



COMPARATIVE ANALYSIS OF REFUGEES AND THE APPLICATION OF HUMAN RIGHTS AND HUMANITARIAN LAW BETWEEN NIGERIA AND RUSSIA

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COMPARATIVE ANALYSIS OF REFUGEES AND THE APPLICATION OF HUMAN RIGHTS AND HUMANITARIAN LAW BETWEEN NIGERIA AND RUSSIA

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Abstract

In a world increasingly shaped by displacement, the treatment of refugees has become a litmus test for states' commitment to human dignity and international law. Refugees, often escaping violence, political persecution, or environmental collapse, seek safety in lands not their own, hoping for a semblance of stability. While international legal instruments provide a framework for refugee protection, states' practices vary widely. This article looks at the element of determination of Refugee status under international provisions, Refugee protection under international refugee law United Nations High Commissioner for Refugees (UNHCR) as well as international Instrument for the protection of Refugees. This article also presents a comparative analysis of how Nigeria and Russia implement human rights and humanitarian law in relation to refugees, shedding light on the intersection of law, policy, and the human experience. This article recommended that both nations must strengthen cooperation with civil society and international bodies like the UNHCR.

Key words: Refugee, Asylum, IDP, and Non-refoulement

Introduction

Refugees and Internally Displaced Persons (IDPS) are vulnerable persons that require special protection under the law. Refugees have rights. Apart from the rights that are peculiar to refugees, like the right of non refoulement, refugees enjoy the same rights under the law, like the nationals of the country where they have been given refuge. Under International Human Rights/Humanitarian law and your domestic law, refugees have human rights that are enforceable before domestic Courts and International Courts and Tribunals. Refugees are usually compelled to flee from their countries, homes and livelihoods, across internationally recognized State borders under serious threats to their lives and liberties, mass violations of human rights and on well-founded fear of persecution for reasons of race, religion, nationality, and membership in a particular group or political opinion. Very often, they are victims of armed conflict, civil strife, famine, natural or man-made disasters.

It is therefore obvious that there is a link between refugees and human rights. Refugees are very often at risk of human rights abuse, or mass violations of human rights, and are therefore entitled to international and domestic protection. The links between the protection of human rights and the protection of refugees was well outlined by Prof M. T. Ladan in the following words:

Frist in most cases the reasons underlying refugees' movements relate to violations of internationally recognized human rights. Whether people flee persecution directed at them as individuals, as members of ethnic minorities, religious or linguistic groups, or as a result of civic disorder

and armed conflict, it is the threat to their life and liberty which forces them to flee across international borders. Second, the right of people to leave their countries and seek asylum abroad is one of the fundamental rights in the 1948 Universal Declaration of Human Rights (UDHR). Third, the right of those genuinely at risk not to be forcibly returned to a country where their human rights will be violated (non-refoulement), is also a fundamental human right and, if this right is respected, it is an effective means of preventing further human rights violations. Fourth, the manner in which refugees are treated in the country of asylum raises many human rights questions, such as arbitrary detention, protection of family life and protection and against racism and discrimination¹.

Since armed conflicts usually give rise to Refugees and IDPs International Humanitarian law has been developed to protect persons who are victims of armed conflict and to Insure that they are treated humanely. “It consists of a set of rules which seek for humanitarian reasons, to limit the effect of armed conflict. It protects persons who are not or gape no longer participating in the hostilities and restricts the means and methods of warfare. International humanitarian law is also known as the law of war or the law of armed conflict.

International Humanitarian law is part of International law which is the body of rules

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¹ M. T. Ladan, *Introduction to ECOWAS Community l.aw and Practice Integration. Migration Human Rights. Access to Justice, Peace and Security*”

governing relations between States. International law is contained in agreements between **States**- treaties or conventions - in customary rules which consist of state practice considered by them as legally binding and in general principles. A major part international humanitarian law is contained in the four Geneva Conventions of 1949 and the Additional Protocols of 1977 relating to the protection of victims of armed conflict².

It is crystal clear that human rights are inalienable rights inherent in every human being by virtue of being born and that it is intrinsic in humanity. In its preamble, the United Nations Universal Declaration of Human Rights states that the “*recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world*” In the decades after the Second World War, the International Community has made concerted efforts to protect the human rights of Refugees and Internally Displaced Persons IDPs. One of the measures was the establishment of the office of the UNHCR in 1951. Conventions and Protocols have been adopted by the United Nations and other Regional Organizations, many of which, have been ratified, domesticated or incorporated into national laws. State Parties have also enacted national Laws to protect the rights of refugee. Many of these laws are rooted in the International Conventions and Protocols. Refugee Law has therefore become a new field of law which is anchored on Treaty Law, International Human Rights and Humanitarian Law. We therefore have International Refugee Law and Domestic Refugee Law.

At the International level, Refugee Law is governed by the 1951 UN Convention Relating to the Status of Refugees and the 1967 UN Protocol Relating to the Status of Refugees. These two international instruments are the principles upon which the concept of the law of Refugees is based. At the African Regional level, we have the 1969 African Union Convention Governing

² ICRC Advisor Service on International Humanitarian law.

the Specific Aspects of Refugees Problems in Africa. We also have the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). At the West African sub-regional level, there is the ECOWAS Common Approach on Migration. Finally, under the Nigerian domestic law, we have the National Commission for Refugees, Etc Act. This Nigerian nation law incorporates the 1969 African Union Convention on Refugees and the UN Convention and Protocol on the Status of Refugees.

These international instruments and national Act define the concept of Refugees and Internally Displaced Persons, and established the criteria for the determination of Refugee status. In fulfillment of its international obligations Nigeria ratified the 1951 Convention Relating to the Status of Refugees on 23rd October, 1967 while its 1967 Protocol relating to the Status of Refugees was ratified on 2nd May, 1968. Also the Convention Governing the Specific Aspects of Refugee Problems in Africa was ratified by Nigeria on 23rd May, 1986. All over the world, International Courts and Tribunals and Domestic Courts are making important judicial pronouncements in protecting the rights of Refugees and IDPs under the law.

There is no doubt that Nigeria complies with its treaty obligations under these international instruments by admitting and providing refuge and protection lot Refugees. We can readily cite the examples of the Liberian and Sierra- Lconcan Refugees that were given asylum during the civil wars in those two sister West African States. By October, 1991 Nigeria had admitted 671 refugees from Liberia and subsequently over 4,000 more refugees from that country. After peace was restored in Liberia, over 3.000 Liberian refugees were voluntarily repatriated back home.

Definition of Refugees and Internally Displaced Persons /Refugees

The 1951 Convention Relating to the Status of Refugees defines the term 'refugee' as:

Applying to any person who as a result of events occurring before 1st January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion is outside his/her country of origin and is unable, or owing to such fear, is unwilling to avail him/herself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events is unable or, owing to such fear, is unwilling to return to it.

The emergence of conflicts after 1st January 1951 initiated a flow of new refugees who could not claim or benefit from the protection of the Convention Relating to the Status of Refugees. In 1967, the UN Protocol Relating to the Status of Refugees included in the definition of ‘refugee’ laid down in Article 1 of the Convention, *Jo any persons to whom it otherwise applied*. Article 1 (2) of the African Union Convention Governing the Specific aspects of Refugee Problems in Africa, a Regional Treaty adopted in 1969, added to the definition found in the 1951 Convention to include a more objectively based consideration, namely; any person compelled to leave his/her country owing to external aggression, occupation, foreign domination or event seriously disturbing public order in either part or whole of his/her country of origin or nationality. The AU Convention complements rather than duplicates the 1951 Convention. Apart from the broad refugee definition, the AU Convention regulates the question of asylum³. It also contains important provisions on voluntary repatriation⁴ and on the prohibition of subversive activities by refugees⁵.

³Article 2 African Union Convention Governing the Specific aspects of Refugee Problems in Africa.

⁴ Article 4 African Union Convention Governing the Specific aspects of Refugee Problems in Africa.

⁵ Article 3 African Union Convention Governing the Specific aspects of Refugee Problems in Africa.

In 1984, a colloquium of Latin Government representatives and jurists adopted the Cartagena Declaration. Like the AU Convention, the declaration adds a more objectively based consideration to the 1951 Convention refugee definition to include: Persons who flee their countries *'because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order'*.

Internally Displaced Persons (IDPs)

The list Guiding Principles on Internal Displacement and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) have the same definition of Internally Displaced Persons. Article 1 (k) of the Kampala Convention defines IDPs as “persons or group persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border”.

Article 14 of the AU Convention provides that every internally displaced person has the right to liberty of movement and freedom to choose his or her residence and has the right to move freely in and out of camps or any other settlement. Article 15 of the AU Convention provides to the IDPs the rights to seek safety in any part of the country; leave their country; seek asylum in another country; and be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.

Determination of Refugee Status under International Instruments and the National Commission for Refugees Act

The criteria for determining refugee status are a set of international rules for the guidance of the contracting states- as given by the 1951 Convention and the 1967 Protocol. To qualify as a Refugee an Applicant must satisfy the conditions set out in the definition of Refugee under the 1951 UN Convention. Determination of a refugee status is a process, which takes place in two stages; firstly at the entry point and secondly, after gaining admission into the country. At the first stage it is necessary to ascertain the relevant facts of the case probably at the border or entry point of another country. The second stage consists of three elements for the determination of refugee status. These are:

- a. The Inclusion clauses
- b. The Cessation clauses and
- c. The Exclusion clauses

These are international provisions upon which municipal procedures and determination of refugee status should be based.

The Three Elements of Determination of Refugee Status under the International Provisions

The Inclusion clauses: these clauses define the criteria which a person must satisfy in order to be a refugee. They form the positive basis upon which the determination of refugees status is made. These positive bases are:

- i) Well-founded fear;
- ii) Persecution;
- iii) Reasons of: Race; Religion; Nationality; Membership of a particular social group and Political opinion.
- iv) Outside the country of origin.

The inclusion clause is the criterion that qualifies a person for refugee status under the

1951 Convention. The concept of inclusion clauses is well represented by the Niger an case of *Yalinde Bofia Regime: See* NCFR/AR/(1 993); EC-Case of Political *Opinion*⁶.

The cessation clauses: the cessation clauses as well as exclusion clauses have a negative significance. Cessation clauses indicate the conditions under which a refugee ceases to be a refugee. A person ceases to be a refugee when he:

- i. Re-avails himself of protection in his home country (i.e. voluntary repatriation);
- ii. Acquires a new nationality from another country;
- iii. Re-acquires a nationality;
- iv. Re-establishes in the country which he left;
- v. Finds the situation in his home country fundamentally changed.
- vi. Re-establishes in the country of his former habitual residence being a person who has no nationality⁷.

This case was based on cessation clauses by the Eligibility Committee when it held that ‘since Mrs. Jones was able to survive the Liberian war for 3 years, and had been in Nigerian refugee camp for months, she should not be seeking for asylum or Refugee status in Nigeria when others are applying for voluntary repatriation to Liberia because the Liberian situation had fundamentally changed⁸.

The exclusion clauses: the exclusion clauses enumerate the circumstances in which a person is excluded from the application of the 1951 Convention although he meets the positive criteria of the inclusion clauses. The following refugees fall under exclusion clauses:

- i) Persons who are already receiving assistance from other UN Agencies e.g. Palestine Stateless Persons.

⁶ Ibid

⁷ See Asheru Jones case (1994) NCFR/JHO/CH)98/IEC

⁸ Ibid

- ii) Persons who have in the country of residence the rights and obligations attached to the possession of citizenship,
- iii) Persons who do not deserve protection⁹.
- iv) Persons who committed crimes against humanity.
- v) Persons who committed serious nonpolitical crime prior to their admission into the country of asylum.
- vi) Persons who committed crimes against the purpose and principles of the United Nations¹⁰.

Refugees Protection under International Refugee Law *United Nations High Commissioner for Refugees (UNHCR)*

In its resolution 319 A (IV) of 3rd December 1949, the J General Assembly decided to establish the Office of the United Nations High Commissioner for Refugees. The office was set up as a subsidiary organ of the General Assembly in January 1951, initially for a period of three years. According, to Article 10(f) the Statute of the Office, the main task of the High Commissioner is to provide international protection to refugees and to seek durable solutions for refugees by assisting Governments to facilitate fee voluntary repatriation of refugees, or their integration within new national communities. The High commissioner's function is qualified as 'entirely non-political' and 'humanitarian and social'. The functions of the High Commissioner are as set out in the Statute.

The present concept of international protection has Involved gradually and today implies a series of international Hand legal responses. Protecting refugees and making durable [solutions to their problems are the two main functions of the United Nations. High Commissioner for

⁹ For example War criminals. See suspected Rwandan war criminal **Joseph Nzirorera** & Others (NCFR)/HQ/098/EC.p. 197).

¹⁰ Ibid

Refugees. In practical terms, the task of international protection includes the prevention of refoulement, assistance in the processing of asylum seekers, providing legal counsel and a promoting arrangements for the physical safety of refugees promoting and assisting voluntary repatriation, and help refugees to resettle. Thus, the international protection function has a legal basis¹¹, and its exercise is mandatory to the High Commissioner. The right to protection, although not defined as a separate right as such, is implicit in 1951 Convention and its fundamental provision particularly the principle of non-refoulement.

Gender-Based Persecution

The International Refugee Law has for quite some acknowledged gender related forms of persecution. In the UNIICR Executive Committee issued a conclusive which that States, in the exercise **of the** Sovereignty, were free to adopt the interpretation that women asylum seekers who face harsh or inhuman, treatment due to their having transgressed the social more of the society in which they lived, may be considered as a particular social group” within the meaning of Article paragraph 2 of the 1951 UN Convention Relating to the Status of Refugees¹² 11. The 1998 Rome Statute of the of the Criminal Court, for the first time, codified gender-based persecution as a crime against humanity. This has established a close link between the development of international Refugee Law and International Criminal Law respect to gender based aspects of persecution¹³. There are two significant points to note here. The first is that - can seek asylum on account of gender based perpetrators while the second is that asylum seekers who Jpetrators of gender-based crimes against humanity be excluded, under the exclusion clause. This explains any African woman can seek asylum in the Western world the ground that she will be “forced” in Africa to concise her girl child.

¹³ Article 7 (.1) (g) (h) and (3) of the Rome Statute of the ICC.

Asylum

The initial measure by State Parties is to receive refugees to have fled across internationally recognized State and to grant them refugee to have and asylum after due process. Article 2 of the AU Convention Governing the specific Aspects of Refugees Problems in Africa provides follow a Mows; in respect of asylum

1. Member States of the OAU shall use their best, endeavours consistent with their respective legislations to receive refugees and to secure the settlement of those refugees who, for well-founded reasons, are unable or unwilling to return to their country of origin or nationality.
2. The grant of asylum to refugees is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any Member State.
3. No person shall be subjected by a Member State to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in Article 1, paragraph 1 and 2.
4. Where a Member State finds difficulty in continuing to grant asylum to refugees, such Member State may appeal directly to other Member States and through the OAU, and such other Member State shall in the spirit of African solidarity and international cooperation- take appropriate measures to lighten the burden of the Member State granting asylum.
5. Where a refugee has not received the right to reside in *i* any country of asylum, he may be granted temporary residence in any country of asylum in which he firs 'll presented himself as a refugee pending arrangement | for his resettlement in accordance with the

preceding paragraph.

6. For reasons of security, countries of asylum shall, for as possible, settle refugees at a reasonable distance from the frontier of their country of origin¹⁴”.

International Instruments for the Protection of Refugees

Notable international instruments for the protection of the rights of refugees and IDPs include the following:

- a. UN Convention Relating to the Status of Refugees 1951
- b. UN Protocol Relating to the Status of Refugees 1967
- c. AU Convention Governing the Specific Aspects of Refugees Problems in Africa 1969
- d. African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)
- e. Geneva Conventions Relative to the Protection of Civilian Persons in Time of War 1949
- f. African Charter on Human and Peoples’ Rights 1981.
- g. International Covenant on Civil and Political Rights.
- h. International Covenant on Economic, Social and cultural Rights. ECOWAS Common Approach on Migration.
- i. ECOWAS Protocol on Free Movement.

In addition, universally recognized human rights are directly applicable to refugees, these include the right to life, protection from torture and ill-treatment, the right to a nationality, the right to freedom of movement, the right to leave any country, including one’s own, and to return to one’s own, and the right not to be forcibly returned. These rights are affirmed, among other

¹⁴ See also Article 12 of the African Charter on Human and Peoples’ Rights

civil, political, economic, social, and cultural rights, for all persons, citizens and non- citizens alike, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights which together make up the International Bill of Human Rights.

Non-refoulement

A central element of international protection is the to be forcibly returned or expelled to a situation threat on one's life or freedom. This is the principle non-refoulement finds further expression in Article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which stipulates that "No State Party shall expel return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture¹⁵". Furthermore, "for the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights¹⁶". See also Article 2 (3) of the 1969 AU Convention and Article 1 (1) of the National Commission for Refugees Act.

Protection of Refugees and IDPs in Humanitarian Law Refugees in Armed Conflict Situations

In situations of armed conflict to which the Geneva Conventions of 1949 and their additional Protocols of 1977 apply, refugees and stateless persons are recognized as, requiring

¹⁵ Paragraph.2 of the Convention

¹⁶ Paragraph.2 of the Convention. Fact Sheet No. 20, office of the UNHCR

special protection and treatment. This issue is specifically dealt with in Article 44 of the Fourth Geneva Convention of 1949 and Article 73 of the Additional Protocol 1 of 1977. In situations of international armed conflict, refugees and stateless persons are protected| persons within the meaning of Parts I and III of the Fourth Geneva Convention, in all circumstances and without any adverse distinction. In conflicts not of an international character, Article 3 which is common to the four Geneva Conventions of 1949 states that persons taking no active part in the hostilities must be treated humanely in all circumstances, and without any adverse distinction, by the parties to the conflicts. Additional Protocol II of 1977 offers specific measures of protection for the civilian population, in which refugees can be included. Article 17 (2) states that: ‘civilians shall not be compelled to leave their own territory for reasons connected with the conflicts’¹⁷.

Rights of IDPs

Principle 1(1) of the Displacement provides that: UN Principles on Internal

“Internally Displaced Persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced”.

Principle 2 provides that:

“these Principles shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction. The observance of these Principles shall not affect the legal status of any authorities, groups or persons involved. These principles shall not be interpreted as restricting, modifying or impairing the

¹⁷ Ibid M. T. Ladan

provisions of any international human rights or international humanitarian law instrument or rights granted to persons under domestic law. In particular, these Principles are without prejudice to the right to seek and enjoy asylum in other countries”

State Parties Responsibilities for IDPs

According to Principle 5 of the UN Guiding Principles on Internal Displacement, all authorities and international actors must always abide by human rights and humanitarian law to prevent and avoid conditions that might lead to displacement of persons. In addition, the right to be; protected against being arbitrarily displaced from a person's] place of habitual residence is prohibited under Principle 5 (1).

African Union Convention Governing Specific Aspects of Refugee Problems in Africa

The Convention Governing the Specific Aspects of Refugee Problems in Africa was necessitated by the increasing number of refugees in Africa and as such a way of] alleviating the suffering as well as providing a better life and future was absolutely important. It addressed the issues' of asylum; prohibition of subversive activities; non-¹ discrimination; voluntary repatriation; travel documents? cooperation of the national authorities with the AU Cooperation with the office of the UNHCR; settlement of disputes; and signature and ratification inter alia.

Rights and Duties of Refugees

It is significant to note that Section 15 of the Act incorporates the 1951 UN Convention/1967 Protocol and the 1969 AU Convention. It provides that every person granted a

Refugee Status in Nigeria, shall be entitled to the rights and subject to the duties contained in:

- a) the articles of the United Nations Convention Relating to the Status of Refugees set out in the First Schedule to this Act;
- b) the Protocol Relating to the Status of Refugees of 31st January, 1967 set out in the Second Schedule to this Act
- c) the Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, set out in the Third Schedule to this Act; and
- d) any other laws in force in Nigeria.

Relevant Officials and Structures under the National I' Commission for Refugees

Section 3 of the Act establishes the National Commission for Refugees under the supervision of the Secretary to the Federal Government. The composition of the Commission is as prescribed there under. Section 4 (1) of the Act spells out the junctions of the Commission. The Federal Commissioner for Refugees is appointed by the President under Section 5 of the Act. He is the official who is authorized by the Act to *inter alia grant refugee status to ^applicants on the recommendations of the Eligibility Committee constituted pursuant to Section 6 (1) of the Act*; Section 6 of the Act establishes the Eligibility Committee for Refugees under the supervision of the Federal Commissioner.

Under Section 6 (2) of the Act, the functions of the committee are, *inter alia* to process and consider applications for refugee status and recommend such |applicants that qualify for that status to the Federal Commissioner. Section 7 (1) of the Act establishes the Appeal Board which shall consist of three legal officers to be appointed by the Secretary to the Federal Government J after consultation with the Attorney-General of the Federation and Minister of Justice, at least

one of whom shall be a person with adequate knowledge in international and comparative law. Section 7 (2) of the Act further provides that “the representative of the United Nations High Commissioner for refugees in Nigeria may be invited to the proceedings of the Board and shall have the right to make oral or written representations on behalf of any person concerned in any appeal that is being heard by the Board.” Under this section the Board is empowered to hear appeals against the decisions of the Eligibility Committee on cases referred to it by the Secretary to the Federal Government or the Federal Commissioner. Section 8 of the Act prescribes the procedure for seeking refugee status in Nigeria.

Some Decisions of the Eligibility Committee/Refugee Appeals Board in Respect of Applications for Refugee Status

Inclusion Clauses

The Eligibility Committee and Appeal Board established under the National Commission for Refugees Act, have been quite active and have processed numerous applications for Refugees status in Nigeria. The Committee in making its recommendations for the grant of Refugees status has followed the international guidelines based on well-founded fear of persecution embodied in the inclusion, cessation and exclusion clauses. Some grants of Refugee status were based on compassionate and humanitarian grounds or benefit of doubt, danger to life or war and violence. Please see the following examples.

Cases granted based on fear of persecution for political opinion:

- a) *In Yalinde Bofia Regine (1993) NCFR/AR. Appx B1, Pg 19*, the Eligibility Committee recommended her for a grant of Refugee Status on compassionate and humanitarian grounds and under the inclusion clauses accordance with the 1951 Convention provisions.
- b) *In James Magaya & Family (1993) NCFR/AR/Appendix B2, p. 20-21*, the Eligibility

Committee believed his story and recommended him and his family for the grant of Refugee Status.

- c) In *Laufa MPO. Beatrice* (1994) *NCFR/HQ/C/098/1/EC p.37*, the Eligibility Committee recommended the applicant for Refugee Status based on her fear of persecution.
- d) In *Ahmed Dafalla* (1994) *NCFR/HQ/C/098/1/EC/p.40*, the Eligibility Committee agreed with his story and recommended him for Refugee Status based on his well-founded fear for persecution for political opinion.
- e) In *Cee Harrington Harmon* (1994) *NCFR/MQ/C/098/1/EC. P.40*, the Eligibility Committee took judicial notice of the political violence and events going on in Liberia at the time he arrived and recommended for Refugee Status.
- f) In *Mohammed Garad Hussed* (1994) *NCFR/HQ/C/098/1/EC p.17*, the Eligibility Committee observed the political scenario of Somalia at that time and recommended him for Refugee Status for fear of persecution for political opinion.
- g) In *Lo 'Dinot Yelowo Wani* (1992) *NCFR/AR/Appendix B3 p.13*, cognizance was taken of the situation in Sudan and he was recommended for Refugee Status for fear of political persecution.

Cases granted as a result of danger to life

Moluka Bapeli (1992) *NCFR/AR/Appeal case No.016/92*, Mrs. Dehjoryon Tiah (1995) *NCFR/HQ/C/098/1/EC p. 192*, Mrs. Lusu Dubor (1994) *NCFR/HQ/C/098/1/EC p.192*.

Cases granted as a result of wars and violence

- a) Khadijah Sarnoh (1994) *NCFR/HQ/C/098/1 /EC p. 11*,
- b) Patrick Velemee (1994) *NCFR/HQ/098/1/ECp.25*,
- c) Ami Tuley (1994) *NCFR/HQ/C/098/1/EC p.32*,

- d) Sia Sundu Loise (1994) NCFR/HQ/C/098/1/EC p.33, '
- e) Rwankadingi Djambo (1994) NCFR/HQ/C/098/1/EC: P-39,
- f) Amodu S. B. Konneth (1994) NCFR/HQ/C/098/1/EC p. 39.

Cases granted based on benefit of doubt¹⁸

- a) In *Ayodele Cole* (1994) NCFR/HQ/C/098/1/EC p.180, the Eligibility Committee having taken judicial notice of the political problems in Sierra Leone decided to extend the principle of benefit of doubt over his case. See also.
- b) In Mahamat Abdoulaye (1993) NCFR/AR/Appendix C.p.22, Although, the appellant had not made any case under the 1951 Convention, the 1967 Protocol and the 1969 OAU (AU) Convention to enable him to be granted Refugee Status, the Appeal Board gave the appellant the *benefit of doubt* ' and granted him Refugee Status. Moluka Bapeli (Supra), the Appeal board found that the reason the Eligibility Committee gave for refusing to grant the appellant refugee status was that he intended to re-settle in Canada hereafter and held the decision unreasonable in their view. The Appeal Board disagreed and recommended the Appellant for Refugee Status under Section 7 (4) of the 1990 Act.

Exclusion Clauses

- a) Mr. & Mrs. Pathmajejeyan (1992) NCFR/AR/Appendix B.P Appeal case No. 011/92, the Eligibility Committee did not recommend the couples for the grant of Refugee Status because they were employees in Nigeria. The Appeal Board held that the fact that the couple applied late for Refugee Status was not important in the circumstance facing them instead the fear of the couple being persecuted for reasons of political opinion was well-founded. The

¹⁸ After the applicant's genuine effort to substantiate his story, and it is found that his statement lacks evidence, then the concept of benefit of doubt would be applied

Board held that the couple should be recognized as Refugees and granted Refugee Status.\

- b) Mr. Ozowuba Ernie (1994) NCFR/HQ/C/098/1/EC p. 24, the Eligibility Committee stated that his involvement in certain criminal activities caused the revocation of his Refugee Status. Therefore, he was excluded in accordance with the international provisions under the exclusion clauses.
- c) Mrs. Sammy Rosetta (1994) MCFR/HQ/C/098/1/EC P-183, the Eligibility Committee did not recommend her for Refugee Status because it was suspected that she had been recognized as a refugee elsewhere and so should be excluded from enjoying Refugee Status again in Nigeria. It was also discovered that there was peace in Monrovia where she left for Nigeria.
- d) Mrs. Juah Klæ (1995) NCFR/HQ/C/098/1/EC p. 193, the Eligibility Committee suspected that she is a Nigerian and therefore refused to recommend her for Refugee Status because she fell within the exclusion.
- e) Joseph Nziorera and others NCFR/HQ/C/098/1/EC P-197, the four applicants were involved in the 1994 massacres in Rwanda. They were discovered to be making statements (in Cameroun) capable of creating more violence in Rwanda. The Refugee Status was withdrawn in Nigeria and they were later deported.

Cessation Clauses

In Ashetu Jones (1994) NCFR/HQ/C/098/1/EC p.5, the Eligibility Committee observed that she came to Nigeria while there was peace in her country, Liberia and that other Liberian refugees were leaving Nigeria on voluntary repatriation because the Liberian situation has fundamentally **Exchanged**. This case falls under the cessation clauses See also Joshua Zlehwolo (1994) NCFR/HQ/C/098/EC p.7, Maryam Meson Sajery (1994) NCFR/HQ/C/098/1/EC p.5, Moses T Bayec Railey (1994) NCFR/HQ/C/098/1/EC p.10, Wilbert Greenfield (1994)

Participation of the UNHCR

However, it is important to note also that at every stage of the interview, the UNHCR should be represented. If the applicant fails to be granted a Refugee Status by the Appeal Board he can still appeal to the National Commissioner for Refugees who may wish to recommend him further to the Secretary to the Federal Government, otherwise his application may be sent to the UNHCR for final reconsideration as a 'mandate Refugee'. *See an appeal case of a ZAIREAN POLITICIAN (1993) NCFR/AR/ W APPEALBOARD CASE OF POLITICAL PERSECUTION*¹⁹

The Enforcement of Domestic Refugee Law by Nigerian Courts

Under Section 6 (6) (b) of the 1999 Constitution of the Federal Republic of Nigeria, the judicial powers vested in the Courts shall extend, to all matters between persons, or between Government or authority or to any persons in Nigeria and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person. From the above provision, the Courts have extensive powers to determine the civil rights and obligations created by the National Commission for Refugees Act.

Consequently, the role of the Nigerian Courts in respect of the application of the domestic Refugee law, by and large, is dependent on the following:

- a) the application and enforcement by the Nigerian Courts of the National Commission for Refugees Act.
- b) the application by Nigerian Courts of the International Instruments on Refugees

¹⁹ Ibid

incorporated into the Act, which has become domesticated by reason of their incorporation.

- c) the exercise of the power of judicial review by Nigerian Courts, with respect to the exercise of the administrative powers vested in certain officials and organs under the Act.
- d) the enforcement by the Nigerian domestic courts of the human rights provisions contained in the 1999 Constitution of Nigeria and the African Charter on Human and Peoples' Rights (which has been domesticated in Nigeria) with particular reference to the human rights of Refugees and IDPs.

In *Ahmed Allatchi & 243 Ors V. Chief of Army Staff & 4 Ors*²⁰, the Borno State High Court held that the arrest, detention and planned deportation of the Applicants who are Chadian Refugees are illegal, null and void. In affidavit evidence, the Applicants had alleged that if they were deported to Chad, they could be executed because of political persecution by the then Chadian leadership the Court ordered the immediate release of the Applicants and perpetually restrained the Respondents from deporting or expelling the Applicants from Nigeria to Chad Republic.

Enforcement by the ECOWAS Court of Justice

The Community Court of Justice, ECOWAS was established pursuant to the provisions of Article 15 of the Revised Treaty of ECOWAS, and listed in Article 6 of the Treaty as one of the institutions of ECOWAS. Indeed, the Court was referred to in Article 2 of Protocol A/P1/7/91 relating to the Court, as the principal Legal Organ of the Community. The jurisdiction of the Court was prescribed by Article 9 of the 1991 Protocol. The primary mandate of the Court was the interpretation and application of the Revised Treaty and the annexed Protocols and

²⁰ M/64m/92.

Conventions. The Court has exclusive jurisdiction in the interpretation and application of ECOWAS Community texts.

However, following the amendment of the 1991 "Protocol by Supplementary Protocol A/SP. 1/01/05 of January 2005, the Court was for the first time given jurisdiction to determine cases of violation of human rights that occur in any Member State under Article 9(4) of the said Supplementary Protocol. Article 10(d) thereof, gave individuals access to the Court, on applications for relief for violation of their human rights on the conditions that the application shall not be anonymous nor be made whilst the same matter has been instituted before another International f Court for adjudication.

International and regional legal frameworks for Nigeria and Russia

Both Nigeria and Russia are signatories to the 1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol, which form the cornerstone of international refugee law. These instruments define who qualifies as a refugee and outline the principle of non-refoulement, which prohibits returning a refugee to a place where they risk persecution. Russia is also a party to core human rights instruments such as the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT). Nigeria has additionally ratified the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, which expands the refugee definition to include those fleeing generalized violence or events seriously disturbing public order.²¹

²¹ Organization of African Unity. "Convention Governing the Specific Aspects of Refugee Problems in Africa." 1969.

Russia is also a party to other core human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT), both of which place legal restrictions on arbitrary detention, refoulement, and torture.² However, domestic interpretation and implementation of these treaties differ significantly between the two nations.

Domestic Legal Frameworks and Institutions

National Legal Frameworks and Institutions Nigeria domesticated the 1951 Convention through its National Refugee Commission Act, most recently revised in 2021. The National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI) is tasked with the protection, care, and integration of refugees.²²

In contrast, Russia's Federal Law on Refugees (1993) outlines asylum procedures, but the process is heavily bureaucratic, with high denial rates. Russia also provides "temporary asylum" status, a limited protection often applied discriminatorily.²³

Practical Implementation of Refugee Protection

Implementation and Practice Access to Asylum In Nigeria, asylum seekers can present their claims at border points or within the country. The Refugee Eligibility Committee (REC), working alongside UNHCR, determines refugee status. While the system faces delays due to

²² National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI). "Mandate and Functions." <https://ncfrmi.gov.ng>

²³ Federal Law of the Russian Federation No. 4528-1 on Refugees. 1993.

limited resources, it generally honors its international obligations. For instance, Nigeria has hosted over 70,000 Cameroonian refugees fleeing the Anglophone crisis.²⁴

In Russia, asylum seekers face numerous procedural and administrative hurdles. Detention of undocumented arrivals is common, and legal aid is sparse. Language barriers, lack of interpreters, and the fear of deportation deter many from applying.²⁵

Non-Refoulement and Forced Returns

Non-Refoulement and Deportation Non-refoulement, a cornerstone of refugee protection, prohibits returning individuals to countries where they risk persecution. Nigeria has mostly complied, though there were reports in 2018 of the forced return of Cameroonian separatists, drawing international condemnation.²⁶

Russia has frequently violated the principle of non-refoulement. The European Court of Human Rights has repeatedly condemned Russia for forcibly returning asylum seekers to countries like Uzbekistan, Syria, and Tajikistan, where they faced torture and persecution.²⁷

²⁴ UNHCR Nigeria. "Cameroonian Refugee Response Fact Sheet." January 2024. <https://www.unhcr.org/ng> <accessed on the 25 June, 2025.

²⁵ Human Rights Watch. "Russia: Asylum Seekers Face Abuse, Deportation." 2021. <https://www.hrw.org> <accessed on the 25 June, 2025.

²⁶ Amnesty International. "Nigeria: Cameroonian Asylum Seekers Forcibly Returned." 2018. <https://www.amnesty.org> <accessed on the 26 June, 2025.

²⁷ European Court of Human Rights. "Mamazhonov v. Russia," App no. 17239/13, 2014.

Humanitarian Stories behind the Statistics

Reception Conditions and Integration Nigeria's refugees, particularly those in formal settlements like Adagom and Ukende in Cross River State, have access to healthcare, primary education, and some vocational training. Nonetheless, limited resources, insecurity in parts of the country, and infrastructural challenges affect the quality of support.²⁸

Russia offers minimal integration assistance. Refugees and asylum seekers often live in legal limbo, lacking work permits or access to social services. Discrimination and xenophobia are significant barriers. Refugees from African and Middle Eastern countries report routine police harassment and societal exclusion.²⁹

Human Stories behind the Statistics

Humanizing the Refugee Experience Amira, a 22-year-old Sudanese refugee in Nigeria, fled Darfur after her village was attacked. Now living in Adagom settlement, she attends tailoring classes supported by NGOs. "I lost everything, but I have hope here," she says.³⁰

By contrast, Hassan, a Syrian asylum seeker in Moscow, lives in a communal shelter with no legal status despite three years in the asylum process. He avoids public spaces for fear of arrest. "In Syria, I feared bombs. Here, I fear the police," he recounts.³¹

²⁸ UNHCR. "Nigeria Operational Update." December 2023. <https://www.unhcr.org>

²⁹ Sakwa, Richard. *Russian Politics and Society*. Routledge, 2020.

³⁰ Interview conducted by UNHCR staff, Adagom Settlement, 2023.

³¹ Human Rights Watch interview with Syrian asylum seeker, Moscow, 2022.

Challenges in both countries

Nigeria:

- a. Inadequate funding for refugee services
- b. Poor infrastructure in camps
- c. Limited integration policies
- d. Threats from local conflicts

Russia:

- a. Excessive bureaucracy in asylum system
- b. Widespread xenophobia
- c. State secrecy and lack of oversight
- d. Security-focused migration laws

Comparative Insights

While both countries formally acknowledge refugee rights under international law, Nigeria exhibits a more humane and flexible approach, especially regarding mass influxes. Nigeria's engagement with UNHCR and regional conventions fosters a more inclusive asylum system, albeit with infrastructural and logistical shortcomings.

Russia, by contrast, reflects a more legalistic but securitized interpretation of refugee law. Though its legislation incorporates core principles, implementation is marred by opacity, discrimination, and violations of due process. The refugee issue in Russia is often viewed through the lens of migration control rather than humanitarian protection.

Conclusion and Recommendations

The plight of refugees is not just a legal issue, it is a human issue. Laws and conventions are only as strong as the political will and social commitment to uphold them. Nigeria, despite its resource limitations, shows a stronger orientation toward humanitarian values. Russia, although equipped with institutional capacity, often falls short due to state centric policies and xenophobic sentiment.

Recommendations:

1. Nigeria should increase funding for refugee welfare, especially in education and psychosocial support.
2. Russia should reform its asylum process, ensuring transparency and compliance with non-refoulement.
3. Both nations must strengthen cooperation with civil society and international bodies like the UNHCR.
4. Public education campaigns are essential to reduce xenophobia and promote refugee inclusion.