

Construction of Refugees and Asylum Seeking in Kenya: A Historical Appraisal

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Abstract: - The magnitude of refugee and asylum seekers influx in recent years has generated urgent concern throughout the world, widely perceived as an unprecedented crisis. These has elicited academic as well as empirical researches which are tied to humanitarian responses namely to inform or evaluate interventions. For instance, the dominant researches on the refugees in Kenya focus on the Somalia refugees and the circumstances that are surrounding them such as repatriation or security. Whereas this kind of focus is contemporary and urgent, an informative research on refugees and asylum seekers need to focus on the wider refugee situation in a historical context. To be able to understand the current refugee issues in Kenya there is need to go back to the historical appraisal. The study therefore sought to offer a historical appraisal of the refugee situation in Kenya. To achieve this, the study adopted historical research approach to collect and analyze data. The study found out that colonialism set a foundation for current refugee situation in Africa. The issue of internally displaced person in Kenya is indeed one of the colonial legacies. Colonialism has also been linked to protracted conflicts that have characterized the post-independence period and have been the main cause of population flights to Kenya. In addition to that independent Africa experienced a growing trend of armed conflicts arising out of weak political structures constructed by the colonial regimes. Many political analysts argue that most of these post-independence armed conflicts have resulted to refugees and asylum seekers are a result of colonial legacy.

Key words: Forced displacement, internally displaced person, refugee, asylum seeker

I. INTRODUCTION

Forced displacement refers to an involuntary movement of a person or people from their home or state as a result of issues like violence, natural disasters or persecution. A person experiencing forced displacement may be referred to as an internally displaced person if he or she has not crossed an internationally recognized border; a refugee is one who has crossed an international border and is receiving legally defined protection, he or she has a right to be protected by the host country and cannot be forced to return home whereas an asylum seeker is someone who is seeking international protection from danger in their home country but whose claim for refugee status has not been finally decided by the host country (United Nations High Commissioner for Refugees, Master Glossary of Terms, 2006).

According to the UNHCR annual global trends report of 2019, over the past decade, the global population of forcibly displaced people grew substantially from 43.3 million in 2009

to 70.8 million in 2018. This figure encompasses; 25.9 million refugees, 41.3million internally displaced persons and 3.5 million asylum seekers whose applications had not been adjudicated. This population was mainly driven by the Syrian conflict, conflicts in the Middle East; Iraq and Yemen, conflicts in parts of Sub-Saharan Africa; Democratic Republic of Congo and South Sudan as well as massive flow of Rohingya refugees to Bangladesh at the end of 2017; in 2018 the internal displacement in Ethiopia and new asylum claims from people fleeing the Bolivarian Republic of Venezuela. Countries hosting significant refugee population of more than 200,000 people at the end of 2018 included: Bangladesh (906,600), Ethiopia (903, 200), Jordan (715,300), DRC (529,100), Chad (457,200), Kenya (421,200), Cameroon (380,300), France (368,400), China (321,800), USA (313, 200), South Sudan (291, 800), Iraq (282,000), Tanzania (278,300), Yemen (264,400), Sweden (248,200) and Egypt (246,700) (UNHCR, 2019).These rise in figures has made refugee debate a complex issue in the contemporary world.

The magnitude of refugee influx in recent years has generated urgent concern throughout the world. Widely perceived as an unprecedented crisis, these flows have produced a mixture of humanitarian concern for millions of people forced into exile and fear for the potential threat to the social, economic and political stability of host states caused by streams of unwanted newcomers. The host states are therefore struggling to strike a proper balance between the need to maintain control over their borders and the need to protect refugees who seek asylum within their borders.

The refugee issue has elicited academic as well as empirical researches that mainly focus on refugees and national security in Kenya, refugee viewed as a humanitarian Issue in Kenya and refugee conflict with the host communities. These researches are tied to humanitarian responses, namely to inform or evaluate interventions. Accordingly, these researches are narrow and so specific in focus. For instance, the dominant researches on the refugees in Kenya focus on the Somalia refugees and the circumstances that are surrounding them such as repatriation or security. Whereas this kind of focus is contemporary and urgent, an informative research on refugees and forced migration in general need to focus on the wider refugee situation in a historical context. As the current focus is directed at the Somalia refugees what of other refugee residing in Kenya in squalid conditions? Put differently, as the government of Kenya is focusing on repatriating Somalia refugees, is the same measure applied to other refugees

residing in the country from DRC, Sudan, Ethiopia, Rwanda, Burundi, Uganda.

Seemingly, current researches on the question of refugees focus on issues surrounding Somalia refugee such as repatriation and the question of nation security. Retrospective analyses often begin with the massive influxes in the 1990s; they pay little attention to earlier refugee inflows. Accordingly significant historical and socioeconomic circumstances of refugees in Kenya are lost in the process. In this paper we seek to argue that existing studies on refugees in Kenya are not placed within a larger historical context. This work therefore offers a historical appraisal of refugee situation in Kenya as it seeks to examine how refugees have been historically understood in Kenya.

II. METHODOLOGY

This study's aim was to analyze the historical appraisal of refugee and asylum seeking in Kenya.

To achieve this, the study adopted historical research approach to collect and analyze data. Historical research is defined as the process of investigating past events systematically to provide an account of happenings in the past. Berg (2000) stresses that historical research attempts to methodically recapture the complex nuances, people, meanings, events and even ideas of the past that have impacted and shaped the present. According to Moore, Monaghan and Hartman (1997) the justification for doing historical research is that people can learn from the past. Berg (2001) analyses the aims of conducting historical research as; to uncover the unknown, to answer questions which have not been answered and to identify the relationship between past happenings with the present as this paper does.

The study employed desk research method in collecting data. Desk Research also known as secondary research is a research technique based on data collected from previous researches acquired by sitting at a desk. There are two types of research activity: primary research, where you go out and discover stuff yourself and secondary research which the study adopted where you review what other people have done. Secondary research method involves using already existing data which is summarized and collated to increase the overall effectiveness of research.

This study employed secondary research because it is much more cost-effective than primary research, as it makes use of already existing data. Most information is secondary research is readily available as there are many sources from which relevant data can be collected and used. In desk research the role of the researcher is not just collecting data but to review previous research findings to gain a broad understanding of the field. In collecting information through desk research the researcher looked for several relevant sources that contained useful information. The researcher then selected the information that best suited the research problem then

processed the information gathered to answer the research questions.

III. RESULTS AND DISCUSSION

In the construction of the historical appraisal of refugees and asylum seeking in Kenya, the study first focused on the historical background of the phenomenon of forced migration in Africa to get the broader picture. Some scholars trace refugee situation in Africa to fight for independence, while some trace it back to post independence. Literature traces the beginning of the problem of refugees in Africa back to the period of struggles for independence. As Milner (2004) points out, "while migration, both forced and voluntary, has been a defining feature of African history since pre-modern times, the emergence of the modern refugee phenomenon in Africa may be linked to the struggle for and attainment of independence by most African states in the late 1950s and early 1960s". The phenomenon of forced migration has characterized most African countries since the late pre-Independence period from the 1950s up until the 1980s. In many countries armed conflicts have characterized the post-Independence period and have been the main cause of population flights. However, the displacement of persons can be said to be one of the colonial legacies.

Colonialism set a foundation for current refugee situation in Africa. During this period, white settlers forced entire communities out of their land. While the largest share of land was re-allocated to white commercial farmers, land was also expropriated for mining purposes or in the course of the establishment of national parks. Uprooted communities were generally resettled on semi-arid land where they could not make their living; hence they were forced to sell their labour on farms or to seek employment in mines and industries. The effects of mass-expropriation and mass-displacement keep shaping the human geography and politics in former settler societies. The issue of internally displaced person in Kenya is indeed one of the colonial legacies.

Colonialism has also been linked to protracted conflicts that have characterized the post-Independence period and have been the main cause of population flights. Deng (1993) identifies civil and ethnic conflicts as the main causes of forced migrations in Sub-Saharan Africa. African states were constructed on weak social political foundations. Independent Africa experienced a growing trend of armed conflicts arising out of weak political structures constructed by the colonial regimes. Many political analysts argue that most of these post-independence armed conflicts are a result of colonial legacy, the introduction of new socio-economic and political structures and the changing nature of the State (Kraler 2005).

In many African countries, colonial regimes practiced a system of differential and preferential treatment of Africans based on regional, tribal, status and ethnic differences. Most African countries inherited these colonial practices of division and exclusion (Anthony, 1999). Violent armed conflict experienced in several African countries in the post-

Independence period are thus often the direct result of exclusionary policies pursued by newly independent regimes that in important ways can be seen as a continuation of similar colonial policies. The conflicts often opposed ruling groups trying to maintain the status quo on the one hand and excluded group rallying for change, on the other.

The struggles over the control of political and economic power and concomitant massive human rights abuse, including widespread violence are the main cause of population flights in Sub Saharan Africa. Chad, Sudan, Rwanda, Burundi, and Uganda as examples of major refugee producing countries in sub-Saharan Africa (Anthony, 1999) but the list can undoubtedly be prolonged. Moreover, armed conflicts that cause population displacement are, in many instances, a result of failure or unwillingness of certain governments to resolve long-standing ethnic tensions (Chazan et al. 1999) or the tendency of certain governments to oppress particular population groups (Adepoju, 1989). For many socio-economic and developmental analysts armed conflicts and the resulting mass flight of refugees constitute the greatest challenge for economic development and the greatest obstacle to economic take off (Nabudere, 2002). The result was, killing thousands of civilians, and forcing others out of their homes. In some regions this led to cases of protracted refugees who spent ages in refugee settlements without being considered for permanent settlement in the host communities. Thus refugee situation in African is part of the microcosm of a myriad of colonial legacies.

Refugee producing countries because of armed liberation conflicts are Zimbabwe, Angola and Mozambique throughout the 1970s, South Africa and Namibia until late 1980s. Countries affected by secession armed conflicts that produced masses of refugees are Congo (DRC) and Nigeria in the 1960s and Ethiopia-Eritrea until 1990s. As Adepoju (1982: 26) argues, 'in effect, the poorest countries in Africa have had to bear the heaviest burden imposed on them in the shape of refugees'. In most cases, refugees settle in countries with limited means and resources to host them. In some countries such as Rwanda and DRC refugee producing countries were at the same time receiving countries. Rwanda has produced refugees on several occasions since 1960s but it has hosted Burundian and Congolese (DRC) refugees on several occasions in her independence period. In some countries, failure to find a permanent solution to the refugee problem has pushed uprooted people to organize themselves to force their way back home through military means and this has caused more waves of population displacement.

The cases of Rwanda and Burundi are good examples. Furthermore, defeated armed groups often joined native rebel groups in host countries, resulting in the spread of conflicts in whole regions. This is apparent in the Great Lakes Region involving Rwanda, Burundi, Uganda and DRC; and in West Africa where the conflict spread from Liberia to Sierra Leone and further beyond. These armed conflicts leave failed and ungovernable States with generalized insecurity such as armed

gangs, land mines, reprisals, corruption, etc. Thus for many of these analysts Africa cannot embark on a meaningful development process without addressing the problem of forced migration and wider issues of security and democracy which are prerequisites for the effective mobilization of resources and local and foreign investment (Nabudere, 2002).

IV. THE HISTORY OF REFUGEES IN KENYA

The history of refugees in Kenya dates back to the period of the Cold War. At that time the United States and the Soviet Union competed for hegemony over resource-rich Africa. Their efforts to destabilize regimes included the provision of military training and weapons to various organizations. These proxy wars exacerbated forced migration throughout Africa (Loescher and Milner, 2005). In the meantime, Kenya's porous borders along with its policy of free and open movement for refugees set the stage for an inflow of migrants. Starting first with the arrival of Ugandan refugees in the 1970s and eventually followed by an influx of all of its surrounding neighbors, Tanzania, Sudan, Ethiopia, and Somalia.

Campbell, Crisp and Kiragu(2011) observes that the influx of refugees started to overwhelm the resources of Kenya with the collapse of the Soviet Union and the end of the Cold War. This is because international focus and resources shifted from Africa to newly liberated Eastern Europe. In the meantime, regimes collapsed as in the case of Somalia and the situation in Africa became even more chaotic. This hastened another massive movement of Ethiopian, Somali, and Sudanese refugees into Kenya (Loescher and Milner 2005).

Initially it was understood that these new refugees were temporarily fleeing; and once their original homes stabilized, they would return. Since Kenya also had concerns about its own national security, it was decided that special camps be built to house these refugees, keep them safe, and help with their repatriation. These camps were under the umbrellas of the United Nations High Commissioner for Refugees (UNHCR) and were intended to be a well-organized attempt to manage migration with the goals of providing basic assistance and supporting their eventual return. However, many refugees and asylum seekers instead wanted to migrate permanently and viewed Nairobi as a better option (Campbell, Crisp and Kiragu 2011).

It is to be understood that Kenya has been a generous refugee hosting state for several decades and the country has hosted many refugees fleeing from insecurity and instability in its many neighboring countries. Prior to 1991, refugees in Kenya enjoyed full status rights, including the right to reside in urban centers, to move freely throughout the country, the right to obtain a work permit and they could access educational opportunities, as well as the right to apply for legal local integration (UNHCR Nairobi, 2003 & Verdirame & Harrell-Bond, 2006). The political crises in Sudan, Somalia and Ethiopia in 1991-92 and later in Burundi, Rwanda and the Democratic Republic of Congo, led to a large-scale influx of

refugees into Kenya. This significant migration movement overwhelmed the Kenyan government's refugee protection capacity, resulting in the handover of the responsibility of registration to the UNHCR and the withdrawal of Kenyan authorities from all refugee affairs. This turn of events became the starting points of different views and new challenges to the Kenyan government regarding refugee's presence in the country.

V. CONCLUSION

In conclusion the paper argues that the construction of refugees and asylum seeking in Kenya goes back to colonialism. As the issue of internally displaced person as discussed earlier in the paper in Kenya is indeed one of the colonial legacies as they took up African land for settlers sending them to reserves. Colonialism has also been linked to protracted conflicts that have characterized the post-independence period and have been the main cause of population flights thus the coming of refugees to Kenya from neighboring countries. In addition to that independent Africa experienced a growing trend of armed conflicts arising out of weak political structures constructed by the colonial regimes. Many political analysts argue that most of these post-independence armed conflicts are a result of colonial legacy (Kraler, 2005). In many African countries, colonial regimes practiced a system of differential and preferential treatment of Africans based on regional, tribal, status and ethnic differences thus African countries inherited these colonial practices of division and exclusion (Anthony, 1999). Violent armed conflict experienced in several African countries in the post-Independence period are thus often the direct result of exclusionary policies pursued by newly independent regimes that in important ways can be seen as a continuation of similar colonial policies.

In particular, Kenya has seen a huge influx of refugees over the recent years owing to the political instability experienced in her neighboring states more especially in the Horn of Africa. These refugees, who were traditionally conceived and presented as humanitarian issues, are now increasingly viewed as security threats (Mogire, 2009). It can be observed that the pre-1991 refugee regime in Kenya can be characterized as generous and hospitable and with an emphasis on local integration, but the post-1991 regime has been less hospitable, characterized by growing levels of xenophobia and few

opportunities for local integration (Campbell 2006) which is deemed to be seen as a result of the growing national insecurity. The traditional conception of refugees as a humanitarian issue turned in to a hostility in some way. To be able to understand the current refugee issues in Kenya there is need to go back to the historical appraisal.

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