



Appreciating the perception of the arbitrarily expulsion of refugees and its implication on the status of refugees under Cameroonian law

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Abstract

The protection of refugees' right in any given society is an essential factor in preserving and ensuring the identity and dignity of such persons. In order to protect refugees' status and rights, there is that necessity for the country in question to implement its laws through the enhancement of its competent institutions vested with powers in protecting these refugees' taking up residence in their respective territories. The State of Cameroon has contributed immensely in ensuring that laws enacted for the protection of refugees' entering, staying, and exiting its territory should be offered some degree of implementation when dealing with refugees' rights and status. These respected laws put in place will not only be a ground for human right protection of refugees', but also act as a tool in enhancing proper implementation of such laws enacted even though some lapses can be identified in the laws. Enacting laws, conceiving policies, and creating institutions to enhance and protect refugees' is one thing, implementing, and enforcing these laws is another. The government of Cameroon is responsible for the protection of refugees' residing in their territory by providing the refugees' that maximum protection in all spheres of necessities. The refugees' should be able in enjoying a minimum protection while residing in the territory, and under no circumstance should such a person be expelled arbitrarily by the country of residence without any justifiable cause. This paper thus analyses that though the government of Cameroon has initiated and embraced laudable efforts in seeing that those residing in its territory are given that maximum protection and prohibiting all manners of expulsion of such persons, there are lots of discriminatory practices experienced which have thus provoked some aspect of arbitrary expulsion of refugees' in Cameroon.

Keywords: Arbitrarily, expulsion, refugees, implications, cameroonian law

Introduction

There is no law providing that citizens of a given state cannot freely move in their territory, talk less of refugees'. Freedom of movement, commonly understood, entails the right of everybody lawfully within a given territory to move about freely within it, without hindrance, and without having to ask specific permission from the authorities. The right to freedom of movement, as found in international human rights instruments includes four distinct rights which include the right to move freely within a given territory; the right to choose a residence within a territory; the right to leave any country including one's own; and the right to enter one's own country. Equally, the State of Cameroon protects the right of every person to move about freely and to elect residence anywhere within or outside the national territory. The Preamble of the Constitution provides, every person shall have the right to settle in any place and to move about freely, subject to the statutory provisions concerning public law and order, security and tranquillity. Cameroon have a series of proliferated laws, legal provisions, and institutions having overlapping mandates in various documents regarding the protection and promotion of refugees' rights residing in their respective territories. Notwithstanding the available laws, international law remains the main instrument that regulates refugees' treatment within the States. Cameroon in particular has established credible policies in protecting refugees' living within their respective territories. Even though with the establishment of laws, these laws, for a long period, have become obscure and obsolete. Refugees' continue to experience aspects of violence, discrimination, and expulsion regardless of the status they occupy. States, on their part, suffer especially when these refugees' indulge in

fraudulent activities that affect the security and sovereignty of the state.

Cameroon Legal Dispositions in ensuring an effective Refugees Protection

The State of Cameroon protects the right of every person to move about freely and to elect residence anywhere within or outside the national territory. The Preamble of the Constitution provides, "every person shall have the right to settle in any place and to move about freely, subject to the statutory provisions concerning public law and order, security and tranquillity." Law No. 68/LF/3 of 11 June 1968 to institute the Cameroon Nationality Code contains favourable provisions allowing any person found in Cameroon without a nationality to be granted Cameroonian nationality. Section 12 provides that Cameroonian nationality shall be granted as of right by virtue of birth in Cameroon to any person who has no other nationality of origin. In this vein, Law No. 90/042 of 19 December 1990 instituted the National Identity Card and Decree No. 91/160 of 11 March 1991 fixed the characteristics and laid down the conditions for issuing and delivering it. This shall be the only document required from nationals aged at least 18 to move about freely. Decree No. 90/1245 of 24 August 1990 on the issuing of passports and travel of nationals abroad institutes four categories of passports^[1] and subjects the travel of nationals abroad to the presentation of this official document.

The Existence of an entry, stay and exit of refugees' in Cameroon

Law No. 97/09 of 10 January 1997 lays down the conditions for entry, stay and exit of foreigners and its enabling

instrument No. 2000/286 of 12 October 2000 subject the stay of foreigners to the acquisition of a residence permit. This instrument encloses a certain number of liberal guarantees, such as authorizing the seizing of an administrative court in case of objection against an expulsion order without the necessity to petition hierarchy as the court is bound to rule within a week. This law considers border drive, escorting back to the border and expulsion as administrative measures in case the foreigner is from one of the neighbouring countries of Cameroon. As for refugees' who are not nationals of neighbouring countries, the situation becomes more complex because she has to inform the government of the refugees' country before decisions can be taken. The situation of embassies has come to facilitate issues when dealing with such cases by reporting the foreign country representative in the country. However, in the case of any conviction for infringement of immigration laws, the court may order the above measures without prejudice to other penalties. Cameroonians and any foreigner whose stay is legal can move about freely and freely use their property. However, such freedoms may be restricted if general interest or public order so dictates.^[2]

Ensuring the Right to Move Freely Within A Given Territory

The rule here is that everyone lawfully within the territory of a state has the right to move freely within that territory. The citizens of a state are always lawfully within the territory of that state. As regards refugees, however, a state may determine by law, whether persons may move freely by the law, and once this is done, such a person deserves to be treated humanely without any form of discrimination. The provision of Section 1(2) (a) is clear when defining a refugee,^[3] that when someone fulfils that condition as stated in the above provision, that person is considered a refugee that needs adequate protection from the country the person is taking residence. It, therefore, becomes the responsibility of the State of Cameroon who is not just a signatory to the Refugee Convention in ensuring the respect of the above provision by not providing room for discrimination and violations of this right and stats, and even avoids the aspect of arbitrary expulsion of such refugees who have legally entered into their territory. The Human Rights Committee has held on this matter that an alien who enters a state lawfully, and whose status is standardized must be considered lawfully within the territory. For the issue here is that, once a person is lawfully within a state, any restrictions on his/her right to freedom of movement and any treatment different from that accorded to nationals, have to be justified on one or more of the grounds prescribed in Article 12 of the International Covenant on Civil and Political Right 1966.^[4] Permissible restrictions on the freedom of internal movement often relate to efforts to protect 'the public, where detention is in order, where traffic must be regulated, or where special measures such as blockades are called for to maintain public safety. Protection of the natural environment is a further justifiable basis for controlling movement. The Human Rights Committee has indicated that under Article 12 ICCPR it is permissible to restrict the categories of persons entitled to live on tribal reserves, to protect the resources and preserve the identity of the tribe. To this effect, it becomes the obligation of the State of Cameroon when it comes to movement of refugees in the territory of Cameroon not to exercise any aspect of arbitrary

expulsion, as the right to freedom of movement has to be ensured and protected from both public and private interference. In the situation of refugees' women is more enlarged and highly recommended, as the obligation to protect includes the right to move freely and to choose her residence without any interference, by law or by practice, by any other person, including a relative. In confirmation the above connotations, the State of Cameroon has encouraged the free movement of all be it nationals or refugees into its territory without discrimination. The situation has become more complex, especially with the recent happenings of insecurity in Cameroon and other neighbouring States where the movement has been affected due to some threats and the common spread of the deadly virus.^[5] This current disaster has restricted the movement of people into the territory for the sake of state security and safety.

The Right to Choose a Residence within a Territory

In all its ramifications, it becomes a stated rule that any refugee who is lawfully residing in Cameroon has the right to choose his/or her place of residence.^[6] This right to elect where to live embraces protection against all forms of forced internal displacement. It also means that the State of Cameroon under no circumstances is not permitted in preventing the entry or stay of persons in a defined part of the country as far as this person is residing legally in its territory. This right was successfully invoked before the Human Rights Committee in *Acklam v. Togo*, where the applicant was under a prohibition from entering a certain area and his native village. The Committee found that in the absence of an explanation from the States justifying the restriction, there had been a violation of Article 12(1) ICCPR. An important point to mention is that the right to choose a residence within the territory of one's state of nationality is not affected by a temporary absence from home.

The position of not expulsing a Refugee in aspect of leaving the country

The fundamental rule under Refugee Law remains that the right to leave any country, including one's own, is another component of the right to freedom of movement and not to be expelled arbitrary. It involves the right voluntarily departing permanently, or for a shorter or longer period. It stems from the general principle that no state owns an individual and that the right is a personal one. The right to leave any country is not restricted to persons lawfully within the territory of a state, which means that a refugee being legally expelled from the country is allowed to choose the state of destination, with the agreement of that state. The right to leave any country, including one's own, does not however guarantee an unrestricted right to travel from one country to another. However, Article 12 of the UDHR, Article 22(7) of the American Convention, and Article 12(3) of the African Charter recognize the right of a person to leave his/her country to seek and enjoy asylum from persecution in another country. To enable a person to exercise her/his right to leave any country, including his/her own, obligations are imposed both on the state of residence and the state of nationality. Since international travel usually requires appropriate documents, in particular a passport, the right to leave a country includes the right to obtain the necessary travel documents.

Normally, the issue of a passport falls under the obligation of the state of nationality of the individual. If the citizen is resident abroad or being resident abroad has obtained travel documents from another country, this does not relieve the state of nationality of the obligation to issue a passport. In such a case, obligations are imposed both on the state of residence and the state of nationality. The Human Rights Committee has been called upon in the context of analyzing the right to freedom of movement, to consider the denial of provision or revocation of passports to citizens living abroad. These cases, known as the 'Passport cases', articulate positive and negative duties on both the state of residence and the state of nationality:

The State of residence is primarily compelled to avoid interfering with the freedom to leave; the State of nationality is under a positive duty to ensure effective possibilities to leave by issuing the necessary documents. States that deny their citizens a passport violate Article 12 of the International Covenant on Civil and Political Rights so far as this denial is not justified under Article 12(3).

The Right to Enter One's Own Country

The right of a person to enter his/her country or to return to one's own country recognizes the special relationship of a person to that country. The right entails different guarantees, such as a) the right to remain in one's own country; b) the right to return after having left one's own country; and c) the right to come to the country for the first time if he/she were born outside of it. ^[7] The right to return is of particular importance for refugees seeking voluntary repatriation.

The right to enter one's own country is a right enjoyed by a person who is abroad. Accordingly, the state has the positive obligation to take all necessary measures to ensure that a citizen abroad has the right to return to his or her own country since constitutionally recognized rights are guaranteed not only within the territory of the state but within its jurisdiction as well. If the citizen is detained abroad, positive obligations require the state of nationality to deal with the state where the citizen is detained to secure the enjoyment of the right to return, since no citizen on his/her own can act with equal legal status with the governmental authorities of the foreign country. The right to return, however, does not imply that a person who has committed a crime shall be freely entitled to return to his or her home country.

Absolute freedom of movement would include the right to enter another country. However, given the complexities of residence, the rights of the nationals already residing in a country, and the preservation of certain cultural rights, it has never been possible to achieve absolute freedom of movement in any human rights forum.

The right against capricious expulsion is found in a functional number of international and regional conventions. The UDHR contains the first universal statement on the right to freedom of movement. Article 13 UDHR states that everyone has the right to freedom of movement and residence within the borders of each state and everyone has the right to leave any country, including his own, and to return to his country.

Article 13 UDHR does not directly restrict the right to freedom of movement to those lawfully within the territory. Under many subsequent international and regional instruments, however, the right to freedom of movement applies only to persons lawfully within a given territory.

Article 12 ICCPR state that everyone lawfully within the territory of a state has the right to liberty of movement and the freedom to choose his or her residence. Moreover, the state may not arbitrarily deprive someone of the right to enter his or her own country. ^[8]

As far as the protection of refugees is concerned, the Refugee Statute has made provision in article 26 provided as follows; refugees have the right to choose their place of residence and to move freely within its territory subject to regulations applicable to aliens. ^[9]

From the foregoing, it is a well-defined principle that refugees seeking asylum in any country, who have fulfilled the conditions as refugees, ^[10] have the right to freely move around without any restriction based on their nationality, race, religion, or another factor. They should be given the same protection as if they were nationals of the country in which they are seeking asylum. The rights to freedom of movement go alongside that of non-refoulement which is to the effect that no one should be forced to return to his country when it is seen that returning to his country, he or she will face persecution. ^[11]

extradition of Foreigners, a prerequisite obligations of States

Government has consistently shown concern for foreigners and refugees, taking into account their ever-increasing numbers. Law No. 97/101 of 10 January 1997 to amend and supplement certain provisions of Law No. 64-LF-13 of 26 June 1964 to fix the system of extradition prohibits the extradition of persons to destinations where they risk being subjected to torture. This law adopts section 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In application of this provision, the Court of Appeal for the Centre Province rejected the application for the extradition of eight Rwandan nationals accused of genocide. It held in application of the above-mentioned law, that "a person cannot be extradited to another country where there are serious reasons to believe that he runs the risk of being tortured." ^[12] This situation becomes easier to solve when there exist an Extradition agreement between the government of Cameroon and that of Rwanda. ^[13] The reality here is that, Cameroon have no extradition agreement with Rwanda, but such situation can be solve because extradition cannot only be effected by bilateral agreement, the is also the comity of nations, reciprocity, mutual legal assistance and even cooperation ties can facilitate the extradition of a foreigner. This can only be done if the offence committed by the foreigner in Cameroon is also punishable by the Criminal law of the foreigner country. ^[14] This situation will refused if the offence is political, religious, and racial or that base on citizenship, then extradition may not be granted. ^[15]

It must however be noted that both the Convention and the Law are silent on extradition where person's risk being subjected to other cruel, inhuman or degrading treatment or punishment. The Cameroon Penal Code also prohibits such cases. Therefore, by virtue of section 645 (d) of the Code, extradition is not applicable "where there are reasons for the country requested to believe that the person concerned shall be subjected to torture and other punishment or treatment which is cruel, inhuman and humiliating, in the requesting country." ^[16] It is the responsibility of states to ensure that state requesting the extradition of its national should not

carry out any practice that will affect the physical integrity of the foreigner or the foreigner risked of been torture if sent back. In such a circumstance, extradition will not be applicable.

Identifying the Status of Refugees

Cameroon promulgated Law No. 2005/006 of 27 July 2005 relating to the status of refugees to provide an appropriate legal solution adapted to local realities. Section 2 of the Law adopts the definition of refugee contained in the Geneva Convention of 28 July 1951 on the Status of Refugees and the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa signed in Addis-Ababa on 10 September 1969. Pursuant to this section, the following shall be considered as refugees:

Any person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership to a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself 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. Any person who, owing to an aggression, foreign occupation, foreign domination, or events that seriously undermine public order in either part or all of his country of origin or nationality, is obliged to leave his habitual residence to seek refuge in another place outside his country of origin or nationality.

By virtue of sections 7 (1) and 15 of Law No. 2005/006, it is henceforth forbidden to extradite, turn back,^[17] or to take any measures whatsoever which force anyone, covered by the above definition, to return or remain in a country where his life, physical integrity or freedom could be threatened. If such a person is an illegal immigrant, no criminal sanction may be taken against him, but he shall present himself immediately to competent national authorities for regularization of his situation.^[18] A refugee shall enjoy economic and social rights and especially the right to naturalization. The Law cited above sets up a commission for eligibility for the status of refugee and yet another commission to examine petitions from refugees. The procedure for asylum has been significantly simplified and a mere deposit certificate allows the applicant to enjoy the fundamental rights recognized both by the Geneva Convention of 1951 and by the Addis-Ababa Convention on Refugees.

Acquiring that right in seeking asylum in the country

The right to seek asylum is another fundamental right that guarantees and protects those who are involved in displacement that comes because of armed conflict and who reside in a contracting State. The Universal Declaration on Human Rights has made provision to this effect in its article 14 as follow; “everyone has the right to seek and to enjoy in other countries, asylum from persecution”^[19]

Since the right to seek asylum has not emphasised by the Refugee Convention, it is the responsibility of the contracting State to grant such asylum to refugee settling in their states without regard to discrimination, torture or forcing them to leave. Most States are very sceptical on this aspect of asylum by putting their sovereignty in place to refuse asylum. Aspect of jurisdiction or extra jurisdiction should not be a barrier to refused asylum.^[20]

The Cameroon government have been very sceptical to this concept of granting asylum to nationals from countries that did not experienced any form of political persecution since asylum is mostly on political bases. The situation have been experienced recently during the crisis in Central African Republic^[21] whereby the President of the country Francoise Bozzize after his ousting from power by the “Seleka group” decide to seek asylum in Cameroon and granted by the Cameroon government. Months later, there was threat from the Central African Government for the Cameroon government to send back their president so he can answered charges levied against him, to which the Cameroon did for the purpose of State security and peace. The same situation happened in June 2012 whereby the Belgian government intend sending back Cameroonian back on the fact that most Cameroonian come there to seek asylum on the basis that their country was not stable and running from torture and persecution from the government.^[22]

Institutional Manifestations

In support of Government actions, the activities of some NGOs engaged in defending and protecting human rights may be acknowledged. Thus, the NGO New Human Rights instituted the Support Programme for Refugees (SPR) in 1997 to ensure the respect of the rights of refugees to move about and elect residence freely. This NGO receives refugees and gives them advice and assistance in obtaining asylum and information about Cameroon so as to facilitate their choice of residence and access to the job market. At a meeting organized on 26 June 2005 by the Christian Action for the Abolition of Torture (ACAT), to commemorate the United Nations International Day for Support to Victims of Torture, the Association of Refugees without Borders (ARSF) and ACCAT Littoral presented a joint paper on “the Violation of the Rights of Children and Refugees.” Participants recommended, among others, “the adoption of a national law on refugee and the setting up of a national Commission on eligibility for the status of refugee”. Government had already addressed this issue as can be seen from the above-cited Law. It should be noted, however, that a refugee or a foreigner on legal stay in Cameroon may be expelled for reasons of national security and public order.

Prohibition of Torture, Cruel and Inhuman Treatment

The Preamble of the Constitution stipulates, “Every person has a right to life, to physical and moral integrity and to humane treatment in all circumstances. Under no circumstances shall any person be subjected to torture, to cruel, inhumane, or degrading treatment.” This fight against torture and other degrading treatment on citizens and foreigners continue to of interest and consideration to the government of Cameroon in relevant criminal provisions^[23] in conformity with those provided in Section 3 of the Convention against Torture (CAT) of 1984.

To show their efforts in this area of the law, in January 2017, experts from government institutions involved in the fight against torture including the Ministry of Justice and National Commission on Human Rights and Freedoms (NCHRF), provided practical recommendations to implement international instruments against torture. The government collaborated with the African Commission on Human and People’s Rights, whose representative urged the government to implement the Robben Island Guidelines on Fighting Torture in the African Continent. The Ministry of

Justice continued to implement those guidelines including fulfilling reporting requirements and providing prison officials with (NCHRF) recommendations for improving prison conditions.

The constitution and law prohibits practices against torture in the country, but there are continuous reports that security forces of the country tortured, beat, harassed, and otherwise abused citizens, foreigners, prisoners, and detainees.^[24] In February 2016, in Garoua, North Region, elements of the Special Police Team for Rapid Intervention severely beat Moustapha Bakayoko a Malian, whom they suspected of being a thief. Bakayoko, who was unable to walk on four months, filed a complaint against the police. There were reports that security forces subsequently paid him to drop all charges.^[25] Also, in June 2016 in Ngaoundere, Adamawa Region, members of the Special Team for Rapid Intervention handcuff and beat Souleymanou Abdul Aziz a Chadian before detaining him for two day, reportedly for attempting to steal a telephone. Abdul Aziz reportedly had a history of mental illness and believed that the telephone he attempted to steal was his own. He was left with several bruises on the wrists and back and abrasion on his back, knees, and tibia. Later that month a regional human rights organisation filed a complaint on Abdul Aziz's behalf, although as of October 2016 there was no official response. All illegal practices is just to illustrate that though the country law and regulations frowns on the concept of torture and other inhumane treatment of human and on foreigners taking up residence in the country, the implementation and respect of this principle have become a nightmare. We continue to experience violation of such principles by the law-abiding officials of the country.

Experiencing gross Expulsion and Deportation of Refugees'

The principle of non-refoulement prohibiting States to transfer anyone to a country where he or she faces a real risk of persecution or serious violation. Human right is a fundamental principle of international law and one of the strongest limitations on the right of States is to control entry into their territory and to expel aliens as an expression of their sovereignty. For example, by virtue of sections 7 (1) and 15 of Law No. 2005/006, it is forbidden to extradite, turn back,^[26] or to take any measures whatsoever which force anyone, covered by the above definition, to return or remain in a country where his life, physical integrity or freedom could be threatened. If such a person is an illegal immigrant, no criminal sanction may be taken against him, but he shall present himself, without delay, to competent national authorities for regularization of his situation.^[27] A refugee shall enjoy economic and social rights and especially the right to naturalization. The government of Cameroon has to discourage the arbitrary expelling of aliens from their territory since they considered this as violation to fundamental human rights of all. The situation becomes different for the purpose of public peace, order and security as the said person can be extradite forcefully to his country of origin for fear of insecurity and his involvement in other crimes that can affect public order and peace. But such expulsion should be done with the permission of the state of origin of the alien since it is forbidden by law to send back somebody where the person will face torture or persecution in the country expelled to.^[28] This has not been the case with the Cameroon since the government always used the pretext

of expulsion as a means of maintaining public peace and security stipulating that foreigners are the primary suspects of criminal activities and encourage all types of illegal activities.

We see, for example, recently^[29], the government of Cameroon has demanded that refugees living in the country should leave its territory under the pretext that they were engaged in all sorts of criminal activities affecting the security and peace of the state.

The situation of illegal detention

It is said that under international human rights law, detention of asylum seekers or other categories of foreigners either on entry to the country or pending deportation, must not be arbitrary and must be carried out pursuant to a legal provision.^[30] By International standards relating to foreigners control, detention should be the exception rather than the rule, and should be a measure of last resort, to be imposed only where other less restrictive alternatives, such as reporting requirements or restrictions on residence, are not feasible in the individual case. The mere fact that a detained foreigner is free to leave a place of detention by agreeing to depart from the country does not mean that the detention is not a deprivation of liberty. The right to liberty and security of the person under international human rights law requires that deprivation of liberty be justified, must be in accordance with the law, and must not be arbitrary. Deprivation of liberty may be "arbitrary" either because it is not based on a legitimate basis for detention or because it does not follow procedural requirements. An essential safeguard against arbitrary detention is that, law must adequately prescribe all detentions. This reflects the general human rights law principle of legal certainty, by which individuals should be able to foresee, to the greatest extent possible, the consequences which the law may have for the acts. The need for legal certainty is regarded as particularly vital in cases where individual liberty is at stake. The principle of prescription by law has two essential aspects:

That detention is in accordance with national law and procedures;

That national law and procedures should be of sufficient quality to protect the individual from arbitrariness.

Under international law and standards, foreign nationals in prisons are permitted reasonable facilities to communicate with diplomatic representatives of their State.^[31] Those without diplomatic representation in the country, foreigners shall be allowed reasonable facilities to communicate with their relevant diplomatic representative, or any national or international authority whose task is to protect such persons.^[32] Cameroon legislation also protects foreigners from arbitrary detention. According to the Cameroonian law, detained foreigners have special protection and the country of their nationality must be informed by the prison administration of the reasons of their detention, the place where they are detained and the conditions of their detention.^[33] Detained refugees and asylum seekers are subject to specific protections under international law and standards, including Article 16 of the 1951 Refugee Convention, as well as under Article 21 of the Cameroon refugee disposition^[34].

Refugees' who were accused of illegal entry into a country were held in police custody in the country,^[35] but the treatment given to them was deplorable and some were even sent to prison where the conditions of living were harsh and

amounted to cruel, inhuman and degrading treatment or punishment.^[36] Detention facilities were overcrowded and prisoners often had no access to adequate health services and other basic facilities. Many of the prisoners were sick and malnourished. Foreigners in this side of the country continued to be arrested and detained without charge, and in some cases were prevented from receiving visits from any friends or love ones, doctors or lawyers. The police and gendarmerie detained persons for civil matters, contrary to provisions of the Cameroon Constitution and laws. Conditions remained harsh, amounting to cruel, inhuman, and degrading treatment. Cells were overcrowded, and food and drinking water were inadequate. There was no health care in prisons, including for serious transmissible diseases such as tuberculosis.

The situation experienced in Cameroon has greatly affected the stay of foreigners residing in this state thus rendering protection inadequate and inefficient. It is the responsibility of the Cameroon State to offer absolute protection to foreigners who reside in their territories and even if they commit crimes or have illegally entered the territory, their fundamental human rights have to be protected and guaranteed to the latter. Nevertheless, foreigners continue to experience violation of their rights and liberties making the international community to have a negative impression of the country in question when it concerns matters of foreigners' protection.

Discriminatory practices on Refugees'

Cameroon being a member of many regional integration grouping and signatory to international instruments related to the effective protection of the rights and status of refugees' is not an exception. It therefore provides protection in many instruments particularly its Constitution and guarantees the rights of everyone including foreigners to move freely in the country. This provision specifically allows foreigners the right to elect residence or to leave one's country and be granted asylum in another. Furthermore, several national instruments enacted recently have progressively strengthened and enhanced the rights and freedoms enjoyed by foreigners to elect residence in Cameroon.^[37]

All these laws were out to guarantee the rights and status of refugees' residing or intending taking up residence in Cameroon. Cameroonian authorities have not respected these laws to the letter as there is a continuous violation of the rights and status of foreigners, others experience torture, and even the acquisition of documents to reside legally in the territory is a problem.

Even at the level of employment, there is a problem, refugees' continue to face problems in acquiring employment in Cameroon informal sector and even when they have, some have to go without salaries for months and even work under poor conditions as compared to nationals; these constitute a violation of their rights. Cameroon has not signed talk less of ratifying, the main instrument promoting and regulating treatment of migrant workers ^[38] in their territory. Their non-party as to this convention has gone a long way to influence the non-respect of the rights of foreigners taking up residence in Cameroon.

The situation becomes complicated because most of the foreigners find difficult to sign employment contracts with employers in the country since they cannot determine their status and the type of contract to be signed. This greatly

affects the stay and status of foreigners in Cameroon. Even though most foreigners in Cameroon are involved in business, the investment climate is not a favourable one. The main legal text regulating investment in Cameroon being the 1992 Investment Code as modified in 2000, is of great advantage to the nationals of Cameroon, for It takes several months and sometimes years to acquire a license to establish a business entity in the said territory for foreigners. Others have to experience discrimination and regularly high taxes imposed on them by the government scaring the foreigners away.

Arbitrary Expulsion and Deportation

The principle of non-refoulement prohibits States to transfer anyone to a country where he or she faces a real risk of persecution or a serious violation. Human right is a fundamental principle of international law and one of the strongest limitations on the right of States is to control entry into their territory and to expel aliens as an expression of their sovereignty. For example, by sections 7 (1) and 15 of Law No. 2005/006, it is forbidden to extradite, turn back, ^[39] or take any measures whatsoever that force anyone, covered by the above definition, to return or remain in a country where his life, physical integrity or freedom could be threatened. If such a person is an illegal immigrant, no criminal sanction may be taken against him, but he shall present himself, without delay, to competent national authorities for regularization of his situation.^[40] A refugee shall enjoy economic and social rights and especially the right to naturalization. Even Cameroon have to discourage the arbitrary expelling of aliens from their territory since they considered this a violation of the fundamental human rights of all. The situation becomes different for public peace, order, and security as the said person can be extradited forcefully to his country of origin for fear of insecurity and his involvement in other crimes that can affect public order and peace. But such expulsion should be done with the permission of the state of origin of the alien since it is forbidden by law to send back somebody where the person will face torture or persecution in the country expelled.^[41] This has not been the case with the countries under consideration, where most of them used the pretext of expulsion as a means of maintaining public peace and security stipulating that foreigners are the primary suspects of criminal activities and encourage all types of illegal activities.

Xenophobia, Violence, Discrimination, and Racism

Refugees are often subjected to discrimination when moving into Cameroon territory because of their color and race, their actual or perceived religion, or a combination of these, and they may be the target of unfavorable treatment simply because of their refugee status.^[42] Women refugee workers, who make up half the total, can be doubly penalized. The plight of refugee workers is a growing concern since foreign-born workers represent significantly a rising proportion of the workforce in many countries. Estimated at 1 million, refugee persons in this country and some 32 million in other developing regions, the movement of men and women seeking better job opportunities in these countries are likely to increase in the coming years.^[43] Ten percent of the workforce in Cameroon is currently made up of foreigners One manifestation of discrimination against refugees is their concentration, often regardless of their skill

levels in “3D” jobs where protection is often inadequate or absent in law or practice.^[44]

Although these member States tend to grant documented migrants de jure equality of treatment with nationals as regards remuneration, hours of work, holidays with pay, and minimum age, they face a variety of employment restrictions.^[45] The incidence and extent of differential treatment may vary depending on whether migrants are permanent or temporal and whether they are highly skilled or low-skilled. National migration policies are more inclined to provide for equal opportunities and treatment between nationals and workers in high-skilled positions than those in unskilled and low-status jobs. High-skilled refugees are usually offered more guarantees to shift towards permanent settlement than the low-skilled. Such preferences are doubly hard on low-skilled workers, who are already particularly vulnerable to exploitation and violations of their rights. If low skills are the result of being denied equal opportunities in education or at work in their countries of origin because of their sex or religion or race, inferior treatment of low-skilled workers in destination countries further aggravates discrimination. Resistance towards providing equal treatment to nationals is much stronger in respect of social security rights, employment mobility, and access to employment and vocational training. The provision of alternative employment, relief work, and re-training often on whether the migrants are temporal or permanent settlers, which is contrary to the provisions of ILO standards, including the Migrant Workers Convention, 1975. This is an important issue, especially in light of the steady increase in temporary workers’ programs that often bind workers to the same employer or may require them to leave the country immediately after termination of the contract and to return only after a certain period. These temporary schemes discourage the settlement of migrant workers in the country, which in practice often has the effect of excluding them from equal treatment rights.^[46]

Regional integration schemes grant some nationalities privileges over others, with member States extending equality of opportunity and treatment of refugees from countries within the same regional integration,^[47] but not to persons who are not citizens of a Member State. However, there have been some encouraging developments in the form of Cameroon, Chad, and Gabon regulations granting equal treatment to third-country nationals legally residing in the country.^[48] Moreover, even though these Countries do not support permanent immigration, there seems to be a growing recognition that in some sectors it may be desirable.

The circumstances of workers in an irregular situation are of special concern. In the event of a breach of national law by employers, they may find it difficult to claim the rights they do have or to seek redress in the courts, as these countries do not provide for such a possibility or for the right of these workers to have access to legal proceedings in a language they understand. Moreover, in Cameroon, an undocumented refugee worker who is seized by the competent authorities does not have the opportunity or time to request payment of wages and benefits due or to lodge an appeal.^[49] The protection of the fundamental rights of migrants in an irregular situation, including protection against racial, ethnic, or sex discrimination, is illusory if they do not have access to legal procedures.

On a positive note, trade unions around this country have increasingly taken steps to address the plight of refugees. For instance, there has been an increase in bilateral or multilateral agreements concluded by unions from origin and destination countries to assist workers and combat their exploitation, one example being the agreement signed by Cameroon and the Chinese government in 2010. Another interesting initiative is the “CEMAC Passport” launched among the CEMAC Member countries, which, since 2005, allows a foreign worker who is already a member of a union in his or her country of origin to be hosted by another member union in the host country.^[50]

Conclusion

From all the analysis, one can say that there are predicaments and problems affecting the protection of foreigners’ rights and status in Cameroon despite the putting in place by this country of immigration laws, institutions and policies aimed at protecting foreigners in their respective territory. We have to understand that there is no perfect law or policy, but when we continue to experience continuous repetition of something not withstanding measures used, it means there is a problem with that law, either they are not adequate or adequate but need to be re-visited. The problems are there and we cannot refuse them, but the question we should be posing is what can be done to cleanse the legal and institutional framework in protecting foreigners’ Cameroon for them not to be arbitrary expelled from a given territory so as to ensure a prima facie conducive legal policing platform for their protection in the country in question. For the issue of movement of foreigners in Cameroon has been a long outstanding tradition where the country has taken the initiative in ensuring that those taking residence in their respective territory should be given some absolute level of protection in all their spheres of human right protection. The movement of refugees has experienced great initiative by the Cameroonian government by putting in place effective measures at all levels be it laws and even possible institutions in managing and protecting refugees’ rights and safety. Even though the Cameroon State has enumerated a series of legal dispositions in ensuring refugee right to freedom of movement, these refugees continue in facing imminent violations of their fundamental human rights when they have to undergo specific interference in their basic human rights when taking residence in the Cameroonian territory. These violations of refugees’ rights have been a high debate in questioning whether there is freedom given to these refugees taking residence in Cameroon as they continue facing possible difficulties in their fundamental human right to movement when residing in Cameroon

References

1. These are ordinary, diplomatic, service and special passports.
2. Law No. 68-LF of 11 June 1968 organising the system of requisitioning provides in its section 13 the possibility of requisitioning persons and properties. Decree No. 68-DF-417 of 15 October 1968 fixes modalities for its application. In this regard, persons and properties can be requisitioned under specific legal conditions. Besides, in case of illegal requisitioning, appeals can be taken and the possibility of obtaining compensation.

3. This provision gives five grounds on which someone can be considered a refugee; race, religion, nationality, belonging to a particular member group, and having a given opinion such a person should be afraid of being persecuted pushing this person to flee to seek refuge in another country.
4. This is another core human right instrument providing for the various human right of everyone which need to be respected by every State being a signatory and party to the Covenant
5. Commonly recognized and called the Ebola Virus about 3000 as of the 13th of September 2014 are affected and more than 1500 death cases. Statistics provided by the World Health Organisation on the state of the Ebola Virus in the world. There is also the Corona Virus of 2019 that has greatly affected equally the world population at large, and the Cameroon population in particular
6. The rule is that once a refugee fulfils the conditions as stipulated under Section 1(2) of the 1951 Refugee Convention, that persons automatically obtain a refugee status, and it becomes the responsibility of States who have not only signed the Convention, but equally ratifies the said Convention in ensuring this Refugee should have adequate protection at all time.
7. For example, if the country is the person's state of nationality.
8. Article 4 Protocol 4 ECHR, Article 22 ACHR, and Article 12 ACHPR also prohibit the collective expulsion of aliens (mass expulsion of non-nationals under Article 12 ACHPR). The right to freedom of movement, as found in Article 12 ICCPR, Article 2 Protocol 4 ECHR, and Article 22 ACHR allows the state to restrict the right in certain specific circumstances such as national security, public safety, maintenance of public order, for the prevention of crime, protection of health and morals, and protection of the rights and freedoms of others.
9. Article 26 of the Statute of the United Nations relates to the protection of Refugees in 1951.
10. Ibid, article 1(A) 2 of the Refugee Convention of 1951.
11. Section 33(1) and (2) of the 1951 refugee Convention talks about the right to non-refoulement as the cornerstone of refugee Protection, and under no circumstance should a state send back a refugee to his country of origin where this refugee may suffer torture and persecution on his fundamental Right. This provision is limited in Section 33(2) that a state can limit this right and send back the refugee to his country of origin when the stay of that refugee in the country constitutes a threat to national security, sovereignty, and even morality.
12. Judgment No. 337-Cor of 21 February 1997.
13. Section 635 on the 2005 of the Cameroon Criminal Procedure Code defining Extradition as a situation whereby a requested state hands over a foreigner found in its territory to a requesting state in order that he be prosecuted for one or more specific offences of ordinary law or to subject him to a term of imprisonment passed against him after a criminal trials for an offence of ordinary law.
14. Ibid, Section 645 (2) (a) of the Cameroon Criminal Procedure Code
15. Ibid, Section 645(2) (b) of the Code
16. Section 645(d) of the Cameroon Criminal Procedure Code
17. On the 8 October 2012, 2 police officers NDAM IBRAHIM and NDAM AMADOU illegally arrested a refugee from Equatorial Guinea and made him to return to his country. By Decisions No. 0000348/DGSN/CAB and No. 0000349/DGSN/CAB of 17 October 2008, the Delegate general of National Security suspended the said officers for period of three months.
18. Section 8 of the Cameroon refugee Law
19. Article 14 of the Universal Declaration on Human Right, read alongside with article 13 on the International Covenant on Civil and Political Rights, article 12(3) of the African Charter on Human and Peoples right, Guiding Principle 2 and 15. and article 22(7) of the American Convention on Human Right.
20. *Loizidou v. Turkey*, ECHR, Judgment of 18 Dec. 1996 (Merits), Reports of Judgments and Decisions 1996-VI, no. 26. the Court found that the claimant's loss of control over property in Northern Cyprus was imputable under Article 1 ECHR to the occupant power (Turkey). On the issue of jurisdiction, was seen and the court held that *Loizidou* have the right to own property because Turkey have an effective occupation over Northern Cyprus and Mrs *Loizidou* was a resident there.
21. This chaos or insecurity started in January 2013 which lead to the ousting of President Francoise Bozize from power
22. BBC News on the 15th of April 2013 at 18:00 GMT
23. Section 132(a) of the Cameroon Penal Code punishes torture. This section is complemented by other sections such as assault occasioning grievous harm (section 279); simple harm (section 280); slight harm (section 281); assault on woman with child (section 338); indecency to minor between sixteen and twenty-one (section 347); assault on children (section 350); assault on ascendant (section 351); and act of violence (section 370 (1)).
24. Bureau of Democracy, Human Rights, and Labour as to the 2016 Country Reports on Human Rights Practices. Report February 27, 2016.
25. Report on the Country Human Rights Practices 2016
26. On the 8 October 2008, 2 police officers (NDAM IBRAHIM and NDAM AMADOU) illegally arrested a refugee from Equatorial Guinea and made him to return to his country. By Decisions No. 0000348/DGSN/CAB and No. 0000349/DGSN/CAB of 17 October 2008, the Delegate general of National Security suspended the said officers for period of three months.
27. Section 8 of the same law
28. Ibid, Section 33(1) of the 1951 Refugee Convention which talks about the principles of non-refoulement
29. September 2018, through a communiqué from the ministry of territorial administration demanding refugee residing in Cameroon to returned back to their country of origin
30. Article 9 International Covenants on Civil and Political Rights, Article 5 European Convention on Human Right, Article 6 Africa Charter on Human and People Rights, Article 7 America Convention on Human Right, Articles I and XXV ADRDM, Article 14 ACHR.
31. Standard Minimum Rules for the Treatment of Prisoners (SMR), rule 38(1); Bangkok Rules, rule 53.

32. SMR, rule 38 (2); Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, UNGA RES.43/173 , 9 December 1988, Principle 16.2.
33. Ordinance No 32/PR/2011, 4 October 2011, article 36 of Chad.
34. Law No. 2005/006 of 27 July 2005 relating to the status of refugees
35. The Human Right Reports on the Practice of Human Right in Cameroon, Chad, and Gabon, 2012.
36. Ibid
37. These include Law No. 97/012 of 10th January 1997 laying down the condition for foreigners to enter, stay and exit in Cameroon; Law No.97/010 of 10th January 1997 amending and supplementing certain provisions of the law on extradition and Law No. 1999/14 of 22nd December 1999 governing non-governmental organization. We equally have Law No. 2004/016 of 22nd July 2004 setting the organization and functioning of the National Commission on Human Rights and Freedom and its enabling Instruments to law No. 2005/254 of 7th July 2005 and Law No. 2005/006 of 27th July 2005 relating to the status of Refugees in Cameroon.
38. Ibid, the 1990 Migrants Workers Convention
39. On the 8 October 2008, 2 police officers (NDAM IBRAHIM and NDAM AMADOU) illegally arrested a refugee from Equatorial Guinea and made him to return to his country. By Decisions No. 0000348/DGSN/CAB and No. 0000349/DGSN/CAB of 17 October 2008, the Delegate general of National Security suspended the said officers for period of three months.
40. Section 8 of the same law.
41. Ibid, Section 33(1) of the 1951 Refugee Convention which talks about the principles of non-refoulement.
42. This is the case of Ms. Marie Loubaky who experienced many difficulties since she became a refugee. She no longer had a permanent job with a steady income to support her family. She and her family had lost their former high social standing and, as Congolese refugees, became a marginalized and discriminated part of Gabonese society. As a refugee, she was subjected to verbal abuse and sexual insinuations from the Gabonese police. Marie was used to taking care of her children by herself but, as a refugee, the absence of a spouse made her and her family even more vulnerable to physical and mental abuse. Moreover, her affiliation with the former government of Congo-Brazzaville and her work as a journalist put her at risk politically in Gabon. As such, around the time of the Gabonese presidential elections of autumn 2005, Marie's situation became extremely precarious. The unease and the fear of forcible removals increased among the Congolese refugee community and Ms. Loubaky felt threatened. It was clear that Marie's safety could no longer be guaranteed and that she needed to leave Gabon for a safe country of asylum.
43. "Towards a fair deal for migrant workers in the global economy", Report VI, International Labour Conference, 92nd Session, Geneva, 2004; OSCE; IOM; ILO: Handbook on establishing effective labor migration policies in countries of origin and destination (Vienna, 2006).
44. Ibid, "Towards a fair deal for migrant workers in the global economy", pp 150–165 (agriculture), 173–178 (sweatshops), 181–194 (care economy, domestic work) and, to some extent, 166–172 (construction).
45. Such persons cannot hold high posts of responsibilities in the said countries due to the fact that they are considered as foreigners with little or no aspect of recognition meant to perform only particular functions of less importance.
46. OSCE; IOM; ILO: Meeting the Challenges of Migrants Workers in Central Africa P. 134–144.
47. This is the case of Cameroon, Equatorial Guinea, and Gabon considered as the giants of the CEMAC Sub-Regional Integration Communities.
48. Council Directive 2003/109/CEMAC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, Official Journal IL 0 16, 23 Jan. 2004, P. 0044–0053. Under the Directive, Member States will recognize long-term resident status after five years' continuous legal residence. They would be guaranteed equal treatment with CEMAC nationals with respect to most socio-economic rights.
49. OSCE; IOM; ILO: Meeting the Challenges of Migrants Workers in Central Africa, pp 136
50. This situation is different in Gabon and Equatorial Guinea who are still dragging their feet as far as free movement of persons with the CEMAC is concerned. The situation has not change notwithstanding the CEMAC Passport.