

# Reflections on 50 years of OAU refugee pact

By Prof Khoti Chilomba Kamanga

The month of September occupies a special place for those engaged with the refugee problem in Africa. September marks the anniversary of the OAU Convention Governing Specific Aspects of Refugee Problems in Africa. What is however unique about this September, is that it marks the 50th anniversary, or the Golden Jubilee!

## Africa as a Trailblazer in the Development of Refugee Law

Few bother to remember that Africa is the birth place of the world's only regional legal framework regarding refugees, or for that matter, Africa's pioneering role in the legal regulation of those who flee violence and conflict (but unlike refugees), remain within the territory of their national State, that is, Internally Displaced Persons (IDPs). September 2019, marks the golden jubilee of the OAU Convention Governing Certain Aspects of the Refugee Problems in Africa (in short, the OAU Refugee Convention), with the additional bonus of also being the 10th anniversary of the African Union Convention on Assistance and Protection of Internally Displaced Persons, of 2009 (in short, the 'Kampala Convention').

Incidentally, Africa had already sealed its place as a global pioneer in the regulation of internal displacement, three years earlier, with the adoption of two related Protocols to the Great Lakes Region Pact on Security, Stability and Development of 2006 (in short, the 'Nairobi Pact'). The two Protocols are, the Protocol on Assistance and Protection of IDPs, and the Protocol on the Property Rights of Returnees. Sad to say, fifty odd years down the road, Africa continues to be plagued by the chronic problems of IDPs, refugees (and asylum seekers), and the stateless, and thus drawing attention to itself but for the wrong reasons. Today there are close to 7 million refugees in Africa, a number ten times more

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than the equivalent number in 1969. Out of a global population of 71 million refugees, Africa accounts for approximately one quarter, or over 26%. The adoption of the Convention appears to have accomplished little in reducing the problem.

As we speak, South Sudan and Burundi are among the leading countries of origin (for the 2.3 million and nearly 350,000 refugees, each country has respectively generated. Typically, the vast majority of these 2.7 million refugees have found succor in the neighbouring States within the Great Lakes Region of Africa (GLR), and not in Europe or Americas, as some would imagine. The refugee and internal displacement in 3 other countries comprising the GLR is equally alarming not only because of its seemingly chronic nature, but for the truly staggering numbers involved.

Take the DRC for an example. Not only is it a major country of origin of Africa's refugees (over 800,000), it is at one and the same time an important destination for Burundi, Central African, and South Sudanese asylum seekers, while struggling with a crippling internal displacement of its own (which at July 2019 stood at 4.5 million). The seemingly ceaseless and deadly conflicts in South Sudan of the last decade, have thrust Uganda to the top of the list of refugee hosting nations in the entire Great Lakes Regions.

Incidentally, with a refugee population of 1.2 million (and an additional 32,000 IDPs), Uganda which ranks 127th (out of 149 nations, according to the 2018 Legatum Prosperity Index), hosts as many refugees as Germany, the leading economic powerhouse within the European Union.

Another pre-eminent destination for asylum seekers in the GLR is neighbouring Kenya. A major, and openly visible fallout from the string of gross mismanagement of general elections has been internal displacement, which at its peak in 2013 stood at 412,000 persons. But

well before that, and for decades, the country fell under global spotlight of internal displacement, it was a major destination of Somali refugees, who account for 54.5% of all refugees in the country or nearly 236,000.

Finally, comes the Central African Republic (CAR). Until the tragic events of 2012, the CAR was hardly ever on global news headlines. In that year, the deadly conflict degenerated to such an extent that overnight, the CAR whose population stands at 5 million, became infamous for its internal displacement (600,000), and refugees (500,000), concurrently.

## Who's Shouldering the Burden of Hosting Refugees?

What is however evasively mentioned or not acknowledged sufficiently loudly, is the fact that over 80 % of Africa's asylum seekers head to, and find refuge in sister nations within the continent. It need be borne in mind that of the 47 UN list of Least Developed Countries (LDC), a staggering 34 are in Africa.

Put differently, it is on the shoulders of the least economically endowed, that has fallen the disproportionate burden of hosting the world's 70 million plus refugees. Typically, the vast majority of African asylum seekers have found succor in neighbouring African States, and not in Europe or Americas, as most mainstream media outlets are often caught insinuating.

Tanzania alone, for example, has uninterruptedly been a destination State for the last 60 years, hosting in turn, several 'protracted refugee situations'. According to figures relating to the situation as at December 2018, Tanzania was the largest single home for Burundi refugees (210,000) found in the entire Great Lakes Region, at the heels of which were refugees from DRC (107,000).

Their next leading destination is the DRC, followed by Rwanda. Save for South Africa, the top ten destinations of DRC asylum seekers are all located in the Great Lakes Region. That is similarly the case of practi-



Congolese refugees at a camp in Kigoma Region. PHOTO | AFP

cally all African asylum seekers.

It is therefore a justifiable source of collective pride that despite Africa's prevalent and well documented impoverishment and need, it continues to be the destination of choice for Africans who stand in need of relief and assistance. Curiously, among those who rush to seek asylum in Africa one will find non-Africans as well. In the case of Tanzania, the list includes nationals of Iran, Syria, Turkey and Yemen. However, rather than entertaining complacency, or sleeping on its laurels, the Golden Jubilee of the OAU Convention should be seized as an opportunity for candid and bold reflection.

The 'book chapter' on refugees generated by the Wars of National Liberation (in Mozambique, Namibia, South Africa and Zimbabwe) was effectively closed by the early 1990s. The brutal truth

however, is that 'protracted refugee situations' abound, as have the number of conflict-generated refugees. To compound it all is the ever increasing population of Internally Displaced Persons (IDPs) whose current population size stands at a shameful 12 million.

## The OAU Refugee Convention: Achievements and Constraints

Given the statistics shared a moment ago one would have to be forgiven for concluding that the adoption of the OAU Convention has very little to show in terms of stemming the problem refugees. No living treaty has ever been found to be without shortcomings, and so it is with the OAU Convention Governing Certain Aspects of Refugee Problems of 1969. Incidentally, the OAU Convention's Golden Jubilee, should also be an opportunity to reconsider the long overdue issue of

review both the Refugees Act, 1998 along with the National Refugee Policy, 2003, along with the adoption of Regulations to the Refugees Act. Each time I read the Convention, its tongue-twisting strikes me instantly. What was the justification for the wordily title as opposed to brevity? What harm would have resulted from adopting an embellishment free title, such as 'OAU Convention Governing Refugees in Africa'? The possible answers to these seemingly rhetorical questions may be found in the Preamble section of the Convention, a part of the legal text not every lawyer finds important.

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