

# An Assessment Of The Nature Of Problems Faced By Refugees And Migrants In Law: A Cameroonian Experience

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**Abstract**—The advent of globalization has increased the rate of voluntary and involuntary mobility of persons across the globe. Migrants and refugees are vulnerable people who require special attention especially when they are forced to exit their original home in search of safety. To ensure the effective protection of migrants and refugees, international laws like the Refugee Convention of 1951, the Universal Declaration of Human Rights, and the UN Convention against torture alongside regional instruments as well as domestic instruments have been put in place to protect the rights of refugees and migrants under international law. However, migrants continue to face problems like discrimination, access to justice, health problems, challenges to housing, poor working conditions and more. This is because of the ineffectiveness of the legal frameworks put in place to protect the rights of migrants. This article therefore has an objective to examine the nature of challenges faced by migrants and possible ways forward. To meet the objective of the article, the research adopted a doctrinal research method where both primary and secondary sources of information have been consulted. Our findings reveal that states continue to violate the rights of migrants under international law because of ineffective implementation of the laws protecting migrants and refugees. We therefore recommend that; there should be an increase in cooperation between states to ensure the protection of migrants and refugees, Funding under the UN should be increased to enable host states of refugees to handle the challenges faced by refugees.

**Keywords**— *Refugees, Migrants, Nature of problems*

## RESUME

*L'avènement de la mondialisation a accru le taux de mobilité volontaire et involontaire des personnes à travers le monde. Les migrants et les réfugiés sont des personnes vulnérables qui nécessitent une attention particulière, notamment lorsqu'ils sont contraints de quitter leur foyer d'origine en quête de sécurité. Afin de garantir une protection efficace des*

*migrants et des réfugiés, des instruments internationaux tels que la Convention relative au statut des réfugiés de 1951, la Déclaration universelle des droits de l'homme et la Convention des Nations Unies contre la torture, ainsi que des instruments régionaux et nationaux, ont été mis en place pour protéger les droits des réfugiés et des migrants en vertu du droit international. Cependant, les migrants continuent de faire face à des problèmes tels que la discrimination, l'accès à la justice, les problèmes de santé, les difficultés de logement, les mauvaises conditions de travail, etc. Cela s'explique par l'inefficacité des cadres juridiques mis en place pour protéger leurs droits. Cet article a donc pour objectif d'examiner la nature des défis auxquels sont confrontés les migrants et les solutions possibles. Pour atteindre cet objectif, la recherche a adopté une méthode de recherche doctrinale, qui a consulté des sources d'information primaires et secondaires. Nos conclusions révèlent que les États continuent de violer les droits des migrants en vertu du droit international en raison de l'application inefficace des lois protégeant les migrants et les réfugiés. Nous recommandons donc une augmentation de la coopération entre les États pour assurer la protection des migrants et des réfugiés. Le financement de l'ONU devrait être augmenté pour permettre aux États d'accueil des réfugiés de relever les défis auxquels sont confrontés ces derniers.*

**Mots-clés** — *Réfugiés, Migrants, Nature des problèmes*

## 1.0. Introduction

The advent of globalization in the 21<sup>st</sup> century has increased the rate of mobility of people from one place to another either voluntarily or involuntarily. Migration is an essential part of human history.<sup>1</sup> Human beings have been moving from place to place for social, economic, or political reasons from their earliest

<sup>1</sup> LEKUNZE CLINTON TAYI,(2024), An Appraisal Of Immigration Laws Into Cameroon, masters Dissertation, FSJP, University of Dschang, P, 1.

days.<sup>2</sup> Migration is defined as the movement of people that involves a change in usual residence across an administrative boundary such as a village, town, district, or country.<sup>3</sup> The idea of the term refugee in this article is because, at times, people migrate from one place to another not on their own will but because they are looking for safety. The term refugee has been defined by the United Nations Refugee Convention of 1951 in its Article 1 as *a person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of 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.*<sup>4</sup> A refugee, therefore, is someone who has been forced to exit his original home for safety because of persecution, war or violence. In principle, a refugee is a person who has fled their country due to fear of persecution, and who cannot return home because they would face serious harm or danger. The Refugee Convention requires that states provide asylum to refugees and protect them from forcible return to their country of origin. Conflict, violence, and human rights abuses are major driving factors that force people to seek refuge in other countries. At times, the term migrant is confused with a refugee. These two persons are very different even though they could face the same challenges under international law which necessitate their protection. Migrants generally are people who move from one country to another to search for better opportunities or to escape the difficult conditions they face in their country of origin. Such movement is usually done so voluntarily unlike the refugees, who are rather forced to flee their comfortable homes either because of persecution, war or other serious threats to their safety or are granted special protection under international law.

The Republic of Cameroon is a central West African nation in the Gulf of Guinea. Its neighbouring countries are Nigeria to the West, Chad to the Northeast, the Central African Republic to the East, and Equatorial Guinea, Gabon, and the Republic of Congo to the South. It is a low per capita income country and has a population of about 25 million people. Two of its border areas with Nigeria (in the Northwest and Southwest of the country) are Anglophone, while the remaining eight regions are Francophone. Over the last decade, a considerable number of people have emigrated from Cameroon. According to the most recent publication by Macro Trends in 2021, Cameroon experienced a steady increase in its international migration from 2000 to

2015.<sup>5</sup> In 2005, the number of international migrants from Cameroon was 258,737, a 13.29% increase from 2000.<sup>6</sup> By 2010 it had increased to 289,091, a rise of 11.73% from 2005. In 2015, the number was 381,984, which is a 32.13% increase from 2010. The most recent statistic on international migration as a percentage of the population was published in 2015, and it stood at 1.6%. Most Cameroonians are considered economic migrants, and the possibility of being granted a visa is slim at the various foreign embassies in Cameroon. Therefore, they resort to using unconventional routes and irregular pathways to reach their destination. Cameroonian migrants often travel through two or more countries before they can head on to Europe. One frequent route used is travelling by land through Libya and Morocco. In many cases, they end up being sold as slaves in these two countries.

Cameroon has a long history of providing refuge to asylum seekers and refugees in the region of Central Africa. In principle, Cameroon is a fitting host for refugees, ranking 7<sup>th</sup> in Africa and 13<sup>th</sup> in the world among the largest host countries. Cameroon is home to approximately 1,945,610 people of concern to the UNHCR, including some 446,911 refugees and asylum seekers, and 1,032,942 internally displaced persons (IDPs). A total of 321,886 IDPs live in the Far North and 711,056 in the Northwest and Southwest regions. There are also 465,757 returnees (former IDPs) in Cameroon. The refugee crisis and IDPs in the Far North are fuelled by political instability in the Central African Republic (CAR) and the Boko Haram insurgency in Nigeria, while the IDPs in the Northwest and Southwest regions are caused by the clash between the government and activists calling for the independence of the Anglophone region. Since 2013, sectarian violence in the CAR has resulted in a massive flow of refugees in the Eastern part of Cameroon.<sup>7</sup> There are currently 331,000 CAR refugees in Cameroon, including about 6,700 new arrivals fleeing the 2020 post-electoral violence. The Anglophone crisis has resulted in a total of over 650,000 Cameroonian refugees (men, women, and children) registered in Nigeria (in the Akwa-Ibom, Benue, Cross River, and Taraba States), as well as over 4,000 new refugees (mostly women and children) from the Northwest region of the Nwa Sub-Division who have arrived in the State of Taraba. In Cameroon, 13,600 Nigerian refugees were enrolled in primary schools and 10,000 emergency shelter kits were provided to benefit some 58,200 IDPs in the Northwest and Southwest regions. While Cameroon

<sup>2</sup> Koser, Khalid. (2016), *International Migration: A very Short Introduction*, 1<sup>st</sup> edition, Oxford: Oxford University Press, P. 4.

<sup>3</sup> Kok, Pieter (1999), "The definition of migration and its application: Making sense of recent South African census and survey data" *Southern African Journal of Demography* volume 7, P. 19.

<sup>4</sup> Article 1 of the 1951 United Nations Refugee Convention.

<sup>5</sup> <https://migrants-refugees.va/it/wp-content/uploads/sites/3/2021/12/2021-CP-Cameroon.pdf>.  
Retrieved on 10/09/2023.

<sup>6</sup> Ibid.

<sup>7</sup> Macro trends, 2021. Cameroon immigration Statistics from 1960-2021. Retrieved from:  
<https://www.macrotrends.net/countries/CMR/cameroon/im-migration-statistics>  
(Accessed in June 2023)

receives refugees from Nigeria in the Far North region, Nigeria receives refugees from the Southwest region of Cameroon. Many IDPs in Cameroon look for safety in large cities like Douala.

Because of the vulnerability of migrants and refugees under international law, these two categories of persons continue to face challenges daily such as discrimination, lack of basic social amenities, access to health, access to justice and more. For a better understanding of the challenges faced by migrants, we have discussed below the legal frameworks in the protection of migrants and refugees, the nature of the challenges faced and the possible ways forward.

### 1.1. The legal frameworks in the protection of migrants and refugees

The vulnerable nature of migrants and refugees necessitates protection by the law. It is not possible for a single country to effectively alone accord protection to migrants and refugees since they cross from one country to another either for safety reasons or economic benefits. Cameroon is a host to a lot of refugees from neighbouring countries like Nigeria, Central African Republic, Congo etc. The laws put in place are national, international and regional which permit the state to ensure the protection of migrants and refugees who enter Cameroon in question.

The first international instrument ensuring the protection of migrants and refugees begins with the Universal Declaration of Human Rights of 1948. The Universal Declaration of Human Rights (UDHR) was a direct response to the atrocities of World War II, which led to the recognition of the need for a global framework for human rights. The declaration was the result of the work of the United Nations Commission on Human Rights, chaired by Eleanor Roosevelt, which drafted the document in response to the atrocities of the Holocaust and other human rights violations during the war.<sup>8</sup> The Universal Declaration of Human Rights (UDHR) provides a broad framework for the protection of the rights of refugees and other vulnerable groups. This begins first with the provision of the article on the equality of all human beings in the world without any form of discrimination.<sup>9</sup> Everyone is entitled to all the rights and freedoms outlined in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Again, no distinction should be made based on the political, jurisdictional or international status of the country or territory to which a person belongs, whether it is independent, trust, non-self-governing or under any other limitation of

<sup>8</sup> Johnson Freedman, (2017), the Universal declaration and the Protection of human rights under International law, Journal of science and Research Kenya, P, 190.

<sup>9</sup> According to this article I, "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."

sovereignty.<sup>10</sup> This convention further recognizes the right to life, liberty and security of a person in Article 3.<sup>11</sup> The convention also prohibits any form of slavery, servitude<sup>12</sup>, torture, or inhuman and degrading treatment<sup>13</sup>. Article 13 of the UDHR recognizes the right to enter another person's country.<sup>14</sup> Refugees and asylum seekers are recognised under the provision of Article 14 of this convention. Everyone has the right to seek and enjoy in other countries asylum from persecution.<sup>15</sup> Under Article 15 of the UDHR, Everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.<sup>16</sup> The UDHR was the first principal international instrument in the protection of human rights and is important to the protection of migrants and refugees against any form of discrimination in the host country. The universal declaration is applicable alongside two additional protocols; the International Covenant on Civil and Political Rights of 1966 (ICCPR) and the International Covenant on Economic, Social and Cultural Rights of 1966.

The ICCPR for example guarantees the right of everyone to work including migrants and refugees in Article 23. Therefore, everyone has the right to work, to free choice of employment, to just and favourable conditions of work and protection against unemployment. This provision does not exclude migrants and refugees who are at times discriminated against by countries in existence. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.<sup>17</sup> Article 12 of the ICCPR protects the right to freedom of movement, including the right to leave any country and to return to one's own country. This provision is particularly important for refugees and migration problems, as it protects their right to flee from persecution or violence in their home countries and to seek safety in other countries. The

<sup>10</sup> Article 2 of the UDHR

<sup>11</sup> Article 3; everyone has the right to life, liberty and the security of person.

<sup>12</sup> Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

<sup>13</sup> Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

<sup>14</sup> This article provides that; *everyone has the right to freedom of movement and residence within the borders of each State. Everyone has the right to leave any country, including his own, and to return to his country.*<sup>14</sup>

<sup>15</sup> According to Article 14 (1), Everyone has the right to seek and to enjoy in other countries asylum from persecution. (2), This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

<sup>16</sup> Ibid, article 15 of the UDHR

<sup>17</sup> Article 23 of the ICCPR



International Covenant on Economic, Social and Cultural Rights (ICESCR) also protects migrants and refugees. For example, article 6 provides for the right to work,<sup>18</sup>. Article 7 talks about the conditions of work and equal pay for everyone. Both migrants and refugees should enjoy the same conditions of work as any other person in the country in question.

One important international convention protecting the rights of refugees is the 1951 Geneva Convention relating to the status of refugees, supplemented by its 1967 Protocol. Article 1 of the 1951 Convention defines a refugee as someone who "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 the country of [their] nationality and is unable or, owing to such fear, is unwilling to avail [themselves] of the protection of that country; or who, not having a nationality and being outside the country of [their] former habitual residence, is unable or, owing to such fear, is unwilling to return to it." This convention outlines the legal protection, rights and assistance a refugee is entitled to receive.<sup>19</sup> The core principle of the 1951 Convention is non-refoulement, which asserts that a refugee should not be returned to a country where they face serious threats to their life or freedom. The document outlines the basic minimum standards for the treatment of refugees, including the right to housing, work and education while displaced so they can lead a dignified and independent life. It also defines a refugee's obligations to host countries and specifies certain categories of people, such as war criminals, who do not qualify for refugee status.<sup>20</sup> In addition, it details the legal obligations of the States that are party to one or both of these instruments.<sup>21</sup>

<sup>18</sup> According to Article 6, (1). The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right. (2). The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual

<sup>19</sup> Nana Charles N. & Fon Fielding F.(2022), Categorisation of Refugees and Their Protection in International law, 1st edition, Lap Lambert academic publishing

<sup>20</sup> Goodwin-Gill, (1982) "Transnational Legal Problems of Refugees" *Michigan Yearbook of International Legal Studies*, p 299.

<sup>21</sup> Paul Weis,(1995), The Refugee Convention, 1951, The Travaux Préparatoires Analysed With A Commentary, Research Centre for International Law University of Cambridge, P, 3.

The principal main convention protecting migrants under international law is the Convention of July 1, 2003, on the protection of the rights of all migrant workers and Members of Their Families of 1990 alongside other principles of the International Labour Law organization. This convention is a human rights treaty that specifically focuses on the rights of migrant workers and their families. This convention defined migrant has been defined in article 2(1) of this convention as *a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national*"<sup>22</sup>. This convention applies to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.<sup>23</sup>

Alongside, the above international conventions, we have other international conventions which protect the rights of migrants and refugees under international law including; the International Convention of December 21, 1965 on the Elimination of All Forms of Racial Discrimination (CERD)<sup>24</sup>; Convention of December 10, 1984 against torture and other cruel, inhuman or degrading treatment or punishment (CAT); The International Covenant on the Protection of all Persons from Enforced Disappearance; The United Nations Basic Principles for the Treatment of Prisoners etc.

Within the African continent, the protection of refugees and migrants is of practical concern. The increase in conflict has increased the number of refugees looking for safety in other countries like the refugees hosted by the state of Cameroon in the Far North region of Cameroon. The economic hardship within the African continent has also led to an increase in the number of people trying to seek refuge in other countries, especially in the Western nations. Within the African continent, there are international conventions put in place to protect both migrants and refugees. The first principal instrument is The African Charter on Human and Peoples' Rights also known as the Banjul Charter. It is an international human rights tool that is envisioned to promote and protect human rights and basic freedoms in the African continent. This convention provides for the Right to Life, right to work, freedom of association, equality before the law,

<sup>22</sup> Article 2(1) of the ICMW

<sup>23</sup> Article 1(1) of the ICMW of 1990.

<sup>24</sup> The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) was adopted in 1965 and entered into force in 1969. It defines and prohibits racial discrimination in all sectors of private and public life. The prohibition against racial discrimination is fundamental and deeply entrenched in international law.<sup>24</sup> It has been recognized as having the exceptional character of jus cogens which creates obligations erga omnes, an obligation from which no derogation is acceptable.

right to education and more. According to Article 2; Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, politics or any other opinion, national and social origin, fortune, birth or other status Article 4; Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right. These rights extend both to refugees and migrants who are found on the African continent.

The African Charter on Human and People's Rights is applicable alongside other international instruments like, The OAU Convention Governing Specific Aspects of the Refugee Problem in Africa; the Free Movement Protocol of 1993; The African Charter on the Rights and Welfare of Children; The AU Convention on the Protection and Assistance of Internally Displaced Persons etc.

Cameroon is one of those countries where many refugees have sought refuge for the past years from other neighbouring countries like Chad, Central Africa Republic, and Nigeria etc. it is normal that the state of Cameroon should put in place laws to ensure migrants and refugees who reside in Cameroon are well protected. The protection of migrants and refugees in Cameroon begins first from the Cameroonian constitution.<sup>25</sup> The Cameroonian constitution does not expressly talk about migration and refugee issues in Cameroon. However, the preamble of the Cameroonian constitution guarantees the right of everyone to settle anywhere and move freely per the laws put in place.<sup>26</sup> Everyone has the freedom to go and come. The problem with the constitution in this sense is that it has not mentioned if the freedom of movement is limited only to Cameroonians or not. It should be noted that not only foreigners immigrate to Cameroon. We have Cameroonians who are out of the country and can return at any time. Therefore immigration includes both Cameroonian and foreign coming into the country provided this is done per the laws put in place. At the same time, the Cameroonian constitution guarantees safety to everyone. Such safety includes even refugees who enter Cameroon to seek refuge. Cameroonians at times argue that the state of Cameroon protects foreigners more than nationals. This is because of the special treatment given to foreigners in Cameroon.

The Cameroonian constitution is applicable alongside other domestic laws which protect migrants and refugees like the 2005 law relating to the status of

refugees in Cameroon<sup>27</sup>. These conventions and laws spelt out who is a refugee and the kind of legal protection, assistance and social rights he or she should receive from the state of Cameroon. It is of great importance to maintain the fact that law No 1990/042 of 1990 which laid down conditions of entry stay and exit in Cameroon, does specifically maintain the term "refugee" It does assess the inviolability of Cameroon's border and emphasize the necessity of proper documentation for any movement into and out of Cameroon, contrasting with the mobility of the fluids that existed before the institutions of national borders. Refugees running to Cameroon for safety are foreigners that need to be protected by Cameroonian law. They are those categories of immigrant who have been forced to move out of their country of origin for security and safety concerns. The Refugee Convention recognizes that refugees have a lawful right to enter a country to seek asylum, regardless of how they arrive or whether they hold valid travel or identity documents.<sup>28</sup> This means that it is incorrect to refer to asylum seekers who arrive without authorization as "illegal", as they have a lawful right to enter Cameroon to seek asylum. Importantly, the 2005 refugee law incorporates a restricted form of the non-penalization provisions contained in Article 31(1) of the Refugee Convention.<sup>29</sup> In this respect, the 2005 refugee law states that "*no penal sanction shall be taken, on account of his illegal entry or presence, against any person who, coming directly from a country where his life and freedom is threatened in the sense of Section 2 of this law, provided he presents himself without delay to the national authorities mentioned in Section 7*".<sup>30</sup> This means that asylum seekers do not break any Cameroonian laws simply by arriving without authorization. However, the 2005 refugee law permits 24 hours of detention, renewable twice.<sup>31</sup> Unfortunately, the 2005 refugee law does not explain which authority is competent to detain refugees and on which grounds. Moreover, the law does it sets out the legal remedies or safeguards available to refugees subjected to detention.

Alongside the refugee convention, we have the 2022 law on laying down conditions of entry, stay and

<sup>27</sup> **Law No 2005/006** of 27<sup>th</sup> July 2005 relating to the status of refugees in Cameroon.

<sup>28</sup> Emmanuel Eloundou Mbua,(2015), "Law No. 2005/006 of 27 July 2005 Relating to the Status of Refugees in Cameroon: An Additional Hurdle or a Major Step Forward to Refugee Protection?", *Journal of Law, Policy and Globalization*, P, 1.

<sup>29</sup> Article 31(1) of the Refugee Convention states: "The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter, or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence".

<sup>30</sup> Section 2(1) of the 2005 refugee law.

<sup>31</sup> Ibid.

<sup>25</sup> Law no 96/06 of 18 January 1996 as amended by law no 2008/001 of 14 April 2008 on the Cameroonian Constitution.

<sup>26</sup> 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 tranquility;

exit for aliens in Cameroon<sup>32</sup>. This is the principal law regulating immigration into Cameroon. This law amended law no. 97/12 of 10 January 1997 to Lay down conditions of entry, stay and exit for aliens in Cameroon. This law is applicable alongside Decree no 2023/147 of 02 March 2023 to lay down the conditions of implementation of Law No. 97/012 of 10 January 1997 to lay down conditions of entry, stay and exit for aliens in Cameroon.<sup>33</sup> This law lays down the conditions of entry, stay and exit of immigrants on the Cameroonian territory. This law uses the word aliens in Cameroon rather than the word immigrant. In immigration law, the term "alien" refers to a person who is not a citizen or a national of the country in question. In other words, it refers to a foreign national. Also, we have The Cameroonian labour code, the law on Cameroonian Nationality and the CEMAC Treaty.

It is worth noting that, these legal frameworks function alongside institutions put in place to protect both migrants and refugees like the United Commission for Human Rights, the United Nations Refugee Commission, the World Health Organization, the International Labour Organization, The migrant Worker Commission and more. But despite the putting in place of all these legal and institutional frameworks protecting migrants and refugees, these vulnerable categories of people continue to face challenges daily in the countries in which they reside.

## **1.2. The nature of problems faced by refugees and migrants.**

Migrants and refugees are vulnerable people especially as they are found in a new country or environment with which they are not familiar. The nature of problems here refers to the type of challenges migrants and refugees face. Foreigners who reside in Cameroon voluntarily and migrants continue to face problems daily. It is not that Cameroonians for example do not face problems; the idea here is that these are people who are far away from their homes either voluntarily or in search of safety and the new community may not welcome them and might be discriminated against. Some of these problems are;

### **1.2.1. Access to Justice for migrants and refugees**

Migrants and refugees have the right to seek redress before the courts or jurisdictions of the countries in which they are found. This is a fundamental right guaranteed by international conventions like the Universal Declaration of Human Rights of 1948. Access to justice is a significant

<sup>32</sup> Law No. 2022/015 of 14 July 2022 bill to amend and supplement some provisions of law no. 97/12 of 10 January 1997 to Lay down conditions of entry, stay and exit for aliens in Cameroon

<sup>33</sup> **SECTION 2:** This law repeals all previous provisions repugnant hereto, in particular those of Law No. 97/12 of 10 January 1997 to lay down the conditions of entry, stay and exit of aliens in Cameroon.

challenge for both migrants and refugees, as they may face barriers to accessing legal services, navigating complex legal systems, and enforcing their rights. These days the concept of 'justice for all' is one of the most fundamental and widely articulated principles of our modern societies.<sup>34</sup> Access to justice is a fundamental right that must be guaranteed in democratic, participatory, and egalitarian societies. It is the right of all individuals to use the legal tools and mechanisms to protect their other rights. There is no access to justice when, for economic, social, or political reasons, people are discriminated against by law and justice systems.<sup>35</sup> In general, access to justice guarantees that people can go before the courts to demand their rights be protected, regardless of their economic, social, political, migratory, racial, or ethnic status or their religious affiliation, gender identity, or sexual orientation. Access, to be real, must be broad and free from discrimination. Free from discrimination means both nationals and foreigners should be treated equally as far as access to justice is concerned. The same opportunity given to nationals should be given to non-nationals which can be migrants and refugees.

Proper access to justice allows individuals to protect themselves from violations of their rights, offering a remedy to the consequences of tort and holding executive power accountable.<sup>36</sup> Access to justice is not easily defined. It is much more than improving an individual's access to courts or guaranteeing legal representation, it can be defined in terms of ensuring that legal and judicial outcomes are just and equitable.<sup>37</sup> If the modern state has determined the prohibition of violence, there must exist the option of access to an impartial body to resolve the conflicts that people may have. The concept of access to justice has varied throughout history according to the prevailing ideas, determined by the era of development of social rights. Not only must access to the jurisdiction be postulated but access must be effective, that is, people must have a real chance of accessing justice. The Cameroonian<sup>38</sup> constitution guarantees in principle the right of every Cameroonian access to justice in the preamble. Legal principles are always complex and naturally not within the grasp of the normal mind. Even people versed with the law sometimes need legal assistance to

<sup>34</sup> Akama Samuel Penda &, Ngatchou Toto Carles, (2019), "A Legal Analysis of the Role of Bar Associations towards Access to Justice for the Poor: A Case Study of Cameroon", *International Journal of Trend in Scientific Research and Development*, Volume 4 Issue 1, P, 1109.

<sup>35</sup> Valesca Lima & Miriam Gomez,(2020), "Access to Justice: Promoting the Legal System as a Human Right", *Springer International Publishing*, P. 1.

<sup>36</sup> Carboni N (2014), "From quality to access to justice: improving the functioning of European judicial systems", *J Civil Legal Sci* volume 3, P, 1. .

<sup>37</sup> Valesca Lima & Miriam Gomez,(2020), Op, Cit, P. 2.

<sup>38</sup> Law no 96/06 of 18 January 1996 as amended by law no 2008/001 of 14 April 2008.



meander the intricacies of the legal procedures and to ensure the protection of fundamental rights which have been violated.

The challenge to access to justice for migrants and refugees can be seen from lack of funds, language barriers, lack of adequate lawyers and more. Migrants and refugees may not speak the language of their host country, which can make it difficult to understand and participate in legal. Many migrants and refugees may lack the financial resources to access legal assistance or file lawsuits, which can make it difficult to enforce their rights. In Cameroon for example, Cameroonians faced problems of access to justice and not to talk of foreigners or refugees. In the absence of access to justice, migrants and refugees are unable to have their voices heard, exercise their rights, challenge discrimination or hold decision-makers accountable.<sup>39</sup> It is a core right essential for the protection and promotion of all other civil, cultural, economic, political and social rights.<sup>40</sup>

In Cameroon for example, litigation is not for free and not the services of a lawyer. Refugees, who are running away from their homes as a result of either insecurity or as result of persecution, will lack the means to pay for all these services. Justice is a concept that begins from the pronouncement and substance of the law to the different stages and forms of its enforcement. There are operational problems associated with this phenomenon. Usually, claims involving financial compensation for rights violations attract a 5% prospective tax on the claim of the plaintiff.<sup>41</sup> This practice in civil matters where the government has used exorbitant filing fees and prohibitive pre-filing tax of 5 % of claims to impede access to justice by the poor has created immense problems concerning the enforcement of basic rights for victims of rights abuses. In addition, relative to the economic situation in Cameroon, the cost of litigation in the country is so high that the ordinary Cameroonian can hardly afford adequate legal representation when he has a legal matter to pursue. This is all the more so if one considers that the vast majority of Cameroonians are constantly preoccupied with how best to make a living for themselves and their extended family. Perhaps to enhance their

economic standing, legal practitioners in Cameroon and Common Law Jurisdiction in particular have devised methods for collecting not only their professional fees but also transportation fees each time they go to court, thus invariably adding to the financial burden of litigants. When this is considered against the background that a particular case could last up to four or five years,<sup>42</sup> then the enormity of the financial burden on litigants can better be appreciated. More to this, filing fees in the High Courts are so high that it is

**In Ejupu Paulette Efila(a Nigerian woman) v. ENEO Cameroon**<sup>43</sup> an action was instituted in the High Court of Meme, held at Kumba by the mother of the plaintiff (deceased) who was electrocuted as a consequence of a fallen electricity pole with High tension Cables at Banga Bakundu along the Kumba-Muyuka stretch of the road, the said accident occurred on the 27th/12/2008, when the deceased was resting along the pavement of the road due to a collision of two transport vehicles. While on the side of the road, a double pole carrying high-tension cables fell across the body of the deceased victim and she was on the spot electrocuted. After the demise of the victim, the matter was reported to the Gendarmerie Brigade at Banga Bakundu wherein a report was established after consultation with medical doctors attesting to the fact that the victim died as a result of electrocution. The defendant failed to assist the family during their trying moment, not even during the burial of the victim, despite the fact every indicator pointed responsibility on the defendant ENEO. The plaintiff through her mother (a farmer in Kumba) prepared a suit for filing claiming 92.450.000 Francs CFA as special and general damages for negligence and murder. The suit which was prepared for filing in 2009 was rejected by the registrar-in-chief for want of a 5% pre-tax fee on the amount claimed. This took the plaintiff another two years to raise part of the pre-taxed and filing fees, the reason why the action was only filed in 2011. Quite apart from the fact that the action was filed upon the payment of less than 1% of the compulsory 5% pre-tax fee, the action was again withdrawn from the court in 2015 by the newly appointed registrar-in-chief who requested to see the receipt evidencing the payment of 5% pre-tax fee which stands at 4.622.500 FCFA. As the plaintiff could not show proof of the payment of the complete pre-tax fee, she was denied further access to court as the matter was removed from the cause list. This was more disturbing as the decision was made irrespective of the fact that section 8 of Law No 2006/015 of 29 December 2006 as amended provides that justice shall be administered in the republic free of charge.

Another problem with access to justice is a result of a lack of persons like lawyers to defend the interests of the migrant or refugee and also the

<sup>39</sup> [The United Nations and the Rule of Law – Access to Justice](#) (Accessed: April 4, 2024)

<sup>40</sup> TCHANA NZOUEDJA A (2021), “[Access to Justice and Human Rights Protection in the Common Law Jurisdiction in Cameroon: Problems and Prospects](#)”, *Zien Journal of Social Sciences and Humanities*, p. 34.

<sup>41</sup> **Meme Lawyers Association (Represented) by Prof. Victor MukwelleNgoh and Barrister Esemé Martín V. Registrar In chief, High Court, Kumba, and Registrar – In chief, court of First Instance Kumba Suit No HCK/68/05/99 – 2000 reported in (2001) I – 125 Pt. 7 P.11.** Lawyer’s laudable attempt to stop this undemocratic restriction to access to justice but the court of Appeal Buea ruled that the practice that places Tax above justice was good

<sup>42</sup> Chief Mbalie Elias v. Adiang D.N, Suit No CASP/CC/3m/2010

<sup>43</sup> 9 HCF/41/2011 Unreported

conflicting interests of the lawyers. This does not only affect refugees and migrants in Cameroon but also Cameroonians. Cameroonian lawyers have sometimes become an obstacle to access to justice for their clients instead of serving as catalyzers. They have difficulties in fulfilling their client's interests with theirs. When a lawyer for example, who also acts as an agent, defends his client in a case of a serious accident which resulted in death, physical or mental incapacity or the loss of an organ, and subsequently damages are paid, it is his duty under Cameroonian law to collect the money and give to his clients. Even though lawyers and their clients generally agree in advance on a fixed sum to be paid to the lawyer, some lawyers are tempted after recovering the money to keep more than what they should.<sup>44</sup> Many of these cases have been reported to the Bar Council<sup>45</sup>. The consequences of such actions are that; lawyers illegally enrich themselves, increase poverty for the clients and access to justice is generally undermined, particularly for the poor. Imagine a migrant running from Boko Haram in the north region of the country who is a victim of an offence and needs the services of a lawyer who tells him how much he is supposed to pay and even a transport fee to go to court any day the matter comes up. This is a very big obstacle to the already struggling refugee or migrant. Another problem is that of lawyers who retain their clients' documents and do not attend court sessions even after receiving payment. They maximize profits and take other jobs. Additionally, in the poverty context, lawyers take money from their clients and make fake arrangements with the lawyers of the adversaries who make good offers. This is sad because magistrates are sometimes involved in this kind of poor justice, especially when the interests of the rich and most powerful are involved. This situation where the powerful and rich dominate over the poor is an obstacle to access to justice for all including the vulnerable who do not have a voice.

### 1.2.2. Xenophobia

Xenophobia poses a serious threat to the effective implementation of refugee laws and the protection of refugees and migrants in international law. The word xenophobia is derived from the Greek words 'xeno', meaning stranger or foreigner, and 'phobia', meaning fear<sup>46</sup>. It is a strong dislike, hatred or fear of foreigners and strangers. Although Cameroonians are generally hospitable, economic constraints have pushed many to be less considerate towards the "strangers". Many Cameroonian residents and authorities say refugees outside the camps present security risks to their communities. Most refugees at times by the very fact of their status find difficulties in being recruited when

job offers come up even if they qualify<sup>47</sup>. In the accommodation sector, for example, some landlords tend to increase the cost of "rooms- to let" under the erroneous misconception that all foreigners are loaded with money<sup>48</sup>. All these make the integration process very difficult.<sup>49</sup>

As noted in previous paragraphs, refugees are often subjected to discrimination because of their colour and race, their actual or perceived religion, or a combination of these, and they may be the target of unfavourable treatment simply because of their migrant status. Women migrant workers, who make up half the total, can be doubly penalized. The plight of migrant workers is a growing concern since foreign-born workers represent significantly a rising proportion of the workforce in many countries. The incidence and extent of differential treatment may vary depending on whether migrants are permanent or temporal and whether they are high-skilled or low-skilled. National migration policies are more inclined to provide for equal opportunities and treatment between nationals and migrant workers in high-skilled positions than those in unskilled and low-status jobs. High-skilled migrants 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 religion or race, inferior treatment of low-skilled migrant workers in destination countries further aggravates discrimination. Resistance towards providing equal treatment to nationals is much stronger concerning social security rights, employment mobility, and access to employment and vocational training. The provision of alternative employment, relief work, and re-training often depends on whether the migrants are temporary 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 migrant 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.<sup>50</sup>

Regional integration schemes grant some nationalities privileges over others, with member States extending equality of opportunity and treatment to migrant workers from countries within the same

<sup>44</sup> Ebénézer N. M., (1970), *De l'Excellence à la Médiocrité, Yaoundé: Editions Clé*, P. 2.

<sup>45</sup> Ibid, P. 3.

<sup>46</sup> Procher et al., (1978), *Longman Dictionary of Contemporary English*, Longman, Harlow & London, P. 1275

<sup>47</sup> Emmanuel Eloundou Mbua, (2015), Op, Cit, P. 74

<sup>48</sup> Ibid

<sup>49</sup> Ibid

<sup>50</sup> OSCE; IOM; ILO: Meeting the Challenges of Migrants Workers in Central Africa P. 134-144.



regional integration,<sup>51</sup> 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-party nationals legally residing in the country,<sup>52</sup> 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.<sup>53</sup>

The circumstances of migrant 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 these countries, an undocumented migrant 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. The protection of the fundamental rights of migrants in an irregular situation, including On a positive note, trade unions around these countries have increasingly taken steps to address the plight of migrants. For instance, there has been an increase in bilateral or multilateral agreements concluded by unions from origin and destination countries<sup>54</sup> to assist migrant 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 migrant 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.<sup>55</sup>

### 1.2.3. Inequality before the law

<sup>51</sup> This is the case of Cameroon, Equatorial Guinea, and Gabon considered as the giants of the CEMAC SubRegional Integration Communities.

<sup>52</sup> 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 TMAS nationals with respect to most socio-economic rights.

<sup>53</sup> Nana Charles N & Fon Fielding Forsuh(2022), Op, Cit, P, 355.

<sup>54</sup> This done mostly by the countries having embassy in the said country who usually hold talks with the host countries of the migrants to discuss the way forward and possible ways in which the conditions of foreigners in the in these countries especially those seeking employment and working in the said countries.

<sup>55</sup> 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

One of the rights of migrants and refugees is the right to equal treatment before the law as seen under the UDHR, ICCPR, ICESCR and more. The Cameroonian Constitution guarantees the equality of all before the law without any form of discrimination. This means both migrants and refugees who committed offences or are victims of offences or intend to instate an action before the competent court should be treated equally without any form of discrimination. However, migrants and refugees like in Cameroon do not benefit from the same advantage. A good example is the requirement for foreigners to deposit a sum of money before their case can be heard.<sup>56</sup> A migrant or refugee who does not have the sum of money to deposit will have his action dismissed for procedural requirements.

### 1.2.4. Detention Conditions and delay in the administration of justice

The idea of detention conditions reflects what we saw in the Buea Central Prison where there were 68 Nigerian detainees still awaiting trial. Foreigners detained in another country other than their country of origin do not have the same opportunities as nationals who can have their families visit or easily communicate with them. The liberty of the person is one of the most precious rights of all human beings.<sup>57</sup> In certain circumstances, judicial authorities may decide that it is necessary to deprive some people of that right for some time as a consequence of the actions of which they have been convicted or of which they are accused. When this happens, the persons concerned are handed over by the judicial authority to the care of the prison administration. They are then described as prisoners. The essence of imprisonment is deprivation of liberty and the task of the prison authorities is to ensure that this is implemented in a manner which is no more restrictive than is necessary. It is not the function of the prison authority to impose additional deprivations on those in its care.<sup>58</sup> Every society has laws that govern relationships between individuals. The violation of these laws leads to sanctions being meted out to defaulters but at times the detainees like the Nigerians we saw for example suffer from health challenges, malnutrition and access to basic amenities. Some of the foreign detainees where saw who are termed offenders are generally of varied ages, from different social backgrounds and of both sexes. Offenders of different categories have

<sup>56</sup> This is known as Caution Judicatum Solvi. this refers to an amount of money which a foreigner must deposit before his or her case can be heard in a Cameroonian court. This constitutes an exception to the principle of equality because Cameroonians are not supposed to deposit this amount of money. Therefore, in front of a Cameroonian Court, a Cameroonian is not treated the same way as a foreigner

<sup>57</sup> Andrew Coyle, (2009), *A Human Rights Approach to Prison Management Handbook for Prison Staff*, 2<sup>nd</sup> Edition, Published by International Centre for Prison Studies, P, 11.

<sup>58</sup> Ibid, P. 12.

problems which are peculiar to that category. Among these categories are female offenders.<sup>59</sup> Amnesty International has for several decades been gathering information and reporting on allegations of human rights violations carried out, ordered or condoned by the Cameroonian government and security officials in prisons. The violations have included extrajudicial executions, arbitrary arrests, unlawful detentions, torture and other forms of cruel, inhuman or degrading treatment or punishment, unfair trials, and persecution and imprisonment of people for their real and gender identity. Most of the perpetrators of these human rights violations especially members of law enforcement forces have usually enjoyed impunity.<sup>60</sup>

Many problems plague foreign detainees in particular in Cameroon, amongst these are overcrowding, insufficient human material and financial problems, discrimination and violence against women, Pre-trial detention, practices that heighten risk or cause physical or mental suffering, inadequate provision for gender-specific, the nature and scope of medical examinations, not separating male and female prisoners, supervision by male staff: mixed gender staffing, the inappropriate and unjustified use of restraints, inadequate provision for family contact, others challenges resulting from their lives before imprisonment, others resulting from their imprisonment itself. Foreigners like those in New Bell prison in Douala have experienced victimization, unstable family life, school and work failure, substance abuse and mental health problems.

Prisoners serving long-term or life sentences are often neglected when it comes to rehabilitation programs and at the New Bell Prison, there is no rehabilitation training program for foreigners like migrants from Central Africa, and Congo who are seeking refuge in Cameroon. Normally, all prisoners must be allowed to be rehabilitated, regardless of the length and nature of the sentence or nationality. It is important to note that any sentence may be commuted or reviewed, and all prisoners may be considered for pardons or amnesties. The delays in the administration of justice as an aspect of access to justice are becoming very worrisome. That there is an inordinate delay in the administration of justice in the Common Law Jurisdiction in Cameroon is a pedestrian statement. We see ordinary cases of trespass and other related disputes over land before the Courts lasting between three to five years only to discover at the appellate court that they lacked jurisdiction to entertain<sup>61</sup>. The Courts of Appeal have

in all cases where customary courts, the Court of First Instance and the High Court act outside the scope of their jurisdiction, declared the entire proceedings null and void. Several circumstances could give rise to this delay and persistent abuse of jurisdiction by these courts: The non-appearance of lawyers in the Customary Court and the inability of magistrates to deliver judgments on time. It has almost become an accepted fact in the common law jurisdiction of Cameroon that cases must last several years in court before they are concluded. Even Cameroonian citizens are reluctant at times to even take a case before the court as a result of delays not to talk of migrants or refugees whose rights have been violated or some who are in transit.

### 1.2.5. Documentation requirements by the law and legal status

Documentary requirements for immigrants are not the same all over the world. Immigration into a country like Cameroon requires the immigrant to have certain documents. The documentary requirement for a foreigner to enter Cameroon is governed by Law No. 2022/015 of the 14 July 2022 bill to amend and supplement some provisions of Law No. 97/12 of 10 January 1997 to Lay down conditions of entry, stay and exit for aliens in Cameroon. This law is applicable alongside Decree no 2023/147 of 02 March 2023 to lay down the conditions of implementation of Law No. 97/012 of 10 January 1997 to lay down conditions of entry, stay and exit for aliens in Cameroon.<sup>62</sup> This law lays down the conditions of entry, stay and exit of immigrants on the Cameroonian territory. Immigrants in Cameroon are required to comply with the provision of the 2023 Cameroonian decree on the conditions of entry, stay and exit from the Cameroonian territory. In immigration law, "requirements" refer to the various conditions that immigrants must meet to be eligible for certain immigration benefits or protections.<sup>63</sup> These requirements can vary depending on the type of visa or immigration status that an immigrant is seeking and can include factors such as:

- Educational qualifications
- Work experience
- Family ties
- Financial resources

2006. The court nullified the decision of the lower court on grounds that the lower court lacked jurisdiction in entertaining actions touching on ownership of land. The appeal which was filed in 2011 was only dismissed or nullified in 2014 three years after

<sup>62</sup> **SECTION 2:** This law repeals all previous provisions repugnant hereto, in particular those of Law No, 97/12 of 10 January 1997 to lay down the conditions of entry, stay and exit of aliens in Cameroon.

<sup>63</sup> Dehaas, H. (2007), "Migration and development : A Theoretical Perspective, Bielefeld," *COMCAD Working Papers-Center on Migration Citizenship*, P. 29.

<sup>59</sup> Henry Asaah Ngu Ndama, (2018), the protection of Young offenders under Cameroonian law, *Participants' Papers*, P. 105.

<sup>60</sup> Amnesty International, (2013), "Republic Of Cameroon Make Human Rights A Reality", Amnesty International Publications, P. 1.

<sup>61</sup> *Malafa Efungani v. Ndivo Mondo, Suit No CASWR/CC/02/2011*, the Court of Appeal Buea nullified the Buea Customary Court decision filed before the court in

- Language proficiency<sup>64</sup>

Immigrants who meet the requirements for a particular visa or status may be granted permission to live and work in the country, while those who do not meet the requirements may be denied entry or deported. In Cameroon, the requirement for an immigrant to enter the country has been provided by the 2022 law alongside the 2023 decree. Anyone who does not comply with these laws shall be sanctioned per the laws put in place. Our discussions under this chapter have been divided into two: the requirement for immigration into Cameroon, and sanctions.

Generally, for someone to enter the territory of Cameroon, the person must have a visa authorized by the Cameroonian embassy. This is per the article of the 2023 decree. Such authorization is done through online registration. Online visa application is the digital process from an interconnected system to obtain a document allowing entry into a foreign country for a specified period.<sup>65</sup> Such authorization can be done online. Online visa authorization is an electronic document obtained via a dedicated website which allows a user, regardless of geographical location, to access a border post in a foreign country.<sup>66</sup> The entry visas have been categorized per the provision of Article 21 of this decree.<sup>67</sup> The multiple entry and exit transit visa may be issued to an alien in transit. The multiple entry and exit transit visa may be issued to an alien in transit.<sup>68</sup> Anyone applying for a Cameroonian visa shall pay for the visa in question. This condition for payment shall be done per the provision of Article 28(1 and 2).<sup>69</sup> Therefore Applying for an entry visa to Cameroon shall start with an online pre-registration, followed by the payment of the fees provided for by the laws in force. The Delegate General for National Security shall check and approve the application within 24 (twenty-four) hours.<sup>70</sup> The registration of any alien applying for an entry visa to Cameroon shall be done at the competent or nearest diplomatic mission or consular office. Such a visa must be issued by a competent authority within a dateline of 3 months.<sup>71</sup>

<sup>64</sup> LEKUNZE CLINTON TAYI,(2024), Op, Cit, P.31.

<sup>65</sup> Article 2 of 2023 decree.

<sup>66</sup> Ibid.

<sup>67</sup> ARTICLE 21: Entry visas shall be classified in 3 (three) categories: transit visa; - short-stay visa; - long-stay visa.

<sup>68</sup> Ibid, Article 22.

<sup>69</sup> ARTICLE 28: (1) Applying for a Cameroonian visa and payment of related charges shall be done exclusively online on the designated website. (2) The payment of the charges referred to in (1) above shall be without prejudice to the provisions of the Agreements and Conventions to which Cameroon is a party.

<sup>70</sup> Ibid, Article 30

<sup>71</sup> ARTICLE 29: (1) Visas or online visa issuance authorizations shall be granted by the competent diplomatic mission or consular office, within 3 (three) days of online pre-registration. (2) In the case of an express procedure, the period referred to in (1) above shall be reduced to 24 (twenty-four) hours. - However,

Where the alien presents an online visa authorization at the border post, the process of affixing the visa shall be as follows: - checking of the documents submitted for the issuance of the visa; - checking of the biometric elements to identify the holder; printing of the sticker; affixing the sticker to the passport or travel document.<sup>72</sup> The authorization of the visa in question shall be an electronic document per Article 33 of the 2023 decree.<sup>73</sup>

Despite these conditions expressly put in place to easily obtain Cameroonian visas, we still discover that people still enter Cameroon illegally without any form of document. If it is a Cameroonian, it is understandable that his ID card alone is sufficient to justify that he is a Cameroonian. However, foreigners who reside in Cameroon are without any valid documents. This explains the poor border control and corruption on the part of some of the immigration officers at the control post. Again, some of the immigrants enter with fake passports or documents. This is because some of them are scammed by internet fraudsters who cannot be easily identified by law enforcement agencies in Cameroon.

aliens from countries where Cameroon is not represented by a diplomatic mission or consular office may apply for a visa authorization at the nearest Cameroonian diplomatic mission or consular office abroad. (4) Notwithstanding the presence of a diplomatic mission\_ or consular office, an alien may, due to large physical distance, apply for visa authorization online, provided that he/she resides outside · the city where the diplomatic mission or consular office is located. (5) In case of refusai of the visa, the competent office shall notify. the applicant within 3 (three) days of filing of the application.

<sup>72</sup> ARTICLE 32:

<sup>73</sup> ARTICLE 33: The visa authorization shall be an electronic document generated after verification, in accordance with Article 29 ·above. It shall have the following characteristics:

- Cameroon flag on the upper left corner;
- the inscription "Republic of Cameroon" at the centre in English and French;
- coat of arms of the Republic of Cameroon to the right;
- the following information in chronological order:
  - approved pre-registration;
  - applicant's identity as shown in his passport, in particular: surname, first name, date of birth, place of birth, travel document number, approval date and visa number;
- QR code enabling access to all information about the applicant in particular that concerning documents submitted during pre-registration and home address;
- guidelines for the traveller, in particular visa application documents submitted



However, refugees who are running wars cannot be required to carry out all the documentary requirements before they can enter the country. The reason was that in most cases, they were running for their lives. But these categories of persons must have the status of refugees as demanded by the refugee convention. To qualify for asylum or refugee status under the 1951 Refugee Convention, individuals must meet the following criteria: Individuals must demonstrate that they have a well-founded fear of persecution in their home country based on race, religion, nationality, membership of a particular social group, or political opinion. Individuals must be outside of their home country and unable or unwilling to return due to fear of persecution.<sup>74</sup> The lack of such documentary requirements will affect the ability of the migrant or refugee to seek redress in court. Some are already scared because once they get even to the police and it is discovered that they do not have the required documents to reside in Cameroon, they just abandon their rights for fear of deportation.

Refugees fall under the category of immigrants who enter Cameroon to reside because of security threats in their country of origin. These immigrants need shelter and protection. But because of the same security reasons on the part of the host state, to obtain a refugee card, the person must respect the requirement provided under this law. The requirement for a refugee to be considered under this status is per articles 43, 44 and 45 of this law. The refugee card shall be a justification document issued to the alien granted the right of asylum. It is valid for a renewable period of two years.<sup>75</sup>

The issuance of a refugee card is under the provision of Article 45 of this law. The refugee must present: identification documents issued by the United Nations Commissioner for Refugees and the refugee certificate issued by the Minister of External Relations. The problem with this area of the law is that some immigrants come under the status of refugees and end up disappearing without any trace and remaining on the national territory without any justification.

The non-respect of these provisions of the law leads to consequences under this law like Turning Back Aliens, Escort of aliens to the border, and Expulsion. The turnback of aliens is a measure taken upon entry into the national territory by the head of the

border or Emi-immigration post.<sup>76</sup> The alien transported and subject to expulsion shall be immediately escorted to the aircraft or any other sea, river or land transport means carrying him at the expense of the carrier. The turn-back measure shall be entered in the log book by the head of the border or immigration post and included in a report forwarded to the Delegate General for National Security.<sup>77</sup> Escorting an alien to the border shall be a measure taken by order of the senior divisional officer with territorial jurisdiction, upon a reasoned report by the Emi-immigration services. Any measure to escort an alien to the border must be duly notified to the alien within 48 (forty-eight) hours of the signature of the order. The measure to escort an alien to the border shall be immediately enforceable at the behest of EMI immigration services.<sup>78</sup> Expulsion, or deportation, is the process of forcibly removing an immigrant from a country due to a violation of immigration laws or other legal issues. Expulsion is typically carried out by the government of the country where the immigrant is living, often with the help of law enforcement or immigration authorities. Expulsion can be a long and complicated process, and it can have serious consequences for the individual being deported. Expulsion can result in the loss of legal status, the loss of employment or housing, and the loss of access to social services and other benefits. Expulsion in Cameroon is done following articles 67 and 68 of the 2023 decree.<sup>79</sup> It is therefore possible to repatriate an immigrant who illegally entered Cameroon. We have not seen circumstances of repatriation of foreigners from Cameroon but there are a lot of cases of repatriation of Cameroonians from other African countries. The residence permit, residence card or refugee card may be refused to any alien whose presence constitutes a threat to public order. In case of final departure, the alien authorized to stay as a resident or refugee must hand over his residence permit, residence card or refugee card, as the case may be, at the time of issuance of his exit visa. Aliens in irregular status shall have a period of 3 (three) months with effect from the date of publication of this decree to comply with the regulations in force.<sup>80</sup>

#### 1.2.6. Health challenges

Like any other citizen, migrants and refugees will require access to health care. It is a fundamental right guaranteed both in international instruments and the Universal Declaration of Human Rights. The countries most current migrants come from, along with the living

<sup>74</sup> The article of the 1951 Refugee Convention that defines the criteria for refugee status is Article 1(A)2, which states: "As a result of events occurring before 1 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 the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country." This definition forms the basis for determining whether an individual meets the criteria for refugee status and is entitled to protection under the Convention.

<sup>75</sup> Article 43.

<sup>76</sup> LEKUNZE CLINTON TAYI,(2024), Op, Cit, P.39.

<sup>77</sup> Article 63, 64, and 65 of the law on the entry, stay and exit from Cameroon.

<sup>78</sup> Article 66 of the of 2023 decree.

<sup>79</sup> ARTICLE 67: Expulsion shall be decided by order of the Prime Minister, Head of Government.

ARTICLE 68: The expulsion measure shall be immediately enforceable at the behest of emi-immigration services.

<sup>80</sup> Ibid article 70 and 71.

circumstances they were facing in their home country, puts them at a higher risk of a suboptimal health status.<sup>81</sup> Chronic conditions like diabetes, high blood pressure, heart disease, and malnutrition are prevalent among migrants. In addition, their current situation puts them at higher risk of mental health illnesses, such as depression, anxiety, post-traumatic stress disorder and substance abuse. Undocumented immigrants are not eligible like in the USA for federally funded public health insurance programs, including Medicare, Medicaid and the Children's Health Insurance Program (CHIP).<sup>82</sup> Even in a country like Cameroon, certain privileges of health services can only be benefited by Cameroonians alone. Undocumented immigrants are considered "non-qualified aliens," and therefore can only receive limited federal and state public benefits.<sup>83</sup>

Access to health for refugees and migrants becomes even worse when it involves persons with disability. The UNHCR [estimates](#) that several million people displaced around the world are disabled, "but often remain invisible within uprooted communities." While disabled people don't form a monolith, living in displacement can often present challenges for people who require additional accommodations. The UNHCR adds that they statistically face a greater risk of exploitation, violence, and discrimination. Access to healthcare for persons with disabilities refers to the ability of individuals with disabilities to receive the healthcare services they need without facing barriers or discrimination. Access to healthcare may vary across countries, communities, and individuals, influenced by social and economic conditions as well as [health policies](#). Disability is part of the human condition.<sup>84</sup> The ability of persons with disabilities to participate in society is often frustrated because physical environments, transportation and information and communications systems are not easily accessible.<sup>85</sup> In many cases discrimination results, at least in part, from negative attitudes and perceptions, misunderstandings and lack of awareness. For example, the misconception that persons with disabilities are not productive members of the workforce may lead employers to discriminate against applicants with disabilities, even if they are highly qualified to perform the work.<sup>86</sup> Derogatory attitudes and discrimination from external sources also impact

the self-perceptions of persons with disabilities, creating additional barriers to participation in society and development. Persons with disabilities have the same health needs as every other member of the population, including immunization, screening, sexual and reproductive health, and all other aspects of regular healthcare. They may also have additional or more complex health needs, because of impairment and the consequences of impairment. Persons with disabilities may face particular barriers in accessing needed healthcare. Some refugees especially in conflict-affected areas suffer from these challenges to access health services. Health services for migrants and refugees also include those who are under detention or in prisons. Lack of the means to access health services has always remained a contributing factor to the challenges faced by refugees and migrants since they might not be able to pay for the services immediately. Moving out of your zone of comfort to save your life also means you have lost all your source of income.

### 1.2.7. Access to education

Refugees and migrants have the right to education like any other person in the world. Access to education is a significant challenge for many refugees and migrants, as they often encounter barriers that limit their ability to attend school, college, or other educational institutions. Refugees and migrants may not be proficient in the language of instruction, which can hinder their ability to participate in classes or understand course materials. Language barrier to education prevents the ability of refugees to understand the lessons in schools. This is because when you are seeking refuge, you do not care about language or anything. The only thing of interest is your ability to be safe. Refugees and migrants may lack access to schools or educational institutions in their host countries, either due to their legal status or their inability to pay tuition fees. Even in neighbouring countries, refugees may find themselves getting lost in translation within a host community.

North Cameroon we visited, a 20-year-old Abdu Nayla's life centred on her education. Now in a refugee camp in North Cameroon from Nigeria, her younger brothers can attend child-friendly spaces to play and learn, however, her education has been put on hold. It's one of the things she misses the most, especially as she says "there is not much to do" in the camps.<sup>87</sup> This is a common issue faced by refugees who are of high school or university age. Many never return to finish their education. "*I have lost my will now after missing it for two years,*"<sup>88</sup> Being a refugee can also force many children to take on roles and duties that are far beyond their years. At the end of 2023, the UNHCR estimated that 40% of all forcibly displaced people are under the age of 18. Many end up taking on caretaker roles for younger siblings or cousins if

<sup>81</sup> Eriksson, M, (2011), "Social capital and health implications for health promotion", *Glob Health Action*, P, 4,

<sup>82</sup> Fabricio J Alarcon, (2022), Op, Cit, P, 5.

<sup>83</sup> Ibid

<sup>84</sup> Remarks of the Secretary-General to the United Nations General Assembly's High Level Meeting on Disability and Development, 23 September 2013.

<sup>85</sup> Michał Gondek, (2001), *The Reach of Human Rights in a Globalising World: Extraterritorial Application of Human Rights Treaties*, International Journal of Law, P. 817.

<sup>86</sup> Naomie Mahmoud, (2022), "Access to employment for persons with disabilities", PhD Thesis, Université Gustave Eiffel, P. 3.

<sup>87</sup> Interview of Abdu Nayla in the refugee camp from Nigeria in Northern Cameroon.

<sup>88</sup> Ibid.

they aren't with their parents or guardians. Others are forced to take on work to support their family if their parents can't earn enough.<sup>89</sup> Even for those who continue their education from a host community, it can be difficult to keep up in class. Many child refugees have witnessed too many horrors to be able to cope in a traditional education setting. Some are also discriminated against in the classroom.

#### **1.2.8. Finding adequate and affordable housing**

International human rights law recognizes everyone's right to an adequate standard of living, including adequate housing. Despite the central place of this right within the global legal system, well over a billion people are not adequately housed. Millions around the world live in life- or health-threatening conditions, in overcrowded slums and informal settlements, or in other conditions which do not uphold their human rights and their dignity.<sup>90</sup> Further millions are forcibly evicted, or threatened with forced eviction, from their homes every year. Adequate housing was recognized as part of the right to an adequate standard of living in the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Economic, Social and Cultural Rights. Other international human rights treaties have since recognized or referred to the right to adequate housing or some elements of it, such as the protection of one's home and privacy. The right to adequate housing is relevant to all States, as they have all ratified at least one international treaty referring to adequate housing and committed themselves to protecting the right to adequate housing through international declarations, plans of action or conference outcome documents. Several constitutions protect the right to adequate housing or outline the State's general responsibility to ensure adequate housing and living conditions for all. Courts from various legal systems have also adjudicated cases related to its enjoyment, covering, for instance, forced evictions, tenant protection, discrimination in the housing sphere or access to basic housing-related services. People on the move, whether they are refugees, asylum-seekers, internally displaced persons (IDPs) or migrants, are particularly vulnerable to a range of human rights violations, including violations of the right to adequate housing.<sup>91</sup> Refugee and IDP camps around the world, particularly when displacement is protracted, are often dilapidated and overcrowded, providing inadequate shelter and

services. Sometimes their inhabitants enjoy no basic services at all.

#### **1.2.9. Sexual harassment and rape (Sexual Violence)**

Displaced women and girls living in camps can be subject to sexual and gender-based violence, for instance, because not enough attention is paid to their specific needs and vulnerabilities in the design and layout of the camp. Sexual harassment is any unwelcome sexual behaviour that makes someone feel uncomfortable, threatened, or intimidated. It can include a wide range of behaviours, including Unwanted touching, Sexual comments or jokes, and Sexual gestures.<sup>92</sup> Rape is a form of sexual violence that involves sexual intercourse or other sexual acts without the consent of the victim.<sup>93</sup> Rape is a crime of power and control, and is often used as a tool of oppression or violence in conflict situations. Rape can be committed by individuals or groups, and can occur in both private and public spaces.<sup>94</sup> Rape is a serious violation of human rights, and can cause physical and psychological harm to victims, including trauma, shame, and long-term health problems.<sup>95</sup> Refugees and migrants may be particularly vulnerable to sexual harassment due to their displacement, economic instability, and lack of knowledge about their rights or local laws. Gender inequality and patriarchal attitudes in many societies may contribute to the prevalence of sexual harassment against women and girls, particularly in countries where these attitudes are prevalent.

#### **1.2.10. Economic challenges of migration and refugees**

Economic challenges refer to the difficulties that refugees and migrants may encounter in terms of accessing employment, earning a living, and supporting themselves and their families like unemployment, poor conditions of work and pay. Migrants at times are often paid cheaper, poor.

Conditions of work, unfair dismissal etc. This is not the same fate suffered by nationals of the countries in which the migrants and refugees reside.

#### **1.2.11. Security challenges of migrants and refugees**

Security challenges refer to the threats or risks that refugees and migrants may face in their host countries. Lack of peace remains one of the causes of

<sup>89</sup> <https://www.concern.net/news/refugee-problems-faced-around-the-world>, accessed on 27/03/2024.

<sup>90</sup>  
<sup>91</sup> Article 43 of the International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families guarantees equal treatment in access to housing, including social housing schemes, and protection against exploitation in respect of rents to regular migrants and their families.

<sup>92</sup> Lotte De Schrijver et al(2018), "Prevalence of Sexual Violence in Migrants, Applicants for International Protection, and Refugees in Europe: A Critical Interpretive Synthesis of the Evidence", *Int J Environ Res Public Health*, P, 1.

<sup>93</sup> World Health Organization . (2003), Guidelines for Medico-Legal Care for Victims of Sexual Violence. WHO Press; Geneva, Switzerland, P, 12.

<sup>94</sup> Ibid, P, 13.

<sup>95</sup> Ibid, P, 13.



migration and refugee crises in the world today. The maintenance of international peace and security has been the foundational pillar upon which the United Nations was built, enshrined in the very first article of its charter.<sup>96</sup> Refugees and migrants may be at risk of violence, including physical assault, kidnapping, or murder, particularly in areas of conflict or insecurity. Refugees and migrants may be vulnerable to exploitation by criminal groups, traffickers, or employers, who may take advantage of their precarious status to force them into labour or sex trafficking. Refugees and migrants may encounter hostility or violence from members of the host community who are opposed to their presence. Refugees and migrants may be at risk of environmental hazards, such as natural disasters or pollution, which can exacerbate their vulnerability.<sup>97</sup> In other to fight against the security challenges of refugees and migrants, today we see peace peacekeeping missions from the United Nations in conflict countries like RDC. Security challenges are not limited only to violence but can also include environmental challenges. Environmental risks refer to natural disasters, climate change, and other ecological factors that can exacerbate the vulnerability of refugees and migrants. Refugees and migrants may be at risk of natural disasters, such as hurricanes, floods, or earthquakes, which can destroy their homes and livelihoods and force them to relocate.

### 1.3. Conclusion and ways forward

The problems encountered by migrants and refugees daily are non-exhaustive especially as the number of migrants and refugees continues to increase every day. Normally, we examine this nature of problems so that solutions can be proposed on the ways to resolve them. In summary, refugees and migrants face numerous challenges that can impact their physical, social, economic, and psychological well-being. These challenges include access to justice. Discrimination, health challenges, security challenges, economic challenges, language barriers, problems with housing and more. As a result of these challenges, we therefore recommend that; there should be effective cooperation between states at the international level to handle the problems of migrants and refugees. This is because the challenges faced cannot be handled by one state alone. Again, the United Nations should increase the level of funding to countries having refugee crises. This is important for the state in question to handle the problems of refugees and migrants. Also, there should be sanctions melted on states that violate the rights of migrants and refugees. Discrimination by states is a

voluntary act where states decide to treat nationals and foreigners differently. If there are sanctions against states for discriminating, then the rate of discrimination will reduce.

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<sup>96</sup> Rosner Gideon, *The United Nations Charter: A Commentary*. Oxford University Press, (2015), pp. 10-25

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