and loved ones I could not have reached this point. A lifetime of love and support from my family is what has carried me to where I am today. Thank you, Dad, for reading maps and atlases with me when I was young. You instilled in me a hunger to seek an understanding of the people and places represented in those images. Thank you, Mom, for your words that always inspire me to interpret all situations in a beautiful and hopeful way. Thank you, Sarah, for always pushing me to succeed and for expecting the best of your little sister.

Above all, I wish to acknowledge the men and women whose names, faces, and unique stories could only be represented in this study as statistics. Throughout the process of writing this thesis, my thoughts were with those Ethiopian and Eritrean men and women who have been forcibly returned to unknown fates in their home countries.
The American University in Cairo
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The Nexus Between Sudan’s Refugee Policy and Its Bilateral Relations with Ethiopia and Eritrea

Shelley Rose Burke

Under the supervision of Dr. Usha Natarajan

ABSTRACT

This thesis analyzes the impact of Sudan’s bilateral relations with the Eritrean and Ethiopian governments upon its practice of refoulement of asylum-seekers and refugees from those countries. It argues that Sudan uses the asylees from these two states as tools and objects of policy. In different contexts and depending on relations between the states at a given time, Sudan has used its forced return of these individuals as a means of showing support for, as well as disapproval of their home governments. Sudan’s behavior also highlights some shortcomings within the international refugee regime and in certain instances these acts of refoulement represent the Sudanese government’s frustration with this system.
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<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>COR</td>
<td>Office of the Commissioner for Refugees</td>
</tr>
<tr>
<td>CUD</td>
<td>Coalition for Unity and Democracy</td>
</tr>
<tr>
<td>ELF</td>
<td>Eritrean Liberation Front</td>
</tr>
<tr>
<td>ELF-RC</td>
<td>Eritrean Liberation Front-Revolutionary Council</td>
</tr>
<tr>
<td>EPLF</td>
<td>Eritrean People’s Liberation Front</td>
</tr>
<tr>
<td>EPRDF</td>
<td>Ethiopian People’s Revolutionary Democratic Front</td>
</tr>
<tr>
<td>EPRP</td>
<td>Ethiopian People’s Revolutionary Party</td>
</tr>
<tr>
<td>JEM</td>
<td>Justice and Equality Movement</td>
</tr>
<tr>
<td>NDA</td>
<td>National Democratic Alliance</td>
</tr>
<tr>
<td>NIF</td>
<td>National Islamic Front</td>
</tr>
<tr>
<td>OAU</td>
<td>Organization of African Unity</td>
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<tr>
<td>OLF</td>
<td>Oromo Liberation Front</td>
</tr>
<tr>
<td>ONLF</td>
<td>Ogaden National Liberation Front</td>
</tr>
<tr>
<td>PFDJ</td>
<td>People’s Front for Democracy and Justice</td>
</tr>
<tr>
<td>SOCEPP</td>
<td>Solidarity Committee for Ethiopian Political Prisoners</td>
</tr>
<tr>
<td>SPLA/M</td>
<td>Sudan People’s Liberation Army/Movement</td>
</tr>
<tr>
<td>TPLF</td>
<td>Tigray People’s Liberation Front</td>
</tr>
<tr>
<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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<tr>
<td>USCRI</td>
<td>U.S. Committee for Refugees and Immigrants</td>
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CHAPTER 1
INTRODUCTION

On October 18, 2011 the Office of the United Nations High Commissioner for Refugees (UNHCR) publicly condemned Sudan’s refoulement of 300 Eritrean asylum-seekers and refugees to Eritrea.\(^1\) A month later on November 16, 2011 a human rights group based in the Ethiopian diaspora issued a report decrying Sudan’s recent arrest and refoulement of a former Ethiopian opposition party member.\(^2\) These echo sporadically repeated reports of Sudan’s refoulement of Ethiopian and Eritrean asylum-seekers and refugees over the past two decades. A refugee is a person outside his or her country of origin who cannot return due to a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.”\(^3\) Individuals are also protected by the concept of non-refoulement, that a state may not return a person to a country where he or she will face a threat to life or freedom.\(^4\) The Government of Sudan violates the principle of non-refoulement despite its being party to international and regional conventions, which bind it to the protection of asylum-seekers and refugees as enshrined in international human rights law and customary international law.

\(\begin{align*}


{3} \text{Convention Relating to the Status of Refugees art. 1, A(2), July 28, 1951, 189 U.N.T.S. 150.}

{4} \text{Ibid., art. 33.}
\end{align*}\)
The Eritrean government considers seeking asylum an act of treason, and failed asylum-seekers face a high risk of incommunicado detention and subjection to torture upon return to Eritrea.\(^5\) While the Ethiopian government does not implement as severe a blanket policy to forced returnees, opposition party members and government critics as well as those suspected of involvement in certain ethnically based liberation movements are at risk of arbitrary and indefinite detention, torture, and extrajudicial execution upon return to Ethiopia.\(^6\)

Sudan is not alone in the international community in violating international law with regard to refugees, and from state to state the reasons for violations vary. Countries’ putting their own interests or foreign policies ahead of international law is also by no means a recent phenomenon and is a major factor hindering uniform implementation of the law. Despite these realities this issue does deserve further scholarship, especially as it has not been paid due attention in the context of the Sudanese government.

This thesis examines the impact of bilateral relations between refugee sending and receiving states upon treatment of refugees, using the Horn of Africa as a region of study. Specifically, the cases of Sudan’s bilateral relations with Ethiopia and Eritrea, and correspondingly, Sudan’s practice of refoulement of refugees and asylum-seekers from the two respective countries are presented and analyzed. I argue that despite Sudan being bound to the principle of non-refoulement under international, regional and domestic law, the State acts in violation of this law with regard to Ethiopian and Eritrean refugees and asylum-seekers, due primarily to its bilateral relations with Ethiopian and Eritrean


governments. This study tackles three primary questions: 1) Have Sudan’s bilateral relations with Ethiopia and Eritrea significantly influenced its refugee policy toward individual Ethiopians and Eritreans; 2) What other factors may be underlying Sudan’s deportations of these populations; and 3) What can we learn about international refugee law, its realistic application, or shortcomings based on the findings of this study?

1.1 Significance and Scope of the Study

The actions carried out by the Sudanese government have had and continue to have a great impact on the wellbeing and safety of already-vulnerable asylum-seekers and refugees fleeing Ethiopia and Eritrea. It is not enough that these actions simply be condemned in the international community; greater steps ought to be taken to understand and ideally, address the root causes of this practice. Keeping in mind that individual lives are greatly impacted and threatened by refoulement, I have attempted when possible to keep central to this study the voices of Ethiopian and Eritrean refugees who have experienced and witnessed Sudan’s policies firsthand.

In order to fully address my questions, I present my argument based on qualitative and quantitative analyses of historical and contemporary evidence, statistics, and information gathered during interviews. It is not within the scope of this research to measure the extent to which Sudan’s practice of non-refoulement occurs; it is sufficient to establish that it does occur, at least in part, because of Sudan’s political and foreign relations concerns. Issues such as the Sudanese authorities’ detention, harassment, and other mistreatment of asylum-seekers and refugees would also be useful factors to consider in assessing Sudan’s overall treatment of these populations. Though these factors will occasionally be brought into our discussion, this study focuses specifically on
Sudan’s practice of refoulement. It would be an arduous task and one beyond the means and resources available, to collect sufficient and conclusive data regarding acts of detention and other differential treatment.

The primary time period within which this thesis focuses is 1991 to 2011. 1991 was a year of major transition in both Ethiopia and Eritrea; Eritrea’s war of liberation from Ethiopia ended in 1991 (although de jure independence was gained through a 1993 referendum) and Ethiopians saw the fall of the Derg Regime and the rise to power of the Ethiopian People’s Revolutionary Democratic Front (EPRDF). Using 1991 as the beginning of my timeframe of reference, I will be able to analyze the previously federated Ethiopia and Eritrea as separate entities. Furthermore, it should be noted that policies and practices of the Republic of South Sudan since its July 2011 establishment are not included in this study. Reference to events that occurred both before and after July 2011 will only be considered in the context of policies sanctioned in Khartoum by the Republic of Sudan.

1.2 Methodology

I became aware of my research issue through conversations I had in 2011 and 2012 with Eritrean and Ethiopian asylum-seekers and colleagues at Africa and Middle East Refugee Assistance (AMERA) who had previously sought asylum in Sudan. While their stories and experiences were unique, I noticed trends in their descriptions of Sudan’s treatment of asylees from their home countries. These ranged from accounts of those who had heard rumors of deportation and poor treatment by the Sudanese authorities or subversive targeting by home country officials, to first-hand stories from those who had
witnessed or been the victims of such acts. While some could make guesses as to why this occurred, many had no solid evidence to substantiate their claims and opinions.

Therefore, it was necessary for me to approach this research cognizant of my existing conceptualization of the subject based primarily on others’ understanding of it. To achieve this I employed both qualitative and quantitative methods when carrying out my study, as the shortcomings of each method can be compensated for by the other to ensure that data is reliable and holistic.\(^7\) The quantitative component of this study is based on statistics and other measurable data based on desk research, which was supplemented for analytical purposes with qualitative observations based on historical and contemporary evidence and the accounts of interviewees.

1.2.1 Conceptual Approach

In approaching my research problem, I viewed the subjects of my study – that is, Sudanese government policies toward its neighbors, as well as the individual lives of refugees impacted by these policies – as parts of an interconnected system that both influence and are influenced by one another. In 1985 Ferris provided a useful approach to the study of refugees that espoused: (1) identifying trends within refugee movements which may initially appear sporadic, (2) viewing the field as a means of gaining insight into the international political system, (3) as well as a means to analyze policy-making processes within specific nations, and (4) acknowledging that the refugee policy-making process occurs at a conjunction between international and domestic politics.\(^8\) As Betts and Loescher suggest, I framed my thoughts from a ‘top-down’ approach that views the

\(^7\) Matveev, “Advantages of Employing Quantitative and Qualitative Methods.”
forced migrant as both a reflection and integral part of a broader international system. I carried out this study understanding the refugee to be both a product of and determining factor within this system of international foreign policies and relationships.

1.2.2 Interviews and Sampling Methods

Two interviews were carried out with Ethiopian refugees in Egypt who had previously sought asylum and spent significant periods of time in Sudan. I originally intended to conduct approximately six interviews with Ethiopian and Eritrean refugees, as well as several additional interviews with employees of UNHCR and non-governmental organizations (NGOs) based in Sudan. I received confirmation from several informants that they would participate in interviews. The reasons these interviews were not carried out include scheduling conflicts, a change of heart or fear for personal security on the part of the informant, or a loss of contact. I conducted an interview with one Eritrean refugee, but it is not included in this study because the information provided did not seem reliable or consistent with historical and contemporary facts. In order to compensate for this lack of personal interviews, I have included in this thesis the accounts of Ethiopian and Eritrean asylees and employees of UNHCR that were provided in interviews conducted by various NGOs.

For the interviews I did conduct, a combination of purposive and snowball sampling methods were used to select the informants. Taking a purposive approach to identifying interview subjects was the most appropriate method, as I deliberately sought individuals with a certain set of experiences and knowledge regarding the research subject. This is the most successful form of sampling when interviews are occurring in conjunction with

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9 Betts and Loescher, “Refugees in International Relations,” 3-4.
data review and analysis, as was the case in my research.\textsuperscript{10} In order to access these individuals, I employed the method of snowball sampling; that is, gaining exposure to and accessing “informants through contact information that is provided by other informants.”\textsuperscript{11} This method can be particularly useful when attempting to identify ‘hidden populations’ such as the individual Ethiopian and Eritrean refugees I interviewed.\textsuperscript{12}

I received approval from the American University in Cairo Internal Review Board (IRB) prior to contacting and interviewing participants.\textsuperscript{13} All interviews carried out with refugees were in-depth and open-ended in nature. It was necessary to conduct in-depth interviews with a small number of individuals, as my aim was to gain a thorough understanding of the experiences, opinions, and perspectives of individuals to substantiate and bring life to the other primary data I gathered.\textsuperscript{14} The potentially biased nature of respondents’ comments and input is acknowledged and therefore, the findings based on these interviews are not considered definitive or general in nature, but serve as supplements to my other data.\textsuperscript{15}

\textbf{1.2.3 Cairo, Egypt}

These interviews occurred in different locations in Cairo, Egypt in August 2012. Cairo was an ideal location because of its close proximity to Sudan and large population of Ethiopian and Eritrean refugees. In January 2012 the UNHCR office in Cairo reported that there were 1,612 Ethiopian and 1,987 Eritrean asylum-seekers and refugees residing

\begin{flushleft}
\textsuperscript{10} Mack et al., \textit{Qualitative Research Methods}, 15.
\textsuperscript{11} Noy, “Hermeneutics of Snowball Sampling,” 5.
\textsuperscript{12} Ibid.
\textsuperscript{13} See appendix 1.
\textsuperscript{14} Boyce and Neale, \textit{Conducting In-Depth Interviews}, 3.
\textsuperscript{15} Ibid., 3-4.
\end{flushleft}
in Egypt.\textsuperscript{16} I also felt that Egypt was a more appropriate location than Sudan to carry out interviews primarily out of consideration for the safety and comfort of the refugee interviewees. These individuals would be more willing to speak freely and openly on this subject in the more removed location of Cairo, compared with Khartoum.

Furthermore, as the city in which I have studied and lived for two years, Cairo was a convenient location from which to gather information for the thesis. I was able to use my familiarity with the local refugee populations, community-based and other refugee assistance organizations, and personal contacts as a foundation from which to gain advice and input prior to beginning my study and to support me throughout the process. Experiences, knowledge gained, and relationships I made while interning at the local refugee assistance NGO, AMERA, between July 2011 and March 2012 were also invaluable resources throughout the study.

\textbf{1.2.4 Interviewees}

The purpose of interviews was to enrich the findings of my own research with the individual personal anecdotes, experiences, and insights of some of those affected by Sudan’s policies. Participants were given an explanation of the purpose of the study and gave verbal consent to be interviewed after reviewing the consent form.\textsuperscript{17} The first interview I conducted was with Girma, an Ethiopian refugee who is an employee of a Cairo-based refugee assistance organization.\textsuperscript{18} In the interview he described his experiences as a refugee in Sudan from 1988 to 1996, and also gave his personal opinion

\textsuperscript{17} See appendix 2.
\textsuperscript{18} For the interview summary, see appendix 3. Girma [pseudonym], interview by the author, tape recording, August 9, 2012, Cairo, Egypt.
and insights into Ethiopian-Sudanese relations. The second interview was conducted with Daniel, an Ethiopian refugee who spent twenty-two years as a refugee in Sudan. His experiences and insights as a politically active refugee shed much light on the unique issues that this specific refugee population has dealt with in Sudan.

1.2.5 Desk Research

Desk research focused on the following subjects: 1) legal instruments, specifically the 1951 Convention Relating to the Status of Refugees, the 1969 Organization of African Unity Convention Governing Specific Aspects of Refugee Problems in Africa, and Sudan’s 1974 Regulation of Asylum Act; 2) the bilateral relations-refugee policy nexus; 3) the modern histories of Ethiopia, Eritrea, and Sudan, as well as trends in Sudan’s relationship with the two states; 4) statistics on the number of Ethiopian and Eritrean refugees in Sudan; and 5) qualitative and quantitative data regarding Sudan’s refoulement of these populations.

All of these components were analyzed in conjunction in order to establish a broad, general understanding of the legality of Sudan’s treatment of the asylees it hosts, as well as the interplay between Sudan’s bilateral relations with the two case states. An in-depth study of significant fluctuations in Sudan’s policy toward Ethiopia and Eritrea between 1991 and 2011 was also undertaken. I considered foreign visits between state officials, the signing of bilateral agreements, and coordination between Sudan and the

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19 For the interview summary, see appendix 4. Daniel [pseudonym], interview by the author, August 30, 2012, Cairo, Egypt.
two states as indicators of good or improved relations. Alternately, I considered Sudan’s support for Eritrean and Ethiopian opposition movements and the cutting of diplomatic ties to be markers of poor or worsening relations.

This was carried out on top of a broader study of relations between Sudan and Ethiopia, and Sudan and pre-independence Eritrean liberation organizations between roughly 1960 and 1990. Establishing a strong understanding of the historical context from which present-day relations were formed allowed for a more accurate assessment of current trends in bilateral relations. The numbers of Ethiopian and Eritrean asylum-seekers and refugees in Sudan deported in given years were then analyzed against shifts in Sudan’s policy toward the two home countries.21

1.3 Ethical Concerns and Limitations

The primary obstacles in collecting data for this study were the secretive nature in which refoulement is carried out in Sudan, as well as navigating the constantly changing, nuanced, and often contradictory trends in Sudan’s policies toward the Ethiopian and Eritrean governments. As the Sudanese government does not publicize data on the numbers of individuals it refoules each year, I depended primarily on reports from agencies such as the UNHCR and U.S. Committee for Refugees and Immigrants (USCRI) to get a general, but by no means complete picture of the numbers of deportations.

Another limitation I faced was not being able to carry out as many interviews as I had originally intended. Though I do not feel that the findings of these interviews would

21 The term “deportation” refers to a state’s expulsion of an alien from its territory. In this study, the term is used at times to refer to the physical act of forcibly returning would-be or failed asylum-seekers, asylum-seekers, and refugees.
have changed the outcome or final conclusion of this thesis, they could have provided additional support and evidence for my arguments.

The primary ethical issue I faced involved interviewing refugees who had previously sought asylum in Sudan. Although I spoke with these individuals in Egypt, I am aware that there is fear in the Ethiopian and Eritrean refugee communities in Cairo that some negative practices carried out by Sudanese officials (or by authorities from their home countries operating in Sudan) also occur in Egypt. This may have made them weary of participating in my research. At all levels of the informant-identifying and interview process, steps were taken to ensure that the identity of and information provided by participants was kept confidential. Consent was obtained in a fully informed and voluntary manner.

1.4 Organization of the Study

This introductory chapter has provided readers with an explanation of my thesis and the means through which this study was carried out. Chapter 2 is a review of literature on key concepts related to foreign policy and bilateral relations, the foreign policy-refugee policy nexus, and the role of politics in the application of international refugee law. The work of scholars who have addressed this issue specifically in the Horn of Africa is also reviewed in this chapter.

An introduction to basic principles of international refugee law is given in chapter 3. The concepts of non-refoulement and the outlaw of torture are specifically explored because of their key relevance to this study. Broad trends in African asylum policies, and regional asylum treaties and legislation are also outlined. Chapter 4 gives a historic and modern overview of Ethiopia, Eritrea, and Sudan. These two chapters will give readers a
basic understanding of the subject at hand, as well as a greater appreciation for why the connection between bilateral relations and refugee policy in this region deserves further study.

Chapters 5 and 6 are case studies of Sudan’s policies of refoulement toward Ethiopian and Eritrean asylum-seekers and refugees based on its relations with their home governments. The overall findings of my research based on statistics, historical and contemporary evidence, and interviews are presented and analyzed in these chapters. This includes specific focus on Sudan’s relations with the two states, information about specific acts of refoulement, as well as refugees’ personal accounts of their asylum experiences in Sudan. The role that shortcomings within the international refugee regime play in influencing Sudanese policy is also explored. This study is concluded in chapter 7.
CHAPTER 2

LITERATURE REVIEW

This chapter explores several key concepts required in order to tackle the research questions in this thesis. Section 2.1 introduces readers to basic concepts of foreign policy and foreign policy analysis. Broad tenets of foreign policy are relevant to construct an understanding of more specific bilateral relations between two states, as is the focus of this thesis. Section 2.2 reviews previous scholarship on the foreign policy-refugee policy nexus. Through international refugee law, which is discussed more thoroughly in chapter 3, states are obliged to offer asylees protection, without being swayed by politicized considerations based on relations with an asylum-seeker’s state of origin. Politicized refugee definitions, acceptance policies, or treatment of refugees are “contrary to the concept of refugee as it has evolved in international law”, however in reality states often do allow political factors to influence asylum policies. The example of the United States of America’s politicized refugee policies is presented here to highlight this issue. In section 2.3, the work of scholars who have focused on refugee issues in the Horn of Africa is presented, and previous studies of the nexus of foreign policy and bilateral relations with refugee policy in the regional context explored.

2.1 What is Foreign Policy?

Though a term commonly used when referring to relations between states, scholars disagree about the base goals and aims of foreign policy and the factors influencing it. Palmer and Morgan note that traditional approaches to the study of foreign policy are flawed in their understanding that its primary aim is to safeguard the security

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of the state.\textsuperscript{23} It is more appropriate to view foreign policy decisions as states’ attempts to “protect things that they value” and to make changes within the international system so it is aligned with their wants and needs.\textsuperscript{24} Foreign policy analysts are fundamentally attempting to explain and understand “decisions taken by human decision makers with reference to or having known consequences for entities external to their nation-state.”\textsuperscript{25} Because the ‘state’ is a metaphysical and abstract entity, it cannot be viewed as a decision maker; instead agent-oriented and actor-specific approaches must be taken that focus on the individuals and groups who determine the policies associated with the state.\textsuperscript{26}

Furthermore, what may superficially appear to be a quite straightforward policy move has likely been influenced by a myriad of factors that must be viewed as a “bundle” and not as independent events or decisions.\textsuperscript{27} Therefore, scholars attempting to understand the roots of a single foreign policy decision must view a variety of individuals and groups within a state who shape foreign policy. It must be understood that a single decision is likely the result of many factors that may or may not appear to be linked.

2.2 The Foreign Policy-Refugee Policy Nexus

The nexus between foreign policy, bilateral state relations, and refugee policy is one that has been acknowledged and began to be seriously addressed in academia during the 1980s. It was then that Loescher noted that the refugee problem is an “integral part of international politics and relations.”\textsuperscript{28} Politics and interstate relations are inextricably

\textsuperscript{23} Palmer and Morgan, \textit{A Theory of Foreign Policy}, xi.
\textsuperscript{24} Ibid., 2.
\textsuperscript{25} Hudson, \textit{Foreign Policy Analysis}, 4.
\textsuperscript{26} Ibid., 6-7.
\textsuperscript{27} Palmer and Morgan, 2.
\textsuperscript{28} Loescher, “Refugee Issues,” 3.
linked to the refugee experience at all levels of flight, exile, and return.\textsuperscript{29} Conversely, refugees reflect not only domestic problems, but also the major global issues of our time.\textsuperscript{30} The international refugee regime and the international community’s responses to refugee flows are also inevitably politically charged.\textsuperscript{31} This is because, at least in part, refugee assistance organizations are funded by wealthy donor states whose interests and priorities are often manifested in organizations’ responses to refugee issues.\textsuperscript{32}

When citizens flee their country of origin to seek refuge they are “voting with their feet”, that is, making a statement about their home state’s inability or unwillingness to fulfill one of its most fundamental objectives: to protect its population.\textsuperscript{33} Even when the factors leading to flight do not initially appear to be politically motivated, the act itself is indeed heavily politicized and the refugee him/herself instantly becomes a symbol or representation of the origin state’s inefficiency or incompetence.\textsuperscript{34} From the moment an individual crosses an international border to seek asylum, the host state is obligated to protect this individual by both granting them the right to seek asylum and practicing non-refoulement. In doing so, the host state is tacitly and inescapably acknowledging the political message that this individual carries with him regarding the home state’s inability or unwillingness to grant this individual citizen protection. Depending on existing relations between the sending and host countries, a host state’s reception of refugees may be generous and used as a tool to delegitimize a sending state

\textsuperscript{29} Hocké, “Beyond Humanitarianism,” 41.
\textsuperscript{30} Loescher, 1.
\textsuperscript{32} Ibid.
\textsuperscript{33} Loescher, 12; Betts and Loescher, 6.
\textsuperscript{34} Haddad, The Refugee in International Society.
with which they have poor relations; conversely, refugees may be treated poorly or barred from the opportunity to seek asylum in order to maintain friendly relations with the sending state.\textsuperscript{35} Sexton notes that in many Western states, decisions about who ought to be deemed a refugee and be granted host state protection “is affected significantly by political factors.”\textsuperscript{36} As is demonstrated in this thesis, this is not a trend unique to Western states, despite their being the focus of most scholarship conducted on this subject.

The modern international refugee law framework is based on the Convention Relating to the Status of Refugees, which was created in 1951.\textsuperscript{37} Observing the operation of the law since that time, Hathaway describes the law as a ‘compromise’ between the sovereign right of states to control the entry of non-citizens and the international community’s duty towards people needing protection.\textsuperscript{38} He further argues that states’ self interest and well being have been the primary factors in the formation of their refugee policies and practices; in reality, refugee law is in place primarily to manage international disputes over forced migration, and not – as is commonly understood – to protect refugees themselves.\textsuperscript{39} This ‘self interest’ is important to consider when analyzing why states may allow their foreign policy concerns to impact and influence their refugee policies, regardless of international obligations.

This thesis argues that at times states use refoulement as an instrument of foreign policy despite this being a violation of international law. The relationship between foreign policy and refoulement is cyclical and thus on occasion it can be difficult

\textsuperscript{35} Suhrke, 169.
\textsuperscript{36} Sexton, “Political Refugees, Nonrefoulement, and State Practice,” 804.
\textsuperscript{37} See chapter 3, section 3.1.1 for a thorough discussion of the Convention.
\textsuperscript{38} Hathaway, “Underlying Premise of Refugee Law,” 133.
\textsuperscript{39} Ibid.
to determine whether refoulement is in response to, or the cause of, deteriorating bilateral relations. That is to say, while an act of refoulement may be in response to favorable relations with the state of origin, it is equally possible that an act of refoulement is itself the means of establishing favorable relations with the state of origin. Conversely, acts of non-refoulement may be carried out as a result of already deteriorating bilateral relations, or may precipitate hostile relations with the state of origin. This thesis acknowledges this circular dynamic and keeps it in mind when analyzing and drawing conclusions about bilateral relations between Sudan and Ethiopia and Sudan and Eritrea.

2.2.1 The Case of the United States

The United States of America provides a strong example for this nexus, specifically in terms of the country’s Cold War foreign policy and staunch anti-Communist stance. The U.S. did not adopt the 1951 Convention refugee definition into law until 1980 and prior to that time it only admitted refugees coming from Communist or Middle Eastern countries.\(^{40}\) Even after 1980, the idea that refugee flows from Communist countries represented the “bankruptcy of the Communist system” still prevailed.\(^{41}\) This greatly influenced the U.S.’s decision to openly receive refugees from Cuba, Vietnam, and the Soviet Union.\(^{42}\) This was done in part to “embarrass and discredit” their home countries’ Communist stance, but can also be attributed to an American assumption that “all persons in Communist states are by definition in fear of persecution.”\(^{43}\) At the same time, the U.S. implemented divisive measures to bar the large

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\(^{40}\) Keely, “U.S. Immigration and Refugee Policy,” 349.
\(^{41}\) Teitelbaum, “Immigration, Refugees, and Foreign Policy,” 445.
\(^{42}\) Ibid.
\(^{43}\) Ibid., 439; Hathaway, 150.
flows of Haitians and Salvadoreans from seeking asylum, as their home countries were seen as allies to the U.S. due to their shared anti-Communist position. As Keely notes, the U.S. example highlights the issue that a state’s determination of what constitutes a well-founded fear of persecution “is to a large extent a political decision.”

Increasingly since the 1980s, literature focusing on the impact of politics and foreign policy on refugee policy has emerged, however these studies have primarily focused on Western host states. While much can be learned about the nexus by studying the issue in those contexts, this subject needs to be explored further in the Horn of Africa region, and specifically Sudan. Furthermore, scholars’ recommendations have not materialized into new policies within the international refugee regime, and the problems aforementioned continue to manifest themselves and some have worsened with regard to contemporary refugee situations.

2.3 The Horn of Africa

Although literature dedicated to the foreign policy-refugee policy nexus has mainly focused on Western refugee receiving states, several scholars have made great contributions to this study in the African – and more specifically, Horn of African – context. As Milner notes, many studies on African refugee issues have centered heavily on refugees themselves. Sufficient attention has not been paid to the role that broad political forces play on African states’ asylum policies, nor the impact that foreign policy plays in the formation of states’ refugee policies.

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44 Teitelbaum, 439.
45 Keely, 350.
46 Milner, 4.
47 Ibid.
Karadawi’s 1999 *Refugee Policy in Sudan, 1967-1984* is one of the most comprehensive studies of the impact of politics and bilateral relations on Sudan’s refugee policies toward Ethiopians and Eritreans. In this work he notes that by the 1960s, no issue between Sudan and Ethiopia “produced tension comparable to the refugee problem”, and notes that Sudan has viewed refugees as “objects of policy” in its dealings with neighboring governments.\(^{48}\) Throughout the work he provides a strong case that Sudan’s relations with Ethiopia (and Eritrean separatist movements) impacted its policies toward refugees of Ethiopian and Eritrean origin. His discussion ends in 1984, however, and does not view the subject in light of Eritrean independence or EPRDF rule in Ethiopia. Zolberg, Suhrke, and Aguayo found that in the 1980s, Sudan “used refugees as pawns in its external policy”, at times allowing Eritrean forces to operate in Sudanese territory, and barring this activity when relations were cordial with the Ethiopian government.\(^{49}\)

The works of Bariagaber and Kibreab have provided the most thorough contemporary discussion of refugee issues in the Horn of Africa, focusing primarily on the nature of refugee settlements, root causes of flight, and repatriations.\(^{50}\) While invaluable resources for understanding refugee issues in the region, these scholars’ works rarely touch on the modern foreign policy-refugee policy nexus. Bariagaber’s work has touched on the political nature of the region’s refugee crisis and acknowledges that domestic, regional, and international politics have had an impact on refugee situations in the region.\(^{51}\) He provides recommendations on how international policies could better

\(^{48}\) Karadawi, *Refugee Policy in Sudan*, 43-44.
\(^{50}\) See Works Cited for a non-exhaustive list of Bariagaber and Kibreab’s relevant works.
tackle the interstate actions that negatively impact refugees during flight and return.\textsuperscript{52}

Missing from his discussion, however, is how these factors impact refugees while in exile, and specifically the role they play regarding refoulement.

Due to the nature of the refugee’s predicament, there has always been a link between international politics, individual states’ foreign policies, and refugee policy. Studies of this connection have focused primarily on Western states’ differential refugee acceptance policies based on domestic and foreign policy. This nexus has not been the subject of many studies on African refugee issues. Several scholars have provided valuable evidence of the ways in which Sudan’s bilateral relations have impacted its policies toward Ethiopian and Eritrean refugees in the past, yet this has not been sufficiently explored in a contemporary context.

\textsuperscript{52} Ibid., 161-163.
CHAPTER 3
INTRODUCTION TO INTERNATIONAL REFUGEE LAW AND ASYLUM TRENDS IN AFRICA

In order to analyze the bilateral relations-refugee policy nexus in Sudan, the laws and principles the State is obliged to abide by in regard to refugees and asylum-seekers must be understood. Section 3.1 provides a discussion of international refugee law and the principle of non-refoulement. In section 3.2 historic and modern trends in Africa’s regional asylum systems are introduced. The formation and structure of both the OAU Refugee Convention and Sudan’s domestic asylum law are also presented.

3.1 International Refugee Law and Non-Refoulement

Asylum seekers and refugees have been afforded certain rights and standards of treatment under international human rights law (IHRL) and international refugee law (IRL). These were developed and agreed upon in the international community through a number of treaties, conventions, and customary international law throughout the twentieth century. States sometimes treat IHRL and IRL as separate bodies in order to justify the provision of minimum standards of treatment to refugees; however, as human rights apply to everyone, they encompass refugees too. Refugees are thus entitled to all human rights, including those not explicitly outlined in IRL. As Edwards persuasively argues, when there are inconsistencies between IHRL and IRL, the law that provides the highest standard of protection and promotion of dignity applies. While IHRL and IRL instruments provide for a wide range of rights and standards of treatment

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54 Ibid., 306.
that apply to asylum-seekers and refugees, for the purposes of this thesis the most relevant components are the right to seek asylum, and the prohibition of refoulement.

The right of all human beings to leave and return to their countries of origin, as well as to seek asylum from persecution is provided for in the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Civil and Political Rights (ICCPR).55 Both of these documents, as well as the 1966 International Covenant on Economic, Social, and Cultural Rights bind states to ensure that human rights are provided to all individuals within their territory without discrimination based on national origin.56 The ICCPR and 1984 Convention Against Torture (CAT) also outlaw torture and cruel or inhumane treatment.57 “Torture” refers to any act that intentionally afflicts a person with severe physical or mental pain or suffering as a means of punishment, for the extraction of a confession, as a form of coercion, or discrimination.58 Explicit in article 3(1) of the CAT is the principle that states may not return asylees to a country where they could face this treatment.59

3.1.1 The 1951 Convention

The foundation of IRL is the 1951 Convention Relating to the Status of Refugees. Developed in response to post-World War II refugee issues in Europe, the 1951

58 G.A. Res. 39/46, art. 1(1).
59 Ibid., art. 3(1).
Convention deeply reflected the ideologies and priorities of its predominantly Western drafters. The 1951 text of the Convention defined a refugee as a person who had fled their country “as a result of events occurring before 1 January 1951.” While the Convention allowed contracting states to choose whether they wanted to include non-European refugees in their definition, in reality the Convention was not intended to protect those populations. By the 1960s it was recognized that new refugee situations that “may not fall within the scope of the Convention” had arisen, and the Protocol Relating to the Status of Refugees (hereinafter included within ‘1951 Convention’) – which removed all spatial and temporal limitations from the refugee definition – was established in 1967.

Article 33 of the 1951 Convention outlaws refoulement, establishing:

No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

So crucial is this principle to the integrity of the Convention that signatories may make no reservations to article 33. As was previously noted, the principle of non-refoulement is also explicitly established in the CAT. Madsen-Grahl describes non-refoulement as a general principle that all states are obliged to practice regardless of their being party to the 1951 Convention. Chan argues that the widespread and uniform state practice of

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60 Hathaway, 146-151.
61 189 U.N.T.S. 150, art. 1, A(2).
62 Ibid., art. 1(B); Hathaway, 156.
64 189 U.N.T.S. 150, art. 33.
65 Ibid., art. 42.
non-refoulement and states’ belief that they are legally required to abstain from refoulement, makes non-refoulement a doctrine of customary international law. By its nature customary international law, “must have equal force for all members of the international community, and cannot therefore be the subject of any unilateral exclusion exercisable at will by any one of them in its own favor”. Thus, all states are required to observe the non-refoulement obligation whether or not they are party to the 1951 Convention or the CAT.

3.2 Asylum in Africa

The forced migration of people throughout the African continent is by no means a modern phenomenon. The period of decolonization in the mid-twentieth century and the creation of sovereign states, however, marked a new era of forced movement and displacement of individuals throughout Africa. Conflicts linked to the emergence of new political powers, modern and arbitrary borders, and the struggles of state building were the primary reasons for these massive flows.

During the 1960s and 1970s African governments generally implemented generous and open asylum policies. While a number of scholars have attributed early open policies to “traditional hospitality,” as Milner and others point out, economic incentives from donor states to refugee host states and the calculated political support for neighboring liberation movements was a significant driving force behind such open

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69 Milner, 22.
Regardless of motives, a respect for non-refoulement despite dire circumstances and burdens posed to host states was historically a norm throughout the global South.\(^71\)

Since the 1980s, African states have tended to implement more restrictive asylum policies, with acts of refoulement and low standards of treatment becoming norms.\(^72\) This is in part a response to a lack of international financial and physical burden sharing that would have addressed the domestic concerns many African states developed toward the refugees they hosted. For example, in 1984 the UNHCR faced a financial crisis when donors restricted their annual budgets for the organization.\(^73\) UNHCR’s annual expenditure for Sudan therefore plummeted from $36 million for 1984-1985 to $16 million for 1985-1986, and the Sudanese government was pressured to provide more financial support for the refugee populations within its territory.\(^74\) In the 1990s when massive refugee flows were occurring throughout Africa, there was a lack of Western interest in addressing the causes of refugee-creating conflicts or adequately responding to these refugee crises.\(^75\) Africa no longer held the same geopolitical interest that it had for Western governments during the Cold War and these states focused their attention and funds on more “high profile” conflicts and refugee situations like those in the Balkans.\(^76\)

Wealthy donor states have failed to provide adequate solutions and have not shouldered their share of the African refugee burden. Theoretically, states should co-

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\(^70\) Karadawi, 10; Kibreab, *African Refugees: Reflections*, 76-81; Milner, 19.
\(^71\) Hathaway and Neve, “Making International Refugee Law Relevant Again,” 123.
\(^72\) Milner, 18-19, 33.
\(^73\) Karadawi, “Refugee Problem,” 178.
\(^74\) Ibid.
\(^75\) Milner, 30.
\(^76\) Ibid.
operate “to ensure that movements across borders do not place an undue or disproportionate burden on receiving States.”

Practically, however, many Western governments increasingly practice burden-shifting, whereby asylum-seekers who have already transited through other states are removed to a supposed ‘safe third country.’

“Burden-shifting arrangements can deprive persons who are genuine refugees of internationally guaranteed rights, including the right to protection against refoulement.”

Exclusion procedures whereby would-be asylum-seekers are turned away from countries before reaching the border or while in international waters are also on the rise. As states in the global South often do not have the means to implement these strict ‘non-entrée regimes’ seen in the North, they have begun to practice more direct forms of refoulement and deterrence of large influxes of asylum-seekers. While these factors will not be at the focus of this study, they must be acknowledged as part of the global environment within which Sudan’s broader refugee policies are formed and implemented.

3.2.1 The Organization of African Unity Convention

On May 25, 1963 thirty of the then thirty-two independent African states gathered in Addis Ababa to form the Organization of African Unity (OAU). The purpose of the OAU was to “promote unity and solidarity of the African States”, foster regional and international cooperation, “defend sovereignty”, and end colonialism throughout the

77 Goodwin-Gill, *The Refugee in International Law*, 293.
78 Hathaway and Neve, 120.
79 Ibid., 121
80 Ibid., 122.
81 Ibid., 123-125.
82 Amate, *Inside the OAU*, 51.
continent.\textsuperscript{83} Though many newly independent African states ratified the 1951 Convention, almost immediately after its formation the OAU acknowledged the need to take regional approaches to tackle the ever-growing issue of refugees in Africa.\textsuperscript{84} Based on the findings and recommendations of two committees, it was decided that direct responsibility for African refugees should be undertaken by the OAU.\textsuperscript{85} The organization found that the movement and settlement of refugees in host countries was already causing tension between origin and host states, and that the root problem regarding asylum and refugee settlement was a lack of trust between governments.\textsuperscript{86}

The Assembly of Heads of State adopted the OAU Convention Governing Specific Aspects of Refugee Problems in Africa (referred to hereinafter as the ‘OAU Convention’) in September 1969. Concern for the political and security concerns that member states had toward hosting refugees was central to the Convention and acknowledgement of the burden refugees may place on host states is noted clearly in the Preamble.\textsuperscript{87} The OAU Convention outlaws refoulement and accepts and expands upon the 1951 Convention refugee definition, adding that:

\begin{quote}
The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.\textsuperscript{88}
\end{quote}

\textsuperscript{84} Amate, \textit{Inside the OAU}, 459- 460.
\textsuperscript{85} Ibid., 460.
\textsuperscript{86} Ibid., 461.
\textsuperscript{87} 1001 U.N.T.S. 45, Preamble 3-5.
\textsuperscript{88} Non-refoulement: Ibid., art. 2(3); Refugee definition: Ibid., art 1(2) [emphasis added].
The preamble of the OAU Convention differentiates between a refugee who “seeks a peaceful and normal life” and “a person fleeing his country for the sole purpose of fomenting subversion from outside.”

Central to OAU member states’ psyche during the development of Convention and as reflected in other OAU resolutions, was a link between refugees and the security of member states – be they countries of origin or refuge. By making such distinctions between refugees and subversives, the OAU Convention gave states much power to determine who should be considered a refugee as well as over the treatment of those seeking asylum within their borders.

3.2.2 The Formation of Asylum Policy in Sudan

Sudan’s historic approaches to asylum have been in line with those taken by many states in the African continent. During the mid-twentieth century there was little difference between Sudan’s approach to refugee policy and that of the OAU. Sudan’s view of refugees and corresponding treatment of individuals has shifted from seeing them as ‘subversives’ to ‘freedom fighters’ to legitimate ‘refugees’ as it has seen fit in accordance with its international and domestic policy concerns and interests. While initially Sudan’s policies toward refugees were driven by more humanitarian considerations, these policies later were more motivated by Sudan’s foreign relations. This sub-section provides a brief overview of the trends and factors that shaped Sudan’s policies toward refugees throughout the second half of the twentieth century.

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89 Ibid., Preamble 4.
90 Karadawi, Refugee Policy in Sudan, 23.
91 Ibid., 10.
92 Ibid., 3, 6, 31.
Sudan’s modern refugee policies took shape under the governments of Prime Minister Mohamed Ahmed Mahjoub (1965 – 1969) and Gaafar el-Nimeiry (1969 – 1984). Refugee policy under Mahjoub was shaped in the context of the recently formed OAU standards of “good neighborliness” amongst its member states, as well as the emerging southern Sudan liberation struggle against the central government. While previous governments viewed exiled Eritreans and Congolese who settled in Sudan as liberation fighters to be welcomed in the country, the Mahjoub Administration came to view these asylees as a threat to national security. In 1966 the country officially labeled exiled Congolese as “refugees” (as opposed to “revolutionaries”) so that theoretically their carrying out political or military activities against their home country would cease to be legitimate. This was considered central to maintaining Sudan’s own national security and in 1967 the Commissioner for Refugees (COR) office was established to implement state policies toward refugees. In the same period, Sudan welcomed UNHCR to the country specifically to provide refugees with material assistance.

The el-Nimeiry Government, which preserved most of the previous government’s policies toward refugees, ratified the 1951 Convention, enacted the domestic Regulation of Asylum Act in 1974, and acceded to the OAU Convention in 1978. Sudan’s Asylum Act provides a refugee definition in line with that of the OAU Convention. The Act, however, does not make direct reference to refoulement, the concept so central to both

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94 Karadawi, 4-6.  
95 Ibid., 4-5.  
96 Ibid., 36  
97 Ibid., 6.  
98 Ibid.  
99 Ibid., 6-9.  
100 Regulation of Asylum Act 1974, art. 2.
the 1951 and OAU Conventions. Article 7 notes that “any treaty or convention regulating the subject of asylum to which the Sudan is party” must be given priority over the application of Sudan’s domestic asylum law. In any case, Sudan is bound to observe the principle of non-refoulement by its international legal obligations under both treaty and customary law.

This chapter has outlined the legal background for this thesis by laying out the international, regional, and domestic laws that apply to Sudan and should guide their refugee policy. The following chapter provides the historical context for this study.

101 Ibid., art. 7.
CHAPTER 4
HISTORICAL AND MODERN PERSPECTIVES:
ETHIOPIA, ERITREA, AND SUDAN

In the postcolonial period, the Horn of Africa (understood to include Djibouti, Eritrea, Ethiopia, Somalia, South Sudan, and Sudan) has been plagued with ongoing unrest as ruling governments have repressed populations who were pursing self-determination through ideological and ethnic-based liberation movements. It is a unique region in which to study the intersection between bilateral relations and refugee policy because for over the past half-century, the liberation movements within each of these states have often been supported by other neighboring state actors in the region. At different periods, states have viewed the refugee populations within their borders as freedom fighters or alternatively as rebels. Furthermore, most of the countries in the region are both major refugee sending and receiving states and, to date, are home to large protracted refugee situations.

In 2004, refugees originating from Horn of Africa states constituted seven of the thirty-three worldwide, protracted refugee situations; that is, Sudanese refugees in Ethiopia, Democratic Republic of Congo, Kenya, and Uganda; Somali refugees in Kenya and Yemen; and Eritrean refugees in Sudan.\textsuperscript{102} In 1986 the Horn of Africa produced the largest number of refugees in the whole of the continent, and refugees originating from the region have continued to account for a significant and disproportionate number of African refugees.\textsuperscript{103} In 2011, refugees and asylum-seekers originating from the Horn of


Africa accounted for over half of African refugees and asylees, and made up approximately 19% of this population worldwide.\textsuperscript{104}

The root causes of many of the refugee flows out of present-day Ethiopia and Eritrea over the past half-century have been tied to conflicts resulting from domestic and regional struggles for independence in the postcolonial period. Indeed, Eritrea spent 30 years in a tumultuous war to gain independence from Ethiopia. During the same period, Ethiopia underwent two major regime changes while ethnic groups sought self-determination and representation within multiethnic Ethiopia. These struggles took place against a backdrop of periods of drought, famine, and economic instability that further compounded Eritreans’ and Ethiopians’ need to seek protection outside their borders.\textsuperscript{105}

Historically as well as today, Sudan has been a major receiving state for Ethiopian and Eritrean refugees. In 2000, of 66,410 Ethiopian refugees worldwide, 34,132 (or 51%) were in Sudan;\textsuperscript{106} in the same year the numbers for Eritreans were 376,851 and 367,735 (or 98%), respectively.\textsuperscript{107}

Despite these realities, the Horn of Africa has received a lack of attention within academia and at policy-making levels.\textsuperscript{108} As of yet, no refugee regime has been created to fully address the enormous refugee situation in the region.\textsuperscript{109}

\textsuperscript{104} In 2011 the numbers of asylum-seekers and refugees originating from the Horn of Africa by state were: Djibouti – 888; Eritrea – 234,917; Ethiopia – 109,341; Somalia – 1,1361,810; Sudan and South Sudan – 522,226. The total for the region was 2,004,182; Of 10,696,146 asylum-seekers and refugees worldwide, 3,710,985 originated from the African continent. UNHCR, \textit{Global Trends}, 2011, 42-46.

\textsuperscript{105} Woodward, \textit{The Horn of Africa}, 1-7.

\textsuperscript{106} UNHCR, \textit{Statistical Yearbook 2002}, 293.

\textsuperscript{107} Ibid., 289.


\textsuperscript{109} Ibid.
bilateral relations-refugee policy nexus have been conducted in other contexts, Horn of Africa states and the African continent more broadly have not been the subjects of in-depth studies on this issue. International organizations have documented Sudan’s direct violation of non-refoulement, however, only a limited amount of scholarship has touched on why this occurs.

This chapter gives readers the historical context through which to understand modern events in the three countries of study. The impact of colonial and imperial rule on the formation of modern state borders and governments will be addressed, as will major factors that have produced refugee flows out of Ethiopia and Eritrea. Section 4.1 focuses on Ethiopia, section 4.2 on Eritrea, and section 4.3 on Sudan. Modern trends and developments in each country between 1991 and 2011 are introduced in this chapter; however Sudan’s foreign relations with Ethiopia and Eritrea will be given more attention in chapters 5 and 6.

Between 1952-1991 Eritrea was under an UN-imposed federation with Ethiopia, with independence from Ethiopia officially being declared in 1993. Therefore when discussing the histories of Ethiopia and Eritrea prior to 1991, the liberation movements and people of present-day Eritrea (including refugee populations who fled from the region) will be considered Ethiopian for purposes of consistency and clarity. Many historians and scholars have done great justice in documenting the rich and complex history of this region and of the states of focus. However, for the purposes of this study only a brief overview of relevant historical events and factors that have shaped modern Ethiopia, Eritrea, and Sudan will be provided.

110 Milner, Politics of Asylum in Africa, 4.
4.1 Ethiopia

The modern history of Ethiopia began with the coronation of Emperor Tewodros II in 1855.\textsuperscript{111} Under the monarchy, which was interrupted by a short period of Italian occupation from 1936 – 1941, a number of small principalities were unified and the acquisition of southern territories brought a number of nations under the power primarily of the Amhara people of the North.\textsuperscript{112} An enduring legacy of Ethiopia’s \textit{Ancien Regime} was its failure to build an ethnically-neutral state, as southern nations and ethnic groups were pressured to assimilate to the dominant Amhara language, culture, and religious practice.\textsuperscript{113} Coupled with uneven economic, health, and educational infrastructural development between rural and urban areas, and a mostly landless class of peasantry, much of Ethiopia’s population was disenfranchised throughout the imperial period.\textsuperscript{114}

Under Emperor Haile Selassie, the absolutist rule of the Ethiopian monarchy came to a climax. During the 1960s outcries of opposition arose in the forms of peasant rebellions, ethnic-based guerrilla groups, and broad-based university student movements.\textsuperscript{115} This culminated with a popular uprising and military coup in the Revolution of September 12, 1974.\textsuperscript{116} The \textit{Derg}, or committee, which led the coup and assumed full power over the state, departed from and derailed the popular movements that were the catalyst behind the Revolution.\textsuperscript{117} The Derg Regime is now nearly synonymous with its leader, Mengistu Haile Mariam. Though it fashioned itself as a

\begin{footnotes}
\footnote{Zewde, \textit{A History of Modern Ethiopia}, 27.}
\footnote{Mengisteab, “Ethiopia: State Building or Imperial Revival?,” 179.}
\footnote{Ibid.}
\footnote{Ibid., 180.}
\footnote{Zewde, 209-226.}
\footnote{Ibid., 229.}
\footnote{Ibid., 236.}
\end{footnotes}
“Government of the People”, the Regime instituted “immature and dogmatic” socialist policies and was unable or unwilling to address the major problems that marred the state under its predecessors.\textsuperscript{118} Like the monarchy, the Derg was heavily Amhara-centric.\textsuperscript{119}

Perhaps one of its greatest missteps was the Derg’s failure to respond peacefully to ethnic and regional complaints.\textsuperscript{120} A number of ethnically and ideologically-based armed and political movements arose during the final years of the monarchy as well as under the Derg Regime. These included the Eritrean People’s Liberation Front (EPLF), the Tigray People’s Liberation Front (TPLF), and the Ethiopian People’s Revolutionary Party (EPRP). The Derg’s violent suppression of such groups marked one of the bloodiest periods in the history of the modern state, known grimly as the ‘Red Terror.’\textsuperscript{121}

By the late 1980s the central government and military had been greatly weakened by armed guerilla movements. In 1991, several of these movements joined forces to form the Ethiopian Peoples’ Revolutionary Democratic Front (EPRDF), which was clearly dominated by the Tigrayan TPLF. The EPRDF toppled the Derg Regime in 1991 and, seeking to replace the highly centralized system that had governed the country for so long, created a federal democracy consisting of ethnically based states.\textsuperscript{122}

\textbf{4.1.1 Historic Trends in Ethiopian Refugee Flows}

Prior to the transition to EPRDF rule in 1991, Ethiopians had been living out a tragic history of displacement and asylum throughout the Horn of Africa region and worldwide for several decades. The now independent Eritrean peoples’ thirty-year

\textsuperscript{118} Mengisteab, 181; Zewde, 236.  
\textsuperscript{119} Mengisteab, 181.  
\textsuperscript{120} Ibid., 182.  
\textsuperscript{121} Zewde, 239.  
\textsuperscript{122} Ibid., 264-267; Mengisteab, 182.
struggle for liberation from Ethiopia and the repressive responses of both Emperor Haile Selassie and the Derg Regime to their struggle, pushed thousands of Eritreans to seek asylum primarily in Sudan. After the rise of the Derg in 1974 other ethnic-based liberation movements within Ethiopia proper, including those of the Tigrayan, Oromo, and Somali peoples were increasingly suppressed, as was much other political opposition during Mengistu’s Red Terror campaign. In 1977 there were 200,000 Ethiopian refugees in Sudan and by 1978 this number doubled; the vast majority of these refugees came from present-day Eritrea.

Though Ethiopia experienced periods of major drought – most notably in 1973 and 1984-1985 – which killed and internally displaced thousands, this alone did not have a significant impact on the numbers of Ethiopians crossing international borders to seek refuge. But that is not to say that environmental degradation has not impacted Ethiopian refugee flows. The Ethiopian Army’s burning of crops, food stuffs, and destruction of livestock as a military tactic as well as food scarcity due to conflict historically contributed to individuals’ decisions to flee the country. In 1984 there were 500,000 Ethiopian refugees in Sudan and due to Ethiopian government-induced famine between October 1984 and March 1985, 300,000 more Ethiopians primarily of Tigray origin sought refuge in Sudan. Details about refugee flows from Ethiopia to Sudan after 1991 will be provided in chapter 5.

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124 Ibid.; Karadawi, Refugee Policy in Sudan, 68; Bariagaber, “Political Violence,” 34.
126 Bariagaber, “Political Violence,” 32.
127 Clay and Holcomb, Politics and the Ethiopian Famine, 192.
4.1.2 Ethiopia Today: Two Decades of Ethnic Federalism

Ethiopia’s experiment with ethnic federalism has now been carried out for just over twenty years, however this system has failed to solve Ethiopia’s endemic problem of a lack of representation for and suppression of many of its ethnic groups. The Tigrayan ethnic group as represented by the TPLF continues to dominate the EPRDF, just as the Amharas dominated the monarchy and Derg Regime.\(^{129}\)

TPLF leader Meles Zenawi, who had ruled Ethiopia as President from 1991 - 1995 and Prime Minister from 1995 - 2012, passed away at the time of writing on August 20, 2012. His two decades in power marked for Ethiopia a period of ongoing suppression of political opposition movements and parties, human rights abuses, and suppression of ethnic rights specifically amongst the Oromo people.\(^{130}\) It remains to be seen what changes, if any, the passing of Zenawi will bring to human rights practices in Ethiopia.

4.2 Eritrea

The pre-colonial history of present day Eritrea is a subject that is highly contested due to polarized political views regarding the country’s historical and modern ties to Ethiopia.\(^{131}\) As it is not in the scope of this thesis to delve into this complex issue, I will frame this history beginning with Italy’s occupation of Massawa in present-day Eritrea in 1885. The territory – which was meant to serve as a stepping off point for

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\(^{129}\) Mengisteab, 184.


\(^{131}\) For a thorough and nuanced discussion of this issue, see: Reid, “The Challenge of the Past,” 239-272.
Italy’s primary ambition of colonizing Ethiopia – officially became a colony in 1890 and was named “Eritrea,” from the ancient Roman “Mare Erythraeum,” or Red Sea.\textsuperscript{132}

The Italians devoted minimal resources to educating the native population, and the public education that was offered to Eritreans was taught in Italian and promoted the greatness of Italian history and leaders.\textsuperscript{133} Native Eritreans were not permitted to study beyond the fourth grade, schools were barred to girls, and were nonexistent in rural areas.\textsuperscript{134} As there was a surplus of Italian labor in the colony, Eritreans were kept out of even the lowest level bureaucratic posts, and no allowance was made to integrate pre-colonial leaders or local political practices into the colonial system.\textsuperscript{135} Instead, the Eritrean population served primarily as a “reservoir of colonial soldiers” for the Italian military both within the colony and regionally.\textsuperscript{136} Out of a population of 500,000, approximately 40,000 Eritreans served in the Italian Army and youth were trained from an early age to be loyal to the military.\textsuperscript{137} In 1941, the British ousted the Italians from the region and gained control over Eritrea.\textsuperscript{138} Under a brief period of British rule the native population was allowed greater freedom of press and political organization, and though still far from adequate, the number of public schools was expanded.\textsuperscript{139}

In the late 1940s the future of Eritrea was put in the hands of the United Nations General Assembly and in September 1952 Eritrea became “an autonomous unit federated

\textsuperscript{132} Abbay, “Political Accident of Eritrea,” 159.
\textsuperscript{133} Pateman, \textit{Eritrean: Even the Stones Are Burning}, 219.
\textsuperscript{134} Ibid.
\textsuperscript{135} Ibid., 161-162.
\textsuperscript{136} Ibid., 174.
\textsuperscript{137} Ibid.
\textsuperscript{138} Ibid., 166.
\textsuperscript{139} Ibid; Pateman, 219.
with Ethiopia.” Emperor Haile Selassie of Ethiopia however, did not recognize Eritrea’s autonomy, claiming that this territory called “Eritrea” had always been a part of Ethiopia, and by 1962 the federation was replaced with the complete union of Eritrea with Ethiopia. Like many other nations including the Tigray and Oromo living under the Amhara-centric Ethiopian rule, Eritreans developed several liberation movements to struggle against the government beginning in the late 1950s and early 1960s. Unlike other liberation movements in Ethiopia that sought greater representation or self-determination within the country, the Eritrean movements were struggling unequivocally for independence and a state of their own.

The Eritrean Liberation Front (ELF) guerrilla army arose in the early 1960s with the financial support of the Eritrean diaspora and some neighboring countries. In 1969 and 1970 many members of the ELF broke into three groups, which in 1973 came to form the Eritrean People’s Liberation Forces – and later ‘Front’ (EPLF). The EPLF played a significant role in supporting the formation of the TPLF (which would come to dominate the ruling EPRDF) during the 1970s and in weakening the Derg Regime, thus paving the way for the EPRDF to rise to power in Ethiopia. The Eritrean War of Independence lasted thirty years from 1961-1991 and when it was time to build an independent nation, the EPLF was the only body prepared to take the lead.

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142 Reid, “Ghosts of Mesafint,” 201.
144 Woldemichael, 1233.
145 Ibid.
146 Ibid., 1270.
As was previously noted, all Eritrean refugee movements that occurred prior to 1991 have been covered in section 4.1.1 of this chapter. A thorough account of post-independence refugee flows to Sudan is provided in chapter 6.

4.2.1 Independent Eritrea

Since Eritrea achieved *de jure* independence in 1993 the People’s Front for Democracy and Justice (PFDJ; formerly the EPLF) has been the only legal political party in the country.\(^{148}\) Elections have not taken place since 1993 and President Isaias Afwerki has led the country since *de facto* independence was achieved in 1991.\(^{149}\) Since at least 2001, the Afwerki government has held tight reigns on the Eritrean people, kept independent media outlets closed, and heavily barred the movement of citizens within and out of the country.\(^{150}\) Today, Human Rights Watch describes Eritrea as having “one of the world’s most repressive governments.”\(^{151}\) Arbitrary detention of real and perceived opponents of the government, inhumane prison conditions, and forced labor and mistreatment of those serving in the mandatory “National Service” are among the reasons cited for this grim designation.\(^{152}\)

Since the late 1990s Eritrea has politically isolated itself both regionally and internationally. For a good portion of its time as an independent state, it has had tense relations or cut diplomatic ties entirely with regional neighbors Djibouti, Ethiopia, and

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\(^{149}\) Between May 1991 and May 1993, Isaias Afwerki served as Secretary-general of the Provisional Government. Ibid.

\(^{150}\) See full report: HRW, *Ten Long Years*.


\(^{152}\) Ibid.
Sudan. Since the outbreak of the Eritrean-Ethiopian War in 1998, which was fought over contested border territory and claimed 70,000 lives on both sides, relations have been poor between the two governments. Eritrea withdrew its ambassador to the African Union (formerly the OAU) in 1998 and only reassigned him in 2011. In December 2009 the UN Security Council imposed sanctions on Eritrea after their refusal to withdraw troops from Djibouti following 2008 clashes and for supporting armed groups opposed to the Somali Transitional Federal Government.

4.3 Sudan

Sudan’s experience with two long periods of foreign rule in its recent history set the stage for a difficult post-independence formation of state identity and governance. Sudan was already familiar with the realities of foreign rule when the Anglo-Egyptian colonial state was established in 1898. The territory that makes up modern Sudan was first brought under a centralized system during the Turco-Egyptian period of imperial rule (1820-1884), and left a legacy of intensifying the territory’s pre-existing slave trade and exploiting the people and resources of the region.

The period of Anglo-Egyptian ‘Condominium’ – a joint system of rule in which Britain controlled the central government, with junior positions being filled by Egyptians – can be summarized by the rule of alien origin, authoritarian governance, and the

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154 Bariagaber, Conflict and the Refugee Experience, 55.
155 Shinn, “Eritrea’s Regional Relations.”
consolidation of artificial boundaries.\textsuperscript{159} Although Sudan’s population has classically been depicted as a dichotomy between an Arab-Muslim north and African-Christian-Animist south, scholars today generally reject this as a flawed and fictional over-generalization.\textsuperscript{160} The creation of a northern, Arabic-speaking elite – the center of power in Sudan today – was fostered under the Condominium as the majority of economic, social, and educational services were focused on the north of the country, with other areas being neglected.\textsuperscript{161}

Colonial rule ended with independence on January 1, 1956 and Sudan embarked on a difficult road of self-rule. It has struggled with multiple civil wars rooted primarily in its longtime \textit{de facto} separation into two countries – that is, North and South – for purposes of colonial administration.\textsuperscript{162} Sudan’s First Civil War began several months prior to independence and lasted until 1972.\textsuperscript{163} The Second Civil War raged from 1983 to 2005. Fought primarily between the Sudanese military and the Southern Sudanese Liberation Army/Movement (SPLA/M), it encompassed a number of splinter conflicts and in fact multiple wars took place during this period.\textsuperscript{164}

\textbf{4.3.1 Sudan and Neighbors: Foreign Policy Concerns, 1956 - 1991}

This section explores Sudan’s relations with neighboring Ethiopia and Eritrean liberation forces between 1956 and 1991. On a global level and in the Cold War context, although Sudan proclaimed neutrality upon independence, its foreign policy was

\begin{flushleft}
\textsuperscript{159} Sikainga, 198.
\textsuperscript{160} Ibid., 194.
\textsuperscript{161} Ibid., 203.
\textsuperscript{162} Johnson, \textit{The Root Causes of Sudan's Civil Wars}, 21.
\textsuperscript{163} Ibid., 29-37.
\textsuperscript{164} Ibid., 59, 127.
\end{flushleft}
primarily in line with Western politics and economics after 1956.\textsuperscript{165} Sudan’s leftist military coup of 1969 brought a shift in this alignment, and Sudan became oriented toward the Soviet Union and Arab states.\textsuperscript{166} By the 1980s, Sudan was again allied with the West and specifically the United States.\textsuperscript{167} Sudan’s fluctuating alignment with Cold War superpowers had a significant impact on its foreign policy and regional bilateral relations throughout the latter half of the twentieth century.

Sudan’s regional foreign policy and bilateral relations were manifested primarily in its approach to neighboring liberation and separatist movements. As Eritrean refugees began arriving in Sudan in the 1960s, the government supported the ELF and Kassala, Sudan came to house the movement’s Revolutionary Command.\textsuperscript{168} Correspondingly, during this period the Ethiopian government supported the Southern Sudanese separatist Anya Nya movement and allowed the group use of Ethiopian territory.\textsuperscript{169} In a sudden turnaround in policy, in July 1965 after Sudanese Prime Minister Mahjoub visited Ethiopia to resolve a disputed border issue, the two governments made an agreement that neither would support subversive activities against its neighbor within its territory.\textsuperscript{170} Sudanese authorities began harassing politically active Eritrean refugees, and ELF forces based in Sudan were warned that further activities would result in closure of their offices and deportation to Ethiopia. Official records also show that the Sudanese government allowed Ethiopian Embassy officials in Khartoum to monitor Eritrean dissidents during

\textsuperscript{165} Ismael, “The Sudan’s Foreign Policy Today,” 565, 567.
\textsuperscript{166} Ibid., 565.
\textsuperscript{167} Ronen, “Ethiopia’s Involvement in the Sudanese Civil War,” 106.
\textsuperscript{168} Woodward, 120.
\textsuperscript{169} Ibid., 121.
\textsuperscript{170} Karadawi, \textit{Refugee Policy in Sudan}, 40.
Distrust between the two governments, however, soon gained an upper hand over these agreements and Sudan soon resumed its policy of support for Eritrean separatism.\(^{172}\)

Haile Selassie (under the prodding of Western backers) brokered a peace agreement between the Anya Nya and Sudanese government in Addis Ababa in 1972, with a clear expectation that Sudan would work to quell Eritrean subversive activities.\(^{173}\)

Cold War politics eventually took hold in the region, however. In the 1980s when Sudan aligned itself with the West, it began supporting Ethiopian and Eritrean separatists because they were now struggling against the Soviet-aligned Derg Regime.\(^{174}\)

Conversely, Ethiopia began supporting the SPLA/M in 1983.\(^{175}\)

Several points must be noted about the nature of Ethiopian and Eritrean refugee communities in Sudan’s during the period between the 1950s and 1991. When individuals cross a border seeking refuge, the host state might tolerate or even encourage these populations using their state as a base for subversive activities against their country of origin.\(^{176}\) Many of the refugee communities in Sudan during this period were treated akin to what Zolberg calls the “new Palestinians” and developed into “refugee-warrior communities”, which occurs when exile is prolonged and there exists a politically charged leadership (perhaps with an armed wing) actively pursuing regime change or

\(^{171}\) Ibid., 40-41.
\(^{172}\) Ibid., 42-44.
\(^{173}\) Woodward, 121.
\(^{174}\) Ronen, 106; Woodward, 122.
\(^{175}\) Woodward, 123-124.
\(^{176}\) Bariagaber, Conflict and the Refugee Experience, 6.
control over their home state.\textsuperscript{177} Sudan did not always tolerate these actions, however. Throughout the period discussed, Sudan’s policies toward Ethiopia were always in flux and included periods of attempted rapprochement with its neighbor.\textsuperscript{178} Sudan generally viewed Ethiopian and Eritrean refugees as “objects of policy” and was willing to protect its interests at any cost, even if – as was previously mentioned - that meant acting on behalf of the Ethiopian government in the implementation of policies toward Ethiopian asylum seekers.\textsuperscript{179} Sudan’s foreign policies toward the governments of Eritrea and Ethiopia from 1991 to the present day, as well as Sudan’s policies toward refugees from those two states are explored in-depth in chapters 4 and 5.

\textbf{4.3.2 The Sudan of Omar al-Bashir}

Sudan’s military coup of June 30, 1989 ushered in a new era of Sudanese politics and brought to power the man who would rule Sudan beyond the two proceeding decades. Omar al-Bashir initially denied any link between his military coup and the Islamist political movement, the National Islamic Front (NIF), or its leader, Hassan al-Turabi.\textsuperscript{180} A strong connection between the two quickly became apparent though, and while al-Turabi’s actions often strayed from al-Bashir’s official domestic and foreign policy, al-Turabi would play a major role in influencing events in modern Sudan.\textsuperscript{181}

\textsuperscript{177} C. Zolberg, A. Suhrke, and M. Aguayo, at:275-278.
\textsuperscript{179} Karadawi, \textit{Refugee Policy in Sudan}, 44.
\textsuperscript{180} Mantzikos, “Why the Islamic Revolution Ended,” 47.
\textsuperscript{181} Ibid.
1998 the National Congress Party (NCP) was established as the “new face of the NIF”
and has controlled the government since.\textsuperscript{182}

Mantizkos argues that three primary issues were definitive of Sudan’s policies
during the 1990s. These were: 1) support for international militant jihadists and
Khartoum’s hosting of Islamist leaders; 2) cooperation between Sudan’s military and
Islamist movements; and 3) a period of good relations with neighboring Eritrea and
Ethiopia in the early part of the 1990s.\textsuperscript{183} Most aspects of civil society were crushed when
al-Bashir came to power and a strong state security apparatus emerged, which has been
responsible for major human rights abuses in Sudan over the past two decades.\textsuperscript{184} Already
in place, an extremist interpretation of Sharia, Islamic law, was “relaunched” in 1992 and
the Islamization of the political structure, education system, media, and societal
framework was imposed on the north of the country.\textsuperscript{185} In the late 1990s Omar al-Bashir
took steps to shift the ultra-Islamist image that Hassan al-Turabi had created for Sudan
worldwide.\textsuperscript{186} The power struggle between the two men had grown throughout the 1990s
and in 2000 al-Turabi was imprisoned.\textsuperscript{187}

The new millennium brought a breakthrough in the North-South conflict. The
Second Civil War ended when the NCP and SPLA/M signed the Comprehensive Peace

\textsuperscript{182} Carnegie Guide to the Future of Sudan, “Background on the National Congress
\textsuperscript{183} Mantzikos, 48-49.
\textsuperscript{184} Woodward, 55-56.
\textsuperscript{185} Ibid.
\textsuperscript{186} Burr and Collins, \textit{Sudan in Turmoil}, 256.
\textsuperscript{187} Ibid., 279.
Agreement (CPA) in 2005.\textsuperscript{188} The CPA allowed for greater representation for the South and responded to some of their grievances, yet many ethnic and ideological groups were excluded from the Agreement proceedings.\textsuperscript{189} The CPA paved the way for the complete separation of South Sudan in July 2011, and though it made some provisions for the people of the northern regions of Abyei, South Kordofan/Nuba Mountains, and Blue Nile, they generally did not benefit from it.\textsuperscript{190} There have been no truly “comprehensive” approaches taken to respond to the grievances of these people or those of eastern Sudan and Darfur, and to date the Sudanese military continues to clash with militias and commit human rights violations throughout these regions.\textsuperscript{191}

Al-Bashir has become a pariah in the international community and his personal image has been greatly tarnished by the human rights abuses carried out by his government against the people of Sudan.\textsuperscript{192} In 2009 the International Criminal Court (ICC) accused al-Bashir of committing war crimes and crimes against humanity in Darfur, and a warrant was issued for his arrest.\textsuperscript{193} The human rights climate remains very poor throughout Sudan today.\textsuperscript{194}


\textsuperscript{189} Johnson, 168.

\textsuperscript{190} Ibid., 177; Carnegie Guide to the Future of Sudan, “The Comprehensive Peace Agreement.”


While Sudan will be studied in terms of its position as a refugee receiving state, it has also been a major refugee-generating state; in 1965 there were roughly 70,000 Sudanese refugees in neighboring countries; by 1969 this number had risen to 172,800. During the 1990s Sudan was a major African refugee sending country, and by 2003 with roughly 475,000 refugees, it became Africa’s primary source of refugees. As of January 2012 there were an estimated 500,014 Sudanese refugees worldwide, and another 2,422,520 internally displaced persons (IDPs) within the country.

The events covered in this chapter offer only a glimpse into the complex histories and of these countries and people. This gives readers, however, a general context through which to understand the actors and events involved in the bilateral policy decisions that will be discussed in chapters 5 and 6.

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195 Bariagaber, Conflict and the Refugee Experience, 70.
196 Johnson, 75.
CHAPTER 5
THE CASE OF ETHIOPIA

In this chapter the Ethiopian case is presented and analyzed. In section 5.1 I present statistics on the numbers of Ethiopian refugees in Sudan between 1991 and 2011, as well as data on acts of refoulement that occurred during the same period. Section 5.2 analyzes and discusses these cases of refoulement in the context of Sudan’s bilateral relations with Ethiopia during the period of study. Relevant findings based on two in-depth interviews with Ethiopian refugees will also be included in this analysis. Girma and Daniel both were refugees in Sudan and now live in Cairo, Egypt. They provided firsthand accounts of Sudan’s policies toward Ethiopian refugees, and provided their opinions on refoulement and political relations between the two governments.198

5.1 Refuge and Refoulement: Trends for Ethiopian Refugees in Sudan

Statistics for the number of Ethiopian refugees in Sudan for given years are based on UNHCR figures. It must be noted that the exactness of data on refugee numbers is always highly contested and, “the collection of accurate statistical data on refugees and asylum-seekers is one of the most problematic issues confronting UNHCR.”199 Collecting exhaustive data on the numbers of Ethiopians refouled by Sudan also proved difficult. The numbers presented in this study were compiled from data collected and recorded in reports, press releases, and articles published by agencies including UNHCR, U.S. Committee for Refugee and Immigrants, and Amnesty International. There is often secrecy surrounding deportations and in some cases the UNHCR has noted that it was

198 See appendices 3 and 4 for interview summaries.
ignorant about an act of refoulement until after it occurred. It is likely that the numbers presented here are lower than the actual number of Ethiopians refouled between 1991 and 2011.

Often refouled in groups, the deportees’ statuses as “recognized refugees,” “asylum-seekers,” or “not screened,” for example, were included in some reports. In other cases the status is not mentioned or it is noted that UNHCR did not have the opportunity to determine the status of the individuals prior to deportation. As all the reports presented in this study described Sudan’s actions as “refoulement” or a violation of international law, it is accepted that the following figures represent individual refugees or asylum-seekers, as opposed to other migrants. Though not explicitly stated in the 1951 Convention, it is common practice to assume that all asylum-seekers are refugees until proven otherwise.\(^\text{200}\)


The primary Ethiopian refugee populations in Sudan during the 1990s were those who had fled wars and human rights abuses that occurred under the Derg Regime (1974 to 1991). Between 1993 and 1998, about 72,000 Ethiopian refugees who had fled the

\(^{200}\) “…respect for the principle of non-refoulement requires that asylum applicants be protected against return to a place where their life or freedom might be threatened until it has been reliably ascertained that such threats would not exist and that, therefore, they are not refugees. Every refugee is, initially, also an asylum applicant; therefore, to protect refugees, asylum applicants must be treated on the assumption that they may be refugees until their status has been determined. Without such a rule, the principle of non-refoulement would not provide effective protection for refugees, because applicants might be rejected at the frontier or otherwise returned to persecution on the grounds that their claim had not been established.” UNHCR, “UNHCR Note on the Principle of Non-Refoulement,” policy note, Refworld, November 1997, http://www.unhcr.org/refworld/docid/438c6d972.html.
former regime were repatriated from Sudan through a UNHCR-organized program.\(^{201}\)

The repatriation of Ethiopian refugees during this period was generally a smooth process, as a great number of returnees looked favorably upon their new home government.\(^{202}\)

From a financial standpoint, the cost to the Ethiopian government to reintegrate these individuals into their population of roughly sixty million posed no significant burden.\(^{203}\)

This must be kept in mind in chapter 6’s review of the attempted repatriation scheme for Eritrean refugees during the same period, which had a vastly different outcome.

In 1999 the UNHCR announced that it deemed the “ceased circumstances” clause of the 1951 Convention applicable to Ethiopian refugees who had fled their country prior to 1991.\(^{204}\) The organization found that “fundamental and durable change” had taken place in Ethiopia with the fall of Mengistu’s Derg Regime and that the persecution Ethiopian refugees had once feared no longer existed.\(^{205}\) The UNHCR allowed those who still feared persecution to request a review of their case and status.\(^{206}\) Despite this, thousands of Ethiopian refugees in Sudan felt they were being forced to repatriate and many held hunger strikes protesting what they felt was an unfair refugee status.


\(^{203}\) Ibid., 125.


\(^{205}\) Ibid., A(1).

\(^{206}\) Ibid., C(4).
determination system for case reviews.\textsuperscript{207} Table 1 shows the numbers of Ethiopian refugees in Sudan and the estimated number of individuals refouled between 1991 and 2000. The steep decline in numbers between the early to mid-1990s is attributed to the large flow of returnees to Ethiopia during the period. Regarding instances of refoulement, “not available” (N/A) may denote that no cases of refoulement occurred in a specific year or that refoulement did occur, but was unreported.

Table 1

<table>
<thead>
<tr>
<th>Year</th>
<th>Refugees</th>
<th>Number of Individuals Refouled</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>1992</td>
<td>200,900</td>
<td>24</td>
</tr>
<tr>
<td>1993</td>
<td>173,200</td>
<td>N/A</td>
</tr>
<tr>
<td>1994</td>
<td>160,600</td>
<td>N/A</td>
</tr>
<tr>
<td>1995</td>
<td>48,100</td>
<td>N/A</td>
</tr>
<tr>
<td>1996</td>
<td>51,500</td>
<td>20</td>
</tr>
<tr>
<td>1997</td>
<td>44,300</td>
<td>N/A</td>
</tr>
<tr>
<td>1998</td>
<td>35,600</td>
<td>N/A</td>
</tr>
<tr>
<td>1999</td>
<td>35,400</td>
<td>N/A</td>
</tr>
<tr>
<td>2000</td>
<td>34,100</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Sources: UNHCR, \textit{Statistical Yearbook 2001}, 92; sources for “Number of Individuals Refouled” are cited in section 5.1.1.

There were relatively few reports of refoulement in the 1990s. In June 1992 twenty-four refugees who were members of the EPRP and included one university student, were handed across the border to Ethiopian authorities and immediately detained.\textsuperscript{208}

\textsuperscript{207} Curtis Francis Doebbler v. Sudan, 235/00, African Commission on Peoples’ and Human Rights, 46\textsuperscript{th} Session (2009), also available online at: http://www.achpr.org/files/sessions/46th/comunications/235.00/achpr46_235_00_eng.pdf

\textsuperscript{208} AI, \textit{Legal Concern/Arbitrary Detention}, AI Index AFR 25/04/92; AI, “Government Opponents Arrested,” 7.
Additionally, twenty refugees were returned to Ethiopia in 1996. They were victims of a round up that also targeted Eritrean refugees in the state of Kassala in June 1996. These two incidents were the only publicized instances of refoulement in the 1990s, however both of the Ethiopian refugee interviewees consulted for this study describe that acts of refoulement were common prior to 1996.

5.1.2 Facts and Figures: 2001-2011

At the beginning of the new millennium, Sudan continued to host many Ethiopian refugees who had fled their country prior to 1991. Among the primary causes of new Ethiopian refugee flows between 2001 and 2011, were real or imputed support for the OLF or Ogaden National Liberation Front (ONLF), involvement in an opposition political party, or being of mixed Ethiopian and Eritrean origin. Established in the 1960s and a long time representative of Oromo nationalism, today the OLF is considered a terrorist organization by the EPRDF. Simply being an ethnic Oromo with no links to the OLF can be cause for arbitrary detention, torture, and other forms of persecution due to imputed membership with the organization. Extreme government brutality toward Oromos, university students, and those involved with political opposition movements preceded and followed the May 2005 elections, causing many to seek refuge abroad.

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212 Ibid.
The “cessation clause” for pre-1991 Ethiopian refugees was practically implemented in March 2000, although because of the Eritrean-Ethiopian War only around 1,000 Ethiopians repatriated during the year.\textsuperscript{214} They were followed by another 10,000 in 2001.\textsuperscript{215} Because many Ethiopians did not wish to return, but were unsuccessful in having their refugee status renewed, it was estimated that by the end of 2001 approximately 10,000 pre-1991 Ethiopians lived in “refugee-like situations” in Sudan.\textsuperscript{216} Table 2 presents Ethiopian refugee figures in Sudan as well as the estimated number of individuals refouled between 2001 and 2011.

Table 2

<table>
<thead>
<tr>
<th>Year</th>
<th>Refugees</th>
<th>Number of Individuals Refouled</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>16,120</td>
<td>N/A</td>
</tr>
<tr>
<td>2002</td>
<td>14,571</td>
<td>N/A</td>
</tr>
<tr>
<td>2003</td>
<td>15,251</td>
<td>N/A</td>
</tr>
<tr>
<td>2004</td>
<td>14,812</td>
<td>N/A</td>
</tr>
<tr>
<td>2005</td>
<td>14,633</td>
<td>N/A</td>
</tr>
<tr>
<td>2006</td>
<td>11,009</td>
<td>4</td>
</tr>
<tr>
<td>2007</td>
<td>11,416</td>
<td>&lt;64</td>
</tr>
<tr>
<td>2008</td>
<td>8,621</td>
<td>129</td>
</tr>
<tr>
<td>2009</td>
<td>9,170</td>
<td>N/A</td>
</tr>
<tr>
<td>2010</td>
<td>9,100</td>
<td>N/A</td>
</tr>
<tr>
<td>2011</td>
<td>4,400</td>
<td>1</td>
</tr>
</tbody>
</table>


\textsuperscript{216} The USCRI reports that there were only 2,000 recognized Ethiopian refugees in Sudan in 2001, and it therefore appears that the UNHCR has included those in “refugee-like situations” among their official Ethiopian refugee numbers for that year and those proceeding. The UNHCR Global Reports do not account for this discrepancy. Ibid.
No cases of refoulement were reported between 2000 and 2005. Sudan, however, often did not provide the UNHCR with information about detained refugees or deportations, and so some acts may have occurred in secrecy.\textsuperscript{217} In 2005, when the UNHCR became aware of attempted acts of refoulement, the organization intervened successfully on behalf of the refugees.\textsuperscript{218} This indicates that though they were unsuccessful, the Sudanese government did attempt to carry out forced returns of refugees during the year. On May 11, 2006 the Sudanese National Intelligence and Security Services deported four asylum seekers who were members of the Ethiopian opposition party, Coalition for Unity and Democracy (CUD), before they could be interviewed by the UNHCR.\textsuperscript{219}

The year 2007 was rife with acts of refoulement against Ethiopian refugees in Sudan. There appear to have been at least five separate acts of refoulement in the year, to which an unknown number of refugees and asylum-seekers fell victim. In January, two youth whose refugee parents lived in Khartoum were deported from Gedaref.\textsuperscript{220} In February an “unknown number” of asylum seekers were arrested and deported, along

\textsuperscript{218} Ibid.  
with another thirty-six recognized refugees in August.\textsuperscript{221} Despite condemnation from the UNHCR, on September 27 another fifteen refugees who included alleged members of the OLF as well as 74-year-old Atanaw Wasie, a longtime political activist in need of medical attention at the time, were deported.\textsuperscript{222} Eleven Ethiopians “allied to the Ethiopian opposition movement” were deported in October, and it is presumed that other acts of refoulement were committed in 2007 beyond these reported.\textsuperscript{223}

In 2008 another 129 Ethiopians were refouled from Sudan. Eighteen of these were recognized refugees, fifty-three were asylum seekers who had not yet been screened by the UNHCR, and the status of the others was not confirmed.\textsuperscript{224} In November 2011 the SOCEPP condemned Sudan’s recent arrest and deportation of an Ethiopian dissident named Andualem Alemayehu.\textsuperscript{225} Though the report does not mention his status as a refugee, it notes that he “face[d] grave danger to his life in the hands of the EPRDF regime he had condemned publicly.”\textsuperscript{226}

5.2 Sudanese-Ethiopian Relations and Refoulement of Ethiopians

While past Sudanese regimes had shifted policies and treatment toward Ethiopian refugees throughout the latter half of the twentieth century, interviewee Daniel noted that 1991 ushered in an era of deportations that he had not witnessed since he arrived in exile in Sudan in 1983. In this analysis it is found that there has generally been

\begin{itemize}
\item \textsuperscript{221} Ibid.
\item \textsuperscript{223} USCRI, “World Refugee Survey 2008 – Sudan.”
\item \textsuperscript{225} SOCEPP, “Ethiopian Dissident Deported by the Sudan.”
\item \textsuperscript{226} Ibid.
\end{itemize}
a direct correlation between changes in the Sudanese government’s policies toward and relations with Ethiopia, and its refoulement (and other differential treatment) of Ethiopian refugees. This is especially clear when this issue is viewed in the context of refugees politically opposed to the Ethiopian government.

Relations between Sudan and Ethiopia have not always been clearly “good” or “bad” and as is the case with all states, the motives behind Sudan’s policy decisions are not always obvious and may be influenced by a wide variety of factors. As Girma opined during his interview, there has long been an underlying tension between the two countries, yet they coexist because they must. Even when the official relationship is one of friendship, he said, under the surface the two are “bleeding” and Sudan will always put its own interests at the forefront of this relationship or its other obligations. “What I know is that always the friendship is superficial. Yet, they do function!” Similarly, Verhoven has referred to the relationship between the two governments as one of “mutual suspicion.”

In order to gain a fuller picture of Sudanese sentiments toward Ethiopian refugees, this analysis includes some discussion of treatment of refugees in terms of arrests, permittance of political activity, and other factors in addition to our primary focus upon refoulement.

5.2.1 1991: A New Ethiopia and Refugees of the Past Regime

Khartoum played a significant role in supporting the Ethiopian liberation struggles that eventually toppled the Derg Regime in 1991. In the early days of Ethiopia’s regime change, the new government understood that it was indebted to Sudan for the support it had given and understood that if it wished, Sudan could ‘destabilize’ EPRDF

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227 Verhoeven, “Black Gold for Blue Gold?,” 3.
rule – especially through the threat of Islamization. Indeed, by 1992 Hassan al-Turabi’s NIF began helping to establish and support Islamic organizations amongst Ethiopian communities – especially the Oromo – who were unhappy with EPRDF rule. Some of these organizations called for jihad against Ethiopia and in this way the Sudanese government indirectly threatened Ethiopia with its “Islamizing foreign policy.”

Officially however, relations between the two governments were “cordial,” if not quite good in the early 1990s and “despite being ideologically miles apart, the personal relationship between [al-Turabi] and [Zenawi] underpinned a degree of stability not seen for decades between the two countries.”

The group of Ethiopian refugees refouled by Sudan in 1992 consisted of political opponents affiliated with the EPRP. Like the TPLF (the movement that would come to lead the EPRDF), the EPRP was strongly opposed to the Derg Regime. However, political competition and differing motives between the two groups had caused tension between them since the 1970s. The two groups’ relations were “conflictual” in 1992 and throughout the 1990s the EPRP was not legally permitted to organize within Ethiopia, as it did not consider the EPRDF a “legitimate authority.” Interviewee Daniel

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228 Woodward, 124.
229 Gebrewold, 183.
230 Ibid.
recalled that in the late 1980s the Sudanese government had favored the TPLF over the EPRP, as the latter group did not pose as strong an armed threat to the Derg Regime.

Daniel also shared the story of a friend and EPRP colleague named Mashisha who was among the group refouled in 1992. When Mashisha fled from Ethiopia to Sudan a second time in 1996 and was reunited with Daniel, he recounted his story. In 1992 Mashisha had been picked up from his home, handed across the border to Ethiopian authorities along with other refugees, and immediately imprisoned in northern Ethiopia. He was not treated badly in prison because he was old and had an injured leg, but from his cell he could hear the screams of the other deportees as they were tortured. Although he was not physically tortured, he was interrogated about EPRP activities and members. Another victim of this 1992 act of refoulement was Tadelle Demeke, an Ethiopian refugee living in exile in the United Kingdom. She had been on an academic visit to Sudan when she was arrested and forcibly returned to Ethiopia. As Sudan’s official policies toward the EPRDF were quite supportive in 1992, and considering that the Sudanese government had shown favor to the TPLF prior to the fall of the Derg, this act of refoulement had a clear political motivation and represents a goodwill gesture on the part of Sudan toward its new neighboring regime.

Sudan’s policies toward Ethiopia continued to “focus on improving cooperation,” and a symbol of this was the signing of a tripartite agreement (with the UNHCR) that

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People's Revolutionary Party (EPRP); recent activities inside Ethiopia; and arrests or harassment of its members by the Ethiopian People's Revolutionary Democratic Forces (EPRDF),” ETH31443.E, Refworld, March 1, 1999, http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&amp;docid=3ae6abf35c&amp;skip=0&amp;query=eprp.


235 Ibid.
allowed for the repatriation of Ethiopian refugees from Sudan that began in 1993.\textsuperscript{236} July 1995 brought a souring to these relations, however, when former Egyptian president, Hosni Mubarak, was the victim of a failed assassination attempt in Addis Ababa.\textsuperscript{237} Ethiopia immediately accused Sudan of harboring those who were responsible for the attack and announced that it would suspend some diplomatic operations in Sudan.\textsuperscript{238} Both countries volleyed complaints and accusations that its neighbor was taking part in cross-border aggressions and raids.\textsuperscript{239} The UNHCR notes that the ensuing “political sensitivities” posed a threat to the tripartite repatriation program at certain points until it ended in 1998.\textsuperscript{240}

The June 1996 incident of refoulement took place in the context of this shift in relations between Sudan and Ethiopia. Those returned to Ethiopia were victims of a random round up that also targeted Eritrean refugees. Unlike in the case of 1992, they were not individually targeted political opponents of the EPRDF. In late 1995 the Ethiopian government voiced concern that the lives of Ethiopian refugees in Sudan were “under serious threat.”\textsuperscript{241} It must be noted that most Ethiopian refugees in Sudan at this time were not opponents of the new regime and would not have been under threat of persecution from the EPRDF. Therefore, this act can be understood as a way for Sudan to flex its power and use Ethiopian refugees to send a message of hostility to Ethiopia.

\textsuperscript{236} Murison, Africa South of the Sahara, 1018.
\textsuperscript{237} Ibid.
\textsuperscript{238} Ibid.
\textsuperscript{239} Ibid.
\textsuperscript{240} Ibid.
\textsuperscript{241} USCRI, “World Refugee Survey 1997 – Sudan.”
This fact becomes clearer if we consider the immediate shift in Sudan’s treatment of refugees who were political opponents during the same period. During our interview Daniel noted that EPRP offices that had been forcibly shut down in 1992 were alerted by the Sudanese authorities that they were welcome to reopen their offices in 1995. He also noted that treatment of Ethiopian refugees in general became better around this time. This is substantiated in a report that noted that in 1996, despite the round up and deportation that occurred in Kassala, “government harassment of [Ethiopian] refugees abated, and most of those in detention were released.”

Interviewee Girma claimed that prior to 1996, “EPRP members were literally hunted in Khartoum.” He recalled that during this period Ethiopian security forces were permitted to drive into Sudanese territory and with the assistance of Sudanese government intelligence, were able to pinpoint specific refugees and forcibly take them back to Ethiopian territory:

In most cases the Sudanese government knows who is who – I mean those who are engaged politically [among the Ethiopian refugee population]. And Khartoum will simply allow the Ethiopian government to do what they want.

He goes on to describe how he personally knew members of the EPRP in Sudan who had to go into hiding and move to a new location each day in order to avoid being captured by Ethiopian security in Sudan. An EPRP Chairman named Abebe lived this way until he was resettled to a third country. He posited that acts such as these were Sudan’s way of using Ethiopian refugees as pawns in a larger political game in which it avoided direct, open confrontation with Ethiopia:

242 Ibid.
Girma: “...[Sudan and Ethiopia] have rarely confronted each other.”
Interviewer: “Directly?”
Girma: “Most likely never, never! There has never been an open confrontation between the two, but they often use a proxy. That’s why it became dangerous for the refugee – because of the culture of the two countries’ confrontation.”

5.2.2 A “New Era” and the “Worst Period” for Refugees

With the outbreak of the Eritrean-Ethiopian War in 1998, Ethiopia and Sudan entered a period of rapprochement and “peaceful cooperation,” while Eritrea became a common enemy.\(^\text{243}\) The Government of Sudan ended support for Eritrean opposition groups based in its country and Ethiopia scaled back support for the SPLA.\(^\text{244}\) Daniel described that in 1998 the situation became much worse for Ethiopian refugees in Sudan and there were many cases of refugees being detained and tortured by the Sudanese authorities; others were kidnapped and sent back to Ethiopia. Despite his claims, no reports of refoulement in the late 1990s were found.

With the advent of the new millennium the shared Ethiopian-Sudanese border was reopened, Ethiopia was granted access to Port Sudan for imports and exports, and the countries reached a number of agreements regarding cross border railways and roads.\(^\text{245}\) In 2002 after a four-day visit to Ethiopia, Sudan’s Vice President Taha announced, “the main message of my visit to Addis Ababa this time is to make very clear with my brothers in the leadership of Ethiopia that our relations have entered a new era… This

\(^{243}\) Ibid.; Gebrewold, 184.
\(^{244}\) Mantzikos, 54.
\(^{245}\) Murison, 1019.
new era between the two countries is full of positive accomplishments and is well defined.”246

There were few reports of refoulement in the first several years of the twenty-first century, however an immeasurable number of Ethiopians who were repatriated due to the enactment of the “cessation clause” may have still had legitimate refugee claims and therefore been victims of refoulement. There were claims that this program was part of a forced repatriation scheme agreed to between the governments of Ethiopia and Sudan and the UNHCR.247 Refugee complainants claimed that some Ethiopians protesting the removal of their refugee status were arrested and deported, or had been threatened accordingly.248 Daniel described that many Ethiopian refugees who had been stripped of their refugee status in Sudan were pushed into a desperate situation; fearing return to Ethiopia, they sought alternative countries of refuge. He said this was the beginning of the “worst period” for Ethiopian refugees in Sudan, describing:

People started going to Libya and so many died trying to cross the big desert and are buried in the sands…And many of them, after getting outside Sudan, got money from family abroad and drowned in the sea trying to cross to Italy. Many came to Egypt and try to cross to Israel with smugglers, and others to Kenya. And some people just give up on everything and go back to Ethiopia, where they are detained again. I think it is worse even now. Somalia has no government, but people are so desperate, they’ll cross through Somalia to Yemen. So many lose their lives trying to go to South Africa too. I am here [in Cairo, Egypt].

In this context, it would be quite impossible to ascertain how many Ethiopian refugees who were “voluntarily repatriated” after 2000, were in fact victims of refoulement.

248 Ibid., pt. 9.
Furthermore, many others may have been pushed to seek refuge in a third country outside of Sudan as a result of the enactment of the “cessation clause.”

Following the 2005 signing of the CPA, Ethiopia generally removed itself from Sudanese affairs (vis-à-vis its longtime, sporadic support for the SPLA/M) and has been cooperative with Khartoum. In 2006 the two governments signed an agreement with the UNHCR to peacefully facilitate the repatriation of Sudanese refugees in Ethiopia. The first report of a successful deportation of refugees during this “new era” was of the four CUD members refouled in May 2006. Leading up to and following the 2005 elections in Ethiopia, arbitrary arrests, torture, and extrajudicial killings of CUD members were widely reported in Ethiopia. This case of refoulement took place against the backdrop of a year of home raids, beatings, and the use of tear gas by the Sudanese authorities on Ethiopian asylees. That these four refugees all belonged to an opposition party facing heavy persecution in Ethiopia at the time indicates that by carrying out this act, Sudan was exercising a clear policy of cooperation with the Ethiopian government.

In the first half of 2007 the two governments held a number of bilateral sessions and meetings. After a visit to Ethiopia in March 2007 the speaker of Sudan’s National Assembly voiced his appreciation to Ethiopia for the role they were playing in

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249 Mantzikos, 57.
250 Sima, “Ethiopia after the CPA,” 207.
252 USDS, 2006 Country Reports, “Sudan.”
negotiating for peace between the NCP and the SPLA/M. During this visit representatives from the two countries also signed a “memorandum of understanding.” Amnesty International linked differential treatment of Ethiopian refugees in 2007 to improved relations between Sudan and Ethiopia, noting, “the recent detentions of Ethiopians came immediately after the Ethiopian foreign minister visited Sudan in June 2007.”

Specific details about the victims were unknown or not noted in most reports on the 2007 cases of refoulement that likely targeted upwards of 100 Ethiopian refugees. However, in at least several cases, the refugees refouled were said to be political opponents. The SOCEPP reported in August 2009 that political activist Wasie and fourteen of the other refugees deported with him in 2007 were held in secret detention centers in Ethiopia for fifteen months where they were interrogated and mistreated before being transferred to Kaliti Prison. Wasie died while in Ethiopian government custody later that month. These 2007 instances of refoulement as well as those in 2008 to which 129 Ethiopians fell victim, can be attributed primarily to Sudan’s ever-increasing political support of and cooperation with Ethiopia. Considering that 2007 was also a major year of round ups and refoulement of Eritrean refugees, however, other factors

254 Ibid.
likely influenced Sudan’s decision to carry out these acts. The burden that refugees place upon Sudan due to a lack of support and dedication from the international community, and its role in Sudan’s policy-making decisions, will be discussed thoroughly in section 6.5 of chapter 6.

5.2.3 The Future: “The Importance of Coordination”

2011 was a year of major transition for Sudan as the country was split into two nations – Sudan and South Sudan – on July 9, 2011. Ethiopia facilitated this transition by deploying troops to play a peacekeeping role in Sudan’s Abyei area. Speaking posthumously of Prime Minister Meles Zenawi, a Sudanese foreign ministry spokesman praised the leader for his supportive role in negotiating for peace between Khartoum and South Sudan throughout 2011. In October 2011 Sudanese President al-Bashir “stressed the importance of coordination” and “reaffirmed his country’s readiness to cooperate with Ethiopia on all issues.” This rhetoric of cooperation followed a meeting in which a tripartite committee (with Egypt) was formed to review an Ethiopian dam project. Sudan has long depended on Blue Nile water, which flows across the border from its source in Ethiopia, for irrigation and energy developing dam projects. Though by no means a new source of contention or policy decision making for Sudan, access to and use

261 Verhoeven, “Black Gold for Blue Gold?,” 3-4.
of this water has increasingly come to the forefront of discussions between the states.\textsuperscript{262}

One month after al-Bashir voiced his dedication to cooperation, the Sudanese deportation of Ethiopian opposition figure Andualem Alemayehu occurred. UNHCR reports that in 2011 a total of seventy-seven Eritrean and Ethiopian were refouled from Eastern Sudan and through advocacy, the organization managed to halt a number of other planned deportations.\textsuperscript{263} No details regarding specific Ethiopian cases of refoulement were found.

In December 2011 the two governments reached a security agreement that they would not host or receive rebels engaged in activities against their neighbor (that is, Sudan would not host Ethiopian rebels and vice versa).\textsuperscript{264} Though it is beyond the temporal parameters of this study, it must be noted that this agreement paved the way to a bilateral extradition agreement signed in May 2012.\textsuperscript{265} The Forum for Democratic Dialogue in Ethiopia, a coalition of Ethiopian opposition groups, has condemned this agreement and is confident it will be used as a guise under which to target and deport political refugees.\textsuperscript{266} It remains to be seen how the extradition agreement will be used.

5.3 Conclusion

This analysis has found that Sudan allows its relations with the Ethiopian government to influence its policies toward Ethiopian asylum-seekers and refugees.

\textsuperscript{262} Ibid., 3, 12.
\textsuperscript{263} UNHCR, \textit{Global Report 2011,} 63.
\textsuperscript{266} Ibid.
Sudan has clearly violated the principle of non-refoulement on a number of occasions throughout 1991 and 2011, and has often done so for a specific political purpose. Generally these acts have occurred during periods of cooperative and strong relations between the Sudanese and Ethiopian governments, and many victims of refoulement have been specifically targeted political opponents of the EPRDF.

An exception to this was the 1996 refoulement of refugees who had been randomly rounded up during a time of poor relations between the governments. It is assumed that these individuals were not wanted by the Ethiopian authorities and were used as tools of policy by Sudan to display its disapproval of the Ethiopian government. Though overall Sudan’s forcible return of Ethiopians is linked to its relations with the Ethiopian government, in some cases these acts may also be understood as reflections of Sudan’s inability or unwillingness to cope with its large refugee populations.

There were a number of years in this study when relations were positive between Sudan and Ethiopia, yet there were no reports of refugees being refouled. One can only speculate about why this is the case. A reason may be that acts of refoulement did in fact occur during those years, but went undetected or unreported by UNHCR.
CHAPTER 6
THE CASE OF ERITREA

This chapter takes the case of Eritrea to analyze the bilateral relations-refugee policy nexus in Sudan. As in the case of Ethiopia, the primary measure used in this study is Sudan’s practice of refoulement, however there will be some discussion of other forms of treatment of Eritrean refugees when appropriate. Section 6.1 presents qualitative and quantitative data about Eritrean refugees in Sudan, as well as Sudan’s refoulement of Eritreans, between 1991 and 2011. Section 6.2 gives an overview of Sudanese-Eritrean relations and Sudan’s policies toward its neighbor throughout the period of study. Acts of refoulement are analyzed in the context of these policies. Section 6.3 discusses these factors in light of the international refugee regime and notes those shortcomings of the regime manifested in the Eritrean case.

6.1 Refuge and Refoulement: Trends for Eritrean Refugees in Sudan

Problems noted in chapter 5 regarding the collection of accurate data on refugee numbers, and providing an exhaustive account of acts of refoulement apply to the Eritrean case as well. Numbers presented in this chapter for Eritrean refugees in Sudan between 1991 and 2011 are based on UNHCR figures. Speaking on the subject of Ethiopian (including Eritrean) refugee numbers in the decades preceding the 1990s Kibreab noted that, “figures are based on guesses rather than census and should be considered with great precaution.”267 The UNHCR has also acknowledged this contestation, noting that the subject has been the source of “much controversy.”268

Qualitative and quantitative data about Eritrean deportees refouled by Sudan have been compiled primarily from reports published by the UNHCR, USCRI, Amnesty International, and Human Rights Watch.


Eritrean refugees in Sudan throughout the 1990s were primarily those who had fled for reasons related to the Eritrean peoples’ thirty-year struggle for independence from Ethiopia. For nearly ten years following independence there were no “new” Eritrean refugees arriving in Sudan.269 In 1994 the UNHCR reached two bilateral agreements – one with the Government of Eritrea and the other with the Government of Sudan – to facilitate the return of Eritrean refugees.270 Hampered by insufficient funds from international donors and deteriorating relations between the Sudanese and Eritrean governments, the repatriation scheme was largely unsuccessful.271 Between 1991 and the start of the Eritrean-Ethiopian War in 1998, it was estimated that only 130,000 Eritrean refugees had voluntarily repatriated; the majority of these did so without international assistance.272

Independent Eritrea’s first major refugee-creating crisis occurred during the Eritrean-Ethiopian War. In May 2000, when Ethiopian forces gained major control in Eritrea and nearly 100,000 Eritreans fled to Sudan within a two-week period, though most voluntarily returned to Eritrea when the violence subsided.273 Table 3 notes the

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270 Ibid., 141.
271 Ibid.
number of Eritrean refugees in Sudan and the estimated number of individuals refouled between 1991 and 2000.

Table 3
Eritrean Refugees in Sudan and the Number of Individuals Refouled, 1991-2000

<table>
<thead>
<tr>
<th>Year</th>
<th>Refugees</th>
<th>Estimated Number of Individuals Refouled</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>1992</td>
<td>502,600</td>
<td>N/A</td>
</tr>
<tr>
<td>1993</td>
<td>424,500</td>
<td>N/A</td>
</tr>
<tr>
<td>1994</td>
<td>419,300</td>
<td>N/A</td>
</tr>
<tr>
<td>1995</td>
<td>282,800</td>
<td>N/A</td>
</tr>
<tr>
<td>1996</td>
<td>328,300</td>
<td>224</td>
</tr>
<tr>
<td>1997</td>
<td>315,000</td>
<td>N/A</td>
</tr>
<tr>
<td>1998</td>
<td>342,300</td>
<td>N/A</td>
</tr>
<tr>
<td>1999</td>
<td>342,100</td>
<td>N/A</td>
</tr>
<tr>
<td>2000</td>
<td>367,700</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Sources: UNHCR, *Statistical Yearbook 2001*, 92; source for “Number of Individuals Refouled” are cited in section 6.1.1.

During the 1990s there was one officially reported refoulement incident. This act was mentioned in chapter 5 as well because it targeted both Eritrean and Ethiopian refugees and asylum-seekers during a roundup in Kassala. A total of 224 Eritreans were taken in trucks to the border and forced to cross back into Eritrea on foot.  

6.1.2 Facts and Figures: 2001-2011

In 2001, the majority of Eritrean refugees in Sudan had lived in exile in the country for over thirty years. Roughly half of this population lived in camps and settlements in Eastern Sudan, while the other half had settled in towns like Kassala, Gedaref, and the capital city of Khartoum. In February 2002 UNHCR announced that

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274 Reuters, “U.N. says Eritreans, Ethiopians deported by Sudan.”
276 Ibid.
on December 31, 2002 the “ceased circumstances” cessation clause would be applied to Eritrean refugees who fled their country as a result of the War for Independence, as well as those who fled because of the Eritrean-Ethiopian War. By late 2003 only 9,000 refugees – a quarter of those who had registered for repatriation – were able to return because of a souring in Sudanese-Eritrean relations and resulting border closure. In 2004, UNHCR noted “the political developments in Eritrea have resulted in a relatively small number of refugees willing to repatriate, and an upsurge of new arrivals with a very high RSD (refugee status determination) recognition rate.” Despite this, between 2000 and 2007, an estimated 120,000 refugees repatriated with assistance and another 110,000 did so without assistance. Human rights abuses and indefinite, forced military service have been the primary causes of Eritrean flights in the twenty-first century. Other sources of persecution cited by asylees include religious and political beliefs.

Table 4 shows the numbers of Eritrean refugees in Sudan and the estimated number of individuals refouled between 2001 and 2011. The decline in numbers during this period is only due in part to repatriation programs and cannot be attributed to a decreased flow of Eritrean asylees to Sudan. On the contrary, in 2007 approximately 100

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279 UNHCR, Global Report 2004, 188.
280 Bariagaber, Conflict and the Refugee Experience, 145.
281 AI, Amnesty International Annual Report 2012, 142-144.
Eritreans arrived in Sudan each week.²⁸³ Between 2009 and 2012, that number rose to 2,000 to 3,000 new arrivals in Sudan each month.²⁸⁴ The number of individuals resettled to a third country from Sudan’s total refugee population has often been negligible.²⁸⁵

Many Eritreans employ the assistance of smugglers to leave Sudan with hopes of reaching Israel or Europe, but have increasingly become the targets of transnational human trafficking networks.²⁸⁶ In 2009 Human Rights Watch noted that estimates for the number of Eritrean refugees in Sudan were likely low due to the numbers who transit directly to other countries or are trafficked before applying for refugee status.²⁸⁷

Table 4

<table>
<thead>
<tr>
<th>Year</th>
<th>Refugees</th>
<th>Number of Individuals Refouled</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>324,546</td>
<td>N/A</td>
</tr>
<tr>
<td>2002</td>
<td>305,294</td>
<td>N/A</td>
</tr>
<tr>
<td>2003</td>
<td>108,251</td>
<td>N/A</td>
</tr>
<tr>
<td>2004</td>
<td>110,927</td>
<td>4</td>
</tr>
<tr>
<td>2005</td>
<td>116,746</td>
<td>N/A</td>
</tr>
<tr>
<td>2006</td>
<td>157,220</td>
<td>N/A</td>
</tr>
<tr>
<td>2007</td>
<td>160,488</td>
<td>&lt;540</td>
</tr>
<tr>
<td>2008</td>
<td>124,785</td>
<td>N/A</td>
</tr>
<tr>
<td>2009</td>
<td>113,528</td>
<td>N/A</td>
</tr>
<tr>
<td>2010</td>
<td>103,800</td>
<td>N/A</td>
</tr>
<tr>
<td>2011</td>
<td>100,500</td>
<td>&lt;340</td>
</tr>
</tbody>
</table>


²⁸⁵ In 2010, UNHCR Sudan submitted 1,300 cases for resettlement, however only 827 individuals departed to a third country through official means that year. In 2009 353 refugees were resettled from Sudan. UNHCR, Global Report 2010, 65.
²⁸⁷ HRW, Service for Life, 65.
In 2004 Sudan refouled four Eritrean refugees who had fled compulsory National Service. In August of the same year, seventy-five Eritrean refugees in the process of being refouled by Libya overtook the aircraft bound for Eritrea and forced it to land in Sudan. Though some of those aboard the flight were granted refugee status in Sudan, fifteen were convicted under the country’s Anti-Terrorism Act and charged with five years in prison to be followed by deportation.

In 2007 reports indicate that Sudan refouled approximately 540 Eritreans in at least four separate acts. In May, six asylum-seekers were deported from Kassala and in June two families of asylum-seekers were also forcibly returned. In July, 500 Eritrean refugees were arrested and prepared for deportation the following week, however it is unclear how many of these individuals were in fact returned. Additionally, a group of twenty-five that included Eritreans and Ethiopians were deported before UNHCR had the opportunity to determine their statuses.

2011 brought a peak in refoulement cases for Eritreans in Sudan. In early May a group was arrested upon arrival in the country and when charged with illegal entry, they requested to be imprisoned rather than be returned to Eritrea. Between May 26 and

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289 Ibid.
290 Ibid.
292 Ibid.
293 Ibid.
294 AI, AFR 54/019/2011.
June 2, eight members of this group were deported. It is presumable that none of these individuals were given the opportunity to request asylum or have their cases heard. On July 25, four asylum-seekers were forcibly returned. Two others being deported with this group jumped off the truck transporting them to the Eritrean border; one aged seventeen was hospitalized and the other, who was twenty-three years old, died from injuries. Like the earlier cases in the year, the July 25 group had been charged with illegal entry into Sudan and it was confirmed that they were not given access to asylum procedures. The UNHCR openly condemned this act and noted that a total of thirty asylum-seekers and refugees had been refouled between May and July of 2011.

On September 15, 2011, four Eritreans whose request for asylum had been ignored were deported, as were another six on September 18. On October 17, Sudan refouled over 300 Eritrean asylum-seekers and refugees. The deportees came from a group of between 317 and 351 Eritreans, which included women and children, who had been arrested in September while trying to cross the border from Sudan to Egypt. UNHCR and Sudan’s COR had agreed that the group would be moved to Khartoum for

295 Ibid.
296 Ibid.
298 Ibid.
299 Ibid.
300 Ibid.
303 HRW, “Sudan: End Mass Summary Deportations.”
asylum screening purposes, however this agreement was not honored and UNHCR was not aware of the forced return until the deportees were already in Eritrea. After being handed across the border to the Eritrean military, the group was taken directly to a military base.

6.2 Sudanese-Eritrean Relations and Refoulement of Eritreans

Before Sudan’s policies toward Eritrean refugees vis-à-vis its relations with their home government can be discussed, attention must be paid to the Eritrean government’s own attitude toward Eritrean refugees between 1991 and 2011.

As will be elaborated upon in sub-section 6.2.1, UNHCR and Khartoum saw the Eritrean government as being uncooperative in facilitating the repatriation of its refugee population from Sudan in the 1990s. One reason was because Eritrea expected further international funding to reintegrate returnees into its society. The other was due to its impractical insistence that all potential returnees be screened to ensure that they did not have anti-EPLF/PFDJ sentiments. Despite this apparent lack of enthusiasm toward the reception of returnees, the account of one woman who was repatriated in 1997 demonstrates that returnees were treated well upon arrival. The woman describes that the Eritrean government welcomed her and gave her and her child food aid (though she was later persecuted when it was discovered that she was of mixed Eritrean and Ethiopian origin). This indicates that the Government of Eritrea did not mistreat returned refugees for their previous decision to seek refuge. Eritrean refugees in Sudan at this time

305 HRW, “Sudan: End Mass Summary Deportations.”
were not representations of the failures of independent Eritrea, but of the Haile Selassie and Derg regimes of Ethiopia.

This is a great contrast to the Eritrean government’s attitude toward Eritrean refugees who fled the country after independence in 1991. Since at least the early 2000s, the Eritrea has considered failed asylum-seekers as government opponents.\textsuperscript{307} Failed asylum-seekers have been interrogated about their motives in seeking asylum and about what they said about the Eritrean government while abroad.\textsuperscript{308} As a 2002 returnee interviewed by Amnesty International described, “we were asked why we had left Eritrea, why we had spoken against the government, and we were beaten with leather and rubber whips if we denied their accusations.”\textsuperscript{309} Nearly every Eritrean refouled since at least 2008 has been put in \textit{incommunicado} detention upon arrival in Eritrea.\textsuperscript{310} There are also reports that under duress of torture or threats thereof, these men and women are made to admit that their claims of persecution at the hands of the Eritrean government were false and that they have committed an act of treason.\textsuperscript{311} The Eritrean government’s clear shift in attitude toward those who have sought asylum is important to consider throughout this analysis.

\textbf{6.2.1 Relations and Refoulement: 1991 - 2000}

When the EPLF claimed victory in the War for Independence in 1991, Sudan ended support for all other Eritrean dissident groups that remained on Sudanese soil.\textsuperscript{312}

\begin{flushright}
\textsuperscript{307} AI, “Eritrea: Sent Home to Detention and Torture” 9.
\textsuperscript{308} Ibid.
\textsuperscript{309} Ibid.
\textsuperscript{310} Ibid., 4.
\textsuperscript{311} Ibid.
\textsuperscript{312} Mantzikos, 50.
\end{flushright}
Following independence in 1993, the first foreign visit made by new President Isaias Afwerki was to Sudan. A source of tension that quickly arose between independent Eritrea and Sudan, however, was secular Eritrea’s distrust of the NIF’s staunch support for Islamist movements regionally and worldwide. This tension materialized when Asmara voiced support for the National Democratic Alliance and Sudan for the Eritrean Jihad Movement (EJM), a small Islamist insurgent group. In December 1993 Eritrea and Sudan had their first open conflict. After intercepting Sudan-based EJM forces in Eritrean border territory, Asmara cut all diplomatic ties with the Government of Sudan and allowed the NDA to take over the Sudanese embassy in Asmara.

The June 1996 act of refoulement (that targeted both Eritreans and Ethiopians) must be understood in the context of the 1994 Eritrean refugee repatriation scheme. This project failed primarily because of the recent deterioration in Eritrean-Sudanese relations as well as a shortage in funds from the international community. By October 1995 Sudan renounced its agreement to assist in the repatriation of Eritrean refugees, and insisted on the establishment of a tripartite agreement to secure more funds. These demands were made in order to “get a compensation for hosting Eritrean refugees for decades.” In addition to the previously mentioned political tensions between the Sudanese and Eritrean governments, Asmara was also highly uncooperative and selective of who could

313 Ibid.
315 Gebrewold, 184; Mantzikos, 52.
316 Bariagaber, Conflict and the Refugee Experience, 142.
317 Ibid.
return during the repatriation process.\textsuperscript{318} The Eritrean government insisted that all potential returnees be screened, a primary reason for this being its unwillingness to accept refugees with anti-EPLF or pro-Eritrean Liberation Front-Revolutionary Council (ELF-RC) sentiments.\textsuperscript{319} Another reason for Eritrea’s uncooperative approach to the repatriation program is that it saw UNHCR’s proposed allocation of funds for the reintegration of each individual returnee as inadequate.\textsuperscript{320} Sudanese officials “blamed the Eritrean government for the lack of repatriation” and voiced frustration with its uncooperative attitude and inefficient screening process.\textsuperscript{321}

Speaking in the aftermath of the 1996 refoulement of 224 Eritreans, the head of the UNHCR mission in Asmara noted that, “they [Sudan] are rounding up people systematically. It is impossible to predict what will happen in the next few weeks or months…Anything could happen due to the strain between the Sudanese and Eritrean governments.”\textsuperscript{322} The reasons for Sudan’s refoulement of Eritrean refugees in 1996 are likely twofold. First, it was a way for the Sudanese government to display its frustration not only with the lack of funds dedicated to repatriation by the international community, but also with the financial burden it had incurred by the ongoing hosting of Eritrean refugees. Second, this act was a way for Sudan to display its disapproval of Eritrean government policies generally, as well as specifically regarding the repatriation process.

\textsuperscript{318} Ibid.
\textsuperscript{319} Ibid.
\textsuperscript{320} Bariagaber, \textit{Conflict and the Refugee Experience}, 140.
\textsuperscript{321} USCRI, “World Refugee Survey 1997 – Sudan.”
\textsuperscript{322} Reuters, “U.N. says Eritreans, Ethiopians deported by Sudan.”
Over the ensuing years Eritrea hosted a number of Sudanese opposition meetings and conferences, and Sudan continued to support the EJM.\textsuperscript{323} Between 1997 and 1999, Sudan and Eritrea launched accusations of cross border raids, amassing of troops in border regions, and Eritrea accused Sudan of plotting an assassination attempt on the Eritrean president.\textsuperscript{324} Despite an agreement signed in May 1999 following negotiations for improved relations in Qatar, no steps were taken to follow through with the agreement and relations further deteriorated.\textsuperscript{325}

6.2.2 The Twenty-First Century: A Slow Road to Rapprochement

In 2000 the two governments took steps to improve relations. The route between their borders was reopened, the NDA was forced to leave the Sudanese Embassy in Asmara, and the two governments agreed that they would cease allowing opposition groups based in either country to launch cross-border attacks or raids on the home country.\textsuperscript{326} This restoration of relations was rocky at best and between 2000 and 2002, despite both countries voicing a desire work toward rapprochement, both governments continued to launch accusations of rebel and opposition support at one another.\textsuperscript{327}

In 2001 the governments managed to come together to coordinate another repatriation program for Eritrean refugees in Sudan to return home.\textsuperscript{328} This scheme was marred with roadblocks from the start though, and by October 2002 Sudan closed its

\textsuperscript{323} Mantzikos, 53.
\textsuperscript{324} Murison, 1018.
\textsuperscript{325} Ibid.
\textsuperscript{326} Ibid., 1019.
\textsuperscript{327} Ibid.
\textsuperscript{328} USCRI, “World Refugee Survey 2002 – Sudan.”
border with Eritrea after accusing the country of supporting rebels. By late 2003 Sudan agreed to reopen a “humanitarian corridor” through which repatriating refugees could enter Eritrea.

A genuine détente between Asmara and Khartoum did not emerge until 2005. With the 2005 signing of the CPA, Eritrea lessened its involvement with the SPLA/M and focused on its support for smaller rebel movements in Sudan. Eritrea then used these relationships to facilitate peace talks between the NCP and these groups. In 2006 Eritrea coordinated negotiations for and the signing of the Eastern Sudan Peace Agreement. This ended a decade of sporadic conflict between the Government of Sudan and the Eastern Front, a coalition of rebel groups based near Sudan’s border with Eritrea.

An Eritrean journalist named Aaron Berhane who fled to Sudan in 2001 noted that, “with the normalization of relations between the Sudan and Eritrea since 2005, the situation [for Eritrean refugees] is moving backward instead of forward.” Human Rights Watch found that this 2005 improvement in relations caused Sudan to put

\[\text{\small 329 Ibid.}\]
\[\text{\small 331 Connell and Killion, \textit{Historical Dictionary of Eritrea}, 262; Shinn, “Eritrea’s Regional Relations.”}\]
\[\text{\small 332 Connell and Killion, 262.}\]
\[\text{\small 334 Ibid.}\]

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increased pressure on Eritrean refugees to return to Eritrea over the subsequent years.\footnote{HRW, \textit{Service for Life}, 67.} This pressure came to a head with Sudan’s forceful return of over 500 Eritrean refugees and asylum-seekers throughout 2007. One 2007 victim of refoulement, Tsigab Angosom, recounted that he faced immediate detention upon return to Eritrea and was a victim of torture during his nine-month incarceration.\footnote{AI, AFR 32/004/2011.}

In December 2007 diaspora-based Eritrean opposition and human rights groups alleged that the Sudanese and Eritrean governments were working in conjunction to forcibly return Eritrean refugees. The Eritrean Research and Documentation Center claims to have an Eritrean government source that has confirmed that Eritrean intelligence agents enter Sudan and kidnap Eritrean refugees.\footnote{Sudan Tribune, “Asmara and Khartoum accused of deporting Eritrean from Sudan,” \textit{Sudan Tribune}, December 10, 2007, http://www.sudantribune.com/spip.php?article25120.} Also speaking in December 2007, Ethiopia-based Eritrean Kunama Democratic Front members alleged that 4,000 Eritrean refugees in Sudan had been secretly loaded into vehicles by Eritrean authorities and forcibly returned to their home country over the previous weeks.\footnote{Tesfa-Alem Tekle, “Eritrea reportedly abducting 4,000 Eritreans from Sudan,” \textit{Sudan Tribune}, December 25, 2007, http://www.sudantribune.com/spip.php?article25321.} These echo similar claims made by Human Rights Watch in 2009; speaking in the context of forcible returns of Eritrean refugees, the organization noted that “Sudanese security services have links to Eritrean security agents.”\footnote{HRW, \textit{Service for Life}, 67.} Although it is difficult to confirm the validity of these allegations, Sudan’s June 2008 announcement that all Eritrean
opposition groups working within the country were to end their activities and close offices, provides a case for increased Sudanese cooperation with Eritrean authorities.\textsuperscript{341} In a strong show of support for Sudan (and highlighting its own international isolation), Eritrea became the first country to invite President al-Bashir for an official visit following the International Criminal Court issuance of a warrant for his arrest.\textsuperscript{342} The Sudanese Foreign Minister described Eritrea’s invitation as an act of “solidarity” with Sudan.\textsuperscript{343} In 2010 Eritrea played a mediating role in a ceasefire between Sudan and the Darfur-based Justice and Equality Movement (JEM), although the agreement was short-lived.\textsuperscript{344} President Afwerki made an official visit to Sudan in October 2011 and the next week he and President al-Bashir met near their border to mark the commencement of construction on a new road intersecting the two countries.\textsuperscript{345}

It was in the wave of these increasingly warm relations between the two governments that in 2011 over 350 Eritrean asylum-seekers and refugees were refouled. The UNHCR has noted that it prevented further acts of refoulement during 2011 through “advocacy, monitoring of prisons, and legal representation in court.”\textsuperscript{346} An Eritrean journalist who fled her country and sought refuge in Sudan in 2011 described, “no one can tell where the Eritrean authority stops and that of the Sudan starts.”\textsuperscript{347} This echoes

\textsuperscript{341} USCRI, “World Refugee Survey 2009 – Sudan.”
\textsuperscript{342} Shinn, “Eritrea’s Regional Relations.”
\textsuperscript{344} Connell and Killion, 434.
\textsuperscript{345} Ibid.
\textsuperscript{347} Mendez, “For exiled Eritreans in Sudan, fear greater than most.”
previously mentioned claims made in 2007 of increased cooperation between Sudanese and Eritrean security apparatuses in the forcible return of Eritrean refugees.

6.3 Eritrean Asylees and the International Refugee Regime

The Eritrean case also reflects and represents a number of issues with the international refugee regime and its practical application. Specifically this case highlights problems with the law’s implementation mechanisms, burden sharing, and durable solutions. UNHCR is the body charged with implementation of and the responsibility to oversee state practice of international refugee law.\(^\text{348}\) Despite this mandate, due to a lack of funds, perhaps too widespread a practical authority, and the absence of an “external supervisory mechanism” for the 1951 Convention, UNHCR does not have the power to or means to truly hold states accountable to the law.\(^\text{349}\) In this case study, there were several instances when Sudan refouled Eritreans despite UNHCR condemnation or attempts to intervene on behalf of asylees. For example major deportations occurred in 2011 even though UNHCR “consistently reminded Sudan of its obligations under international and Sudanese law”, and agreements had been made between UNHCR and government authorities that would-be deportees were to be screened by UNHCR before decisions were made about their forcible return.\(^\text{350}\)

This case also highlights problems with international burden sharing and commitment to durable solutions for refugees. The “ultimate goal” of UNHCR is that durable solutions are found for refugees; that is, voluntarily repatriation to their home country, integration into the local population in their country of asylum, or resettlement

\(^{348}\) 189 U.N.T.S. 150, art. 35.
\(^{350}\) See above notes 303 and 308.
to a third country.³⁵¹ For Eritreans in Sudan, some of who are presently second or third
generation refugees, the international refugee regime has thus far failed to provide these
solutions. The egregious and widespread nature of the Eritrean government’s human
rights abuses make repatriation an unviable option for the vast majority of refugees. The
USDS currently designates Sudan as an unsafe country for refugees, as there exists no
mechanisms for protection of these populations within the State, and as Sudanese law
does not allow refugees to naturalize, local integration is also not possible.³⁵² Therefore,
resettlement is the only realistic option for Eritrean refugees in Sudan, however thus far it
has not occurred on any notable scale. As was previously mentioned in this chapter, the
number of individuals resettled from Sudan’s overall refugee population in recent years
has been in the low 100s.³⁵³ Due to a lack of physical and financial burden sharing on the
part of the international community, there is currently a major shortage of resettlement
positions available in safe third countries.³⁵⁴

In 2008 Sudan requested additional funding from UNHCR, saying that it simply
did not have the means to cope with or provide aid to the large numbers of Eritrean
refugees in its country.³⁵⁵ The widespread nature of Sudan’s refoulement of Eritreans in

³⁵¹ UNHCR, “Durable Solutions,” UNHCR,
Sudan.”
³⁵³ See above note 289.
³⁵⁴ In 2010 UNHCR said there was “a growing gap between resettlement needs and
available places.” There 2011 projections for resettlement needs surpassed 805,000,
however the overall quota of slots provided by states was 80,000. UNHCR, “UNHCR
highlights shortage of resettlement places,” news, UNHCR, July 5, 2010,
http://www.unhcr.org/4c31f3826.html.
³⁵⁵ Reuters, “Sudan asks U.N. for aid for Eritrean, Somali refugees,” Reuters, December
recent years and especially its practice of deterring would-be asylum-seekers at the border (that is, arresting them upon arrival and charging them with illegal entry without allowing them access to asylum procedures) may be as much a representation of Sudan’s frustration with the international community’s approach to refugee solutions, as it is a form of cooperation between Sudan and Eritrea. The 1996 act can be understood in much the same way, as it came on the heels of an unsuccessful repatriation program that failed in part because of a lack of international donations.

As more Eritrean asylum-seekers and refugees leave Sudan (voluntarily or as a result of trafficking), the plight of Eritreans is taking on more international dimensions. In 2011 alone, 17,175 Eritreans crossed the border from Egypt’s Sinai Peninsula into Israel and their testimonies often included accounts of kidnapping and trafficking by smugglers from Sudan.\(^\text{356}\) Libya, Egypt, Malta, and Italy have all experienced an increase in Eritreans seeking asylum in recent years as well.\(^\text{357}\) As a primary entry point for Europe, Italy reported a 50% spike in the number of Eritrean asylum-seekers it saw between 2007 and 2008.\(^\text{358}\)

It is reasonable to believe that the majority of these Eritreans spent some amount of time in Sudan before seeking refuge or better and safer opportunities elsewhere. Bariagaber and Kibreab have noted that most Eritrean refugees currently in Sudan – both those who fled their country pre- and post-independence – were unwilling to return due to the country’s deteriorating political climate, but were also “disinterested in spending even

\(^{356}\) Humphris, 1.
\(^{357}\) HRW, Service for Life, 65-73.
\(^{358}\) Ibid., 66.
a single day in Sudan.” Statistics clearly reflect these sentiments; recall that in chapter 4 it was noted that 98% of the total Eritrean refugee population worldwide was in Sudan. By 2011, that number had decreased to 46%. With Sudan’s unwillingness and/or inability to offer sufficient protection to Eritrean refugees, there is a great need for international responses that ensure that this population is granted its due human rights and protection in Sudan and elsewhere.

6.4 Conclusion

As in the case of Ethiopia, this analysis has also found a significant nexus between Sudan’s refugee policy and bilateral relations in the case of Eritrea. Unlike with Ethiopia, relations between Sudan and Eritrea were very poor throughout most of the period of this study. There was only one case of refoulement reported in the 1990s and due to the context in which it occurred, Sudan was clearly using the refugees it refouled as objects of policy through which to communicate a message of discontent or contentment with their home government. As relations between the two states improved dramatically between 2005 and 2011, refoulement of Eritreans became widespread. These acts often occurred amid meeting and agreements of cooperation between Sudan and Eritrea, and there are reports that the security apparatuses of the two states work in conjunction to forcibly return refugees.

The Eritrean case, more so than that of Ethiopia, also highlights significant problems related to enforcement mechanisms, burden sharing, and durable solutions.

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360 See footnote 104 in chapter 4.
361 UNHCR, Global Trends, 2011, 43.
within the international refugee regime. In some instances acts of refoulement represent Sudan’s desperation as it struggles with shortcomings of this broader system. The international community’s lack of dedication to shouldering the global South’s refugee burden and specifically dedicating themselves to finding durable solutions for Sudan’s Eritrean refugee population are in many ways deeply linked with Sudan’s violation of the principle of non-refoulement.
CHAPTER 7
CONCLUSION

This thesis has viewed Sudan’s refugee policy vis-à-vis the cases of Ethiopian-Sudanese and Eritrean-Sudanese bilateral relations between 1991 and 2011. This was done in order to determine the impact that these relations had on Sudan’s practice of refouling asylees from the two states. It was found that there exists a clear nexus between Sudan’s bilateral relations and the acts of refoulement that it has exercised in these cases. Prior to beginning this study I had heard a number of Ethiopians and Eritreans describe this problem saying, “when relations are bad between the countries, refugees are treated good”, and vice versa. Such statements are an over-generalization and simplification of the situation, however, and the nexus between the two does not always fall within this strict dichotomy. Karadawi’s determination that Sudan often used refugees as “objects of policy” in the pre-1991 context is still largely applicable today. In different instances during the period of this study Sudan used refoulement of Ethiopian and Eritrean asylum-seekers and refugees as a policy tactic through which to show solidarity and cooperation, as well as discontent and disapproval with their home governments.

In some instances due to the widespread and seemingly random nature of deportations, Sudan’s acts may also be understood as a way for the government to send a message to the international community about its inability and/or unwillingness to house large populations of refugees as it has for decades. In that way, Sudan’s actions are in line with wider trends being seen throughout the global South, as the international refugee regime’s current implementation fails to adequately address the needs of refugee-

362 See above note 47. Karadawi, Refugee Policy in Sudan, 44.
receiving states or shoulder their share of the burden or ensure the safety of refugees within those states.

7.1 Summary of Findings

In this sub-section I will review the primary findings based on the two case studies. Several conclusions can be reached about the nature of refoulement in the Ethiopian case. Aside from a short period of poor relations between 1995 and 1998, Khartoum and Addis Ababa have had cooperative and at times, friendly, relations. The majority of cases of refoulement of Ethiopians appear to have been the result of specific targeting of refugees who were political opponents of the EPRDF. Compared with the Eritrean case, there were fewer forcible returns of Ethiopian refugees and asylum-seekers who had been the victims of random round-ups. There were also few reported cases of Ethiopians being detained upon arrival, charged with illegal entry into Sudan, and refouled before having the opportunity to request asylum. An exception to this was in 1996, when relations had recently worsened between Sudan and Ethiopia, and a number of Ethiopian asylees were randomly rounded up and returned. These were not specifically targeted individuals who were wanted by the Ethiopian authorities. This act is understood as a means through which Sudan indirectly displayed its negative sentiments toward Ethiopia.

The Eritrean case differs in many ways from that of Ethiopia, however this study found that even then, Sudan used Eritrean asylum-seekers and refugees as tools of policy. Aside from one instance of refoulement that occurred when relations were poor between Sudan and Eritrea, and served as a means for Sudan to voice disdain for Eritrean government actions, all other reported cases took place during a period of rapprochement.
Though more Eritreans who are refouled were victims of random round ups, as opposed to the apparent direct targeting that was seen in many Ethiopian cases, some reports still linked these acts to cooperation between Sudan and Eritrea.

7.2 What do these findings say about the international refugee regime?

One of my secondary research questions was regarding the shortcomings and problems with realistic implementation of the international refugee regime based on the findings of this thesis. In the analyses of the two cases tackled, several key issues representing or rooted in wider problems with the international refugee regime were raised. Generally these problems reaffirm broad issues that have already been noted by other scholars.

One primary issue that is central to the issue of refoulement in general is that few mechanisms exist to ensure that states abide by the tenets of international refugee law. Although in several instances UNHCR successfully advocated on behalf of would-be forced returnees, there were a number of other acts of refoulement that occurred despite UNHCR condemnation. At other points, the Sudanese government deported refugees and asylum-seekers despite having agreed with UNHCR that they would be given the opportunity to access legal asylum procedures. UNHCR has the mandate to urge governments to abide by the 1951 Convention and can condemn acts that violate the law, however it does not have the power to enforce refugee law standards.

The case of Eritrean refugees specifically reflects problems with the international community’s dedication to burden sharing and durable solutions. A lack of funds from donors has financially burdened Sudan in its housing of this large refugee population. Unable to return to Eritrea or live safely in Sudan and due to an insufficient number of
slots for resettlement, this population has been left in a desperate and vulnerable position. This has pushed many Eritreans (as well as Ethiopians) to seek other forms of refuge abroad.

At the time of writing in November 2012 six Eritreans and four Ethiopians have been refouled by Sudan during the year.\textsuperscript{363} An additional forty-one were charged with illegal entry and sentenced to deportation, but requested access to UNHCR. It is not clear whether the opportunity to pursue asylum procedures was granted.\textsuperscript{364} These incidents will likely not decrease unless the bilateral relations-refugee policy nexus is more seriously explored and steps are taken to promote a less politicized implementation of international refugee law. Equally pressing are the needs to take genuine international commitment to address burden sharing and durable solutions for refugees. Though this thesis has studied these issues within the Sudanese context, the findings reflect broader trends and practices carried out by governments worldwide. Therefore, not only regionally, but internationally these issues must be tackled to protect and extend human rights to some of the world’s most vulnerable populations.

\textsuperscript{363} AI, AFR 54/039/2012.
\textsuperscript{364} Ibid.
APPENDIX 1

INTERNAL REVIEW BOARD APPROVAL

2011-2012, case #181

THE AMERICAN UNIVERSITY IN CAIRO
OFFICE OF THE ASSOCIATE PROVOST FOR RESEARCH ADMINISTRATION

To: Shelley Burke (CMRS student)
Advisor: Usha Natarajan (CMRS)
Dept. asst.: eman_m@aucegypt.edu
From: Graham Harman, Chair of the IRB
Date: July 15, 2012
Re: approval of study

This is to inform you that I reviewed your research proposal entitled “The Foreign Policy-Refugee Policy Nexus: A Comparative Study of the Sudanese-Ethiopian and Sudanese-Eritrean Cases,” and determined that it required consultation with the IRB under the “expedited” heading. As you are aware, the members of the IRB suggested certain revisions to the original proposal, but your new version addresses these concerns successfully.

Please note that IRB approval is valid only for one year from the date of this letter. For projects taking longer than one year to complete, IRB approval must be sought again before the expiration date of the current approval.

Thank you and good luck.
Graham Harman
APPENDIX 2

INTERVIEW CONSENT FORM

Documentation of Informed Consent for Participation in Research Study

Project Title: The Foreign Policy-Refugee Policy Nexus: A Comparative Study of the Sudanese-Ethiopian and Sudanese-Eritrean Cases

Principal Investigator: Shelley Burke, 01286998755, shelleyburke@me.com

*You are being asked to participate in a research study. The purpose of the research is to gain an understanding of what impact, if any, Sudan’s foreign policy toward Ethiopia and Eritrea has on Sudan’s treatment of Ethiopian and Eritrean refugees, and the findings may be published, presented, or both. The expected duration of your participation is one to two interviews, which should not exceed three hours each.

*There will be certain risks or discomforts associated with this research. I will ask you to speak frankly about either your experiences seeking asylum in Sudan or observations you may have made while implementing Sudanese refugee policies.

*There will not be benefits to you from this research, however the outcomes of this research will contribute to general understanding of this issue.

*The information you provide for purposes of this research is confidential and your name and contact information will not be traceable to the information you share with the interviewer during the interview(s).

*The interviewer may ask to take an audio recording of the interview, however you will be asked for permission to have yourself recorded prior to the interview. You may also request for certain portions of the interview to not be audio recorded or discontinue the recording at any point.

*Questions about the purpose of the research or the research subjects’ rights should be directed to Shelley Burke at 01286998755 or shelleyburke@me.com.

*Participation in this study is voluntary. Refusal to participate will involve no penalty or loss of benefits to which you are otherwise entitled. You may discontinue participation at any time without penalty.

Signature
________________________________________________________________________

Printed Name
________________________________________________________________________

Date
________________________________________________________________________
APPENDIX 3

INTERVIEW SUMMARY: GIRMA

The following is a summary of relevant findings based on an interview with Girma (pseudonym) that took place on August 9, 2012 at the office of an NGO in Cairo, Egypt. The interview lasted forty-nine minutes and was conducted in English. The interviewee’s verbal consent was accepted after I discussed the tenets of ‘Appendix II: Consent Form’ with him and informed consent was gained to audio record the session. I conducted an open ended interview during which I asked about trends in Sudan’s treatment and deportation of refugees based on Girma’s personal experiences as a refugee in the country, as well as his close contact with other members of Cairo’s Ethiopian refugee community. I also sought to gain his personal opinion and framing of Sudanese-Ethiopian relations as they impact Ethiopian refugees.

Girma fled his home country of Ethiopia in 1988 in order to evade compulsory military service under the Derg Regime. He describes that at this time there were many fronts of battle against the Eritreans and the TPLF, and reflects, “I have many, many friends who went there and never returned. I missed many things by becoming a refugee, but I have saved my life.” Girma fled to Sudan in 1988, was granted refugee status, and stayed in exile in the country until 1996. He eventually came to Egypt where he works with a refugee assistance organization and is active in the local Ethiopian community.

During the interview he primarily discussed the changing nature of the Sudanese government’s treatment of Ethiopian refugees who were members of Ethiopian opposition parties, specifically of the EPRP. Our discussion focused mainly on the early 1990s while he personally witnessed and lived these Sudanese policies.

He described that generally when relations were good between Sudan and Ethiopia, politically active Ethiopian refugees faced a high possibility of targeting by Ethiopian forces that were permitted to operate in Sudan. He provided some detailed accounts to demonstrate this and said this was an overwhelmingly trend prior to 1996. He claimed
that when relations worsened between the countries, Sudan permitted Ethiopian political opposition groups to have offices open in Sudan and operate freely. It was his understanding that these actions were Sudan’s way of avoiding direct confrontation with Ethiopia and said that Ethiopian refugees were “pawns” or “proxies” in Sudan’s political games.

When questioned about other factors that may be influencing Sudan’s treatment of Ethiopian refugees he cited several domestic issues. He described that generally he felt that the Sudanese population mistrusted Ethiopian refugees and saw them as hostile. The Sudanese associated these individuals with the Derg Regime, which would often fly fighter jets into Sudanese air space in power flexing routines. While in Sudan, Sudanese citizens would accuse Girma and his country of wanting war with them. Another issue at the national level that trickled down into the local population’s psyche was that of the Blue Nile water. He described that Sudanese taxi drivers would accuse him of wanting to collect all the water so that none could flow into Sudan. He also spent much time discussing what he understood to be an Islamic threat from Sudan toward predominantly Christian Ethiopia.
The following is a summary of relevant findings based on an interview with Daniel (pseudonym) that took place on August 30, 2012 at a café in Cairo, Egypt. The interview lasted approximately three hours. I communicated with Daniel through an Amharic interpreter who gave a personal statement of confidentiality prior to the official start of the interview. The interviewee’s verbal consent was accepted after I discussed the Consent Form with him. He explained that he preferred not to be audio recorded because he feared that the presence of a recording device might attract unwanted attention, specifically from Egyptian authorities.

I had already met Daniel on several occasions a year prior to this interview, however I was directed to him by a gatekeeper within the Ethiopian community for purposes of this study. Therefore, the interview environment was very comfortable and informal, as an element of trust and familiarity existed between Daniel and myself prior to the interview. Daniel gave an in-depth summary of his experiences as a politically active Ethiopian refugee in Sudan, which partially covered events that occurred prior to 1991.

Daniel was recruited as a young man to distribute flyers and deliver documents amongst members of the EPRP in his home country of Ethiopia. He officially became a member of the party in 1980, but was forced into hiding due to the Derg Regime’s targeting of EPRP members. He eventually fled to Sudan, where he was granted refugee status upon arrival in 1983. EPRP offices openly operated in Sudan at the time of his arrival and so he continued to serve as an active member of the party. He eventually fled to Egypt in 2005 after facing ongoing fear and threats of refoulement to Ethiopia because of his political affiliations.

Daniel provided detailed accounts of Sudan’s treatment of Ethiopian refugees based on his firsthand experiences. He focused primarily on the circumstances of EPRP members, though Daniel noted that the TPLF, EPLF, Ethiopian Democratic Union (EDU), and OLF were also operating in Sudan at the time of his arrival in the country.
The EPRP and other Ethiopian opposition parties were permitted to operate openly when Daniel arrived in 1983 while President el-Nimeiry was ruling Sudan. This changed when Saddiq al-Mahdi came to power after the coup that ousted el-Nimeiry. Daniel described that because of an agreement made between al-Mahdi and the Derg Regime, Sudan agreed to stop supporting the Eritrean liberation movements active in its country. In reality the offices of all Ethiopian opposition parties – including the EPRP – were closed down by force.

Quite soon after Omar al-Bashir came to power, Ethiopian opposition parties were once again permitted to operate. Daniel noticed however that EPRP members were not given the same freedom of movement and treatment that EPLF and TPLF members were given. Immediately after the EPRDF took power in Ethiopia in 1991 the Sudanese authorities cracked down on EPRP activities. Daniel claims that deportations of refugees were never an issue in Sudan prior to 1991, but after that time became common. These deportations, which he called “kidnappings,” occurred through Ethiopian and Sudanese security collaboration. He claims that Ethiopian officials would give the names of those refugees who they wanted returned, but it was Sudanese authorities who would come to their homes (usually at night and in secrecy) to take these individuals and hand them across the border to Ethiopian officials. Because of this, from 1991 until 1995 all EPRP activity in Sudan took place underground.

In 1995 following the assassination attempt on President Mubarak, the Sudanese government allowed the EPRP and other parties to carry out their actions freely. This continued until the end of 1998 when he described that a sort of peace treaty was signed.
between Sudan and Ethiopia. At this point all EPRP operations were forcibly shut down and again, the group carried out their operations in secrecy.

Sudanese government targeting and deportations of Ethiopian refugees, including those involved in many different opposition parties, has continued since that time. Daniel described the late 1990s and new millennium as the “worst period” for Ethiopian refugees in Sudan and he witnessed many refugees fleeing the country to seek asylum elsewhere. Daniel played an active role in organizing and taking part in hunger strikes and protests against the enactment of the “ceased circumstances” clause in the early 2000s. He served as a liaison between the Ethiopian refugee community and UNHCR (as he had done at various points in the past), however he said that the UNHCR’s response to refugee detentions and forced returns was often that the organization could not do anything about Sudanese government policy. Though his case was reviewed and his refugee status extended, he decided to flee Sudan to Egypt when he received warnings from a Sudanese government official with whom he had friendly relations that there were plans to deport him.

Though he showed the UNHCR Cairo office proof of his recognized refugee status in Sudan when he arrived here in 2005, this status was not extended to him here. Even after presenting his case, he was told that he can return to Sudan and live there safely. He is so certain of the dangerous circumstances he would face in Sudan if he returned that he has chosen instead to live illegally and without UNHCR or Egyptian government protection here.

It is Daniel’s understanding that Sudan benefits from this collaboration with the Ethiopian government of returning refugees who are wanted political opponents. From a
security standpoint, in the past the Ethiopian government cracked down on the activities of the SPLA/M in its territory. More recently the Ethiopian government has mediated for and sent peacekeeping troops to Sudan. Economically, the two countries have also collaborated. For example, Ethiopia transports many good through Sudan, from which Sudan reaps financial benefits.

AI. *See* Amnesty International.


_____. *Legal Concern/Arbitrary Detention*. AI Index AFR 25/04/92 (June 24, 1992).


_____. *Sudan must end forced returns of asylum seekers to Eritrea*. AI Index AFR 54/039/2012 (August 15, 2012).

_____. *UA 280/07 Forcible return/fear of torture or ill-treatment/incommunicado detention/prisoner of conscience*, AI Index AFR 25/024/2007 (October 31, 2007).


HRW. *See* Human Rights Watch.


Noy, Chaim. “Sampling Knowledge: The Hermeneutics of Snowball Sampling in


UNHCR. See United Nations High Commissioner for Refugees.


