

THE FATE OF REFUGEES IN CAMEROON: A LEGAL PERSPECTIVE

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ABSTRACT

Refugees are persons outside their countries of origin who need international protection because of a serious threat to their life, physical integrity or freedom in their country of origin due to persecution, armed conflict, violence or serious public disorder. The need for international protection arises because they cannot avail themselves of the protection of their own country against these threats. A precondition of being considered a refugee is that a person crosses an international border. People who are forcibly displaced from their homes and who cannot or choose not to leave the country are not considered refugees, even if they share many of the same risks and vulnerabilities as those who do. Addressing the problems of refugees is the primary responsibility of the government. This requires taking concrete steps to prevent arbitrary displacement, protect and assist the refugees and find durable solutions to their problems. Several laws and institutions are put in place to protect refugees, but refugees suffer a lot despite this. This can partly be attributed to the ineffective implementation of the Law. To better protect refugees, this work recommends that the refugees need to be empowered; government should provide them with vocational training and skill acquisition so that they do not stay idle, and the government is supposed to provide refugees with adequate security, make sure that their lives are being secured before sending them back to their home country.

Keywords: Fate, Refugees, Legal perspective, Cameroon.

INTRODUCTION

Refugees are persons outside their countries of origin who need international protection because of a severe threat to their life, physical integrity or freedom in their country of origin due to persecution, armed conflict, violence or severe public disorder. Article 1(a) (2) of the Refugee Convention, 1951ⁱ defines the term ‘refugee’ as “*For the purposes of the present Convention, the term “refugee” shall apply to any person who... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.*” The need for international protection arises because they cannot avail themselves of the protection of their own country against these threats. A precondition of being considered a refugee is that a person crosses an international border. People who are forcibly displaced from their homes who cannot or choose not to leave the country are not considered refugees, even if they share many of the same risks and vulnerabilities as those who do.

Refugees are different from Internally Displaced Persons (IDPs). According to the Guiding Principles on Internal Displacement, 1998ⁱⁱ, “*Internally displaced persons (IDPs) are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border*”. Internal displacement describes the situation of people who have been forced to leave their homes but have not left their country. Millions of people are uprooted from their homes or places of habitual residence each year as a result of conflicts.

Armed conflicts are a major cause of forced displacement, either internally or externally. Where the victims are displaced internally, they are referred to as internally displaced persons (IDPs); where they have crossed national borders, they become refugees. Refugees are, therefore, people who have crossed an international frontier and are at risk or have been victims of persecution in their country of origin. In contrast, internally displaced persons (IDPs), on the other hand, have not crossed an international frontier but have, for whatever reason, also

fled their homes. No continent has been spared. Internal displacement has become a more pressing humanitarian, human rights and security problem confronting the international communityⁱⁱⁱ.

Protection “involves using the law to secure the rights, the security and the welfare of persons.”^{iv} In the case of IDPs, however, no international legal instrument is specific to their plight, which defines their nature and content of protection. For refugees, a body of Law specific to their situation provides the basis for their protection. Although refugee law cannot be applied directly to IDPs, by virtue of its focus on persons who have been displaced (albeit across a border), it nonetheless can contribute to defining, by analogy, the nature and content of protection for IDPs.

Refugee law includes mainly the 1951 Convention Relating to the Status of Refugees and the Convention Governing the Specific Aspects of Refugee Problems in Africa and the mandate of the Office of the United Nations High Commissioner for Refugees (UNHCR). They provide the main framework for protection and assistance for refugees. Refugees are also protected by general human rights law, and if they find themselves in a State involved in armed conflict, by international humanitarian Law. The general provisions of International Humanitarian Law protect civilian refugees in States involved in armed conflict, but they also receive special protection under the Fourth Geneva Convention and Additional Protocol I. This additional protection recognises the vulnerability of refugees as aliens in the hands of a party to a conflict.

Addressing the problems of refugees is the primary responsibility of the government. This requires taking concrete steps to prevent arbitrary displacement, protect and assist the refugees and find durable solutions to their problems. The role of government includes the responsibility to prevent overt conditions on their territory that might compel the population to flee; raising national awareness for recognised problems and addressing same; adequate medical care should be given to refugees, especially to their pregnant, nursing mothers and children. Their children should be immunised to avoid being affected by vulnerable diseases. One of the political challenges refugees face is the lack of political will to address the causes of their plight. Several laws and institutions are put in place to protect refugees, but despite this, refugees suffer a lot. This can partly be attributed to the ineffective implementation of the Laws.

LEGAL FRAMEWORK

We have both domestic and international legal instruments:

A. The National Instruments Protecting Refugees in Cameroon

i. The Cameroon Constitution, 1996

In Cameroon, human rights are protected nationally in the Preamble of the Cameroon Constitution of January 18 1996^v. The Preamble of the Constitution is part and parcel of the Constitution^{vi}. The Constitution of Cameroon affirms the attachment of the country to the fundamental freedoms enshrined in the Universal Declaration of Human Rights, the Charter of the United Nations and the African Charter of Human and Peoples' Rights and all duly ratified international conventions relating thereto; in particular, the following principles: - all persons shall have equal rights and obligations. The phrase "*all persons*" includes refugees in Cameroon; this means that the country is committed to protecting the rights of all its citizens and citizens of other States who find themselves in Cameroon forcefully. The Constitution upholds the cardinal and fundamental principles in International Human Rights Law: equality and non-discrimination. The Preamble states, "*No person shall be harassed on grounds of his origin, religious, philosophical or political opinions or beliefs, subject to respect for public policy.*"

ii. Law N°. 2005-July 6 27 2005 Relating to the Status of Refugees in Cameroon

Section of this Law defines a refugee as "*...any person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership to a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it; - any person who, owing to an aggression, foreign occupation, foreign domination or events that seriously undermine public order in either part or all of his country of origin or nationality, is obliged to leave his habitual residence to seek refuge in another place outside his country of origin or nationality.*"

The Cameroon Refugee Law equally contains the fundamental principle of non-refoulement under International Refugee Law. Section 7(1) of the Law provides that "*No person shall be turned back at the border, nor subject to any measures, whatsoever, that may force him to*

return to or remain in a territory where his life, physical integrity or freedom is threatened...”On entering the national territory, every asylum seeker must report to the competent authorities within a deadline of 15 (fifteen) days^{vii}. The said authority shall prepare a comprehensive report indicating the asylum seeker’s marital status, professional activities, nationality, the reasons for his choice of Cameroon as his country of asylum, and every other information likely to clarify the processing of his file^{viii}. The asylum seeker shall be issued a safe conduct with a validity period of two months non-renewable by the receiving authority, who shall immediately transmit the file to the Refugee Status Eligibility Commission^{ix}. An application may be deemed inadmissible where the seeker has lived in a country of first asylum. A country of first asylum shall be a recognised third country where the asylum seeker has been admitted as a refugee or in which, for well-founded reasons, he has received or may continue to receive protection^x.

Section 9 of the Law guarantees certain rights that all Cameroon refugees must enjoy. These rights include non-discrimination, freedom to practice their religion, right to acquire property, freedom of association, access to courts, the right to employment, right to education, right to housing, right to social and public assistance, freedom of movement, right to obtain identity papers and travel documents, right to transfer assets and right to naturalisation. Section 10 of the Law provides that *“(1) As regards the right to engage in a wage-earning or non-wageearning employment, and without exemption from taxes and duties, as well as concerns the social benefits relating to such employment, persons considered as refugees shall have the status of nationals. (2) Such persons shall receive the same treatment as the nationals as concerns the right to education, school and university registration fees and charges for the students’ welfare service.”*

Every refugee in Cameroon must, like the nationals, respect the laws and regulations in force^{xi}. Any person who acquires refugee status shall undertake not to carry out any destabilising activity against the Cameroonian State on the national territory, his own country or any other state^{xii}. Any person considered a refugee shall receive a refugee card of which the duration of validity and conditions of renewal shall be determined by decree, and they shall, in addition, be entitled to the issuance of a travel document^{xiii}.

iii. Law N^o. 97-12 of January 10 1997, to Lay down the Conditions of entry, Stay and Exit of Aliens from Cameroon

It is important to maintain that this Law lays down conditions of entry, stay and exit in Cameroon and does specifically maintain the term “refugee”. It asserts the inviolability of Cameroon’s border and emphasises the necessity of proper documentation for any movement into and out of Cameroon. Section 27 of the Law dealing with refugee’s cards provides that “(1) A refugee’s card shall be issued to a person who is granted refugee status. (2) A refugee’s card shall be valid for a renewable period of two (2) years. (3) A decree to implement this Law shall lay down the conditions for issuing and renewing refugees’ cards.”

B. Regional Instruments Protecting Refugees

i. African Charter on Human and People’s Rights, 1981

Regionally, human rights are protected in the African continent by the African Charter on Human and People’s Rights (1981)^{xiv}. The Charter serves as a guide for promoting human rights in the continent as it provides that every individual shall have the right to respect the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, and cruel, inhuman or degrading punishment and treatment, shall be prohibited. Article 4 of the African Charter on Human and Peoples Rights is to the effect that Human beings are inviolable and that every human being shall be entitled to respect for his life and the integrity of his person. No one, including refugees, may be arbitrarily deprived of this right, even in times of war.

ii. The Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969

The Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa, also called the OAU Refugee Convention, or the 1969 Refugee Convention, is a regional legal instrument governing refugee protection in Africa. It comprises 15 articles and was enacted in Addis Ababa on September 10, 1969, and entered into force on June 20, 1974. It builds on the 1951 Refugee Convention and the 1967 Protocol, and has influenced the 1984 Cartagena Declaration and the 2009 Kampala Convention. The 1969 Refugee Convention’s historical context is the era of decolonisation, Apartheid, as well as internal political and military uprisings. The Convention, in its Article 1, defines the term ‘refugee’ as “1. For the purposes of this Convention, the term “refugee” shall mean every person who, owing to well-founded fear of being persecuted for reasons of race, religion,

nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events is unable or, owing to such fear, is unwilling to return to it. 2. 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.”

Article 2 of the Convention is to the effect that Member States of the OAU shall use their best endeavours consistent with their respective legislations to receive refugees and to secure the settlement of those refugees who, for well-founded reasons, are unable or unwilling to return to their country of origin or nationality. The grant of asylum to refugees is a peaceful and humanitarian act. It shall not be regarded as an unfriendly act by any Member State. A Member State shall subject no person to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened. The Convention calls on Member States to cooperate with the Office of the United Nations High Commissioner for Refugees.

iii. African Charter on the Rights and Welfare of the Child, 1990

Article 22 of the African Charter on the Rights and Welfare of the Child^{xv} states, “*States Parties to this Charter shall undertake to respect and ensure respect for rules of international humanitarian law applicable in armed conflicts which affect the child.*” It obligates the States to protect children during armed conflicts by stating that “*States Parties to the present Charter shall take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain, in particular, from recruiting any child.*”^{xvi}

States Parties to the African Charter on the Rights and Welfare of the Child shall, in accordance with their obligations under international humanitarian Law, protect the civilian population in armed conflicts and take all feasible measures to ensure the protection and care of children who are affected by armed conflicts. Such rules shall also apply to children in internal armed conflicts, tension and strife^{xvii}.

Article 23(1) of the Charter is to the effect that States Parties to the present Charter shall take all appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic Law shall, whether unaccompanied or accompanied by parents, legal guardians or close relatives, receive appropriate protection and humanitarian assistance in the enjoyment of the rights set out in this Charter and other international human rights and humanitarian instruments to which the States are Parties.

iv. Protocol to the African Charter on Human and Peoples' Rights Relating to the Rights of Women in Africa (The Maputo Protocol), 2003

The Maputo Protocol^{xviii} protects women who are refugees and who are IDPs during armed conflicts. Article 11 of the Convention provides that “*States Parties undertake to respect and ensure respect for the rules of international humanitarian law applicable in armed conflict situations, which affect the population, particularly women*”^{xix}.

States Parties of the Protocol shall, per the obligations incumbent upon them under international humanitarian Law, protect civilians, including women, irrespective of the population to which they belong, in the event of armed conflict^{xx}. States Parties of the Protocol undertake to protect asylum-seeking women, refugees, returnees and internally displaced persons against all forms of violence, rape and other forms of sexual exploitation and to ensure that such acts are considered war crimes, genocide and/or crimes against humanity and that their perpetrators are brought to justice before a competent criminal jurisdiction^{xxi}.

The Maputo Protocol obligates States Parties to take all necessary measures to ensure that no child, especially girls under 18, directly participates in hostilities and that no child is recruited as a soldier^{xxii}. It, therefore, prohibits child soldiering.

C. The Universal Instruments Protecting Refugees

Here we examine global legal instruments.

i. The 1951 Convention relating to the Status of Refugees

The Convention Relating to the Status of Refugees, also known as the 1951 Refugee Convention or the Geneva Convention of July 28 1951, is a United Nations multilateral treaty that defines who a refugee is and sets out the rights of individuals who are granted asylum and the responsibilities of nations that grant asylum. The Convention also identifies which people

do not qualify as refugees, such as war criminals. The Convention also provides for some visa-free travel for holders of refugee travel documents issued under the Convention. Article 12 of the Convention provides that “1. *The personal status of a refugee shall be governed by the Law of the country of his domicile or, if he has no domicile, by the Law of the country of his residence.* 2. *Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the Law of that State, provided that the right in question is one which would have been recognised by the Law of that State had he not become a refugee.*” Article 13 goes further to place an obligation on the Contracting States to accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property. Regarding non-political and non-profit-making associations and trade unions, the Contracting States shall accord refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances^{xxiii}. As regards access to justice, a refugee shall have free access to the courts of Law on the territory of all Contracting States^{xxiv}. And as regards employment, the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances as regards the right to engage in wage-earning employment^{xxv}.

This Convention establishes the principle of non-refoulement in Article 33. The principle of non-refoulement forms an essential protection under international human rights, refugee, humanitarian and customary law. It prohibits States from transferring or removing individuals from their jurisdiction or effective control when there are substantial grounds for believing that the person would be at risk of irreparable harm upon return, including persecution, torture, ill-treatment or other serious human rights violations. Under international human rights law, the prohibition of refoulement is explicitly included in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). In regional instruments, the principle is explicitly found in the Inter-American Convention on the Prevention of Torture, the American Convention on Human Rights, and the Charter of Fundamental Rights of the European Union. International human rights bodies, regional

human rights courts, and national courts have guided that this principle is an implicit guarantee flowing from the obligations to respect, protect and fulfil human rights. Human rights treaty bodies regularly receive individual petitions concerning non-refoulement, including the Committee Against Torture, the Human Rights Committee, the Committee on the Elimination of Discrimination Against Women and the Committee on the Rights of the Child.

ii. Convention on the Rights of the Child, 1989

The Convention on the Rights of the Child^{xxvi} protects children who are part of the vulnerable group of persons in society during armed conflicts. Article 38 of the Convention on the Rights of the Child is very important.

Article 38(1) of the Convention on the Rights of the Child requires States Parties to respect International Humanitarian Law rules relevant to children. In monitoring States, the Convention on the Rights of the Child Committee has, for example, applied standards on recruiting, demobilisation and reintegration of child soldiers. According to Article 38, States Parties are obligated to take all feasible measures to ensure that persons who have not attained the age of fifteen do not take a direct part in hostilities. This means children under 15 are not to be war soldiers in the State's regular army or organised armed groups during any armed conflict. This explains why in subsection 3, it is stated that "*States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces...*"

The article also provides guidelines for recruiting young persons during armed conflicts. It states that in recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

State Parties' obligation here is not only to refrain from recruiting children below the age of 15; the obligation is even wider as it provides that States Parties shall take all feasible measures to ensure protection and care of children affected by an armed conflict. And this must be done per their obligations under international humanitarian Law to protect the civilian population in armed conflicts^{xxvii}.

Article 38 has provided the protection children need during armed conflicts but lacks an implementing mechanism. Therefore, the question is, what happens if a State Party decides not to respect this provision? This explains why, despite many international human rights and humanitarian provisions for the protection of children in armed conflict, the sobering and often

shocking reality is that these children are still too often the victims of grave violations of their rights.

iii. **The Geneva Convention of August 12 1949, Relative to the Protection of the Civilian Population (The Fourth Geneva Convention)**

International Humanitarian Law aims to protect victims of wars and limit the suffering caused by conflicts. The Geneva Conventions comprise four treaties and three additional protocols that establish the standards of international Law for humanitarian treatment in war. The Geneva Convention also defines the rights and protections afforded to non-combatants. The Conventions are lengthy and complicated, but they are essentially a series of ‘do’s’ and ‘don’ts’ to apply during conflicts to protect vulnerable and defenceless individuals like refugees and IDPs^{xxviii}. Article 44 of the Fourth Geneva Convention specifies that Detaining Powers should not treat as enemy aliens or refugees who do not, in fact, enjoy the protection of any government. Article 73 of Additional Protocol I adds that refugees must be regarded as protected persons in all circumstances and without any adverse distinction.

Concerning the protection of children, Article 24 of the ‘Fourth Geneva Convention’^{xxix} provides that *“The Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education shall, as far as possible, be entrusted to persons of a similar cultural tradition.”*

The Convention requires the Parties to the conflict to facilitate the reception of such children in a neutral country for the duration of the conflict with the consent of the Protecting Power, if any, and under due safeguards for the observance of their own resources and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. They shall, furthermore, endeavour to arrange for all children under twelve to be identified by wearing identity discs or by some other means.

IHL plays an integral part in preventing displacement in the first place. It prohibits the displacement of people except if necessary for imperative military reasons or the protection of the civilians themselves. A widespread or systematic policy of displacement of civilians without such justification constitutes a crime against humanity.

Several rules of IHL protect the civilian population, and their violation often constitutes a root cause of displacement. For instance, attacks by parties to an armed conflict on civilians and civilian objects are forbidden, as are indiscriminate warfare methods that may adversely impact civilians. Other rules whose respect will prevent displacement include the prohibition of acts that threaten the civilian population's ability to survive, such as destruction, without valid military reason, of crops, health facilities, water and power supplies or dwellings. Collective punishment of civilian populations is also outlawed under IHL.

THE INSTITUTIONAL FRAMEWORK

Several institutions have been established to ensure refugees enjoy the protection accorded to them under International Law. These institutions are found at the national, regional and international levels. States have equally adopted policies to ensure refugee rights are effectively protected and promoted.

i. Cameroon Human Rights Commission (CHRC)

Like any other member State of the international community, Cameroon recognises the existence of Human Rights and the need to protect these rights. The Cameroon Human Rights Commission (CHRC) was established by Law N^o. 2019/014 of July 19 2019, to address Human Rights issues at the domestic level^{xxx}.

The Cameroon Human Rights Commission (CHRC) is an independent institution with legal status and financial autonomy headquartered in Yaoundé, the capital city of Cameroon. The Cameroon Human Rights Commission is an independent institution for consultation, monitoring, evaluation, dialogue, conciliation and deliberation in promoting and protecting human rights. The Commission also serves as the Cameroon National Mechanism for the Prevention of Torture, abbreviated as "NMPT".

To contribute to developing a human rights culture based on the ideals of peace, equal rights and responsibilities, the CHRC must popularise human rights legal texts and create public awareness on human rights topics. The Commission may: - request the competent authorities to carry out searches and require the production of any document or evidence per the laws in force; - refer to the Minister in charge of justice cases of human rights violation established by the Commission; - use dialogue, mediation and conciliation between parties in non-criminal

matters; - provide legal assistance or take measures to provide any form of assistance, following the laws in force; - conduct investigations, per the laws in force, particularly by: • carrying out all necessary inspections; • accessing any place of alleged human rights violation; • gathering all necessary information. - request the competent authorities to put an end to the human rights violations noted; - request, where necessary, the assistance of the forces of Law and order in the discharge of its duties, per the laws in force; - intervene, where necessary, before any court as *amicus curiae*. In this case, a written request shall be submitted to the President of the competent court before any decision is taken on the merits. The *amicus curiae* can present its arguments orally or in writing; - participate in monitoring the implementation of recommendations made by international and regional human rights mechanisms, including bodies whose treaties have been ratified by Cameroon. The Commission, therefore, has powers to take matters to court and claim compensation for violations of citizens' human rights, including the rights of refugees.

ii. The African Commission on Human and Peoples Rights, 1981

As a Member State of the African Charter on Human and People's Rights (1986)^{xxxix}, the African Commission on Human and Peoples Rights receives complaints from the State of Cameroon. This means it protects the rights of refugees and IDPs in Cameroon, as their complaints can be received in case of human rights violations. The African Charter established the African Commission on Human and Peoples' Rights in Article 30^{xxxix}. The Commission was inaugurated on November 2 1987, in Addis Ababa, Ethiopia. The Commission's Secretariat has subsequently been located in Banjul, The Gambia. In addition to performing any other tasks which may be entrusted to it by the Assembly of Heads of State and Government, the Commission is officially charged with three major functions; to promote Human and People's Rights; ensure the protection of human and peoples rights under conditions laid down by the Charter and interpret all the provisions of the present Charter at the request of a State party, an institution of the OAU or an African Organization recognised by the OAU^{xxxix}.

Anyone may bring a complaint to the attention of the African Commission on Human and Peoples' Rights alleging that a State party to the African Charter on Human and Peoples' Rights has violated one or more of the rights contained therein. Individuals and NGOs in Africa and beyond have seized the Commission with complaints over the years.

Article 56 of the Charter stipulates the admissibility criteria to be applied to individual and similar communications: The Communication should indicate the author(s) name even if the latter requests anonymity. As a matter of principle, the person submitting the complaint must indicate his or her name. If the person wishes to remain anonymous, he or she should say so, and the Communication will be given a letter of the alphabet, say B. It will henceforth be addressed a B v the State party concerned. The author need not give reasons for wanting to be anonymous. If the author is an NGO, the names of the representatives of the NGO would be required. The name and address also make correspondence between the author and the Commission easier. If there is no name or address on the complaint, it will not be considered. The Communication should be compatible with the OAU Charter or the present Charter. The Communication should invoke the provisions of the African Charter alleged to have been violated and/or the principles enshrined in the OAU Charter. Communication which does not illustrate a prima facie violation of the Banjul Charter or some of the basic principles of the OAU Charter, such as “freedom, equality, justice and dignity”, will not be examined. The Communication should not be written in disparaging or insulting language directed against the State concerned and its institutions or to the OAU. The author should state the facts of his or her case without insulting anyone. Political rhetoric and vulgar language are not necessary. The insulting language will render a communication inadmissible, irrespective of the complaint’s seriousness. Communication is not based exclusively on the news disseminated through the mass media. The author must be able to investigate and ascertain the truth of the facts before requesting the Commission’s intervention. The Communication is sent after exhausting local remedies, if any unless it is obvious that this procedure is unduly prolonged. The author must have taken the matter to all the available domestic legal remedies. That is, he or she must have taken the case to the highest court of the land; however, if such remedies are not available, or if they are available but the procedure is unduly prolonged, for example, say by numerous and unnecessary adjournments, the complainant can submit the complaint to the Commission.

iii. The United Nations High Commissioner for Refugees (UNHCR)

The United Nations High Commissioner for Refugees (UNHCR)^{xxxiv} is a UN agency mandated to aid and protect refugees, forcibly displaced communities, and stateless people. It also assists in their voluntary repatriation, local integration or local integration or resettlement to a third country. It is headquartered in Geneva, Switzerland, with over 17,300 staff working in 135

countries. UNHCR was created in 1950 to address the refugee crisis that resulted from World War II. The 1951 Refugee Convention established the scope and legal framework of the agency's work, initially focusing on Europeans uprooted by the war. Beginning in the late 1950s, displacement caused by other conflicts, from the Hungarian Uprising to the decolonisation of Africa and Asia, broadened the scope of UNHCR's operations. Commensurate with the 1967 Protocol to the Refugee Convention, which expanded the geographic and temporal scope of refugee assistance, UNHCR operated worldwide, with the bulk of its activities in developing countries. By its 65th anniversary in 2015, the agency had assisted more 50 million refugees worldwide^{xxxv}.

UNHCR has taken responsibility for internally displaced persons in both armed and post-conflict situations. UNHCR has been considered by some as best suited to have overall responsibility for internally displaced persons because of its expertise. Still, the organisation has been unwilling to accept such responsibility so far. Nonetheless, UNHCR still takes over the responsibility on an *ad hoc* basis when it is requested to do so by the Secretary-General or the General Assembly. UNHCR's Statute of 1950 allows additional activities as determined by the General Assembly. The General Assembly has since then given over this task to the Secretary-General. There are, in essence, four situations when UNHCR has taken or might take, the lead and responsibility for internally displaced persons: Internally displaced persons live alongside a refugee population and have similar needs for protection and assistance; Internally displaced persons are already present in or going back to the same area as returning refugees; The same situation has caused both refugees and internally displaced persons, and it makes sense to cater for the needs of both in one single operation; and there is a potential for cross border movement, and therefore protection and assistance in the country of origin would enable the internally displaced to remain in their country of origin^{xxxvi}.

iv. International Committee of The Red Cross (ICRC)

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organisation whose exclusively humanitarian mission is to protect the lives and dignity of victims of war and internal violence and to provide them with assistance^{xxxvii}. In an armed conflict, the International Committee of the Red Cross (ICRC) is mandated to protect and assist internally displaced persons. Indeed in many conflict situations, the ICRC does play an important role. The ICRC has been present in Cameroon and has been involved in a range of

protection activities. At the height of the emergency, the ICRC reached out to those in the forests with emergency relief, attempting to gain access to persons arrested by both sides, establishing the whereabouts of those abducted, and ensuring that the wounded and sick received adequate treatment. The ICRC is increasingly involved in advocacy, using media to raise awareness of serious abuses of human rights and international humanitarian Law.

Protection work, for the ICRC, is aimed at essentially two categories of person: persons deprived of their freedom, particularly those detained in connection with an armed conflict or other situation of violence; civilians and others who are not, or who are no longer, taking part in a conflict or other situation of violence, notably persons or groups exposed to specific risks, such as children, women, the elderly, the disabled, and the displaced.

The ICRC's work, therefore, is to benefit civilians and persons deprived of their freedom and also includes a range of activities aimed at restoring links between members of families who are separated from one another and unable to establish contact by themselves, with priority being given to children separated from their parents and clarifying the fate of persons who are missing as a result of an armed conflict or other situation of violence.

CHALLENGES FACED IN PROTECTING REFUGEES IN CAMEROON

Despite the measures put in place to protect refugees, refugees face several challenges in Cameroon. Displaced persons go through these numerous challenges despite the home government, international organisations and non-governmental organisations offering one form of assistance or the other. They, therefore, continue to experience untold hardship without any lasting solution.

Refugees from other countries face serious accommodation problems in Cameroon, especially due to the ongoing war in Cameroon, which has led to the burning of more than 200 villages in the country's North West and South West Regions. Most of the residents of these villages now live in cities like Yaoundé and Douala and major towns like Buea and Kumba. The major problem these people face is the accommodation problem. Most of them do not have money to rent even a single room to live with their families, and most live under deteriorating conditions. Most people have lost their crops and furniture due to the ongoing war; thus, it becomes difficult for them to acquire the things needed to sustain a home.

Poverty is another challenge faced by refugees and human rights defenders in protecting the human rights of refugees, especially during armed conflicts. The human rights approach to poverty reduction is based on a simple belief that if a society pursues democratic governance under the rule of Law and if the society strives to live by the precepts of the Universal Declaration, people will have better life chances and will be able to come out of the spiral of poverty. As a result of poverty, most civil society organisations and persons of goodwill cannot meet vulnerable groups' needs during armed conflicts. Most of the Non-Governmental Organizations engaged in protecting vulnerable groups, specifically in Cameroon, depend on foreign partners to get funds to cater for these persons' needs^{xxxviii}.

There is also the problem of accessibility in protecting refugees during armed conflicts. Most areas cannot be easily accessed due to intensive fighting by the warring parties. Vulnerable groups in warring areas are difficult to protect because most human rights defenders find it difficult to access them. In Cameroon, due to the war in the English Speaking Regions, children in remote areas of the North West and South West regions cannot access education; what, therefore, becomes of refugees? Human rights defenders cannot protect their education rights because of inadequate finances.

The Cameroonian refugees who take refuge at government-recognised camps in Nigeria are mostly women and children. They face various challenges, ranging from improper feeding that leads to malnutrition and death, cases of abuse and rape, over-crowded populations in camps, lack of adequate medical care and so on^{xxxix}. Refugees find it very difficult to feed. This is because most of them have lost their means of livelihood and, as such, can no longer afford food for themselves. Regarding Cameroon refugees, most of them from the villages are farmers who depended solely on farming to eat. As a result of the burning of villages, most of them had to flee to neighbouring countries like Nigeria, where they could not even find something to do to feed themselves. The refugees are traumatised and frustrated because of the situation they find themselves in. Most refugees live in bitterness due to the painful separation from their spouses, families and loved ones. This is because the sudden experiences of homelessness, loss of loved ones and properties, and living in insecure areas create a series of psychological problems such as post-traumatic stress disorder (PTSD), insomnia, depression, hallucinations, and eating disorders, among others and attendant effects that if counselling is not provided with some of them may become psychotic or attempt suicide.

As a result of the ongoing war, women and girls are being raped daily due to insecurity in the camps. Youths indulge in hard drugs, smoking and other criminal activities. Many refugees and IDPs are between 19 and 40 years old, and their daily experience of poverty presents an ideal cover for illegal activities. Security is the prime responsibility of the State. Insecurity in any environment constitutes a threat to lives and properties, hinders economic activities, discourages local and foreign investors, and in turn, retards the human and economic development of that nation^{x1}. This is the situation in Cameroon. The country has a serious security problem, especially in the North West and South West Regions. Because of their vulnerable situation, most refugees and IDPs face many security problems.

CONCLUSION

Protecting the rights of refugees in armed conflict entails protecting their present and future well-being by developing programmes that provide psychosocial protection and educational support for vulnerable groups. Refugees are entitled to equal and, without discrimination, the same rights and freedoms under international and national Law as other persons in their country. International Law has specifically addressed the plight of refugees, but this does not mean they are effectively protected under the Law. In fact, the following three bodies of Law provide a comprehensive legal framework for protection in all displacement situations, including during armed conflict: International Human Rights Law, International Humanitarian Law, and International Criminal Law.

Addressing the problems of refugees is primarily the responsibility of the government. This requires taking concrete steps to prevent arbitrary displacement, protect and assist the refugees and find durable solutions to their problems. The role of government includes the responsibility to prevent overt conditions on their territory that might compel the population to flee; raising national awareness for recognised problems and addressing same; adequate medical care should be given to refugees, especially to their pregnant, nursing mothers and children. Their children should be immunised to avoid being affected by vulnerable diseases. As a result of the ongoing crisis in Cameroon, vulnerable groups of persons, including refugees, are greatly affected negatively and thus, to stop the war and ensure the respect and protection of human rights, government authorities must conduct thorough and impartial investigations into human rights abuses on all sides and subject all perpetrators to a fair trial. Government authorities

must cease the arbitrary arrest, detention and subjecting detainees to torture and inhumane treatment. Government authorities must use proportionate and necessary force against armed separatists. Government authorities must compensate victims of human rights abuses.

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ENDNOTES

ⁱThe Convention relating to the Status of Refugees was adopted on 28th July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14th December 1950. It entered into force on 22nd April 1954, in accordance with article 43. Available at https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.23_convention%20refugees.pdf. Accessed on the 20th of February 2022.

ⁱⁱThe Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2) (other languages), which constitute the key international standard on internal displacement worldwide, restate and compile human rights and humanitarian law relevant to internally displaced persons. Available at <https://www.ohchr.org/EN/Issues/IDPersons/Pages/Standards.aspx#:~:text=The%20Guiding%20Principles%20on%20Internal%20Displacement%20%28E%2FCN.4%2F1998%2F53%2FAdd.2%29%20%28,and%20humanitarian%20law%20relevant%20to%20internally%20displaced%20persons>. Accessed on the 20th of February 2022.

ⁱⁱⁱRodolfo Arango Rivadeneira, *Judicial Protection of Internally Displaced Persons: The Colombian Experience*, Bern University, Project on Internal Displacement, 2009, p.5.

^{iv}Guy S. Goodwin-Gill, “The Language of Protection”, USA, *International Journal of Refugee Law*, Vol. 1, No. 1 (1989), p.16.

^vAyuk Nkwa Pascal, “The Legal Framework for the Protection of Liberty in Cameroon” *Academia Letters*, 2022, pp.1-8.

^{vi}According to Article 65 of this Constitution, “The Preamble shall be part and parcel of this Constitution.”

^{vii}Cameroon Refugee Law, Section 7(2).

^{viii}*Ibid*, Section 7(3).

^{ix}*Ibid*, Section 7(4).

^xCameroon Refugee Law, Section 7(5).

^{xi}*Ibid*, Section 11.

^{xii}*Ibid*, Section 12.

^{xiii}*Ibid*, Section 13.

^{xiv}Signed in June 1981 in Nairobi-Kenya and became effective on the 21st of October 1986.

^{xv}The African Charter on the Rights and Welfare of the Child was adopted in July 1990 and signed on 16 September 1992. It entered into force on the 21st of November 1999. It was ratified by the State of Cameroon on the 5th of September 1997 and deposited ratification documents on the 22nd of June 1999.

^{xvi}African Charter on the Rights and Welfare of the Child 1992, Article 22(2).

^{xvii}African Charter on the Rights and Welfare of the Child 1992, Article 22(3).

^{xviii}Adopted in Maputo, Mozambique on 11th July 2003 and signed on the 25th of July 2006. Ratified by the State of Cameroon on 28 May 2009.

^{xix}The Maputo protocol 2003, Article 11(1).

^{xx}*Ibid*, Article 11(2).

^{xxi}The Maputo protocol 2003, Article 11(3).

^{xxii}*Ibid*, Article 11(4).

^{xxiii}The 1951 Convention relating to the Status of Refugees, Article 15.

^{xxiv}*Ibid*, Article 16(1).

^{xxv}*Ibid*, Article 17(1).

^{xxvi}Convention on the Rights of the Child was adopted on the 20 November 1989, General Assembly Resolution 44/25, U.N. GAOR, 44th Session, U.N. Doc. A/44/49 (1989), 1577 U.N.T.S. 3 (entered into force 2 Sept. 1990).

^{xxvii}The Fourth Geneva Convention 1949 relating to the Protection of Civilian Population during Armed Conflicts.

^{xxviii}The four Geneva conventions all have the same content in their article 3 which had to do with non-international armed conflicts.

^{xxix}Geneva Convention of 12th August 1949 Relative to the Protection of the Civilian Population (The Fourth Geneva Convention).

^{xxx}Ayuk Nkwa Pascal, *The Role of National Human Rights Institutions in the Promotion And Protection of Human Rights*, Conference Paper presented during the Workshop to Commemorate the 75th International Human Rights Day, University of Buea, Cameroon, December 2022, p.3.

^{xxxix}Signed in June 1981 in Nairobi-Kenya and became effective on the 21st of October 1986.

^{xxxix}African Charter on Human and Peoples Rights, 1986, Section 30 provides that “An African Commission on Human and Peoples’ Rights, hereinafter called “the Commission”, shall be established within the Organization of African Unity to promote human and peoples’ rights and ensure their protection in Africa.”

^{xxxix}African Charter on Human and Peoples Rights, 1981, Section 45.

^{xxxix}The United Nations High Commissioner for Refugees (UNHCR), about us, available at <https://www.unhcr.org/> - About Us. Accessed on the 16th of October 2022.

^{xxxix}Refugees, United Nations High Commissioner, *Figures at a Glance*, UNHCR. Available at <https://www.unhcr.org/>. Accessed on the 16th of October 2022.

^{xxxix}Cohen, Roberta, *Recent Trends in Protection and Assistance for Internally Displaced People*, Global IDP Survey by the Norwegian Refugee Council, 1998, p.7.

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^{xl}Abdulrahman Adamu & Zuwaira Haruna Rasheed, “Effects of Insecurity on the Internally Displaced Persons (IDPs) in Northern Nigeria: Prognosis and Diagnosis”, USA, *Global Journal of Human-Social Science: Inc.*, Volume 16 Issue 1 Version 1.0 Year 2016, pp.1-5:1.

