Abstract

This article relates the legal status of Mozambicans in South Africa from 1985 onwards to key findings of a demographic census taken in 1992, an environmental health survey conducted in 1993, and in-depth fieldwork in some of the surveyed settlements in 1995. The case study area on the border with Mozambique is typical of South Africa's rural former homelands, with the exception that it has a large and long-standing refugee population. The environmental health indicators for refugees are considerably worse than for their hosts, and in-depth fieldwork suggests that this can be attributed to their legal and political vulnerability. This raises issues for South Africa's Reconstruction and Development Program, as well as conceptual challenges for promoters of human rights.

Cet article traite du statut légal des Mozambicains en Afrique du Sud depuis 1985, en tirant parti des conclusions principales du recensement démographique de 1992, d'une étude sur la santé environnementale de 1993, et d'études approfondies menées sur le terrain en 1995. Cette région frontalière du Mozambique où se situe cette étude de cas est typique des anciens homelands ruraux de l'Afrique de Sud, à l'éxception près que cette région abrite depuis longtemps une large population de réfugiés. Les indices de santé environnementale des réfugiés sont trés inférieurs à ceux de la population locale, alors que des études approfondies révèlent que cette situation peut être attribuée à la vulnérabilité légale et politique des réfugiés. Cette situation soulève des questions dans le cadre du programme de reconstruction et dévéloppment de l'Afrique du Sud, et lance un défi conceptuel aux promoteurs des droits de l'homme.

Este artículo relaciona el estado legal de los Mozambiqueños en Sud Africa a partir de 1985, a ciertas conclusiones claves de un censo demográfico que se llevó a cabo en 1992, como también a una encuesta realizada en 1993 sobre el estado del medio ambiente, y a un estudio de 1995 en ciertos poblados. El área bajo estudio, la cual se encuentra en la frontera con Mozambique, es un área típica de las antiguas tierras patrias rurales de Sud Africa, con la excepción de que ésta tiene una población numerosa y duradera de refugiados. Los indicadores de salud ambiental para los refugiados se encuentran en un peor nivel que aquellos para sus anfitriones, y un estudio de profundidad sugiere que este hecho se puede atribuir a la vulnerabilidad legal y política de los refugiados. Esto plantea ciertas cuestiones para el Programa de Reconstrucción y Desarrollo de Sud Africa, al igual que un número de desafíos conceptuales para aquellos que promueven los derechos humanos.

The Links between Legal Status and Environmental Health: A Case Study of Mozambican Refugees and Their Hosts in the Mpumalanga (Eastern Transvaal) Lowveld, South Africa

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The First International Conference on Health and Human Rights, held in 1994, sought to highlight three concepts: The impact of health policies, programs, and practices on human rights; the impact of human rights abuses on health; and *the deeper and fundamental connections between realization of human rights and health promotion and protection* [emphasis added].[1]

It is upon the last of these three themes that this article reflects. How important is the realization of human rights to health promotion and protection in a rural area of South Africa? The area in question, the southern portion of the Mhala district of the former Gazankulu homeland, lies some 500 kilometers from Johannesburg on South Africa's eastern borders with Mozambique (see Map 1). It is in many ways typical of South Africa's rural homelands. It is semi-arid, densely populated, deficient in basic services and infrastructure, and lacking in employment opportunities.[2]

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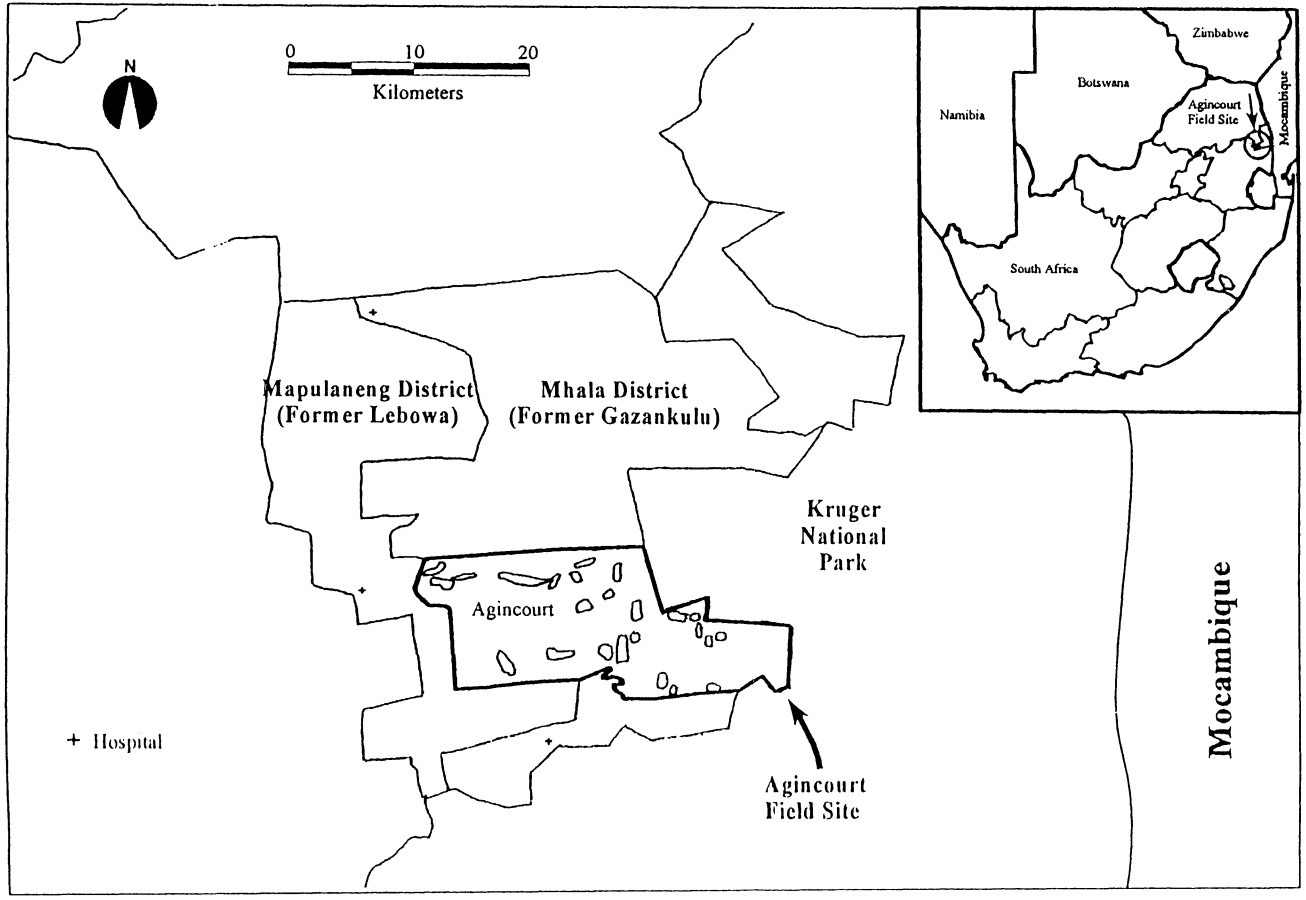
Map 1: Mhala District and Agincourt Field Site, Mpumalanga (Eastern Transvaal) Lowveld, South Africa



The area is thus an ideal place for the newly elected South African Government's Reconstruction and Development Program (RDP) to work, with its commitment to increasing provision of housing, water, education, and health services.[3] This is a commitment both to creation of a healthier environment and to recognition of the rights of hitherto deprived communities.

There is however a serious danger that, in seeking to address the needs of the formerly disadvantaged majority within these areas, vulnerable groups within that majority will continue to be overlooked. Such areas—marked by their history as apartheid's dumping grounds, the poor pole of a polarized society—are often assumed to form homogeneous communities that are united in their poverty. Statements such as "Better health service management requires community involvement," with no real questions asked about the nature of the community, are common.[4] The assumption of homogeneity permeated the run-up to South Africa's local government elections in November 1995, with the African National Congress increasingly stressing the need for the community to take responsibility for planning its own future as a precondition for the success of the Reconstruction and Development Program.

The situation of the Mozambicans within the former homeland areas, as described in this article, serves to demonstrate that this assumption of a homogeneous community in which interests are shared, in which all enjoy equal rights, and in which all feel free to voice their concerns, is seriously flawed. Some nongovernmental organizations working in development have long argued that it is difficult to identify, let alone work, in a way that benefits "the poorest of poor."[5] Vulnerable groups often seek to minimize drawing attention to themselves, while more powerful individuals and groups either block access to the vulnerable, claim to speak on behalf of all, or simply ignore the needs of the vulnerable.

How, then, does any agency or program intending to benefit the community as a whole identify those who are silenced? One solution is to run through a check list of commonly vulnerable groups. Toubia, for example, writes:

> Individuals and groups who wield least power need increased social and legal protection. Particularly vulnerable are women, the illiterate and poor, the disabled, ethnic minorities, indigenous people and children. In our research and analysis of health and human rights, we must be particularly mindful of the vulnerability of these groups, and of other power imbalances that may prevail in a particular society.[6]

The problem with such lists is that none of the groups identified is intrinsically vulnerable. Vulnerability may be transient and is nearly always context specific. In Rwanda the Tutsi, though an ethnic minority, moved from a position of power to one of vulnerability, and then back to power in the space of a few short months.

It is important therefore to identify the determinants of vulnerability that are shared by vulnerable groups. One of these, and the one around which the human rights perspective is based, is the failure to develop or, where it does exist, to implement, appropriate legislation to promote and protect the human rights of individuals. Indeed, the whole human rights movement rests on the premise that the power and vulnerability of specific groups relative to the state and to one another can be regulated and moderated through legal mechanisms, including bills of rights, constitutions, and international conventions.

In theory, therefore, an examination of the legal mechanisms in place in a particular country, and their implementation, should provide a means of identifying vulnerable groups and targeting resources to benefit the whole community.

This article briefly outlines the history of the Mozambican refugee situation and the case study area, followed by a description of the methodology used. The lack of legal protection afforded to Mozambicans in South Africa is highlighted. We then use a case study of settlement patterns and associated environmental health indicators of the Mozambican refugees and their hosts to examine the linkages between lack of legal protection, environmental vulnerability, and the prospects of health promotion and protection. For the purposes of this article environmental health is defined in terms of access to water, sanitation, fuel, and housing.

Case Study Area

The intensification of civil war in Mozambique in the early and mid-1980s prompted large numbers of Mozambicans to seek refuge in neighboring countries, including Tanzania, Malawi, Zambia, Zimbabwe, Swaziland, and South Africa. The majority of those arriving in South Africa initially settled in the homeland areas along South Africa's eastern borders, with major concentrations in the KaNgwane area in the south, Giyani District in the north, and Mhala District in between (see Map 1). Estimates of the total number present in 1993 range between 250,000 and 350,000, with some 42,000 in the Mhala District.[7, 8, 9] Under the United Nations High Commissioner for Refugees (UNHCR) voluntary repatriation program (April 1994-March 1995) only 31,074 people repatriated.[10] Fewer than 5 percent of those in Mhala District opted to repatriate.[11]

The case study area, known as the Agincourt fieldsite, is in the southern part of the former Mhala District, where access from Mozambique through the Kruger Park is least difficult (see Map 1). The Agincourt fieldsite, established in 1992 by the University of Witwatersrand's Health Systems Development Unit, is a subdistrict of a demonstration district health system initiative.[12] Results of research conducted here are intended to inform the development of local and district health services, as part of the wider program of health reform in South Africa.

Methodology

The first section of the study draws on documentary evidence and interviews with Department of Home Affairs officials. The remaining sections draw on four components of work conducted in the Agincourt fieldsite.

The first component was the 1992–93 round of an annual household demographic census. This census, currently being repeated for the third time, covers every household in 20 rural settlements. As such, it provides a clear picture of the population profile and of key health determinants, both of which are necessary for the development of primary health care services.[13, 14] It also allows settlement-specific analysis and the identification of subgroups within the overall population, in this case refugees.

The second component was an environmental health survey, conducted in the same 20 settlements in 1993. This provides a picture of those environmental factors generally considered essential for the development of primary health care, specifically: safe water supply, sanitation and waste disposal, fuel use, and adequate housing and shelter.[15]

In each of the 20 settlements covered by the demographic survey, a random sample of 25 households was taken. This resulted in an overall sample size of 500 households, or 5.6 percent of all (8,896) households. A field team of 10 trained field workers drawn from the area conducted interviews with the most adult and responsible member available in each household.

The data were entered onto a data management computer program and aggregated by settlement. Initial analysis aggregated all settlement populations. Subsequently the results of this survey were combined with the findings of the 1992–93 census to allow comparison between refugee and local settlements. The five predominantly refugee settlements were compared with the 15 predominantly local/mixed settlements, in order to determine whether the results obtained could indeed be attributed to the difference in settlement type.[16]

The third component of the study was a dialogue and feedback exercise of the major findings of the environmental health survey presented at a series of community meetings held in each of the surveyed settlements. The report that formed the basis for this feedback was translated into Shangaan, the local language, and a copy was distributed to the most appropriate local person, normally the induna (local headman accountable to the Tribal Authority), or the civic association chairperson.[17] Discussions at these community feedback sessions generated additional information and insights into the quantitative findings.

The fourth and final component consists of in-depth qualitative fieldwork which has been conducted in the area since April 1995 (fieldwork is still on-going).

Results

Lack of Legal Status

Large numbers of Mozambican refugees have been deprived of legal status for most of the 10 years since their arrival in South Africa.[18] Although the central government of the Republic of South Africa (RSA) took practical steps to respond to the arrival of Mozambicans as early as January 1985, it refused to allow UNHCR and other international agencies access to the refugees. This effectively prevented the refugees due status determination procedures and the enjoyment of basic rights.

Lack of formal recognition prior to 1993 meant the Mozambicans received low levels of assistance, but perhaps most fundamentally, they lacked formal identification papers.[19] This was in contravention of Articles 27 and 28 of the 1951 UN Convention Relating to the Status of Refugees, and effectively constituted a denial of freedom of movement, in contravention of Article 26.[20] Under pressure from the Gazankulu and KaNgwane homeland administrations, the RSA government agreed that the refugees could stay within the homelands, but that they were liable to deportation to Mozambique the moment they crossed into the Republic.[21]

It was not until September 1993 that Mozambicans were retroactively granted group refugee status.[22,23] The first positive step towards the legalization of the Mozambicans' status was the signing, on 6 September 1993, of a Basic Agreement between UNHCR and the Government of the Republic of South Africa, "concerning the presence, role, legal status, immunities and privileges of UNHCR and its personnel in the Republic of South Africa."[24] This laid the basis for the signing, just over a month later, on 15 October 1993, of a tripartite agreement between the government of the RSA, the government of the Republic of Mozambique, and UNHCR for the Voluntary Repatriation of Mozambican Refugees from RSA.

Although this latter agreement gave group status to Mozambicans in South Africa, and should in theory have been accompanied by the issue of formal documentation, in practice it appears never to have been intended to protect Mozambicans in South Africa, only to facilitate their repatriation. Those who registered for voluntary repatriation were

given voluntary repatriation forms and could in principle use them as a means of identification.[25] Those who chose not to register for voluntary repatriation under the auspices of UNHCR (the majority), remain, to all intents and purposes, in a legal vacuum.[26, 27]

Settlement Patterns

Analysis of the first round of demographic data, collected in 1992–93, shows that refugees form a substantial subgroup within the overall population in the Agincourt fieldsite. Of a total population of 57,609 people in the 20 settlements, approximately 15,188 (26 percent) were classified as refugees by the survey personnel.[28]

Fully 55.2 percent (see Table 1) of the refugees are concentrated in only five of the 20 settlements, all immediately adjacent to the Kruger National Park. In these five settlements they form the majority (87 percent) of the population, and "locals" form the minority of 13 percent. Four of the five settlements (A, B, C, D) arose as a result of refugee inflows in the 1980s and are known as refugee settlements. The fifth settlement (E), initially an informal local settlement, has since become predominantly populated by Mozambicans, but is not generally perceived as true refugee settlement.[29]

TABLE 1 Settlement Population by Type

	Local	Refugee	Total
Refugee settlements (5)	1,277	8,391	9,668
Mixed Settlements (15)	41,144	6,797	47, 941
Total Population (number)	42,421	15,188	57,609
Total Population (percent)	74%	26%	100%

The remaining 6,797 Mozambicans constitute 14 percent of the population in the other 15 settlements. In seven of these the Mozambicans are concentrated in clearly identifiable refugee areas on the outskirts of the formally demarcated villages.

The mean household size (6.75) in the five refugee settlements is slightly higher than that of the remaining 15 "mixed" settlements.[30] The Mozambican settlements, with an aver-

age size of 277 households, are noticably smaller than the mixed settlements, which average 501 households per settlement (See Table 2).

TABLE 2 Household number and size by settlement type

	Average No.*	Average Size**
Refugee settlements (5)	277	6.75
Mixed Settlements (15)	501	6.50

* Based on annual household census
** Based on a sample of 25 households in each settlement
Total sample= 500 households, or 5.6% of the total 8,896 households

Only in two mixed settlements (F and G) do Mozambicans constitute an important proportion of the settlement (19 percent and 27 percent) without inhabiting a clearly identifiable and spatially separate subsection of the settlement.

The situation does not therefore fit comfortably into any of the three broad settlement types identified by Black as characteristic of refugee populations, namely "camps," "planned settlements" and "dispersed settlements."[31] There are no camps per se. The four refugee settlements were planned, in the sense that land was allocated to them. However, the only external assistance in terms of infrastructure was the provision of communal toilets by the then-governing Gazankulu administration. Settlement E cannot be considered planned, nor can it truly be considered an example of a dispersed refugee population. It is generally accurate to consider that in the remaining 15 settlements, refugees constitute a physically marginalized minority.

This conclusion is supported by the findings of the environmental health survey. In terms of key determinants of environmental health—namely, access to water, sanitation, fuel, and housing, these refugees live in deprivation relative to their hosts, who are themselves a marginalized element of South African society.[32]

Access to Water

The clearest outcome of this physical marginalization is poor access to water. The area surveyed has little ground-

water and no rivers, and is therefore largely reliant on piped water pumped from the nearby Sabie River. Although many settlements are linked into the pumped water system (all respondents reported access to street taps, although for some refugees this involves walking to the neighboring settlement), the reliability of the water supply is poor for the entire population. Overall, only 13 percent of survey respondents reported that water is always available.

Refugee household members walk 400 meters to collect water—more than four times the distance of 96 meters walked by household members in mixed settlements. Respondents in refugee settlement D were the worst off, walking 1,088 meters to collect water.[33]

While the distance for mixed settlements is just within the 100 meters recommended as acceptable by Simmonds, Vaughan, and Gunn, the distances for refugees are clearly unacceptable and reflect the very low prevalence of yard taps in refugee settlements.[34] Whereas in the mixed settlements, 36 percent of households on average have access to a yard tap, in the refugee settlements this is true for only 9 percent of respondents.

These distances are considerable if one remembers that the two major methods of transporting water are by carrying a 25 liter container on the head (51 percent) or pushing between three and four such containers in a wheelbarrow (45 percent). Many respondents use both methods, as appropriate. In only one household was an animal cart used to haul water, and in only one was the use of a motor vehicle reported.

TABLE 3 Profile of Principal & Second Water Collectors by Settlement Type

Refugees n=125 Mixed n=375	Refugee Settlements	Mixed Settlements
Water collected daily	74%	68%
Principal collector female	99%	94%*
Second collector female	87%	83%
Principal collector at school	12%	30%**
Second collector at school	48%	72%**
Median age of principal collector	33 years	30 years
Median age of second collector	17 years	17 years
Median distance to collect water	400 meters	100 meters

* $p<.05$
** $p<.01$

A larger proportion of refugee households than mixed settlement households collect water on a daily basis (see Table 3). The burden of this falls more heavily on refugee women than on their local counterparts. These refugee women also have less access to education than do women in mixed settlements.

Although in many households several people can be involved in collecting water, in the survey we concentrated on the two main collectors, described here as the principal and second collectors. Principal collectors are more likely to collect in the morning (57 percent) than in the late afternoon (29 percent). Second collectors, on the other hand, because many are still in school, are less likely to collect water in the early morning (42 percent) and more likely to collect in the late afternoon (49 percent).[35]

Sanitation and Waste Disposal

Table 4 shows the main types of toilets used. The provision of toilets in refugee settlements is much worse than in the local settlements. The reasons for this are explored below. Communal toilets are found only in two of the refugee settlements (B and D) and are used by 65 percent and 32 percent of households, respectively. In the worst-served settlement there are no communal toilets and 14 percent of households have outside toilets while 77 percent of households report having to use "the bush."

TABLE 4 Sanitation Facilities by Settlement Type

Refugees n=125 Mixed n=375	Refugee Settlements	Mixed Settlements
Toilet inside house	0%	0%
Pit toilet in yard (total)	24%	55%**
Best settlement	62%	76%
Worst settlement	4%	33%
Communal toilet	19%	0.5%**
The Bush	51%	22%**
Best settlement	25%	4%
Worst settlement	77%	43%

** $p<.01$

Waste disposal methods differ considerably between mixed and refugee settlements (see Table 5). The lower number of household pits may reflect the smaller plots upon which refugee households are settled. Settlement A, the refugee settlement with the greatest number of outside toilets, appears to be the most conscientious about waste disposal, with 29 percent of households reporting that they burn waste.

TABLE 5 Waste Disposal Methods by Settlement Type

Refugees n=125 Mixed n=375	Refugee Settlements	Mixed Settlements
Household pit	35%	45%
Burn	18%	37%**
Stream or pond	11%	1%**
Compost pit	2%	3%

** p<.01

Fuel Use

Wood remains the most commonly used fuel, although a small percentage of the local population has diversified (see Table 6). The high percentage of refugees using wood conceals the fact that in three of the five refugee settlements, 100 percent reported using wood only. The refugee settlement (E) reporting the lowest wood use, 82 percent, is also the refugee settlement with the largest proportion of nonrefugees (31 percent).

TABLE 6 Fuel Use by Settlement Type

Refugees n=125 Mixed n=375	Refugee Settlements	Mixed Settlements
Wood	96%	86%**
Purchase wood	9%	28%**
Paraffin	14%	3%**
Gas	2%	4%
Electricity	0%	2%

** p<.01

As Table 6 shows, refugees are far less likely to purchase fuel than the people living in mixed settlements. That this is related to status rather than availability of wood is clear when comparing physically adjacent settlements: in settlement H, 41 percent reported purchasing wood, while in the neighbor-

ing refugee settlement, only 8 percent reported purchasing wood. Similarly, in two mixed settlements (F and I), 50 percent and 39 percent, respectively, reported purchasing wood, while in the neighboring refugee settlement only 12 percent reported purchasing wood.

Diversification into alternative fuels is low, due to high cost and poor availability. Electricity, the most desirable alternative to wood, both from a cost and a health perspective, is likely to bypass refugees altogether. At the time of the survey (1993) electricity was used in two mixed settlements by 12 percent of respondents in settlement J and by 8 percent in settlement F, but nowhere else. Since then, ESKOM has begun an electrification drive throughout the area, but this generally excludes refugee settlements.[36] For example, one settlement was electrified in September 1994 but the immediately adjacent refugee settlement was bypassed.

Layout and Accommodation of Living Space

In each household surveyed, the number of sleeping rooms and the number of people each accommodated was examined. In mixed settlements, there was an average of 1.8 sleeping rooms per household, equivalent to 3.9 people per room. The least crowding occurred in settlement G, with 3.3 people per room.

In refugee households the average number of sleeping rooms was 1.1, equivalent to 4.5 people per room. Interestingly, the worst crowding appeared to be in the mixed settlement J, with 4.9 people per room.

Life in a Legal Vacuum

These figures present a cross-sectional or two-dimensional picture of relative deprivation of refugees within an already poor host society. In and of themselves, the figures are of concern from a public health perspective.[37]

The third dimension, which emerged during the course of the community feedback sessions and subsequent in-depth fieldwork, is the socio-political-legal dynamic that underpins and aggravates this relative deprivation.

Settlement E exemplifies this: although the 1992–93 demographic survey shows that this settlement is 69 percent

Mozambican, in many households at least one individual has managed to obtain a South African Identity Document, such that the settlement is referred to by some as "eMapasini," or "the place where people have passes."[38] People now strongly resist the label "refugee," insisting that they are locals. The induna (headman) of the settlement, himself of local origin, categorically denies that there are any Mozambicans at all in the settlement.[39]

Nevertheless, settlement E demonstrates environmental health indicators similar to the four refugee settlements—in fact, of the 20 settlements it had the worst sanitation record. Asked why, residents attending the community feedback responded that they were unwilling to build toilets until their stands had been properly demarcated by the local authorities.[40, 41]

The prospect of this happening are low, as the district authorities do not formally admit the existence of the settlement. When in April 1994 the Water Committee for settlement E sent a delegation to the district authorities to discuss the water problem, the District Control Officer refused to accept that there was a problem, claiming that settlement E has a population of approximately 100 people, when in fact, the real number is over 1,300.[42] For as long as the stands remain undemarcated, their inhabitants are merely squatters.[43]

In neighboring refugee settlement D, the link between legal status and access to services came out clearly in a heated exchange over whether improved water supply or acquisition of Identity Documents (IDs) was the greater priority. One participant stated that:

> If you haven't got your own [ID] how are you going to ask for water? You must get that thing first, and then you can go looking for water. Going for water is useless before you get that thing.[44]

The numbers moving out of refugee settlements and into undemarcated informal settlements are growing steadily. The closure of UNHCR's voluntary repatriation program in March 1995 appears to have been taken by refugee households as a signal that their future is uncertain. Large numbers of refugee households are migrating out of refugee settlements and seeking to disperse into less high-profile informal settlements.

Of the 59 new households that have settled in settlement E since the 1994 census, 41 were Mozambican. Of these, 10 had moved from elsewhere in settlement E, six had moved from two other settlements. Nine households had moved in from outside the survey area and a striking 14 households had migrated from the two immediately adjacent refugee settlements.[45]

Settlement E, neither a refugee settlement nor a formal local settlement where people have some security of tenure, but a place where locals and Mozambicans collaborate in presenting a nonrefugee identity, in fact represents a transitional stage in peoples' attempted metamorphosis from refugee to recognized citizen. It demonstrates informal strategies acted upon to achieve formal status.

Discussion

The demographic distribution of refugees relative to their hosts, and the environmental health indicators associated with the two different settlement types, show Mozambican refugees to be a vulnerable subgroup within the overall population. Even when statistical significance cannot be shown, the trend of refugee indicators is consistently worse than that of the mixed settlements, strongly suggesting their relative vulnerability.

Subsequent in-depth fieldwork suggests that this vulnerability reflects, both directly and indirectly, the legal vacuum to which this group has been condemned, as outlined in the introduction. Indeed, at least three dynamics, all detrimental, have been set into motion by the refugees' lack of legal status.

First, most in-depth interviews, whether with Mozambicans or locals, have highlighted how lack of status has made Mozambicans vulnerable to exploitation in the workplace. Their resultant poverty relative to their hosts is shown by income and expenditure surveys conducted in the Mhala District over the last five years.[46] Economic vulnerability in refugee settlements is reflected in low consumption of cash goods, demonstrated by the use of free firewood rather than more convenient energy forms, as well as relative overcrowding.

Second, lack of certainty over the future acts as a deterrent to refugee investment in domestic infrastructure such as pit latrines. There is a corresponding lack of government and nongovernmental organizations' investment in public infrastructure such as water supply and electrification.

Even where people do wish to invest, they are hampered by their inability to access formally allocated plots of land. This explains both the relatively greater distance refugees travel to collect water and the dearth of yard taps and outside toilets in refugee households.

It should be added that lack of legal status puts refugees at the mercy of local decision makers, whose formal jurisdiction is not entirely clear. The decision not to electrify refugee settlement B, for example, was taken in consultation with the civic committee of the neighboring mixed settlement.

This has resulted in situations in line with the findings from elsewhere in Africa, as summarized by Bascom, namely that "Refugees in many settlements were not as concerned about the need for further assistance, but about questions of protection from abuse of authority by local officials, and about equity issues..."[47]

Third, initial findings of the 1995 demographic census suggest that the continuing legal vacuum and uncertainty about the future is producing a new set of movements within the area, as refugees move out of refugee settlements and attempt to disperse into areas where they are less easily identifiable.

While moving from a refugee settlement into an informal one may lessen the risk of deportation, it does not bring with it any of the benefits associated with formal recognition, as the water committee's experience with the District Control Officer demonstrates. The blurring of identity that the lack of formal status forces upon people, in fact, serves only to drive problems underground.

Further, the findings dispel the notion that the poor form a homogeneous community. Below the surface of what initially appears to be a uniformly poor area of rural South Africa, there are in fact serious levels of relative deprivation, and under the guise of community-driven democratic decision making this particular sub-group suffers active discrimination. The political marginalization of Mozambicans in the

former Mhala District, as in other areas along South Africa's borders with Mozambique, therefore poses a challenge to the agenda of community-driven reconstruction and development in which funding is allocated at least partly in response to expressed need.[48]

Such settlements are in a poor position to voice their needs, and local settlements are unlikely to do it for them. It is more likely that Mozambicans will remain a ready scapegoat for any number of problems. Unlike the biblical scapegoat, however, the Mozambicans are not willing to be chased out into the desert.

Faced with such a situation, the RDP and other initiatives have three options: ignore the issue, try to remove the people, or accept that people are here and incorporate them fully into planning.

The first option might be feasible if the refugee population were about to move back to Mozambique. However, all indications are that the remaining Mozambicans, for a variety of reasons, do not wish to return to Mozambique. Left unaddressed, the public health concerns inherent in these longitudinal dynamics can only worsen, with likely implications for people in the area as a whole. The study of Husseinyeh village, a settlement of Bedouin Arabs in Israel, demonstrates striking parallels. Declared illegal in 1965, the settlement is still there. The study links relatively high levels of morbidity and mortality to poor water supply and sanitation. These in turn are attributed to Israel's lack of formal recognition of Bedouin Arab settlements.[49]

The second option, forced deportation, is morally objectionable, politically difficult, and practically impossible. Forcible deportation would make a mockery of the voluntary repatriation that preceded it and would evoke bitter memories of apartheid's systematic forced removals—a parallel few governments would wish to see drawn.

Therefore, the third option, incorporation, requires serious consideration, both from human rights and from public health perspectives.

Conclusions

This article set out to discuss the deeper and fundamental connections between realization of human rights and health promotion and protection, in particular, the role of certain legal measures as a determinant of group vulnerability.[50]

A strong association has been demonstrated between lack of legal status and poor environmental health, suggesting that lack of status can serve as an indicator of vulnerability.

Clearly, the failure to grant the Mozambicans refugee status in the 1980s, and their inability to enjoy the rights associated with it, has led to relative vulnerability in terms of environmental health. This demands attention from a human rights perspective, and the case can be strengthened by drawing on public health arguments.

As the Mozambican case demonstrates, while the granting of status may appear to be a yes-no decision, the denial of rights sets into motion a whole series of socioeconomic and political dynamics that result in the formation of vulnerable groups. The resultant divisions within the community are of a nature that severely reduces the prospects of health promotion and protection in the case study area and in many similar situations. In other words, denial of rights has costs even for those in the host society who enjoy legal status: in other words a lose-lose situation.

The existence of particularly vulnerable groups dispels the assumption that the community is a homogeneous entity. This is problematic for ostensibly community-driven programs like the RDP, because formal legal recognition is primarily a political rather than a technical issue. However, the issue must be grappled with, particularly in the face of ongoing population movements that belie the notion of physically static communities. Whether people are labeled migrant workers, illegal aliens, or refugees; whether the area is rural or urban, the underlying issues remain the same.

There are essentially two options for dealing with such issues. The first is to try to limit the existence of potentially vulnerable groups by restricting the movement of people. This is the preferred option of most governments, despite increasing evidence that large-scale movements of people are by their nature difficult to control.

The second option is to accept that people do move and to therefore consciously address the links between status, rights, and health. Formal legal status—allowing freedom of movement with its associated economic opportunities; access to land and services, and sufficient security to justify the risk of investment in the host environment—is one of the fundamental prerequisites for environmental and social health. It is also fully consonant with the notion of human rights that are indivisible and not territorially restricted.

This second option runs counter to current practice, at the core of which, and contrary to the evidence, is the notion that the movement of people can be controlled. Persistence of such notions is hardly surprising, given that recognition, whether of refugees, illegal immigrants, or racial minorities, does not just challenge the "eurocentrism" and individualism of liberal human rights concepts as outlined by Otto: "recognition challenges the very notion of a static nation-state with a stable population and political constituency."[51]

The challenge for human rights activists, therefore, is to demonstrate that failure to grant status does not remove the issue, it merely drives it underground. Further, that the long-term social and political costs of denying status are likely to be higher than the costs of granting status. The challenge for politicians who accept this will be to find political tools as potent as the rhetoric of nationalism: perhaps South Africa's newfound self-image as a "rainbow nation" gives grounds for optimism?

Acknowledgments

The authors wish to thank Karen Waltensperger for making the environmental health survey happen, and Duncan Saunders for discussing earlier drafts of this paper. We wish also to acknowledge the financial support of the Human Sciences Research Council Global Change and Social Transformation Program; the Kaiser Family Foundation; the Independent Development Trust; the European Union; the Henry J. Kaiser Family Foundation; The Norwegian Refugee Council; and the Trust for Health Systems Planning and Development.

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8. C. Dolan, see note 2, p. 30.
9. Figures extrapolated from Catholic Church food distribution figures which did not include migrant males. Mnisi Tribal Authority–in the north: 14,491, Mashangana–central: 7,907: Hoxani–south west: 5,024; Jongilanga–south east: 14,608.
10. *The Sunday Times*, Johannesburg, April 2, 1995.
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12. For a full description, see S. Tollman, K. Herbst, M. Garenne, The Agincourt Demographic and Health Study: Phase 1 (Johannesburg: Health Systems Development Unit, Department of Community Health, University of the Witwatersrand, 1995), pp. 7-10.
13. S. Tollman, see note 12, p. 4.
14. The importance of 'clearly defined territorial boundaries and population' in decentralized health services based on districts is stressed in B. Dujardin, see note 4, p. 1266.
15. S. Simmonds, P. Vaughan, S. William Gunn (eds.), Refugee Community Health Care, (Oxford University Press, 1986), p. 38. D. Yach, P.M. Strebel, G. Joubert, "The Impact of Diarrhoeal Disease on Childhood Deaths in the RSA, 1968–1985" *South African Medical Journal* 76 (1989):472-475. H. Kanaaneh, F. McKay, E. Sims, "A Human Rights Approach for Access to Clean Drinking Water: A Case Study" *Health and Human Rights*, 1 (2) (1995):193.
16. The test results were obtained using Chi-square and t-tests.
17. C. Dolan, O. Mokoena et al, Mbuyelo Wa Resechi Leyi Hi Yi Endleke Hi 1993 (Environmental Health) (Johannesburg: Health Systems Development Unit, University of the Witwatersrand, April 1995).
18. For the purposes of the Voluntary Repatriation program, UNHCR defined refugees as all those who arrived in South Africa between January 1985 and December 1992, the year of the signing of the Peace Accord between Resistencia Nacional de Mocambique (RENAMO) and Frente de Libertacao de Mocambique (FRELIMO).
19. From 1986 until 1990 the Department of Home Affairs (DHA) did register refugees and issued a form of ration card. This allowed the refu-

gees to claim relief rations but did not permit freedom of movement. Interview with DHA official, October 27, 1995.
20. In January 1996 South Africa acceded to both the 1951 Convention and 1967 Protocol relating to the status of refugees, and to the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, but this has yet to be ratified by parliament.
21. Under apartheid the South African government set up ten "homelands" or "bantustans" to correspond to the major black ethnic and linguistic groups. Black South Africans were systematically and forcibly removed from the "Republic of South Africa" and resettled in these homelands; four (Transkei, Bophutatswana, Venda and Ciskei) were nominally independent, to the extent of hosting South African embassies. The remaining six, including Gazankulu and KaNgwane, all ran separate administrations, including separate police forces. The borders between the RSA and the non-independent homelands were not patrolled.
22. The RSA deployed personnel and equipment to the homeland border areas in response to the perceived threat of the spread of resistant strains of malaria, as well as reaching an informal agreement with the administrations of the former Gazankulu and KaNgwane Homelands that the refugees would be tolerated as long as they did not move into the RSA itself.
23. Tripartite agreement: South Africa-Mozambique-UNHCR, October 15, 1993.
24. See note 19.
25. Interview with UNHCR Protection Officer, June 29, 1995, Johannesburg.
26. Approximately 120,000 registered for the voluntary repatriation program, and approximately 30,000 actually returned. On this basis approximately 90,000 Mozambicans should have voluntary repatriation forms. This leaves some 230,000 without documentation if my estimates are correct (C. Dolan, see note 27, p. 30), or 130,000 if one accepts UNHCR's initial planning figure of 250,000 Mozambicans in need of repatriation.
27. The repatriation took place between April 1994 and March 1995. For further discussion see: C. Dolan, "Aliens aboard—Mozambicans in the New South Africa" *Indicator South Africa*, 12 (3), (Winter 1995):29-32.
28. In many households the survey personnel were cautious about asking the question "Are you a refugee?" directly, as for obvious reasons it is a sensitive issue. The identification of people as Mozambicans was generally on the basis of dialect.
29. In the current climate of uncertainty about the Mozambicans' future in South Africa we have changed the names of the settlements to avoid easy identification.
30. "Mixed" settlement refers to those settlements which have Mozambicans in them but where the Mozambicans do not form a majority.
31. R. Black, "Forced Migration and Environmental Change: The Impact of Refugees on Host Environments," *Journal of Environmental Management* 42 (1994):261-277.
32. It is ironic that Mhala District, in common with many of the homeland 'dumping grounds', fits the description given by Simmonds et al, see note 15, p. 17: "More often than not refugee communities are sited on land which is unwanted for normal agricultural or residential use, on fron-

tiers or in no-man's land.... Whatever the reasons for the chosen location, the immediate physical environment will have a pronounced effect on the health and welfare of the refugees." In this context the refugees can be seen as 'double-refugees', given the areas the displaced South Africans did not want. However, such differences are likely to be very marginal, as many refugee settlements are immediately adjacent to local settlements.

33. In the survey the field workers walked with the respondents to the nearest water source using a measuring device to accurately measure the distance.

34. S. Simmonds et al, see note 15, p. 23.

35. However, location of the settlement can confound this to a certain extent, as water may only be available at certain times of day. In settlement B, for example, 93.3 percent of principle collectors fetch water in the early morning, with only 6.7 percent fetching in the late afternoon. By contrast, in settlement I, only 28.6 percent fetch water in the early morning, while 71.4 percent collect in the late afternoon.

36. South Africa's electricity supply commission.

37. The links between poor access to clean drinking water and high rates of morbidity and mortality in Husseinyah village are clearly outlined in B. Kanaaneh, see note 15, pp. 191-204. The impact of wood-collection on health are discussed in P. Coetzer, L. M. Kroukamp, "Diarrhoeal Disease—Epidemiology and Intervention" *South African Medical Journal* 76 (1989):465-472; for example, the more time spent collecting wood, the less likely people are to boil water used in oral rehydration therapy. Further indirect impacts on health may arise from environmental degradation as a result of excessive fuelwood harvesting.

38. S. Tollman, see note 12, p. 21.

39. Community Meeting to discuss research project, settlement E, August 13, 1995.

40. Community Feedback meeting, settlement E, April 18, 1995.

41. The term "stands" refers to the plot of land which people are allocated by the authorties and on which they may build their homes.

42. Interview with resident of settlement E, July 14, 1995.

43. Interview with Department of Home Affairs official, Thulamahashe, September 29, 1995.

44. Group interview conducted in settlement D by Vusimuzi Nkuna & Chris Dolan, on September 21, 1995).

45. Preliminary analysis of in-migration data from 1995 round of demographic survey.

46. C. Dolan, see note 2, p. 31.

47. J. Bascom, "The New Nomads—An Overview of Involuntary Migration in Africa," The Migration Experience in Africa, ed. J. Baker et al. (Sweden: Nordiska Afrikainstitutet, GOTAB, 1995), p. 211.

48. Interview with Minister for Reconstruction & Development, Mpumalanga Province, October 26, 1995.

49. H. Kanaaneh, see note 15, p. 191.

50. See note 1, p. 131.

51. D. Otto, "Linking Health and Human Rights: A Critical Legal Perspective," *Health and Human Rights*, 1 (3) (1995):272-281.