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Human insecurities in Africa, the politics of non-refoulement and the plights of the African refugees along Mexican-American borders

The rise of refugee problems worldwide, particularly the African refugee crisis, inherently underlines the preponderance of the spiking degree of human insecurity in Africa and the definitional and operational shortcomings of the Geneva Refugee Convention of 1951, which was designed to protect the rights of refugees and asylum seekers to safety and express access to neighboring states. This article attempts to unpack how the spiking rate of human insecurity in Africa and the definitive and organizational shortcomings of the 1951 Geneva Refugee Convention have led to the troubling spate of the Mexico-American border African refugee crisis, amongst several unabating largescale migrations to developed world including the European countries. From a case-study methodological standpoint, this study utilizes the advantages of rigorous qualitative data and analysis techniques. Despite the development of the 1951 Geneva Refugee Convention and other international regimes, the increasing numbers of African refugees along the Mexican-American border and around the world remain alarmingly worrying. The African refugee crisis now poses unprecedented dangers to global human security, with over five million people internally displaced and thousands of African refugees seeking asylum along the Mexican-American border. A thorough human based security approach is recommended to address the ravaging human security challenges precipitating the influx of African migrants along the Mexico-American borders.

Key words: Human Insecurities in Africa, Politics of Non-Refoulement, African Refugee Crisis, Mexico-American Border, Geneva Refugee Convention of 1951

Introduction

As expected, any intellectual exposure relating to the refugee or non-refoulement and refugee crisis should start with a reference to the right of all peoples against forced return in the event of an emergency, war or natural disaster that is endemic and detrimental to the safety and life of the population. This concept, otherwise known as Non-Refoulement, enshrined in the Geneva Refugee Convention of 1951, serves as the only global regime regulating the right of all nations, in the face of threats of man-made and natural disasters, to seek their protection and safe havens. Since 1951, to various degrees, states have continued to subscribe to the spirit and letters of this convention (Akinrinde 2018a). Nevertheless, for example, only minorities of the neighboring states surrounding Syria are either signatories of the 1951 Convention or the 1967 Protocol to the Convention, or have implemented national asylum or refugee legislation incorporating non-refoulement provisions of the Convention. Even if States are parties to one of the refugee security treaties, the commitment remains either unimplemented or, in the majority of cases, ineffective for the protection of refugees, given that the applicable domestic legislation has been adopted (Sanderson 2013, pp. 780). Aside the unabating largescale migrations of Africans to European counties, an increasing number of African refugees are now making their way to the United States by taking the same roads that the Central Americans and Mexicans used to follow. The journey of most African refugees to the United States typically takes months. Via visas to countries such as Ecuador and Brazil, which have very loose visa requirements, African refugees typically enter the Western hemisphere. The African refugees would later travel to Colombia from there to make the trek to Mexico-U.S through Central America border. The journey through Latin America has always been strenuous, risky and costly. The Darien Gap, the most remote jungle area in the world, is the most treacherous part, accessible only by foot or canoe. There are rodents, poisonous insects and wild animals populating the jungle. Many migrants die or drown in the river from fatigue. While fleeing ethnic cleansing, political volatility and other types of human insecurity in their respective countries, such as Cameroon, the Democratic Republic of Congo, Nigeria, Ghana, Benin Republic, Togo and Angola, these refugees typically threatened not only their own stability, but also the protection of their desired destinations. Officially, there were 2,700 estimates released by Mexican authorities in 2019 with respect to detained African refugees along the Mexico-U.S. borders (Salvadore 2019). The migrants were apprehended near the U.S.-Mexico border and at various checkpoints across the country. The first eight months of between October 2018 to May 2019, Mexican authorities have already apprehended 3,500 individuals that also included African refugees (Salvadore 2019).

Human Insecurities in Africa and the Increasing Spike in African Refugees along Mexico-US Borders: Any Causal or Theoretical Relations?

The spike in African refugees seeking asylum in the United States across the Mexico-U.S. borders has been related to different causes. The preponderance and prevalence of much human insecurity, however, is ravaging the continent of Africa. In the social configuration of the African continent, human insecurities such as diseases, political uprisings, food insecurity, environmental destruction, extremism and insurgency, hunger, unemployment and the contemporary Covid-19 have remained normal. According to the UNHCR for instance, political upheavals in

the Democratic Republic of Congo alone has, earlier in year 2019, displaced approximately 4.5 million people (Salvadore 2019). For decades, tension between the French-speaking majority and the Anglophone South has been simmering in Cameroon. Finally, it has boiled over, leading to the deaths of thousands and torture and rape allegations, causing millions to flee. LGBTQI individuals fearing repression are among those seeking refuge from Africa and student activists/organizers fleeing government retaliation from countries such as Congo and Cameroon.

Similarly, as demonstrated by the poverty line coupled with the growing frustrations of the citizens, the inability of almost half of the entire population of the nation to have their economic needs met, especially the youth to be free from fear and want, has further aggravated the inglorious and incessant illegal migrations of African refugees to the Western world. The Human Security approach will provide a theoretical logic for the study here to understand how the multifaceted and different human insecurities ravaging the African continent lead to mass illegal migrations of Africans to Western countries, particularly the US, as refugees.

First, the Human security approach, following the end of the Cold War and the end of certainty that came with it, became the bedrock of security discourses; strategy and even a security paradigm that seeks to extol the primacy of human basic need as security measures itself, to forestalling insecurities (Hough 2004). The failure of governments to, through the usual traditional security paradigm, address the emerging human insecurities that threatened the existence of humanity led to the emergence of an alternative approach, that is, the Human security paradigm to approaching and understanding the rising profile of human-related insecurity issues. More recently, analysts, following the United Nations Development Programmes (UNDP) 1994 Human Development Report and their notion of security as „freedom from fear and want" (Hough 2004), have settled on the phrase "human security" to emphasize the people-centered aspect of security efforts, strategies and paradigms. Human Security thus takes the individual as the primary guide, and also focuses on how best to protect them. Therefore, focus is on the search to actualize the well-being of individuals and respond to the needs of people in coping with sources of threats. In addition, the paradigm of human protection attempts to find ways to protect people from external violence and also to protect them from a variety of challenges, such as environmental contamination, infectious diseases and economic deprivation. The degradation of the environment, hunger, famine and disease are tremendous threats to the lives of millions of people all over the world, and indeed in Africa (Akinrinde 2020a, pp. 120; Akinrinde 2020b).

Prominent amongst these insecurities Africans have however accepted very long ago as the new normal is poverty. Poverty is often regarded as a significant threat to life and human security. Through famine and hunger, poverty has heightened the vulnerability to other threats by creating unfavorable structural economic conditions. Therefore, poverty can kill directly in huge numbers when people are unable to secure sufficient food, as well as precipitate and motivate the poor into taking up terrorism, banditry and monstrous herdsmen killings as a means to surviving economically. Poverty therefore, as it were, does not simply mean a lack of material possessions, but, more generally, the deprivation of the three basic economic needs: Food, Water and Shelter (Akinrinde 2020a, pp. 121; Akinrinde 2020b; Akinrinde 2018a; Akinrinde 2018b). Many of the African refugees that had fled the African continent did so with the aims of finding greener pastures where they would be able to at least have their three square meals, clothing and

basic security. This has been the case and experiences of many African countries. Africans are willing to go through the deserts between the Central America and the North just to make it to the American border.

Again, the role of food insecurity in the rising numbers of African refugee migrations to the Americas cannot be downplayed. Basically, the immediate economic threat to food security in Africa, over time, has always been famine. Famines chiefly occur due to the combination of both natural and economic factors. Since, it is manmade phenomenon, they are sometimes economically motivated (Hough 2004). A critical problem has also been an insufficient political response by governments to the challenge of food insecurity. However, the overall accessibility of food does not seem to be the problem, but rather the poor distribution and lack of economic means or access to affordable food. The effects of food shortage or malnutrition are multifold. The desperate effort to resort to lucrative illegal activity by victims of food insecurity in order to fulfill their food needs (Akinrinde 2020a, pp. 122). It clarifies why most Africans are willing to sacrifice anything to make it to the Americas as refugees.

Environmental insecurities and unsustainability is another human security concern that is partly responsible to the continued migrations of African refugees to the Americas, especially the Mexico-American border. Though, some of the threats caused by environmental degradation seems less clear-cut and direct than most other dangers to human life. Thus, the potential threat of global warming and ozone depletion appears far-off, when compared to more imminent threats, such as natural disasters and military attacks (Hough 2004). Negative changes in environmental factors, however, have increased the vulnerability of populations to other threats, such as diseases, and are thus primarily an indirect threat to human protection. Therefore, some studies have shown that nearly a third of disease-related deaths worldwide have some environmental causes, such as air or water contamination (Hough 2004), which indirectly support the ongoing migration of African refugees (those who have been badly affected by the harsh effects of emerging environmental challenges) to the Americas, especially the Mexico-American border. Furthermore, human induced environmental degradation, and the resulting scarcity of resources also, has been one of the motivators of insecurity and insurrections in Nigeria, and most parts of the globe (Akinrinde 2020a, pp. 123; Terriff 1999).

Similarly, air pollution, caused by cars, factories and power plants, which can seriously harm people's health, is one of the main challenges. On the other hand, developed countries mostly face the risk of insufficient water supplies, as well as water pollution. A recent research, for example, has shown that nearly 2 million children die from diarrhea each year, largely due to the pollution of their drinking water and the lack of sanitation in developing countries, particularly Africa (The Economist 2006). Water scarcity is also increasingly becoming a factor that is causing increasing levels of human insecurity in ethnic conflicts and political friction. The harsh realities of human insecurity do not shield Africa. In reality, these human insecurities have thus put people at the hands of desperate and survivalist acts and behaviors that may, in most cases, precipitate the decision of young people and adolescents to migrate to the Americas illegally. Environmental problems, coupled with poverty and underdevelopment, which are both serious threats to the welfare of the person, have become ready-made drivers of the increase in African refugee migrations to the Mexico-American border (Akinrinde 2020a, pp. 124; Akinrinde 2020b).

The Principle of Non-Refoulement of the Geneva Convention on Refugee: Any Operational or Definitional Deficiency?

One prominent definitional itch associated with the Geneva Convention on Refugee or the principle of Non-Refoulement was the issue of admission of refugees or persons seeking asylum ongrounds of persecution, disasters, civil wars and other emergencies. The Geneva Convention has not been able to clear the dust as regards the controversies surrounding the admission or otherwise ofpersons seeking refuge during emergencies or persecution. The provisions and the concept of non-refoulement found in the 1951 Geneva Convention did not catch the need and right to be accepted into any neighboring state by individuals seeking asylum from persecution or emergencies. The forceful removal of already accepted refugees or citizens escaping persecution was more of an issue. To that reason, the non-refoulement of the Geneva Convention only frowns on the forceful expulsion of refugees and not on their rights of entry, even though they are threatened by emergencies or periods of persecution. The meaning of the Geneva Convention has been put at the hands of states by this conclusive deficit. This definitional deficit has placed the essence of the Geneva Convention atthe mercy of states. The meaning of the Geneva Convention has been put at the hands of states by this conclusive deficit. In neighboring states, they decide who to admit and who to not admit during emergency times. Therefore, this creates a loophole in the whole convention and, as a result, reduces the strength of the Non-Refoulement principle. With this vulnerability, the definition of Non-Refoulement is of no benefit and meaningless. This is because in times of crises, civil wars, disasters and humanitarian violations, without adequate arrangements and assurances for the admission of refugees or persons escaping persecution from their parent nations intoneighboring states, the purpose and nature of the Non-Refoulement principle may continue to be a mirage as the refugee crisis continues to multiply in alarming proportions.

Further, the principle of Non-Refoulement of the Geneva Convention exists with anotherdefinitional ambiguity. This principle frowns at forceful ejection of refugees or victims of persecution and others; it is surprisingly silent on ejections on grounds of national security. Asignatory state to the convention could decide to eject a refugee or persons if he or she is purportedlyconsidered to be of threat to the corporate survival or security of the host state. This excuse could beput forward as a strong case for violating or inhibiting the principle of Non-Refoulement especially inthis contemporary period where terrorism holds sway. United States and a few other Western countrieshave been holding firm against admission of refugees with radical Islamic background especially thoseaffiliated to the Islamic State in Iraq and Syria, from the Syrian crisis. Further, the Geneva Convention of Non-Refoulement remains operationally deficientbecause it is yet to amass the needed mechanism for implementation.

The Politics of Non-Refoulement and the Spiking Spate ofAfrican Refugee Crisis Along the Mexico-America Border

It is evidently clear that only a number of countries across the world that are signatories to either the 1951 Convention or the 1967 Protocol to the Convention or has passed or domesticated asylum/refugee laws (Sanderson 2013, pp. 780). Even where States are parties to one of the treaties, the obligation to implement has always been a subject of politics. Nevertheless, reference to both general international human rights and humanitarian lawdiscloses an extensive set of legal

norms which, if used effectively, will support a very comprehensive right of Non-Refoulement for individuals displaced from countries that are experiencing political crisis and other forms of human insecurities (Sanderson 2013, pp. 780).

As an injunction, the concept of non-refoulement does not, under all circumstances as such; grant an outright right of entry to refugees. Where admission is harmful and detrimental to the national security of an asylum country, the country has a legal ability to weaken its legal adherence to the Geneva Convention on Refugees of 1951, even though that country is a signatory to that international law. However, as long as entry to the territory of an asylum state is, in practice, the only realistic step in preventing the deportation of an asylum seeker or refugee to the borders of territories where his life or freedom will be threatened, this will sometimes be a forceful or de facto right of admission (Hathaway 2012).

First, although the US acceded to the Protocol of 1967, it continues to limit its security obligations to those citizens escaping repression in their home states and not necessarily those fleeing as a result of dehumanizing human insecurities. This limitation was expressed in the executive order of President Donald Trump, which excludes those fleeing African and Moslem countries as a result of co-operation. The Executive Order signed on January 27, 2017 by President Donald Trump, which temporarily bars the majority of refugees from coming to the US and suspends visas for those from seven nations, predominantly Muslim, underscores the politics of Non-refoulement. The US Refugee Admissions Program (USRAP) dealing with the admission of refugees referred by the United Nations High Commissioner for Refugees (UNHCR) or the United States Embassy or any other assigned Non-Governmental Body, such as the Red Cross or the United States Selective Direct Application System, has been suspended by the United States. It is usually open to persons who already have (or are likely to apply for) refugee status who are resident outside the United States, but may want the United States to regard them as a resettled refugee for entry. In 2017, the US was due to take in 110,000 refugees under USRAP, but the US president states in the executive order that he wants this figure to be more than halved to the intake of 50,000 refugees. The executive order mandates that the United States Refugee Resettlement Program be paused for a period of 120 days for all refugee applicants (Salvadore 2019). The justification for the suspension that Trump gives for this suspension is to improve the already complicated vetting procedures. Such executive orders, however, cannot supersede or override the international legal obligations of the United States and its adherence to the 1967 Protocol to the Geneva Convention. So those who manage to enter the US, with much difficulty, will have to have their asylum claims checked. Under the Geneva Convention on Refugees and Against Torture of the United Nations, the obligation not to return a person to a state where they may face torture or other serious harm is still absolute (The Conversation 2017).

Again, whilst the Geneva Convention on refugee is „legally binding“, there is no institutional mechanism that monitors and enforces compliance. The United Nations High Commissioner for Refugees (UNHCR), take for instance, has only supervisory responsibilities and cannot in any way enforces the Convention. There is therefore no formal mechanism for individuals to file complaints when the provisions of the Convention are breached. Although, the Convention specifies that complaints should be referred to the International Court of Justice, nonetheless, it appears that country has ever perused this legal route. In praxis, the only real consequences of

violation currently are; public shaming in the press, and; verbal condemnation of the violator by the UN and by other nations. To date, these practices have not really proven to be significant deterrents.

The problem of persecution of refugees is another definitional uncertainty connected with the Geneva Convention on which many of the treaty's signatories have depended to keep their borders closed to the influx of refugees. Whereas the Convention provided that a „well-founded fear of persecution" must have been established in order to qualify for refugee status under the definition of Article 1(A) 2 „for reasons of race, religion, and nationality, as well as member-ship of a particular social group or political opinion." The persecution faced must be causally linked to one of the reasons listed in Article 1(A) 2 (Hathaway 2002). „While some African refugees have certainly fled their countries for reasons of religion or political opinion or crisis due to a well-founded fear of persecution, as in the case of DR Congo, Somalia and others, in accordance with Article 1(A) 2 of the Refugee Convention, many will have fled because of their fear of generalized violence and civil disorder" (Hathaway 2002). Therefore, the position here is, can this „causal nexus" be formed as a result of generalized violence or chaos? However, this is not to say that there is a duty to demonstrate a differential effect on those fleeing civil situations of large-scale civil disorder violence, or that such a finding is confined to any unique number of persons. The text of the 1951 Convention offers no justification for placing a higher or differential burden on applicants seeking to claim refugee status in the form of armed conflicts. Moreover, while the foundation of the Convention must make a substantial contribution to the cause of the oppression that has been feared, it does not need to be the main or primary cause. The importance of a specific ground is to be subjectively measured by reference to the prosecu-tor's viewpoint (rather than the refugee). This view forms the center of the reasoning behind the development of a causal link between the view of the prosecutor and that of the refugee. This is evident from the language of Article 1(A) 2, which demands that persecution be the basis of the Convention ‚for reasons'. For the purposes of forming the nexus, it is meaningless if the specific ground is valid or merely imputed (rightly or wrongly) to the refugee or, indeed, if the ground of persecution is known to the refugee at all (1951 Geneva Convention). Should a persecutor act on a belief related to an enumerated Convention's ground, it automatically establishes the causal nexus regardless of whether that belief is mistaken or, indeed, implausible, presumably.

Finally, it should be noted here that the principles applicable to the establishment of the causal nexus are general and, thus, no unique or special criteria apply where refugees come from a coun-try in which conflict or civil disorder is prevalent. Although asylum seekers from a country in that place are not automatically refugees, they are entitled, on the same terms, to recognition as any asylum seeker, given that they comply with the criteria of Article 1(A) 2. In the view of Ar-ticle 1(A) 2, it is probable that the majority of African refugees seeking international protection do not fulfill the criteria of the definition of refugee set out in Article 1A (2) of the 1951 Conven-tion relating to the Status of Refugees, since they are fleeing their home countries not as a result of political or religious persecution, but because of political upheavals that are life-threatening.

Furthermore, the States that are signatories to the Geneva Convention have continuously found another subtle way and loophole in the provisions of the Geneva Convention relating to the admission of refugees. Although the Convention does not provide for the rights of refugees

to be recognized by signatory states, it does not provide for the protection of refugees against forced expulsion or deportation in any of the signatory countries. What the Convention does not take into account are conditions of need and national security that may outweigh the Convention's position in any signatory state against the forced eviction of refugees. On many occasions, several signatory states such as the US have refused and even expunged refugees deemed to be threats to their domestic securities. This explains why countries such as Turkey and, as predicted, the US have chosen to shut their borders away from the borders of Syrian and African refugees.

Finally, if one takes the subjectivity inherent in the grounds of the Convention seriously, we can still agree that it was inappropriate to impute specific grounds sweepingly and even erratically to large parts of the Convention. The question is not whether such charges are correct or even probable, but whether they help to motivate the persecutors' conduct (Akinrinde 2018a). „As UNHCR explains in reference to African refugees along the Mexico-American borders, parties to the conflict allegedly use broad interpretations that they may consider to be associated with the other party, including based on the family connections, religious or ethnic background of an individual or mere presence in an area considered to be „Pro" or „Anti-American. This would certainly include the reasons given by the UNHCR for „family connections, religious or ethnic or political background, or mere presence in an area." In any case, there is not yet a settled body of case law in respect of their refugeestatus. As such, any conclusions as to the correct application of the provisions of the Geneva Convention on the African refuge crisis at the American borderremains somewhat speculative.

Conclusion

The attempt was made here to empirically evaluate how the spiking level of human insecurity in Africa and the operational cum definitional lapses in the Geneva Refugee Convention have contributed significantly to the crisis of African refugees along the borders of Mexico and the Americas. The paper was also able to unpack the intersections between problems of human security such as poverty, unemployment, social injustice, inequality, political upheavals, terrorism, ecological conditions, corruption, food insecurity, and diseases and, most recently, the ravaging of the African continent and the steady rise of African refugees along the Mexican-American borders. Although proactive strategy, determination and concerted efforts remain paramount in addressing the growing spate of refugees at the United States' Mexico-American border, African states must step up efforts to respond to the seemingly endless human insecurities in which they have been knee-deep. The city of poverty, unfortunately, is now on the African continent. This is a serious concern, as many of the fleeing African refugees have reported that their decisions to seek refuge and greener pastures abroad have been precipitated by the need for them to be able to meet basic economic needs such as food, shelter and housing. Most significantly, for a pragmatic and unambiguous examination, the organizational shortcomings and definitional loose ends of the Geneva Convention found in the preceding study must be revisited. This will encourage the United Nations and the signatories to the Convention, while making it applicable to the demands of the 21st century, to tighten the loose ends and grey areas in the Convention.

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