Editorial

Poverty, persecution or pestilence has driven 22,3 million people from homes. Of these, 52,4 percent are refugees, of which Africa has generated almost a third. In recent years, we have witnessed a flood of humanity exiting conflict-ridden states on the continent, from Liberia in the northwest to Sudan in the northeast, and on to Angola in the south. These are the conscience of Africa and represent a failure by African states to achieve good governance, effective conflict resolution, and prudent fiscal management. More importantly, they represent human suffering and highlight man's inhumanity towards his fellow man. More prosaically, the fact that a third of Africa's states have generated such an exodus of refugees suggests that there can be no African Renaissance unless all sources of insecurity - military, political, environmental, socio-cultural and economic   are addressed.

Short-term humanitarian intervention is, of course, essential. However, if we are to progress beyond the present refugee crisis currently afflicting Africa, then we need to use proactive as opposed to reactive measures. This entails eradicating the reasons compelling people to flee to more secure environments and suggests that holistic solutions need to be found. Militarily, it implies that we move from military confrontation to confidence-building mechanisms. Politically, it suggests good governance, which implies that democratic and effective governance is the cornerstone of our respective policies. Environmentally, it means that we live with, as opposed to against, nature. Recent bitter history has repeatedly indicated that being environmentally conscious is the only way to achieve sustainable development. This is particularly true on this continent where large numbers of Africans eke out their living from subsistence agriculture. Socio-culturally we need to once again find our common and collective humanity through tolerance and mutual respect for difference   be it ethnic, ideological or religious. Economically, it implies that the benefits of our resources and our toil need to be distributed with fairness and justice amongst all citizens. To do otherwise is a recipe for chaos and conflict. It is for this reason that we, at ACCORD, enthusiastically support the holistic approach of NEPAD. It is for this reason, too, that we support the comprehensive vision for Africa's recovery outlined in the Constitutive Act of the African Union.

The challenges that we face, both individually and collectively, to make this twenty-first century an African century are immense. We, at ACCORD, however sincerely believe that these challenges can be overcome by strategic partnerships in areas of common concern between states, non-governmental organisations, the business community, religious leaders, and broader civil society. This special issue of Conflict Trends represents such a strategic partnership between the United Nations High Commissioner for Refugees, the African Union, and ACCORD. We hope that in igniting a constructive debate it contributes in some small way to help alleviate the plight of refugees generally, and the African refugee in particular.

Notes

References

A plea for refugees and displaced persons, made within the context of the New Partnership for Africa's Development (NEPAD)
Khassim Diagne

Introduction

As at 1 June 2002, of the 22 million people around the globe of concern to the United Nations High Commissioner for Refugees (UNHCR), six million were in Africa and three million of those were refugees. Asylum, for some refugees, has lasted many years. Thousands of children are born in refugee camps. One example, are the children of Angolan refugees who fled their country since 1976. The majority of these refugee children only know about Angola through history or geography books. Protracted conflicts in Africa are the underlying cause of these mass movements of people. A recent study by the World Bank estimates that one African in five lives in a country involved in conflict, either internal or external. The situation has, of course, changed considerably compared with the previous decade, and since last year, conflicts in Africa fortunately did not worsen. Cease-fire agreements and peace accords are still holding in the Democratic Republic of Congo (DRC), in Sierra Leone, and on the border between Ethiopia and Eritrea. However, the war in southern Sudan, the resumption of hostilities in Liberia, and the rebellion in the Pool region, in Congo-Brazzaville, do not bode well for a return to peace and stability on the Continent.

Poverty is another factor that results in the mass displacement of people in Africa. Approximately forty percent of the African population lives on less than one US dollar per day. Refugees, in the traditional sense of the word, often join thousands of immigrants on the road to exile, thereby creating a new phenomenon in the field of humanitarian research, namely, the interface between asylum and migration. The resulting confusion has prompted certain countries in Europe and North America to gradually adopt restrictive asylum policies.

However, in spite of various problems that still need to be solved, there have been many changes in the political and economic landscape in Africa. Democratically elected governments are replacing those that come to power by force, and there are popular demands for more transparency in the affairs of African states. In addition, the culture of impunity is losing ground as an increasing number of grassroots organisations and civil society groups campaign for human rights, although there is still a long way to go in this regard.

It is within this context of change that the adoption of the New Partnership for Africa's Development (NEPAD) in October 2001 in Abuja must be set. The programme is novel because emphasis is put on the partnership between African countries as well as on the partnership between Africa and the rest of the world. The governing idea is that, in the process of globalisation, Africa can fully participate in the effort and no longer needs to be a recipient of ongoing aid. NEPAD is an ambitious programme that is not without sceptics. However, despite its shortcomings, it is a programme that deserves to be strengthened and improved by constructive criticism. It could provide some answers to the tragedies endured by the African continent.

NEPAD and humanitarian issues

Humanitarian issues in general, and the problems of refugees and internally displaced persons in particular, do not explicitly appear in NEPAD. They are, in fact, not even mentioned, even though the refugee question remains one of the greatest challenges faced by African states if lasting peace and social stability are sought. Was this a lack of interest, or simply an omission, on the part of the drafters of NEPAD? We would like to believe that the latter is true. Close scrutiny of NEPAD, especially the chapter relating to "Conditions required for sustainable development " (Paragraphs 71 to 85), reveals the importance of questions such as peace and security, democracy, the principles of good governance, and the respect of human rights. Paragraph 77 mentions that African [States] "must make all efforts to find a lasting solution to existing conflicts", and later, in Paragraph 78, the document explains that "the African Union decided to take drastic measures in reviving the organs responsible for conflict prevention and resolution".

One of 10 areas regarded by NEPAD as a priority is the strengthening of the capacity for peace and security. A Sub-committee on "Peace and Security" has been established under the chairmanship of South Africa. One of the objectives of this Sub-committee is to propose concrete measures in the areas of conflict prevention, management and resolution.

The Heads of State of the NEPAD Steering Committee, at a meeting in Abuja on 26 March 2002, reiterated their commitment to the issues of peace and security in Africa as the basis for lasting peace and sustainable development. They expressed the wish that the "Peace and Security" Sub-committee record as one of its goals the projects that should to be undertaken in post-war rebuilding situations, with particular emphasis on the rehabilitation of infrastructure, the reintegration of refugees and displaced persons, and the implementation of a disarmament, demobilisation and rehabilitation programme for war veterans.

On 5 May 2002, South Africa, as chair of the "Peace and Security" Sub-committee, convened a two-day meeting of experts in Pretoria, South Africa, to thoroughly address the wish expressed by the Heads of State. A detailed 10-page document was approved, in which three central themes were identified, namely:

The prevention, management and resolution of conflicts at both sub-regional and regional level; Institutional and political reform (of the organs and mechanisms for maintaining peace); and Actions to combat the proliferation of weapons.
These objectives, measures and actions are directly or indirectly linked to humanitarian problems in Africa. Humanitarian organisations, such as UNHCR, therefore consider that within the framework of the "Peace and Security" Sub-committee, there is an opening which allows it to plead the case for lasting solutions to be found to the problems of refugees, returnees, and displaced persons in Africa. This plea is mainly articulated around two governing ideas that, in effect, represent two of the solutions at the core of UNHCR mandate namely:
On the one hand, the need to offer refugees an opportunity to be self-sufficient and/or integrated locally into their country of asylum; and
On the other hand, in cases of voluntary repatriation, to set up large-scale post-war reconstruction programmes and projects in the refugees countries of origin which take into account the needs of returnees as well as those of displaced persons, war veterans, demobilised soldiers, and other categories of individuals who have suffered or been sorely tested by conflicts.

The self-sufficiency and local integration of refugees in asylum countries

Certain conflicts which endure in Africa, and which have led to situations of prolonged refugee status, amply demonstrate that voluntary repatriation is not an immediate solution for a considerable number of refugees for the time being. As time goes on, the needs of the refugees have considerably increased, to the extent that neither UNHCR, nor the host countries have been able to meet these needs. This means that refugees remain in a state of material dependence, which in turn often deprives them of access to basic rights (i.e. employment, freedom of movement and education), even after many years in the host country.

The promotion of self-sufficiency and reducing the need for external support are in the interests of both the host countries and the international community, regardless of what durable solution is subsequently found. Self-sufficiency means that refugees are able to provide for their needs and those of the members of their community as far as food is concerned, and for other day-to-day needs, including housing, healthcare and education. This is a first step towards local integration. Self-sufficiency also contributes to the implementation of durable solutions later on. Those refugees who have looked after themselves will be able to put their acquired skills and experience to good use, whether it be in their home country when they return; in countries where they are resettled; or in the country of asylum, if local integration becomes available.

Local integration presents many obstacles and challenges, ranging from concern for the economic and environmental impact of large refugee populations on countries that struggle to meet the needs of their own citizens, to the belief that exiled people represent a threat to local, national and regional security, particularly where bona fide refugees are mixed with armed elements. In the light of these challenges, and taking into account the positive aspects outlined above, an overall strategy should be considered. The involvement of host countries, humanitarian organisations, donors, and other players in the field of development should be sought to discuss all aspects of the problem. The UNHCR made an initial attempt on 14 December 2001, during the Informal Consultations on "New approaches and partnerships for protection and solutions in Africa". These discussions could gain momentum within the framework of the NEPAD "Peace and Security" Sub-committee, now that the foundations have been laid.

Voluntary repatriation and material security

Voluntary repatriation remains the durable solution sought by the greatest number of refugees, but its implementation is complex. Repatriation requires the coherent and sustained involvement of the international community, and certain conditions, including physical, judicial, and material security are essential for any return to be feasible.

Material security, in particular, implies access to means of survival and basic services such as drinking water, medical care, and education during the early phases of the return, followed by measures aimed at supporting reintegration.

The promotion of self-sufficiency and reducing the need for constant external support are crucial to ensure a lasting return. Generally, returnees need assistance with income-generating activities to help them reintegrate. The ability of UNHCR to provide such opportunities is limited to the assistance it

gives to the most vulnerable returnees for an initial period after their return. For instance, when the majority of returnees are of rural origin, the return of land and the restoration of property rights (for agricultural or cattle farming purposes) are crucial to resuming a normal life. The UNHCR can provide modest contributions such as seeds or tools, but more ambitious development projects, for example, the rehabilitation of the water supply system, are within the domain of other players.

Considerable efforts are therefore necessary to ensure that the multilateral and bilateral development agendas are co-ordinated to ensure that the transition between relief aid, rehabilitation, and development is accomplished in a manner that will guarantee the durability of the return. Again, the projects being considered by NEPAD under the post-war recovery cluster should take into account these concerns of UNHCR.

Conclusion

The purpose of this paper was to suggest some avenues of reflection for NEPAD and to draw attention to a number of fundamental problems that will have to be addressed by the "Peace and Security" Sub-committee. Peace and development go hand in hand; refugees and displaced persons are at the heart of this debate.

Notes

Khassim Diagne is a Senior Policy Officer at the Africa Bureau, UNHCR Geneva

1 The opinions expressed in this article are personal and do not necessarily reflect the official policy of the United Nations or that of UNHCR in the matter.

2 By its statute, UNHCR is entrusted, inter alia, with the task of promoting international instruments for the protection of refugees, and supervising their application. UNHCR also seeks durable solutions to the problems of refugees by helping them to return home if circumstances allow, or helping them to become locally integrated into their country of asylum, or by resettling them in another country.

References

Africa's Refugees : Patterns, Problems and Policy Challenges
Jeff Crisp

Introduction

In recent years, the African continent has been characterised by a succession of large-scale refugee movements, internal population displacements and mass repatriation movements. In a number of countries, Angola, Burundi, Liberia, the Democratic Republic of Congo (DRC), Rwanda, Sierra Leone and Somalia, for example, large proportions of the population have been uprooted and forced to abandon their homes by communal and ethnic conflict, persecution and violence.

The statistical data collected by organisations such as UNHCR and the US Committee for Refugees (USCR) indicate that that the problem of human displacement in Africa is large - and possibly growing - in scale, that it is geographically widespread, and that it has become (if it was not so before) highly complex in nature. Moreover, there is a great deal of qualitative evidence to suggest that the situation of Africa's displaced people is becoming increasingly precarious, and that even those who succeed in escaping from their own country are unable to find a safe refuge in other states. This introduction provides a brief analysis of these trends, focusing on three specific issues: asylum, refugee security and the reintegration of displaced populations.

Patterns of displacement in Africa

While Africans constitute only 13 percent of the global population, around 30 percent (i.e. 3,6 million) of the world's 12,1 million refugees and 60 percent (i.e. 13,5 million) of the world's 20 - 25 million internally displaced persons (IDPs) are to be found in Africa. The total number of displaced Africans thus stands in the region of 17,1 million. To this number can be added a quarter of a million returnees who, according to UNHCR, have not been able to reintegrate in their country of origin and who continue to need some form of international protection and assistance.

Of the 20 top 'refugee-producing' countries around the world, nine are to be found in Africa. Twenty-five African states have refugee populations in excess of 10 000, while 11 of those countries are currently hosting refugee populations of 100 000 or more. According to the USCR, ten of the 24 countries with the highest ratio of refugees to local people are member states of the Organisation of African Unity (OAU). In terms of IDPs, the figures are equally striking: Africa provides ten of the 20 countries with the largest IDP populations.

The figures provided above do scant justice to the complexity of human displacement in Africa. It should be noted, for example, that not all countries or sub-regions of the continent are equally affected by this problem. With the resolution of the longstanding conflicts in Mozambique, Namibia and South Africa between the late 1980s and mid-1990s, the southern part of the continent has been transformed from a major to a relatively minor refugee-hosting area - Angola being the primary exception to this rule. Similarly, the recent repatriation of displaced Tuaregs (principally from Algeria, Burkina Faso, Mauritania and Niger to Mali and Niger) has left the Sahel region without any significant refugee populations, other than Algeria's longstanding population of Sahrawi refugees, which number some

165 000

At the same time, two principal sub-regions of displacement have emerged in the course of the past few years: the five neighbouring states of Côte d'Ivoire, Guinea, Guinea-Bissau, Liberia and Sierra Leone in the west of the continent; and the vast area of central Africa which stretches from Eritrea in the northeast to Angola in the southwest, and which also encompasses the DRC, Congo Brazzaville, Burundi, Ethiopia, Kenya, Rwanda, Somalia, Sudan, Tanzania, Uganda and Zambia. Both of these sub-regions have recently been affected by interlocking patterns of war and human displacement, in which the movement of refugees, IDPs and returnees constitutes both a consequence and a cause of social and political violence.

Asylum

From the 1960s to the 1980s, Africa established a largely well deserved reputation as a continent which treated refugees in a relatively generous manner. The newly-independent states of Africa readily acceded to the main international refugee instruments, and in 1969 established a regional refugee convention which introduced a more inclusive definition of the refugee concept than that which applied in other parts of the world.

At the same time, the OAU Refugee Convention of 1969 - unlike the 1951 UN Refugee Convention - unambiguously stated that the repatriation of refugees to their country of origin should take place on a voluntary basis. In these respects, Africa established new and improved legal standards for the treatment of exiled populations.

While there were certainly occasions on which states failed to act in accordance with these laws and standards, the period from the 1960s to the 1980s has with some justification (if a little exaggeration) been labelled the "golden age" of asylum in Africa (Rutinwa 1999: 4). In general, governments allowed large numbers of refugees to enter and remain on their territory. Many refugees enjoyed reasonably secure living conditions and were able to benefit from a range of legal, social and economic rights. Considerable numbers of refugees were provided with land and encouraged to become self-sufficient. In some states, refugees were allowed to settle permanently and to become naturalised citizens. While the deportation and expulsion of refugees was not unknown, the principle of voluntary repatriation was broadly respected.

There is now a broad consensus amongst refugee agencies and analysts that these conditions no longer prevail. Indeed, refugee protection principles are now being challenged and undermined in many parts of Africa. As a Tanzanian scholar has observed:

African states have become less committed to asylum. Instead of opening their doors to persons fearing harm in their own states, African countries now prefer refugees to receive protection in "safe zones" or similar areas within their countries of origin. African states now routinely reject refugees at the frontier or return them to their countries of origin even if the conditions from which they have fled still persist. Refugees who manage to enter and remain in host countries receive "pseudo-asylum". Their physical security, dignity and material safety are not guaranteed. As for solutions, African states are less inclined to grant local settlement or resettlement opportunities to refugees. What they seem to

prefer is repatriation at the earliest opportunity, regardless of the situation in the countries of origin (Rutinwa 1999: 1). These trends are also documented by Amnesty International (1997a) and Human Rights Watch (1997).

While the picture that it paints is an accurate one, the preceding quotation clearly calls for some further explanation. Why did the principle and practice of asylum receive such strong support in the 1960s and 1970s? And why did that support diminish in the 1980s and 1990s?

The relatively liberal refugee policies pursued by the states of Africa during the first 20 years of independence have often been attributed to the continent's "tradition of hospitality." While this factor should not be entirely discounted, it is important to recognise the extent to which the principle and practice of asylum was underpinned by other considerations in the period under discussion.

From the early 1960s until the late 1970s, many of Africa's refugees were the product of independence struggles and wars of national liberation, most notably in countries such as Angola, Guinea-Bissau, Mozambique, Rhodesia, South Africa and South-West Africa. The ideologies of pan-Africanism and anti-colonialism remained strong throughout much of the continent and influential political leaders such as Julius Nyerere and Kenneth Kaunda set a positive example in the refugee policies that they pursued.

At the same time, the relative prosperity of many African states in the early years of independence, and the modest size of the refugee movements which took place at this time, enabled those countries to shoulder the economic burden imposed by the presence of refugees from neighbouring and nearby states.

The principle and practice of asylum in Africa was further buttressed by international aid. Across much of the continent, an implicit deal was struck whereby African states admitted refugees to their territory and provided the land required to accommodate them. And as a reciprocal gesture (often referred to in the humanitarian community as "burden sharing") donor states provided the funding - much of it channeled through UNHCR - required to feed, shelter, educate and provide health care to the refugees.

During the past ten to 15 years, the ideological and material underpinning of Africa's "tradition of hospitality" towards refugees has been progressively dismantled. Sheer numbers have played a distinct part in this process: while there were only around a million refugees in Africa in the early 1970s, that figure had climbed to almost six million by the early 1990s (Schmeidl 1998).

The speed and scale of the continent's refugee movements also appeared to increase from 1980 onwards, leading to large-scale emergencies of the type witnessed in countries such as Sudan (1984-85), Ethiopia (1988), Cote d'Ivoire, Guinea and Sierra Leone, (1989-90), Benin (1993), Tanzania and Zaire (1994). No longer the victims of anti-colonial and liberation struggles, the new generation of African exiles has not been able to count on the support and solidarity offered to refugees in earlier years.

While the growing size and changing character of Africa's refugee population accounts to some extent

for the continent's declining commitment to the principle of asylum in the 1980s and 1990s, a number of other variables must also be taken into account.

First, it should be noted that the industrialised states - rather than those in Africa - have taken the lead in eroding the right of asylum and undermining the principles of refugee protection. Indeed, since the early 1980s, the countries of Western Europe, North America and Australasia have introduced a vast array of measures specifically designed to prevent or dissuade the arrival of refugees. At a time when the very countries responsible for establishing the international refugee regime are challenging its legal and ethical foundations in this way, then it is hardly surprising that other states, especially those with far more pressing economic problems and much larger refugee populations, have decided to follow suit.

Second, many of the African states that have admitted large numbers of refugees in the past now feel that their generosity has been too quickly forgotten. The regions of Malawi that accommodated large numbers of Mozambicans in the 1980s and early 1990s, for example, experienced serious environmental difficulties such as deforestation and soil erosion. But once the refugees had returned to their homeland, international attention shifted from Malawi and the country was left to cope with the problems the refugees left behind.

Third, donor states can be said to have exacerbated the decline in protection standards in Africa by making it increasingly clear that they are no longer prepared to support long-term refugee assistance efforts. Programmes that have already been in existence for a number of years, they argue, should be brought to an end as rapidly as possible. And when new refugee movements take place, immediate efforts should be made to ensure the repatriation of the people concerned, thereby averting the need for long-term "care and maintenance" programmes.

Fourth, to understand the declining commitment to asylum in Africa, economic factors must also be taken into account. As suggested earlier, when African countries began to receive significant numbers of refugees in the 1960s and 1970s, they were relatively well placed to cope with the influx. Over the past 20 years, however, many of those countries have experienced low - and in some cases negative - rates of economic growth. At the insistence of the industrialised states and the international financial institutions, African states have been obliged to introduce free-market economic reforms and to make substantial cuts to public spending and services. At the same time, the level of official development assistance provided by the richer nations has not only been in decline, but has also been increasingly targeted at a relatively small number of states with good development prospects and investment potential. Very few African states fall into that category.

Fifth, in recent years African states have increasingly drawn international attention to the negative environmental impact of large-scale refugee movements and populations in countries of asylum. This impact - and the failure of the international community to address the problem effectively - has also been cited by several governments in Africa as one of the reasons for their declining willingness to admit refugees. In reality, the environmental damage caused by exiled communities may not always be as great as is assumed or alleged to be. Even so, there is little doubt that poorer members of the population in areas affected by mass influxes can be negatively affected by the refugee presence.

Sixth, and as explained more fully in the following section of this article, the decline of asylum in Africa can be partially attributed to the perception that exiled populations constitute a threat to social stability and political security. At the local level, refugees are frequently (and not always unfairly) associated with problems such as crime, banditry, prostitution, alcoholism and drugs. In many instances, moreover, host countries simply do not have the capacity or willingness to maintain law and order in the remote and underdeveloped areas where the largest number of refugees are often to be found.

The hostile reception received by refugees in some African states is also related to political developments at the national level. Indeed, there is growing evidence of a linkage between the process of democratisation on one hand, and the decline in refugee protection standards on the other.

Prior to the 1990s, authoritarian governments and one-party states in Africa were relatively free to offer asylum to large refugee populations when they considered such a policy was consistent with their own interests. But with the end of the Cold War, and the introduction of pluralistic systems of government in many parts of the continent, the refugee question has assumed a new degree of political importance. As in the industrialised states, both governments and opposition parties are prone to encourage nationalistic and xenophobic sentiments, and to blame their country's ills on the presence of refugees and other foreigners.

Security

The notion of asylum is based upon the principle that people should be able to leave their own country when they are confronted with serious threats to their life and liberty, and that they should henceforth enjoy protection and security in the state which has admitted them to its territory. Recent examples of this model being put into effective practice are not impossible to find. Liberian refugees in Côte d'Ivoire, for example, have enjoyed a reasonably secure and peaceful existence since their arrival, as have the Angolan refugees in northwest Zambia.

While levels of violence and insecurity are not easy to measure, there is a growing consensus amongst analysts and practitioners that the refugee camps of Africa are becoming increasingly dangerous places. Indeed, far from finding a safe refuge in their country of asylum, the continent's refugees increasingly find that by crossing an international border, they exchange one form and degree of vulnerability for another.

The sources of insecurity which exist in Africa's refugee camps and settlements are varied and numerous. But for the purposes of this analysis they can be placed into two principal groups.

On one hand, refugee-populated areas may be the targets of direct military attacks, sometimes in the form of aerial bombing, but more usually by means of land-based attacks. In the 1970s and 1980s, such raids were launched most frequently by the armed forces of South Africa, targeted at refugees and exiled groups in the front-line states. In the 1990s, however, this phenomenon appears to have become more widespread and to have assumed some different forms.

On the other hand, there is evidence to suggest that refugee-populated areas in Africa are now increasingly affected by a variety of non-military security threats, involving different forms of violence,

coercion, intimidation and criminal activity. A recent study of camps in Kenya, for example, presents a simple typology of the security threats that confront refugees in their daily lives (Crisp 1999). As well as domestic and sexual violence, those threats include rape and armed robbery; conscription into militia forces; abductions for the purpose of forced marriage; arbitrary arrest and punishment by refugee community leaders and members of the local security forces; violence between refugees and members of the local population; fighting between different clans and sub-tribes within the same refugee community; and armed confrontations between refugees of different nationalities.

The violence and instability which prevail in many refugee-populated areas of Africa is of particular concern for a number of different reasons: because it jeopardises the welfare of those people which the organisation is mandated to protect; because it poses a threat to the lives and livelihoods of local populations; because it adds weight to the argument that refugees are a source of insecurity, and that it is therefore legitimate for them to be excluded and/or forcibly repatriated from countries of asylum; and because insecurity in refugee-populated areas, especially when it involves cross-border attacks and incursions, can easily lead to a deterioration of inter-state relations, a widening pattern of armed conflict and additional population displacements.

Reintegration

While the continent has experienced many new emergencies, large numbers of refugees and displaced people in Africa have also gone back to their own countries and communities in recent years. More than five million refugees in Africa are known to have repatriated since the early 1990s, and while the number of IDPs who have been able to return to their own community is unknown, it is almost certainly much higher. In Mozambique, for example, around 1,7 million refugees are estimated to have repatriated between 1992 and 1996, while the number of IDPs who went back to a previous place of residence may have been twice that figure.

The growth in the scale of repatriation from the late 1980s to the mid-1990s was due, in large part, to the resolution of several long-standing armed conflicts that were rooted in the Cold War era: Eritrea, Ethiopia, Mozambique, Namibia and South Africa, to give some of the most prominent examples.

Since the mid-1990s, considerable numbers of African refugees have continued to return to their countries of origin. Some, such as those who have returned to Benin, Liberia, Mali, Niger and northwest Somalia, have done so in response to the signing of peace agreements or reductions in the level of repression and violence in their countries of origin. But many others have gone home under duress.

Despite a well-established legal principle that refugee repatriation should take place on a wholly voluntary basis and in conditions of safety and dignity, a substantial proportion of Africa's most recent returnees have gone back to their homes in conditions which do not meet these standards.

In some situations, as with the 1,2 million Rwandans who repatriated (or, to be more accurate, who were repatriated) from Tanzania and Zaire in 1996-97, the pressure placed on refugees has been deliberate in nature, exercised by host governments, local communities, militia forces and other actors with the specific intention of inducing refugees to go back to their homeland. In other situations,

refugee returns have been induced by a more general deterioration of conditions in countries of asylum, resulting from social and political violence, declining economic opportunities, or reductions in the level of international assistance.

Repatriation - especially when it takes place in a wholly voluntary manner - is ostensibly the most positive dimension of the refugee experience, enabling exiled populations to be reunited with their own country and community. There is, however, another and less positive side to the repatriation coin, both for returnees themselves and for the societies to which they return.

As far as the returnees are concerned, one should not be too sentimental about the circumstances of the returning refugee. As an aid agency worker in Eritrea has observed, returnees "are displaced people of a special kind. They experience not one but two relocations; one when they flee and another when they return to their own country. Each relocation is accompanied with a loss of the means of livelihood, such as land, jobs, homes and livestock. And each relocation marks the start of a tough restoration process" (Sorensen 1996: 2).

A similar point is made in a study of returnees in Chad. "For the refugees who had received assistance in exile," it observes, "the return could be more difficult than the experience of exile itself. In place of the semblance of stability and physical security established in camps, where the major problems of survival were adequately met, a host of problems, uncertainties and dangers awaited the refugees on their return to their home country" (Watson 1996: 105).

As the following paragraphs suggest, those "problems, uncertainties and dangers" can be grouped into a number of categories.

Physical insecurity. It would be misleading to suggest that the dangers confronting returnees are completely different from those experienced by other citizens of war-torn states. Like other members of society, returnees may have to survive in an environment where the rule of law hardly exists, where banditry and violent crime are rife, where demobilised soldiers prey upon the civilian population and where sporadic fighting continues. But returnees may also be exposed to particular risks when they go back to their homes.

Psycho-social insecurity. War-torn societies are usually characterised by high levels of social tension and psychological insecurity. In this respect, returnees may be particularly vulnerable. If they go home unwillingly and under duress, refugees and displaced people will have particular cause to fear for the future. And if they go home voluntarily, they may have unrealistic expectations about the situation they will find when they arrive in their place of origin. Moreover, in countries where land-use patterns have changed and where land-mines have been laid - Angola provides a good example - returnees may not even be able to go back to the place which they consider to be their home.

Legal insecurity. Returning refugees and displaced people often experience several forms of legal insecurity. They may not have proof of their nationality or be recognised as citizens of the country to which they return, in which case, they will lack the protection of the state and will be at particular risk of persecution and marginalisation. Former refugees and displaced people frequently find that they do not have secure title to the property they left behind when they fled or the land they farmed. The many

female-headed households, which are typically found in most returnee populations, tend to experience particular problems in this respect because some land-tenure systems do not even recognise the right of women to enjoy secure access to land.

Material insecurity. Refugees and displaced people rarely possess many resources when they go back to their homes. And yet when they arrive in their place of origin, they must survive in an environment which has been laid waste by armed conflict; where the marketing and banking system has disintegrated; where shops, warehouses, bridges and other elements of the infrastructure have been deliberately destroyed; and where agricultural land and irrigation systems have fallen into disuse. In such circumstances, they may be obliged to live a precarious, hand-to-mouth existence, dependent for their survival, in the initial stages at least, on emergency relief assistance.

Because the repatriation and reintegration process is fraught with so many problems, uncertainties and dangers, it can have negative as well as positive consequences for the state and society concerned. A large and sudden influx of returnees can place a substantial burden on areas which are ill-equipped to absorb the new arrivals, leading to increased competition for and conflict over scarce resources such as land, food, water, jobs and public services. This is particularly so when refugees have been forced out of their country of asylum, and when neither they nor their country of origin have been able to plan and prepare for the repatriation movement.

Large-scale repatriations may have other negative consequences for local and national security. They can produce destabilising changes in a society's ethnic or communal balance. They can bring the members of opposing communities or political groups into face-to-face contact after months or years of physical separation. And they can lead to situations in which returning refugees have to live alongside fellow citizens who did not go into exile and who regard the returnees with suspicion and resentment.

A principal policy challenge associated with such situations is that of ensuring a sustainable process of reintegration, rehabilitation and (perhaps most difficult of all) social and political reconciliation. In the immediate term, that may require the establishment of international mechanisms which are able to assist in keeping the peace, maintaining law and order, monitoring human rights violations and supervising the installation of governments with popular legitimacy. It is also likely to require substantial injections of emergency relief and rehabilitation assistance, not least in those areas to which large numbers of refugees and displaced people are returning.

But recent experience in Africa and other parts of the world suggests that the challenge of return, reintegration and reconciliation requires much more than short-term interventions and assistance from the UN and other international actors.

How, for example, can the rule of law and human rights principles be established in countries where large sections of the population have been subjected to terrible human rights abuses? What can be done to promote fair and effective governance in states that have always functioned in an authoritarian and kleptocratic manner? And how can countries which are marginal to the global economy, and of strategic insignificance to the world's most powerful states, achieve the economic growth and equitable distribution of income which appear essential in underpinning social and political stability? As these questions suggest, reintegrating Africa's displaced populations - and averting the need for people to

flee from their homes in the first place - are objectives which go well beyond the limited influence and resources of UNHCR and other members of the humanitarian community.

Notes

Jeff Crisp is the Head of the Evaluation and Policy Analysis Unit at UNHCR

1These trends are also documented by Amnesty International (1997a) and Human Rights Watch (1997).

References

Amnesty International. 1997a. 'Refugees: Human Rights Have No Borders.' London: Amnesty International.

Crisp, J. 1999. 'A state of insecurity: the political economy of violence in refugee-populated areas of Kenya', New Issues in Refugee Research, no. 16, Geneva: UNHCR.

Human Rights Watch. 1997. 'Uncertain refuge: international failures to protect refugees', report no. 9,1 (G), New York: Human Rights Watch.

Lawyers Committee for Human Rights. 1995. African Exodus: Refugee Crisis, Human Rights and the 1969 OAU Convention. New York: Lawyers Committee for Human Rights.

Rutinwa, B. 1999. 'The end of asylum? The changing nature of refugee policies in Africa', New Issues in Refugee Research, no. 5, Geneva: UNHCR.

Schmeidl, S. 1998. 'Comparative trends in forced displacement, 1964-96, in Hampton, J (ed), Internally Displaced People: A Global Survey. London: Earthscan.

Sorensen, S. 1996. 'Alebu: Eritrean returnees restore their livelihoods', paper presented at the conference 'Reconstructing livelihoods', University of Oxford, September 1996.

Watson, C. 1996. The Flight, Exile and Return of Chadian Refugees. Geneva: UN Research Institute for Social Development

The State of the World's Refugees : Fifty Years of Humanitarian Action, United Nations High Commissioner for Refugees : book reviews

Hussein Solomon

The world has changed fundamentally since 1951 when the UNHCR was established with a budget of US$ 300 000 and a staff component of 33 to deal with 400 000 refugees who were homeless in the aftermath of the Second World War. By 1999, the UNHCR budget had surpassed US$ 1 billion and it employed more than 5 000 staff in 120 countries to respond to a worrying population numbering some 22,3 million of which 52,4 percent were refugees. These figures clearly indicate the magnitude of the humanitarian crisis confronting policy-makers. This, then, is a timely publication which examines the development of international refugee law and the establishment of institutions devoted to the protection of refugees and other displaced people over the past 50 years.

The book, however, goes beyond merely dealing reactively with crises generated by forced displacement. What is particularly noteworthy for the conflict resolution practitioner is its proactive stance. This is also noted by UN Secretary-General Kofi Annan in his preface to the book: "Above all, it places humanitarian action in the broader political context and examines the fundamental link between displacement and international peace and security".

The book therefore draws a functional relationship between the changing nature of conflict and the large exodus of refugees from these conflict-ridden states. It notes, for instance: "What distinguished the 1990s from earlier decades was the weakening of central governments in countries that had been shored up by superpower support, and the consequent proliferation of identity-based conflicts, many of which have engaged whole societies in violence. The easy availability and growing power of sophisticated light weaponry has increased the destructiveness of even relatively low-intensity conflict. Insurgent forces now fund many of their efforts by exploiting natural resources in areas under their control, often in collaboration with international criminal organizations. The commercial potential of lucrative, lawless, globalized trade often eclipses whatever political or ideological agenda might originally have propelled them into taking up arms. The profits to be derived from war economies often become the main force perpetuating conflict   and an extremely difficult one to reverse." (p. 277). In this situation, too, it is often civilians who are specifically targeted. It is little wonder, then, that in some conflicts, up to 90 percent of all casualties are civilian.

These are extraordinary circumstances that require deep introspection of existing policies to these complex humanitarian emergencies. Moreover, it requires that we respond more creatively to a situation that challenges our collective humanity. As a result, the UNHCR has formed new kinds of strategic partnerships with human rights organisations, military forces, the private sector and a range of other actors. It has also become involved in a number of activities that may previously have been considered beyond its mandate: environmental protection, mine clearance, community development projects and anti-racism campaigns.

These activities all aim to ensure that UNHCR helps refugees, and other displaced people, find solutions that are indeed durable. In the process, this becomes a concrete manifestation of Johan

Galtung's notion that sustainable peace only becomes possible where both conditions of negative peace (absence of war) and positive peace (absence of want) are met. This is strongly emphasised in the final paragraph of the book: " Meeting the needs of the world's displaced people   both refugees and the internally displaced   is much more complex than simply providing short-term security and assistance. It is about addressing the persecution, violence and conflict which bring about displacement in the first place. It is about recognizing the human rights of all men, women and children to enjoy peace, security and dignity without having to flee their homes. This is the task ahead for governments, international organizations and the people of the world in the new millennium". (p. 287). This is definitely a book well worth reading.

Notes

References

Constitutional and Political Trends
Paul E. Nantulya

EASTERN AFRICA
UGANDA

Constitutional developments in Uganda continue to be dominated by the debate between the Movement system and the Multi-party system of government. Ugandan opposition parties have expressed concern about the Political Organisations Bill, recently passed in parliament to regulate political parties. Clause 21 of the Bill allows political parties to open offices and engage in political activities at national level, but not at district, municipal, sub-county, ward and village levels. The Bill was passed as an amendment to Section 269 of the Constitution of Uganda, which places restrictions on the operation of political parties. Political parties in the country are, however, divided over whether they should boycott the registration requirement under the new law to protest the passing of the Bill. The new law requires them to register within the next six months. Some of the main parties prefer to remain within the system so as to influence it from within, while others are calling for a complete boycott. Others are still undecided about their next course of action. The parties are also concerned about the manner in which the Bill was passed, citing the rejection of a motion by the opposition seeking a secret ballot for the Bill, as normally provided for by parliamentary rules when voting on controversial matters. Meanwhile donors, too, have expressed their concern over the Bill. Thirteen heads of mission accredited to Uganda voiced their concerns during a meeting with one of the senior leaders in the office of the President. They were also concerned about the slowness in the constitutional review process and the lack of dialogue between the Movement and political parties.

The Movement is based on a combination of both participatory committees and a parliamentary system that operates from village to national level. The village is the smallest political unit in the country. Citizens at this level meet to elect a committee that takes responsibility for various activities, including youth and women, social affairs, environment and security. The village committees meet on a wider level to elect a local council that replicates the structures at the village level. Thereafter, local councils meet to form district councils with the same structures. The process repeats itself up to national level, where it is eventually linked to parliament.

Despite the fact that there is a general consensus that the system has led to the increased participation of ordinary people in decision making, opposition parties insist that the new Bill prevents them from undertaking mobilisation activities at the lower levels of the system. The Movement, on the other hand, maintains that political parties have gained considerable representation in the committees from village to national level, and that the system is intended to lay basis for a healthier environment in which fully-fledged political activity will be introduced. It also maintains that the system has led to the success of the decentralisation programme in Uganda, which has eased the political tensions that were created under the centralised systems of the past. The debate is however likely to continue until a resolution is found.

TANZANIA

In Tanzania, the political negotiations between the ruling Chama Cha Mapinduzi (CCM) and Civic United Front (CUF), popularly known as the Muafaka, continue to drive the process of constitutional reform. The Muafaka was signed in October 2001 to bring to an end the political dispute that has existed since the 1995 general elections. CUF did not recognise the presidential election results of this election, citing irregularities and an unfair environment that discriminated against the opposition. A fresh conflict was ignited after the 2000 general elections in which electoral irregularities in 16 constituencies in the Mjini Magharibi region in Zanzibar were reported. Parliamentary elections were later organised in the disputed areas, but CUF demanded fresh elections for the entire country.

The Muafaka (Agreement) between CCM and CUF was reached following nine months of talks that covered different aspects of the constitution. The latest amendments have allowed for a new independent electoral commission in Zanzibar and a Human Rights Commission in Tanzania. According to the amendment, two additional members of the Electoral Commission will be appointed by the President after consultations with the leader of the opposition in the House of Representatives and the Leader of Government Business in the House. The Vice-Chairperson would be elected by members of the Commission from among themselves. Another amendment relates to prisoners who would now be allowed to vote in any election but would not themselves be allowed to stand for election.

The amendments to the Zanzibar Electoral Commission, in particular, are seen as significant given that one of the core demands of the CUF was a review of this commission to make it more independent of the executive. It should also be noted that CUF enjoys a large following in Zanzibar. It is not clear whether similar changes will also take effect in the National Electoral Commission, but analysts observe that the current amendment has created more confidence between the CCM and CUF. The establishment of a Human Rights Commission is also seen as significant, given the brief period of violence that was sparked off in Zanzibar after the 2000 general elections.

SOUTHERN AFRICA

FOCUS ON LESOTHO

In Lesotho, the results of the recently concluded general election held on 25 May 2002 demonstrate that the new electoral model has indeed delivered what was expected of it. The establishment of a mixed member proportional representation system, which combines the First Past The Post and the Proportional Representation models, was seen as an important mechanism to move towards political inclusion in the country. All elections held in Lesotho since the Independence Poll in 1965 have been held under the First Past The Post model. In this, and all other elections (1993 and 1998), the results produced successive governments which would win 99 percent of the seats in parliament with less than 50   60 percent of the national vote. All the other parties would automatically be excluded from governance and that would generate serious post- election violence and instability. The situation in 1998 even warranted a regional military intervention.

This time around, the combined opposition has so far won 41 seats in the new parliament, all through the Proportional Representation system. The ruling Lesotho Congress for Democracy (LCD) has won 78 seats so far, through the First Past The Post system, and none through the Proportional Representation system. Results in two more constituencies are still expected. The Basotho National

Party (BNP) of Gen. Justin Lekhanya is poised to form the official opposition in the new parliament. Furthermore, the new body is expected to institute parliamentary committees that will serve an oversight role over specific government functions, so as to improve transparency and accountability. As far as constitutional development is concerned, this is the first time such an electoral device has been used in Africa. Judging by the available results, had the old model been used, none of the opposition parties, save the Lesotho Peoples Congress (LPC), (which has won one of its five seats under the First Past The Post system), would have been represented in the new body. It is also instructive to note that the ruling LPC has not won any seat under the Proportional Representation system. It is therefore evident that while the PR element of the new model has discriminated against the LPC and bolstered the opposition, the FPTP element has bolstered the LPC and discriminated against the opposition. What emerges, therefore, is a balance in which all political players find themselves in the new parliament. It is the first time in Lesotho's history that a parliament that reflects all political shades of opinion has been produced. It may also be the case that the constitutional amendment giving effect to the new model has contributed to creating a climate for the prevention of post-electoral conflict in Lesotho.

WESTERN AFRICA

FOCUS ON NIGERIA AND TOGO
In Nigeria, unregistered political associations in Nigeria filed a suit against the Independent National Electoral Commission (INEC), citing the unconstitutionality of the registration guidelines. INEC had amended the guidelines once before in response to objections by would-be parties, but these amendments are not seen as adequate. The associations have objected to provisions such as one that forbids any group seeking registration, from having the same name or acronym as three existing political parties. Other provisions they oppose include a requirement that would-be parties must not have any ethnic, religious or professional bias, or be confined to a given region of the country. The INEC has said that it would not change the guidelines again.

In Togo, seven judges have been approved by the Constitutional Court to take over the functions of the National Electoral Commission. The Constitutional Court confirmed the nominations by pointing out that the Electoral Commission had created a national crisis by failing to organise legislative elections. Togo's electoral code stipulates that if the Commission (Commission Electorale Nationale Independante), becomes "inoperational or dysfunctional", the government can nominate a team of at least five judges to replace it. The Commission, whose membership was composed of both opposition and government parties, had been beset by months of disagreements. Originally scheduled for October 2001, but postponed several times, the elections were meant to replace the 1999 legislative polls. These polls were boycotted by the opposition on grounds that the 1998 presidential elections, won by President Gnassingbe Eyadema, were not free and fair. Since then, a political stand-off has ensued.

Notes

References

Untitled Document

Creating the space for peace: Vasu Gounden, Executive Director of ACCORD interviews Mark Shuttleworth, Africa's first astronaut, at the World Economic Forum, Durban, 6 June 2002
Vasu Gounden

Vasu Gounden: Mark, thank you for joining us. What do you think is the significance of you, a white South African, as the first African in space?

Mark Shuttleworth: I think that when we look at the continent there is an enormous amount of diversity: cultural, ethnic and language diversity. It was a great privilege to fly as an African, and I hope it contributes to highlighting the diversity and the richness of the continent.

Vasu Gounden: What impact do you think this has had for cross-cultural relations in South Africa?

Mark Shuttleworth: It's been incredible to come back to South Africa and feel the warmth and the response I've had. There was an enormous team behind me working on the project from South Africa and Africa. I really hoped we would inspire children and that we would light a spark. It seems we've set off an explosion, a chain reaction, and that's a wonderful feeling.

Vasu Gounden: How do you think other people can contribute towards this African Consciousness that you have now created.

Mark Shuttleworth: I think people need to be freed up to pursue their dreams. I also wish people would take the risk of pursuing their dreams more often. There are an extraordinary number of success stories, where Africans go out into the world and show tremendous talent, creativity, and resourcefulness. That, in turn, becomes inspiring for other people. I think we should celebrate the achievements and successes of other people across the continent. The sense of Africanism that is brewing, and the respect being given to the diversity of cultures on the continent is very exciting for me.

Vasu Gounden: Mark, you have been quoted in the newspapers as saying: "There is nothing more beautiful than looking at earth from space." If you had the opportunity to advise policy makers, leaders in Africa, and in the world in general, what would you say to them to make this a better place to live in?

Mark Shuttleworth: One of the things that really struck me from space was seeing the fragility of the earth, and particularly the fragility of the atmosphere that protects us. You know, we look up at the big blue sky and think it is infinite, but it is not. It is an incredibly delicate and thin layer that we need to take better care of. One can clearly see the impact of heavy development and of human beings on parts of the world. Flying over North America is very different from flying over other parts of world, and I was struck that we need to ensure sustainable development. We need to put in place a programme for balanced development of the world and equal access to opportunity. I think we, in developing countries, must grab the opportunity we have to do that properly and responsibly.

Vasu Gounden: Now Mark, we've spent the past 48 hours or so talking about NEPAD and the

formation of the African Union (AU). How do you see these two initiatives?

Mark Shuttleworth: I think that they come at a phenomenal time. I believe that people at grassroots level are starting to understand and look for good governance, economic freedom, transparency and accountability. NEPAD is exciting because it captures all of those values and promotes them within the leadership of the continent, and internationally. I hope that over the coming years we will see a strong movement towards the values that are embodied in NEPAD, and that they will be enforced and protected by the AU.

Vasu Gounden: Mark, war strategies in the last decade or so have been enhanced by technology. How do you think technology can be used to enhance strategies for peace?

Mark Shuttleworth: I think any form of development and upliftment brings with it greater prospects for peace. People are less inclined to go to war if they have something to lose. Inasmuch as technology provides a platform for upliftment and development, I think it is important. Also, the more people understand one another, the less likely they are to get into a conflict situation. Again, technology can play a great role in communication and bringing people together.

Vasu Gounden: What about young people on the continent? How can they become involved in building peace on the continent?

Mark Shuttleworth: The most gratifying aspect about flying into space was the excitement it created amongst the youth. I believe the youth of Africa will embrace openness, transparency and economic freedom and so on, and they will choose this over the restrictive regimes of the past.

Vasu Gounden: ACCORD is building a Peace Centre to institutionalise peace- building on the continent. Is this an initiative you think is worth pursuing?

Mark Shuttleworth: Absolutely, nothing succeeds like success. There will always be a suspicion of the ability of dialogue to produce a useful resolution in the absence of clear examples of places where it has done exactly that South Africa is an extraordinary example in Africa of the way change can result through dialogue. It would be phenomenal if your Centre could demonstrate success by resolving some of those intractable disputes, because as they tumble you would create more momentum for that approach. I believe that you, and the people working towards the founding of the Centre, have already demonstrated momentum in success. Perhaps the actual existence of the Centre will give that success a home, a brand, and a name.

Vasu Gounden: Well Mark, we are hoping that you will now use the influence you have to create a space for peace on the continent. We hope that we can count on your support.

Mark Shuttleworth: Absolutely, stay well.

Notes

This is an edited version of the interview

References

Foreword
The Secretary General of the Organisation of African Unity and the United Nations High Commissioner for Refugees

Whether in the course of adopting the Constitutive Act of the African Union, or in other fora, African Heads of State and Government have repeatedly acknowledged that the scourge of conflicts on the continent constitutes a major impediment to socio-economic development. They have, consequently, committed themselves to promoting peace, security, stability and good governance as essential prerequisites for sustainable development. They have also articulated their commitment to the promotion and protection of human and peoples' rights, as well as to democratic principles and the strengthening of institutions that will sustain democracy in Africa.

Nowhere is the impact of conflict or its serious social, economic and human costs more acutely felt than among refugees and other forcibly displaced populations. The magnitude and complexity of the problems continue to pose a considerable challenge not only to African leaders and Governments, but also to the international community. At the same time as the Organisation of African Unity gives way to the African Union, the continent is offered an historic and unprecedented opportunity to develop more imaginative and innovative responses to bring about durable solutions to the problems of refugees and the internally displaced in Africa. The 1969 OAU Convention Governing the Specific Aspects of Refugee Problems represents Africa's response to what has been described as one of its greatest humanitarian challenges. Recently the OAU, together with UNHCR, adopted the Comprehensive Implementation Plan which contains far-reaching provisions aimed at strengthening and enhancing implementation of the OAU Refugee Convention and helping the continent to address the deep-rooted causes of refugee problems in Africa.

The outlook is encouraging: never before has there been such a high degree of awareness and corresponding commitment among African leaders and Governments to mobilise the continent's human and natural resources for the greater benefit and to improve the quality of life of their citizens. A series of developments have coincided to create a more conducive environment and, undoubtedly, to raise expectations to new heights, especially for refugees and the internally displaced. In their declaration that greeted the new millennium, Heads of State and Government signalled their determination to spare no effort to free their people from the scourge of war and to create an enabling environment for development and towards the elimination of poverty. They have further committed to strengthen international co-operation to assist those countries hosting refugees "and to help all refugees and displaced persons to return voluntarily to their homes)"

It must be realised, however, that the need for assistance extends well beyond mere voluntary return. If refugees, and the internally displaced, are to have any chance of becoming economically self-reliant, and if repatriation is to be genuinely sustainable, assistance must go beyond the transitional period following return. The same is true of those persons in protracted refugee situations: unless their skills and resources are mobilised to benefit their own and their host communities, they will continue to be marginalised and be viewed as a potential threat to peace and security. The NEPAD initiative, when implemented, should provide added value to the continent's efforts to bridge the gap between humanitarian relief and development, and provide refugees, returnees and the internally displaced with an opportunity to contribute to the reconstruction of the economic infrastructure and political institutions. In so doing, the productive skills of these groups will be constructively channelled, thus

reducing - and ultimately eliminating - a major potential for conflict, for the host country, the country of origin, and for neighbouring states.

In the spirit of the partnership that is being forged between Africa and the wider international community, there is a need to go beyond the commitments of African leaders and Governments. The international community must also demonstrate some degree of even-handedness and the requisite political will to address these problems in Africa, as has been done in other parts of the world. Such actions will inevitably put an end to the real problems or perceptions of double standards in the international response to the problems of humanitarian delivery in Africa.

Within the continent itself, recurrent outbreaks of conflict continue to result in multiple forced movements of populations. The determination with which these persons work to resume some semblance of normal community life on each occasion is testament to their tenacity and resilience. It is humbling to imagine the contribution they could make to the development process if given the least opportunity to apply the same energy and skills. They also have an important role to play in the resolution of conflicts and in the prevention of future conflicts. No lasting peace can be achieved unless all concerned parties are given the opportunity to contribute to the process.

Much has been said about the need for broad-based participation in order to bring about an effective African Union. The CSSDCA and NEPAD initiatives have set the scene for peer group review and monitoring in the implementation of the African Union's programmes, objectives and principles. However, those most directly affected by conflict must be equally equipped to complement the monitoring mechanisms under the Union in partnership with governments and other institutions. In the ongoing efforts to strengthen the Mechanism for Conflict Prevention, Management and Resolution of the African Union, and to establish the principal Organs provided for in the Constitutive Act, it is hoped that such a partnership role for civil society will be institutionalised, especially within the context of the envisaged ECOSOC. This would ensure that attention is effectively focused on how to obtain the input of civil and professional groups in Africa, efforts aimed at addressing the root causes of conflict, and proactive and effective responses to the problems of refugees and other displaced persons in Africa.

Notes

References

Impact of African refugees on development : Why the silence on their contribution?
John O. Oucho

The premise of the African refugee menace

Although refugees have been the dominant group in African international migration, they feature less prominently than the brain drain in Africa's development strategies, giving the impression that the latter, an aspect of voluntary movement, has decisive implications for national and regional development. If there is anything Africa has generated to its advantage in the polarised world, it is the increasing size of its refugee population. It is difficult to distinguish between refugees who move en masse and often settle in camps, and asylum seekers who are generally considered on their own merits after being interviewed. The majority of the latter consists of political asylum seekers, among them those who have spent many years away from home at great cost to the host countries. Without attempting to make the distinction, we use the generic term "refugee", conscious of the fact that among them are those who specifically apply for asylum.

The question that should concern all architects of Africa's development is this: after 30-odd years of guiding the protection, repatriation and protection of African refugees, is it not time the successor to the OAU, the African Union (AU), considered reviewing the impact refugees have on development in their host countries as well as in their own countries, upon their return? The long-held notion that refugees are a displaced, and therefore helpless, group only to be assisted is inconsistent with the changing world of African refugees who are more victims of events in independent states than of colonial domination that prompted the OAU Protocol on Refugees. In 1969, the OAU adopted a seminal convention, which interpreted "refugee" not just according to the 1951 UN Convention and the 1966 Protocol on Refugees, but specifically within the context of African realities. At its Sixth Ordinary Session held in Addis Ababa on 16 September 1969, the Organisation passed the OAU Convention on Refugees, which recognised as a refugee:

"one who owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole 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".

Little did the OAU member states know that in the future some of them would be responsible for producing incessant numbers of refugees, and that others would constantly host refugees, with the flows of refugees criss-crossing national borders of the affected countries. Neither did the OAU's gender-insensitive definition of refugee envisage the female dominance in refugee stock and flows.

Anecdotal evidence from various African countries suggests that highly educated and skilled exiles have made significant contributions to development endeavours in their host countries. Refugees have too, although this sometimes happens without the express authority of the state. At other times, the employment of refugees has been permitted, albeit at the risk of resentment from the host countries' citizens. The point to underscore is that involvement of refugees in developmental endeavours has not been enshrined in the cited OAU protocol. As the AU prepares to steer the African ship with a renewed vision for continental solidarity, it is imperative that it revisits the OAU protocol to take into account not

only the contemporary world of African refugees, but also their envisaged rehabilitation in their countries of habitual residence.

This article argues that several African initiatives African Renaissance, the New Partnership for Africa's Development (NEPAD) and the AU   should determine the nature and extent of African refugees' plausible contribution to the continent's development, and that of particular states requiring a continental intervention. On that premise, the paper seeks to make a case for engaging African refugees in developmental ventures rather than treating them as abnormal people on a continent they rightly belong to. In the main, the paper sheds light on the positive impact of refugees in some African countries, including their acquisition of skills in the host countries in- and outside of Africa, which has enhanced their capacity for an even greater contribution when they return to their home countries. Secondly, it proposes how African refugees could be deployed as a way of both reassuring them of their utility and benefiting from their contribution as human capital in its own right. Finally, the article concludes by prescribing suggestions for the AU and its operational organs, assuming that the diverse triggers of refugees will continue to operate given the diverse causes of the African refugee crisis.

Attributes of African Migrants and Refugees/Asylum Seekers

As soon as the independence euphoria in African countries died down, Africans with certain attributes became victims of displacement beyond their borders. The flight has included famous novelists who portray the good and bad in both the past and present society; academics, mainly in the social sciences, who debate certain political, economic and social events on the African scene[1]; and opposition politicians with dissenting views.

Sometimes unscrupulous citizens fleeing persecution and its likely deterrent consequences jump onto the refugee/asylum seekers bandwagon. Therefore, refugees and asylum seekers consist of those with genuine claims as well as those with fake claims of threats to their lives in their habitual residence. Some of them, in time, have returned to their countries, taking advantage of the new wave of democratisation and governance, as well as the amnesty offered to them in the spirit of reconciliation following excavation of the truth of their previous actions. Many Ethiopians and Eritreans should have been streaming back to their countries after 1991; all South Africans, Namibians and Mozambicans are now expected to be settled in their home countries; and former refugees from Burkina Faso, Mali and Niger should now be back to enjoy their new-found democracies. The atmosphere has changed so radically that it is now more necessary than ever to rehabilitate refugees for effective participation in nation building and Africa's new development initiatives. The challenge for the AU is to take a census of refugees, to take stock of their status in view of the changes in their countries of origin, and to decide how best to handle them in these or any other African countries. The persistence of refugees is clearly an African liability that hinders Africa's efforts to eliminate the debt burden, to push forward its development agenda, and to attract foreign aid.

Impact of African Refugees: Scattered Evidence

Refugees have played an important, albeit invisible, part in the development of African and non-African countries. Overseas, some of them (self-termed exiles, in particular) are part of the "brain drain" or intra-African "brain circulation", others constitute "brain waste"[2], and yet others are forced, by circumstances, to engage in criminal activities such as armed robbery, drug trafficking, prostitution,

and so on 3. The vast majority of refugees are unskilled and without any formal education, and easily become migrant labour, often working without the express authority of the host-government. Whatever the case, both employers and refugees-turned-workers collude to clandestinely fulfill their own ambitions at the expense of the state.

NEPAD has a visionary strategy for the utilisation of the African brain drain and the African Diaspora in Africa's development. Paragraph 124 of NEPAD, which calls for "reversing brain drain", spells out three objectives: (i) converting brain drain to "brain gain"; (ii) building and retaining, within the continent, critical human capacities for its development; and (iii) developing strategies for utilising the scientific and technological know-how and skills of Africans in the Diaspora for the development of Africa. Four programmes envisaged to meet these objectives are: (a) creating political, social and economic conditions conducive to attracting the reverse brain drain; (b) establishing a reliable data base on the African brain drain; (c) developing scientific and technological networks to channel the repatriation of scientific knowledge to the home country; and (d) ensuring increased utilisation of the African brain drain in the execution of some envisaged NEPAD projects. These are novel ideas that aim to reverse the brain drain and retain Africa's human resources. Unfortunately, they exclude refugees and asylees, despite some of them having converted to brain drain, unskilled labour, and clandestine workers during their stint as refugees. NEPAD should therefore compile an inventory of African refugees/exiles, including both those who still retain that status, and those who have already converted to migrant labour in their host countries, with a view to identifying the qualifications, credentials and experience that could be deployed on their return home. The same exercise should target African refugees/exiles who have converted to "brain circulation"4.

There is a high incidence of working refugees and exiles in Africa. Ghana, before invoking the Aliens' Act of 1969, hosted many West Africans who worked in both the public and private sectors, as did Nigeria before adopting similar measures in 1983 and 1985, and Gabon, before expelling immigrants as well as refugees working in the mining industry. During the repressive Amin regime in Uganda (1971-1979), Ugandan refugees worked in both governmental and non-governmental sectors of the Kenyan and Tanzanian economies. They were primary and secondary school teachers, university lecturers, doctors, nurses, engineers, accountants and entrepreneurs. Uganda's liberation by Ugandan refugees/asylees, and Kenya's expulsion of many of them in 1984-1985, left a vacuum that became difficult for both host countries to fill. Ugandan refugees constituted some of the pioneer migrant labour in Bantustans during South Africa's apartheid era. South African and Namibian refugees who lived in the rest of Africa (for example in Tanzania, Ghana and Zambia), acquired valuable skills in those countries that they have used to help build new societies on their return home.

Refugees and asylum seekers from certain countries have become famous proprietors of construction companies, art galleries, bars, restaurants, and hair salons. In cities in the United States, Ghanaian, Nigerian, Sudanese and Ethiopian restaurants are famous for their distinctive cuisine. In addition, some of Africa's most famous Congolese, Angolan, Ghanaian and Nigerian musicians traversing European countries have been refugees or asylum seekers who eke out a living out of their aptitude. These people have become such important African exports to the West that, if well organised, could increase the volume of Afro-American trade envisaged under the aegis of the African Growth and Opportunity Act (AGOA). What about African athletes, soccer players and athletes who now wear the colours of top European teams?

Significantly, many of these talented people have been refugees who have readily sold their skills for a pittance. This should be of concern to Africa's political leadership regardless of whether they are clandestine workers or legally employed workers who are underpaid. Although, in a small way, such employment provided economic and psychosocial comfort to the invisible employees, they now need to feature in Africa's international relations with the rest of the world.

Enhancing the capacity of underprivileged refugees

Previous evidence suggests that women and children dominate the stock and flow of refugees within Africa, although males generally flee farther afield to countries overseas. The disadvantageous situation refugee women and children find themselves in makes them more helpless than their male counterparts preventing them from improving their circumstances. Refugee women and children therefore require special rehabilitation programmes, including women's empowerment, children's education, peer socialisation, career training, and so on. Such strategies would assist female refugees participate in the development of their host countries and, on their return, to that of their home countries, thereby making them assets rather than liabilities to society. Indeed, African countries should re-live the immediate post-colonial period during which they resolved the transitional problems of development, and, amongst other things inculcated a sense of emancipation in the citizens as well as an awareness of the challenges that the new status posed for the nascent African regimes. The AU and NEPAD provide new opportunities for Africa to revisit the ideals that have been at the core of the continent's solidarity including, amongst other things, investing in its women and young people.

Deployment of returning refugees

African refugees have often returned, or have been repatriated to their home countries, once the circumstances that triggered their flight have subsided. Some who have returned on their own initiative have demonstrated their capabilities by initiating innovative projects in capital cities, regional towns and rural villages; others have been voluntarily repatriated through the established UNHCR procedures. These returnees deserve both rehabilitation by their governments, and also assistance to apply their knowledge and skills in viable economic enterprises that would generate employment for them and others. There are examples of involvement by returned refugees in the informal sector that are instructive for other African countries, and for the continent as a whole. They include the IT industry, tourism and hotel industry, and many more in the former refugee source-countries of Zimbabwe, South Africa, Mozambique, Ghana, Nigeria, Uganda, Eritrea and Ethiopia. Returned refugees with newly acquired knowledge and skills are extremely good candidates for privatisation programmes that have occupied an important place in ongoing economic reforms in many African economies.

Taking a fresh look at the OAU convention on refugees

The 1969 OAU Convention on Refugees is an old document with unquestionable utility; however, it now needs to be revisited. Although its definition of refugees in the African context at the time was clear, much of the continent was still colonised. It has not kept abreast of contemporary circumstances surrounding the African refugee crisis. For example, the Convention has not provided for a follow-up of repatriated or resettled refugees in order to trace the refugees' life histories; changes in their places of

residence; and where they eventually end up once their refugee-status ends. It is now time African researchers thoroughly investigated the world of African refugees to generate fresh information that would inform policy makers, and enable drafters of the proposed AU Convention on African Refugees to perform their task with both hindsight and foresight. The suggested research should, amongst other things, investigate the actual or plausible contribution of refugees in the continent's development.

Conclusion

Africa has tread a long and lonely road as the world's most neglected continent until the onset of the new millennium when its leaders came up with insightful views which heralded a new beginning for the continent. Although African refugees have been its liability, there have been no deliberate efforts to transform refugees into the region's assets alongside Africa's brain drain and Africans in the Diaspora. Unless it maps the path of refugees' involvement in development, Africa cannot expect normalcy to reign to enable its sons and daughters to turn around its development paradigm.

Notes

John O. Oucho is Professor of Population and Sustainable Development, University of Botswana, researching all aspects of African international migration.

1 Such exiles include Nigeria's Wole Soyinka (Africa's only Nobel Laureate in English Literature, who received the award while an asylee overseas); Kenya's Ngugi wa Thiongo and his trail of younger novelists who have spent much of their academic life outside their country of birth; several apartheid-era exiles, such as Bessie Head, Donald Woods, and leading figures of the liberation movement, and many more across the continent.

2These are migrants accepting employment in either irrelevant vocations, or at levels of remuneration very much below the levels of their qualifications or skills, sometimes resulting in their being preferred to the citizen labour force on account of the lower labour costs they represent to employers.

3The complaint that refugees commit all manner of crimes exists in virtually all host countries. Work reporting this includes the recently published research by the Southern Africa Migration Program (SAMP) into attitudes towards migrants in Southern Africa. Also, many host countries have complained about the destructive nature of refugees. It is important to note, however, that while refugee communities, like their host-counterparts, do manifest their fair representation of criminal elements; there is little empirical evidence to support the frequently encountered perception that such criminality is a predominant trait of refugee populations.

4This category consists of those with similar attributes as "brain drain" with the exception that their movement is confined within the African continent".

References

Interview with Mr David Lambo
Senzo Ngubane

Conflict Trends: Mr Lambo, Africa is home to approximately six million people of concern to UNHCR and its work. How would you define the challenges the organisation is faced with in Africa? Are these challenges any different from the other regions of concern in the world?

Mr Lambo: Mr Lambo: Over the years, we have been able to repatriate many hundreds of thousands, or even millions, of refugees to their homes in some of the very long, protracted refugee situations on the continent. But, in the last few years voluntary repatriation has been fraught with many difficulties. Therefore, we have been focusing our efforts on another durable solution to refugee problems which is to allow refugees to become partially self reliant in their countries of asylum so they can look after themselves. Also here programmes have been difficult to implement, partly because host countries themselves have been going through many economic and social challenges. The economic decline on the continent has made it much more difficult for countries to be as liberal as in the past in their ability to absorb large numbers of persons displaced from conflicts and other situations. Apart from providing better assistance and support for refugees, another challenge for UNHCR is to ensure that the countries of asylum continue to be liberal in their approach to refugees. This, however, is not always easy, given the problems and challenges they themselves have to deal with.

Conflict Trends: A number of reasons have been put forward as causes for the refugee problem in Africa. In your opinion, what lies at the heart of the refugee problem, and what measures need to be put in place to ensure that the problem is dealt with?

Mr Lambo: Well, I suppose that unfortunately conflict is at the heart of all refugee situations in Africa. Civil war, between groups within the same country, is perhaps the biggest factor that causes refugee outflows from countries. As mentioned earlier, not only is the refugee situation often protracted, the civil conflict situation is also protracted. Some have gone on for 30 or 40 years, or even longer. Africa, therefore, definitely has to rise to the challenge of finding basic peace and security. I must say that the leadership on the continent is very sensitive to these particular needs, and it has been successful in many instances, through the OAU and other regional and sub-regional organisations, in dealing with many of these conflicts in an expeditious way through peace keeping missions, meetings, conferences and negotiations. The real causes basically lie in the social, economic and political turmoil that some countries in Africa still experience, and this is at the heart of the refugee situation.

Conflict Trends: Civilians, especially women and children, have become direct war casualties in almost all conflicts on the continent. In fact, more civilians are killed, internally displaced, or forced to leave their homes and seek refuge in another countries. More often than not, women and young girls fall prey to physical violence and abuses. How does your organisation ensure that women and children who are in the refugee camps, or have been identified as falling within the mandate of UNHCR, are protected?

Mr Lambo: Yes, one of the sad facts of all refugee situations is the high proportion of women and children in the refugee camps. In some refugee camps women and children constitute as much as 70% or more of the refugee populations. Given the vulnerability of these groups, and the need to

protect them as much as possible, this puts tremendous responsibility on UNHCR. Violence and abuse has certainly become much more apparent over the past few years in many refugee camps and refugee situations. The office has attempted, through various measures, including the creation of special posts dealing more specifically with women and children (both in advisory and operational capacities), to provide the type of situational mechanisms that are needed to ensure the full protection of refugee groups, especially women and children. One of the challenges over the past few years has been increasing difficulty in providing proper care and maintenance to vulnerable refugee groups in protracted refugee situations because many men leave to look for work outside the camps. This, of course, makes refugee families and communities even more vulnerable and it exacerbates the complex situation.

Conflict Trends: The process of repatriating refugees in Africa is arguably one of the most challenging tasks UNHCR has to undertake, particularly because repatriation means refugees have to return to their own country to start a new life. How are the programmes of the organisation geared towards developing the capacity of refugees to start afresh once they return to their countries of origin?

Mr Lambo: Repatriation is for me, personally, and for the organisation as a whole, the preferred solution to refugee situations. It is always nice to see refugees being able to go back to their homes and settling in. As you rightly say, the organisation has tremendous challenges in trying to ensure that the refugees have a fresh start, and are able not only to return to their countries, but also to engage in rebuilding their countries, and also their own lives. We have, over the last few years, tried to ensure that our voluntary repatriation programmes have a fairly substantial component dealing with the integration of returnees into their home countries. This is becoming difficult because there is often a gap between what we do, and what the more developmental family of organisations in the international community is able to do, with regard to post repatriation integration. We therefore need to close this gap, as often long-term sustainable development is required as much as the initial kick-start. How we address this gap is, I think, perhaps the most important challenge we face today.

Notes

Mr Lambo is the Director of the UNHCR Africa Bureau in Geneva

References

Problems of African Refugee Law: An Agenda for Reform
Allehone Mulugeta

Introduction

Refugeeism in Africa has become a deep-rooted problem as a result of ongoing conflicts, poor governance, economic mismanagement and poverty. Against the background of a changing historic and political background, the causes for the refugee crisis, the type and nature of African refugee problems, the efficacy and coherence of domestic and international responses and the modalities of refugee protection vary. Up to now there has been no serious attempt to address the existing refugee regime in Africa with an agenda for possible reform. Both scholarship and state practice hail the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (the 1969 OAU Refugee Convention) as an original and coherent refugee protection regime capable of addressing the many and distinctive attributes of refugeeism in Africa.

In this contribution, the author attempts to problematise the available refugee protection regimes in Africa, which include the 1969 OAU Refugee Convention and the 1951 Convention, from the changing dynamics of the State in Africa and its related refugee concerns. It is argued that the restricted definition of 'who is a refugee' gives no adequate conceptual and legal framework for the enforcement of the human rights of those who are forced to flee their countries due to repression and other manifestations of bad governance. The large number of de facto 'refugees' therefore re-emphasises the need to re-visit previous ways of addressing the refugee issues in Africa.

The Convention exhibits a conspicuous lack of comprehensive, coherent rules and protocol for refugee management and safety. In addition, human rights issues are not a central focus of the treaty. If human rights could take centre-stage, it would undoubtedly slow the gradual recession of the refugee protection system into the realm of politics and policy. The integration of socio-economic rights into domestic, regional and international approaches would therefore help transform current refugee protocols and practices from autarchic responses into integrated and enduring solutions.

Historicising the 1969 Refugee Convention

The 1969 OAU Refugee Convention was adopted on 10 September 1969 by the Assembly of Heads of State and Government in Addis Ababa, Ethiopia. It came into force on 20 June 1974 and is now one of the most widely ratified treaties in Africa. Some 44 African states have committed themselves to the Convention. The fact that the OAU - the highest organ on the African continent - established the Convention, and particularly focused on African refugees, highlights the high level of engagement by African leaders on the refugee issue.

The 1951 Convention, a specialised international refugee instrument, already existed when the OAU drafted the African Convention on Refugeeism. However, African Heads of States believed - and as the name of the Convention they drafted indicates - that a separate regional treaty on refugees should be established to address the specific aspects of Africa's refugee problem. It was argued that both the 1951 Convention, and the 1966 Protocol, were biased by the Western conception of a refugee that

grew out of Europe's peculiar experience with the Second World War.

Various insightful provisions were made to the Convention. The 1951 Convention's definition of a refugee was broadened to include not only those with a well founded fear of being prosecuted for reasons of race, religion, nationality, membership of a particular social group or political opinions, but also those who are compelled to leave their country due to external aggression, occupation, foreign domination or events seriously disturbing public order. This relieves the burden of proving a strong and well-founded fear of persecution. In addition, the preferred durable solution for the refugee problem was voluntary repatriation as opposed to local integration.

It was generally thought that refugees would return to their countries once independence was achieved. However, this often-cited specificity of the African refugee problem was articulated within a certain socio-historical context. The Regional Refugee Protection System, which culminated in the 1969 OAU Refugee Convention, was therefore intimately linked with the continent's historical experience with colonialism. During the anti-colonial struggle, leaders of some of the newly independent states followed an 'open door policy' whereby they readily conferred 'refugee status' on large categories of people fleeing colonial oppression. African leaders, themselves emerging from a struggle against colonialism, could easily achieve consensus on how to deal with the mass movement of fellow Africans. These immigrants were not even called refugees and the traditional African hospitality and solidarity - to those that had undergone similar historical experiences - was invoked to establish open door policies for these 'first generation refugees' in Africa.

The nature and efficacy of the 1969 OAU Refugee Convention was shaped by the historico-political parameters of the early post-colonial milieu. The refugee regime prescribed by the Convention is affected by personalised decision making at the highest political level. Both the regional and domestic refugee protection mechanisms were based on decisions by the Heads of State of different countries. Against this background, the procedures and protocols for the protection of refugees were skewed and superseded by self-serving political calculations and pan-African commitments to host refugees who had fled the vestiges of colonialism. The responses and reactions to the refugee crisis were based on an almost euphoric African solidarity and political collective identification often embellished with pan-African rhetoric, and were distanced from judicature and legality. Although the Convention was designed to systematise and institutionalise earlier ad hoc African responses, it failed to guarantee predictability and coherence in the way refugee problems have been dealt with. It was only in the political arena that the Convention was forceful and coherent.

The politicisation of the Refugee Regime

The 1969 OAU Refugee Convention is a treaty-based commitment by African states to African refugees. However, old political rhetoric and convictions have shaped its conception and implementation process. Although it has resulted in the promulgation of some domestic legislation, and international regional instruments such as the Cartagna Declaration on Refugees in Latin America, its enduring impact has been restricted to the political arena where it has helped create a regional consensus on a number of issues. The political nature of African responses means they are often short lived, misguided, and vulnerable to easy reversals and ill-informed political decision-making. The history of the Convention has therefore paralleled vague domestic refugee protection mechanisms that

change with shifting governments' immigration policies.

The close association of African refugee treatment and politics has undermined the possibility of affording African refugees a proper legal and judicial framework. Responses to the refugee problem have become political while their humanitarian dimension has become chequered. The articulation of refugee protection by African states as an expression of political will stands in the way of the conception of refugee protection as an embodiment of entitlements. Although the integrity and strength of support for refugees at the highest political level is always important, it is an unaltered truism that politics does not always ensure predictability and correctness of practice.

During the mid-1990s one of the most refugee-tolerant countries, Tanzania, engaged in an abrupt and arbitrary expulsion of many refugees from Rwanda, Burundi and Zaire. The Democratic Republic of Congo also refouled a large number of Rwandans Recently, in the heat of the African Union bonanza in which Libyan President, Muamar Gadafi played an important role, many West African economic immigrants were subjected to police brutality and killings. There are areas where the African solidarity provides so much less and makes little impact on how governments behave or act. A realist approach to state priorities and strategies in their immigration policies prove that they do change with time. The lot of refugees has improved as governments begin to prioritise the refugee crisis in order to restrict the exodus of what they call 'illegal immigrants'.

The increasing prominence of anti-immigration politicking and the emergence of rightist parties is negatively affecting the refugee protection regime in Europe. Rightist parties in Europe use the anti-immigration policy as an advantageous political platform during elections. It is noteworthy that the 1969 OAU Refugee Convention fails to incorporate rules dealing with the status of African refugees who fall under other regional systems. It is taken for granted that in such cases only the 1951 Convention should apply. However, with an increasing number of countries adopting policies that are non-refugee friendly, the fate of African refugees in Europe remains bleak. Unfortunately, the refugee regime as it stands offers few means for African leadership, and civic society in general, to engage in global refugee issues that impact Africans.

The 1969 OAU Convention prohibits what it calls 'subversive activities' by refugees. The scrutiny imposed on refugee activity is necessary given the incidence of such activities by refugees, as well as groups that take advantages of the refugee regime for military and political gains. However, this does not help deal with the increasing pace at which refugees shape political communities. For example, in the Great Lakes region, the shifting identity and citizenship crisis of the Tutsi and Hutu may not be understood within the parameters of the African Convention on Refugees.
This is a scenario in which both legal craft and political imagination are required to provide enduring solutions.

Rolling Human Rights Forward

Refugee law is undisputedly human rights law. It is, in fact, an important body of the international human rights system that aims to protect individuals or groups who find themselves unable to enjoy coherent civil, political, economic and cultural entitlements. The OAU Refugee Convention is one of three important human regional treaties sponsored by the OAU - the other two are the African Charter

on Human and Peoples' Rights and the African Charter on the Rights and Welfare of the Child. Despite the existence of these normative rules, immigration policies are eclipsed by political and policy imperatives while the rule of law and sense of international duty is shunned.

Countries are increasingly broadening the categories of people they call 'illegal immigrants', and more countries are willing to risk turning such people away. On many occasions, refugee refoulement is undertaken with no local judicial oversight. Few African countries have allowed their immigration legislation to conform to their international obligations under the 1969 OAU Refugee Convention and the 1951 Refugee Convention, making it more difficult for local law enforcement bodies to rely on these instruments. African refugees are hence burdened with disjointed and often contradictory legal layers. It is usually impossible for a refugee to penetrate local judicial institutions to challenge governments' unjustified measures. This is a problem African refugees in Australia, Europe, and North America also face. Refugees are offered no platform in the domestic political arena to articulate their concerns. This development, however, is paralleled with refugees being increasingly subjected to harsh economic and political environments in which their entitlements are easily tempered with.

The Convention has a number of deficiencies that make the integration of human rights into the refugee protection system difficult a problem that stems both from the Convention itself and the way it has been enforced. The Convention has an extremely restricted conception of the cause and creation of the refugee problem. Only individuals who flee their country due to 'foreign invasion, occupation and domination' are covered by its protective regime. People who are continually forced to leave their country owing to the systematic violation of their human rights therefore fall outside of the Convention's protective ambit. Economic immigrants who experience poverty and misery are also not considered bona fide claimants of refugee status.

The African Convention, like the 1951 Convention, has encouraged simplistic and unfortunate characterisations of asylum seekers as either political, or therefore 'genuine' and deserving, or economic, and therefore 'abusive' and undeserving. Refugees, however, come from countries where economic difficulties and political instability and persecution are inextricably mixed. There is an incorrect perception that the only destination of African economic refugees is the developed West. Usually, the first countries many African refugees seek asylum in are neighbouring countries where they attempt to find a means of livelihood.

The shifting nature of the African State also calls for the revision of our definition of refugee. Many people, within the context of failed countries in Africa, who find themselves under the debris of the state machinery, will be outside the ambit of refugee protection. The concept of being a refugee in one's own country is foreign to both Conventions. Since there is a large IDP population, this reluctance has resulted in de facto refugees that do not have any legal status and protection.

The blind spots in the newly emerging causes of refugeeism, such as human rights violation, poverty, and state collapse, are foreign even to the 1951 Convention. The African system, in which politics operated at the level of Heads of State, did not encourage an open policy towards human rights. Accepting a neighbour's political exiles - which several African leaders have done on many occasions - was considered political treason in the pan-African club. The Convention was therefore not in tune with current developments around human rights and refugeeism. It is, in fact, bereft of any reference to human rights - a problem shared with the 1951 Convention.

The preamble to the later Convention, however, declares that 'human beings shall enjoy fundamental rights and freedoms without discrimination'. While human rights did not find a stable place within the Convention, more so is the diminished role of the socio-economic rights of refugees in their asylum countries. When traditional African hospitality faded, the refugees did not benefit from any stable legal regime that could offer them clearly defined entitlements. Local integration, the rarest arrangement for refugees, was not the favoured refugee protection mechanism in the Convention. This made it even more difficult to contextualise the socio-economic rights in integration policies.

Refugee protection is constructed as a benefit of political good will. Therefore the protection regime that is conceived by the Convention was essentially chequered and temporary and meant that refugees might also be manipulated for political and strategic goals. This has long been common practice in Africa where, despite the resilience of the African solidarity, African leaders used refugees as instruments of war. Unfortunately, this old problem did not vanish. More and more refugee camps became detention areas rather than secluded civilian sites where refugees could have access to basic amnesties. The political origin of the Convention, and its continuing distance from the realm of judicature, does not help in the enforcement of human rights. No special protection arrangement is envisaged for women and children refugees, and orphaned and abandoned children often have difficulty obtaining their papers or receiving guardians. Most would lie about their age to be accepted, and become involved in child labour. In many national jurisdictions, refugee families are not accepted as foster families, and hence are not entitled to grants.

Domestic enforcement of refugee law is the most efficient way of implementing human rights. This, however, is countered by the lack of harmonisation between domestic immigration legislation on the one hand, and the international and regional refugee instruments on the other. It is interesting to note that long after the OAU Convention came into force, few countries amended or revisited their laws. Immigration policies are eclipsed by political and policy imperatives, while issues of legality and international duty are being sidelined.

Soldiers without Borders and the Principle of Exclusion

Hosting large numbers of refugees, as many African countries do, has many problems. The link often made between refugees and the security problem has made refugees fugitives in the eyes of governments that should have provided them with sanctuary and protection. This explains the massive refoulement of Rwandan refugees from Tanzania and the DRC in the late 1990s. The Rwandan case also illustrates how refugee camps were contaminated with elements that endanger the lives and safety of refugees. Local forces see refugee camps as strategic garrisons for information collection, recruitment, and their protection. They also use these safe havens as launching pads for cross-border military operations. In a contravention to the principle of exclusion, the humanitarian character of refugee camps is continually defiled.

Refugees bring a security risk that is not fully envisaged and articulated by the Convention, and few countries are ready to share the burden of such a risk. New normative orders need to be devised that address this particular issue. Moreover, meticulous protocols of refugee camp management should be followed so as to maintain the civilian nature of camps.

Inward Solidarity

The 1969 OAU Refugee Convention, which was greatly influenced by the spirit of the time in which it came into being, is characterised by an inward looking solidarity. It restricts the principle of burden sharing within the confines of the African socio-political arena. Essentially a state-centred burden sharing strategy, it focuses on countries that have many burdens but little resources to share. It also ignores the fact that all countries party to the 1951 Convention have a duty to share refugee burdens. It fails to institutionalise the partnership with countries outside Africa which are some of the largest recipients of African refugees. It does not link Africa with the many players that should have been engaged in addressing the various issues and problems that are associated with refugeeism. This has left Africa, the poorest region in the world, hosting a disproportionate number of refugees on its own. A refugee management system involving a protocol of states, engagements with civil society, the UN system, and the international community, functions in the interest of all players.

There is a gross disparity between what Western countries spend on processing and support systems for refugees and asylum seekers, and what they contribute to Africa to address its refugee problem. Their contribution to the United Nations High Commissioner for Refugees (UNHCR)'s Africa programme has also decreased over time. By 1990 the developed countries, including the European OECD (Organisation for Economic Co-Operation and Development) states and Canada, were spending US$5 billion annually on the processing of refugee applications: ten times the entire UNHCR budget in that year. Lack of sufficient budgetary allocation and appropriation led to the gradual weakening of UNCHR's emergency preparedness and response capacity in Africa.

The principle of solidarity and burden sharing is extremely limited. It needs to have a much wider coverage through the creation of a partnership with the international community for co-operation and assistance. Activities based on the principle of burden sharing cost an enormous amount of money which can only be secured through foreign financial assistance which itself is beleaguered by donors' 'compassion fatigue'.

There have been attempts to address this particular concern at OAU level where the Commission of Fifteen on Refugees passed the Khartoum Declaration on Africa's Refugee Crisis in September 1990. This sought to lay the platform for partnership and co-operation with the international community. It needs to be streamlined within the available legal regime. There is an obvious disparity between the costs and abuse of developed asylum systems, and the level of attention paid to refugee situations in poorer countries. A broadly articulated partnership therefore opens up dialogue to address the roots of the African refugee problem.

A Way forward

There is a need to clearly define responsibilities, improve modalities, and ensure that a civilian and humanitarian character exists within refugee camps. Suggestions have been made to review not only the 1969 OAU Refugee Convention, but also the 1952 Convention. Many, however, have expressed their concern about reviewing the 1952 Convention, given the reluctance of developed countries to broaden their duties and open their borders. This has lead to further restriction rather than expansion of the refugee protection system embodied in the Convention.

In March 2000, the Australian Immigration Minister, Philip Ruddock, described the Convention as 'open to exploitation and manipulation by non-refugees', saying it should be toughened 'either administratively or by reviewing the actual treaty document itself'. African refugees in the developed world are intensely threatened by such policies that sometimes border on xenophobia and political opportunism. The review of the existing African Convention will hopefully provide African leaders with the opportunity to engage with other international players on the refugee problem in Africa.

Notes

Allehone Mulugeta is a LLM Student on 'Human Rights and Democratisation in Africa at the 'Center for Human Right Faculty of Law at the University of Pretoria

References