
PROTECTION OF REFUGEES AND OTHER DISPLACED POPULATIONS IN NIGERIA: EXAMINING INTERGOVERNMENTAL COLLABORATIONS BETWEEN NIGERIA AND CANADA

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INTRODUCTION

“Sanctuary! They cried”

The familiar cry of victims of persecution all over the world, since the dawn of civilization. The right to seek sanctuary is one of civilizations oldest principles. Throughout history, persons fleeing danger have sought refuge in the arms of strangers. From the Ancient Greeks, to the Aztecs, through Judaism to Islam, people have welcomed the persecuted stranger and given him asylum.

However it was only in the twentieth century after two world wars, that the world took a united stand in protecting the rights of refugees. The 1951 Convention relating to the status of refugees is regarded as the first legally binding instrument that provided for international refugee protection. However, it was actually a revision and consolidation of other international treaties that had hitherto provided for refugee protection.²

Refugee protection as a basic human right has found recognition in several international human rights instruments including the Universal Declaration of Human Rights (UDHR). Article 14 of the UDHR states that *“Everyone has the right to seek and to enjoy in other countries asylum from persecution.”* But perhaps the Grund Norm for international refugee protection remains the United Nations 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees. These instruments guide national legislation concerning political asylum, definition of refugees and even criteria for exclusion from refugee protection.

Under these instruments, a refugee is a person, outside their own country's territory (or place of habitual residence if stateless) owing to fear of persecution on protected grounds. Protected grounds include race, nationality, religion, political opinions and membership of a particular social group. Refusing to grant victims of persecution refugee and returning them to areas

² Preamble of the Convention relating to the status of refugees Art 33, Apr. 22, 1954, 189 U.N.T.S. 150

where they will or are likely to face persecution is a particularly odious violation of a principle called non-refoulement, enshrined in the 1951 Convention³.

Regional instruments such as the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa extended the definition of refugees to include victims of generalized violence hitherto not covered by the UN 1951 Convention and 1967 protocols. This innovation has served to protect refugee across Africa who have been victims of wars and armed conflict thereby ensuring that refugees are not forced to return to areas where they may likely face harm.

A person will have a valid claim for international refugee protection if there is evidence to that he suffers a well-founded fear of persecution and his country of origin is unable and unwilling to protect the victim or are possibly the agents of persecution themselves.⁴

Nigeria and Canada have been key players in the protection and promotion of refugee rights the world over. Both countries have signed and ratified the 1951 Convention relating to the status of refugees as well as the 1967 Protocols. Nigeria has also ratified and domesticated the OAU 1969 Convention relating to specific refugee problems in Africa. Both countries are also donors to the United Nations High Commissioner for Refugees (UNHCR) and play active roles in maintaining peace and security across the globe including providing humanitarian assistance.

As key players, there is a need to examine the extent of their collaborations with regards humanitarian assistance, refugee protection including prevention, promotion and protection or refugee rights as well as the prospects for this collaboration.

³ Convention relating to the Status of Refugees, 1951 art. 33, Apr. 22, 1954, 189 U.N.T.S. 150

⁴ Article 1 of the Convention as amended by the 1967 Protocol

REFUGEE PROTECTION IN NIGERIA AND THE NATIONAL COMMISSION FOR REFUGEES, MIGRANTS AND INTERNALLY DISPLACED PERSON

Nigeria has ratified and domesticated international and regional instruments for refugee protection. This includes the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. She has also successfully domesticated international and African refugee conventions into the National Commission for Refugees Act (NCFR Act).⁵

The NCFR Act provides the legal and administrative framework for refugee management. It also sets out guidelines for application and determination of refugee status in Nigeria. In 2011, Nigeria acceded to the 1954 Convention Relating to the Status of Stateless Persons, the 1961 Convention on the Prevention and Reduction of Statelessness and in May 2012, She acceded to the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).

Central to the implementation of these legal instruments is the **National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI)**, established by Decree 52 of 1989 (now Cap. No. 21, LFN, 2004). The functions of the Commission as provided in Section 4 (1) of the NCFR Act are:

- (i) To lay down general guidelines and overall policy on issues relating to refugees and persons seeking asylum in Nigeria;
- (ii) To advise the Federal Government on policy matters in relation to refugees in Nigeria;
- (iii) To consider such matter as the Secretary to the Government of the Federation may, from time to time refer to it.

⁵ Chapter 21 Laws of the Federation of Nigeria 2004

The NCFR Act incorporated the 1951 United Nations Convention relating to the status of Refugees, its 1967 Protocol and the 1969 OAU Convention governing specific aspects of Refugees problems in Africa and they, together form the guide to the protection and management of asylum seekers and refugees in Nigeria. The mandate of the NCFR was further expanded by the Federal Government in 2002 to cover Internally Displaced Persons as well as other vulnerable persons and in 2009 to cover issues relating to Migration.

The role of the Commission in delivering its mandates is not limited to providing protection, care and maintenance to refugees, asylum seekers and internally displaced persons (IDPs) but also includes devising long term solutions to the problem of displacement. The various units and divisions under the Commission coordinate issues of Refugee Status Determination (RSD), Protection, Migration, Community Services and Internal Displacement.

In collaboration with the United Nations High Commissioner for Refugees (UNHCR) in Nigeria, the Commission has achieved giant strides in the field of refugee protection by ensuring that the entire process of application, grant or refusal or refugee status is carried out expeditiously. Asylum seekers are catered for by the Commission pending the determination of their applications and in the event of denial they have an opportunity to appeal the decision to an Appeal Board constituted under the NCFR Act following its laid down procedure.

As of December 2014, there were 400 refugees and 573 asylum-seekers registered in Nigeria.⁶ There was a significant reduction in the number of refugees after the cessation clause for the Liberian refugees came into effect, as it applied to about 60% of the refugee population. Other refugee nationalities include Cameroonians (living in rural communities); Congolese (DRC); Chadians, Ivoirians and Sudanese. The majority of the asylum-seekers originate from the DRC and Chad, recently Central African Republic and Eritrea.

⁶ NCFRMI Quarterly report to the Office of the Minister of Special Duties

Other programmes of the Commission include legal protection as well as assistance such as basic necessities, shelter, health, and empowerment for self-reliance of its persons of concern in collaboration with other MDAs, States and Local Governments, the UN Agencies, local and international NGOs, CBOs, celebrities and other professional bodies. Policy development and review, ratification and domestication of policy legal documents at the National, Regional and International levels; such as the proposed **amendment** of NCFR Act, the proposed **IDP policy** which is being reviewed by the Attorney General of the Federation (AGF), the domestication of the **AU Convention on the protection and assistance of IDPs 2009** and the two Conventions on statelessness of 1951 & 1964 respectively all before the Attorney General of the Federation awaiting presentation to the Federal Executive Council.

Perhaps the most relevant activity of the Commission in the context of this paper is its partnerships and collaborations. As significant as the activities of NCFR with regards humanitarian assistance, it is unfortunately one of the most underfunded agencies in the government and relies almost entirely on Federal Government appropriation. It is not tied to any funds and so humanitarian crises are not catered for due to the possible nonexistence of the crises at budgeting.

In light of the above, the Commission places heavy reliance on collaborations with other foreign and domestic organisations to provide financial and technical support in the discharge of its mandate. It has had an exemplary working relationship with the UNHCR which has provided immense support in the area of protection, care and maintenance refugees, asylum seekers and also IDPs.

Organisations such as the International Organisation for Migration (IOM), the Swiss Development Corporation (SDC), and the European Union under the 10th Development Fund, have greatly funded a lot of the Commission's projects in furtherance of the protection of refugees, migrants and IDPs. Other international NGO's such as the International Committee for the Red Cross, Office for the Coordination of Humanitarian Affairs (OCHA), Norwegian Refugee

Council and various other INGO's have provided invaluable support to humanitarian assistance to displaced persons.

INTERGOVERNMENTAL ASSISTANCE COLLABORATIONS – NIGERIA AND CANADA

The 1951 convention and 1967 Protocols are central to international refugee protection. Both Nigeria and Canada are parties to the 1951 Convention and 1967 Protocol⁷ and have displayed an exemplary commitment to their obligations under international law.

Canada's with good reason prides itself as one of the world's leading countries when it comes to refugee protection.⁸ It also boasts of providing protection to those who make refugee protection claims in Canada, resettles refugees from abroad and takes part in international actions to help prevent refugee situations from developing.⁹

In response to refugee situations the government of Canada has laudably initiated what it terms a "whole-of-government" approach in response to the problems of protracted refugee displacement. This initiative has been commended across international communities for its industry in addressing refugee matters.

CANADA'S "WHOLE –OF- GOVERNMENT" APPROACH

Given the complex nature of issues surrounding refugees and forced displacement and the government of Canada's commitment to humanitarian assistance, it designated several departments within the Government of Canada the task of developing appropriate policy and programming to meet the needs of refugees. The Foreign Affairs and International Trade Canada (DFAIT), the Canadian International Development Agency (CIDA), Citizenship and Immigration Canada (CIC) and the Canada Border Services Agency (CBSA) each play an

⁷UNHCR, Global Insight digital mapping © 1998 Europa Technologies Ltd.

⁸ Canada's role – refugees <http://www.cic.gc.ca/english/refugees/help.asp>

⁹ Id.

important role in refugee protection.¹⁰ A whole-of-government approach has been defined as “Public service agencies working across portfolio boundaries to achieve a shared goal and an integrated response to particular issues.”¹¹

In the pursuit of durable solutions for displaced persons to which Canada had long been a part of, February 2007 saw the creation of an Interdepartmental Working Group on Protracted Refugee Situations.¹² They were charged with the responsibility of helping Canada devise a means to respond to challenges of protracted displacement. The Working Group reviewed past efforts to resolve protracted refugee situations in order to learn from their successes and shortcomings, academics and civil society representatives we also invited to add valuable expertise and perspectives to the discussion and devise a long term strategy to protracted refugee situations.¹³ This process gave rise to the government of Canada’s policy on response to protracted displacement also known as the “whole-of-government” approach. This essence of the approach is to reflect on its areas of expertise in three key areas – diplomacy, development and refugee resettlement, which are inter-related elements of a Canadian contribution to solving the challenges of protracted displacement.

DIPLOMACY: DFAIT is mandated to ensure that Canada’s foreign policy reflects Canadian values and advances Canada’s national interests. As protracted refugee situations are characterised by protection risks, human rights violations and basic human dignity issues, promoting durable solutions for refugees in protracted situations is consistent with Canada’s long-standing humanitarian interest in protecting and assisting refugees. Efforts to promote a rights-based approach and encourage countries both of origin and of asylum to respect their obligations under international humanitarian, human rights and refugee law comprise a fundamental aspect of Canada’s foreign policy.

¹⁰ Adele Dion, Protracted Displacement, Comprehensive Solutions: A “whole-of-government” approach

¹¹ Australian Public Service <http://www.apsc.gov.au/apsinduction/module-4/what-is-whole-of-government>

¹² Id N(9)

¹³ Id

Furthermore, Canadian officials have actively sought to highlight protracted refugee situations internationally. They have emphasised that securing durable solutions to these long-standing situations should be of paramount importance, while democracy, human rights and rule of law should be at the heart of long-term efforts to prevent massive refugee outflows and be central components of their eventual resolution.

In addition, Canada pursues diplomatic dialogue on refugee issues with host governments and with the countries of origin on return and reintegration, has taken a leadership role in core groups focused on specific protracted situations (including the Core Group on Bhutanese Refugees in Nepal), and has highlighted protracted refugee situations in the UN General Assembly and within the Organization of American States. It also actively engages in UNHCR's Working Group on Resettlement.

Canada recognises that diplomatic dialogue can increase the focus on protracted refugee situations in multilateral discussions on peacebuilding, post-conflict reconstruction, early recovery, development and human rights. It also recognizes the importance to supporting reform within the UN, encouraging improved collaboration of humanitarian response and addressing the gap between relief and development.¹⁴

CANADIAN-NIGERIAN RELATIONS

As of today there is hardly any collaborative relationship between Nigeria and Canada when it comes to humanitarian response. Both countries entertain similar ambitions when it comes to protecting displaced populations and there is a need to harmonise such responses.

Canada receives a significant amount of asylum applications from Nigerians seeking asylum in Canada. In fact in the first six months of 2013, the Canadian Immigration and Refugee Board (IRB) received 178 claims from Nigerian citizens seeking asylum in Canada for fear of

¹⁴ Id.

persecution, violence or discrimination, yet the Canadian Council for Refugees Executive Director, Janet Dench, described the number as a “shocking” decline in the number of applications it usually received from Nigerians.¹⁵

Evidently, there is a need for more effective collaboration between the Nigerian government through its agency the National Commission for Refugees, Migrants and Internally Displaced persons, and the Government of Canada to address issues of refugee management especially as it relates to enabling and strengthening response to humanitarian assistance and preventing refugee situations.

The growing numbers of IDPs in Nigeria, as a result of the Boko Haram insurgency and several other cases of armed violence across the country, has created a vast number of internally displaced persons and even refugees. According to the UNHCR in a report dated November 2014, the number of Nigerian refugees in neighbouring Cameroun was about 13,000 in number¹⁶ and as of April 2015, the Internal Displacement Monitoring Centre (IDMC) estimated that 1,538,982 people had been forced to flee their homes in Nigeria and are still living in internal displacement.¹⁷

Addressing the gap between relief and development is of paramount importance. To achieve this however, a united and decisive commitment to humanitarian assistance is required from all state actors to enable post-conflict construction, peace building, and the protection and promotion of human rights in Nigeria.

¹⁵ Number of asylum claims reduces dramatically after Ottawa releases “safe” list <http://news.nationalpost.com/news/canada/number-of-asylum-claims-drops-dramatically-after-ottawa-releases-list-of-safe-countries>

¹⁶ Boko Haram attacks in Nigeria force 13,000 to flee to Cameroun <http://www.unhcr.org/546228896.html>

¹⁷ Nigeria IDP Figure analysis, <http://www.internal-displacement.org/sub-saharan-africa/nigeria/figures-analysis>