

Personal safety and security of vulnerable groups: Children and refugees

This chapter focuses on the personal safety and security of children and refugees, because of specific commitments that AU member states have made towards these two vulnerable groups. Africa is the only region that has established human rights conventions dealing with the rights and issues of refugees and children.

4.1 Security of children

The specific commitment used to review the protection of children is the African Charter on the Rights and Welfare of the Child, which entered into force on 29 November 1999.¹¹⁹ General commitments are the Grand Bay Declaration, which calls for the elimination of cultural practices that are dehumanising or demeaning to children; the eradication of violence against children; and the end of child labour, the sexual exploitation, and trafficking of children. It also calls for the protection of children in conflict and refugee children. The Kigali Declaration calls for the end of the practice of child soldiers and the protection of children in situations of armed conflict. The CSSDCA Memorandum of Understanding calls for the promotion and protection of the rights and welfare of the child. Indicators used in this review were as follows:

- Has the state ratified the African Charter on the Rights and Welfare of the Child?

¹¹⁹ The African Charter on the Rights and Welfare of the Child, OAU document. CAB/LEG/24.9/49.

- Has the state ratified the UN Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, and the Protocol on the Trafficking and Sexual Exploitation of Children, as stipulated under paragraph 24 of the CSSDCA Memorandum of Understanding? (*This requirement would also imply ratification of the UN Convention of the Rights of the Child.*)
- Have cultural practices harmful to children been abolished, or do they continue to be tolerated by the state, as prohibited under paragraph 6 of the Grand Bay Declaration as well as in the Charter on the Rights and Welfare of the Child?
- Are children used as child soldiers in armed conflict, which is prohibited in paragraph 17 of the Kigali Declaration and article 22 of the Charter on the Rights and Welfare of the Child?
- Is there a problem of child labour, trafficking in children or sexual exploitation of children, which are all prohibited under paragraph 6 of the Grand Bay Declaration and under the Charter on the Rights and Welfare of the Child?

4.1.1 Ratification of the African Charter Relating to the Rights and Welfare of the Child

Of the states under review all, except Ghana, have ratified the Charter on the Rights and Welfare of the Child. Uganda was the first to sign the Protocol, having done so in 1994. Algeria ratified most recently, in 2003.

4.1.2 Ratification of the UN Convention on the Rights of the Child

All of the states under review have signed the UN Convention on the Rights of the Child, and all of them have ratified it. The CSSDCA Memorandum of Understanding states that Protocols to the UN Convention on the Rights of the Child should be ratified by member states by 2005. To date, Kenya and Uganda have acceded to the Protocol on the Involvement of Children in Armed Conflict. Nigeria, Senegal and South Africa have signed it, indicating a willingness by these states to abide by

the Protocol's provisions. The Protocol on the Sale of Children, Child Prostitution and Child Pornography, which the CSSDCA Memorandum of Understanding urges states to ratify by 2005, has been signed by Ghana, Kenya, Nigeria and Senegal. South Africa and Uganda have acceded to it.

4.1.3 National legislation

Among the countries under review, Ethiopia, South Africa, Ghana and Uganda provide protections to children in their national constitutions. Senegal, Algeria, Nigeria and Kenya do not provide constitutional protection, and it was not determined whether national legislation specifically addressing children existed.

Article 36 of Ethiopia's constitution is devoted to children. It says that children will not be subject to exploitative labour practices, nor will they be required to perform work that is hazardous or harmful to their education, health or well-being. Under article 28 of South Africa's constitution, children are to be protected from maltreatment, neglect, abuse or degradation;¹²⁰ to be protected from exploitative labour practices;¹²¹ and are not to be required or permitted to perform work or provide services that are inappropriate for a person of that child's age or that place at risk the child's well-being, education, physical or mental health or spiritual, moral or social development.¹²² Further, children are not to be used directly in armed conflict, and are to be protected in times of armed conflict.¹²³ Ghana's constitution guarantees special protection against exposure to physical and moral hazards.¹²⁴ It also protects children from engaging in work that constitutes a threat to their health, education or development.¹²⁵ Nor should children be subjected to torture or other cruel, inhuman or degrading treatment under Ghana's constitution. Uganda's constitution protects children from social or economic exploitation. Children should not

¹²⁰ Constitution of South Africa, art. 28(1)(d).

¹²¹ *Ibid*, art. 28(1)(e).

¹²² *Ibid*, art. 28 (1) (f).

¹²³ *Ibid*, art. 28(1)(i).

¹²⁴ Constitution of the Republic of Ghana, art. 28(1)(d).

¹²⁵ *Ibid*, art. 28(2).

be employed in or required to perform work that is likely to be hazardous or to interfere with their education, or be harmful to their health or physical, mental, spiritual, moral and social development.¹²⁶

4.1.4 Harmful cultural practices against children

Article 1 of the African Charter on the Rights and Welfare of the Child discourages the practice of “any custom, tradition, cultural or religious practice” that is inconsistent with rights, duties and obligations set forth in the Protocol. Article 21 calls for the elimination of such practices.

It has been estimated that, in Africa today, the number of living women who have been subjected to some form of female genital mutilation (FGM) ranges from 100 to 130 million. FGM can result in neurogenic shock (spinal shock), septicaemia (blood poisoning), severe infection and death. Yet, it remains a cultural practice that is practised against young girls and women, in most of the countries under review. It seems most pervasive in Ethiopia, Ghana, Nigeria, Senegal and Kenya.

In Ethiopia, the National Committee on Traditional Practices of Ethiopia (NCTPE) found that over 70 per cent of the female population is affected by this practice – undergoing one of four types of FGM: circumcision, clitoridectomy, excision or infibulation¹²⁷ – having dropped from

90 per cent in prior years. Infibulation, the most severe form of FGM is practised in the Somali, Afar, Harari and some parts of the Oromiya regions of the country. FGM is not specifically outlawed in Ethiopia’s current Penal Code; however, in a draft version of the revised Penal Code, it is banned.

In Ghana, where the law prohibits FGM, the practice is still pervasive. A survey conducted by the Ministry of Health in the late 1990s indicated

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¹²⁶ Constitution of the Republic of Uganda, art. 34.

¹²⁷ During this procedure all, or part of, the woman’s external genitalia is removed and the vaginal opening is narrowed by stitching.

that it was widely practised by nearly all ethnic groups in northern Ghana, with up to 86 per cent of girls in the Upper West and Upper East Regions being affected.

In Nigeria, FGM has been banned in some states, but not under federal law. Some reports say that FGM is practised on at least 50 per cent of women, but in the south, where it is more prevalent, reports estimate that almost all women undergo this practice. In the northern states, where FGM is less prevalent, women who undergo it are often exposed to the most serious form of FGM, infibulation.

In Senegal, although the largest ethnic group, the Wolof, does not practice FGM, other ethnic groups, such as the Mandinka and the Toucouleur, do. Studies show that approximately 20 per cent of the female population undergo this practice, with rates rising up to 50 per cent in regions where it is most prevalent. FGM is a criminal offence under Senegalese penal law, and is punishable with a prison term of up to five years.

In Kenya, a December 2001 report issued jointly by the government and the United Nations Children's Fund (UNICEF) claimed that FGM had been performed on 31 per cent of Kenyan women. The Government banned FGM by presidential decrees under former President Arap Moi. Further, the practice was banned in government-controlled hospitals and clinics. However, it continues to be practised.

In Uganda, where FGM is less prevalent and not considered to be widespread, FGM is practised by the Sabinu and Pokot tribes of Uganda, who are primarily located on the north-eastern border of the country. In South Africa, there are numerous reports of teenage boys dying or being mutilated while undergoing traditional circumcision rituals. In 2003 alone, there were reports of over 50 deaths and more than 100 hospitalisations related to this ritual.¹²⁸

In Ghana, Trokosi continues to be practised in the Volta and Great Accra regions of the country, affecting several thousand young girls. The practice involves the handing over of virgin girls to fetish priests as atonement for sins or crimes that were committed by a family member of the young girl – even a family member who is deceased. The girls serve as

128 Country reports on human rights practices – South Africa, *op cit*, 2004.

slaves of the fetish priest for three to five years, after which time her family can “free” her. However, often the girl is forced to remain with the priest forever when her family cannot afford the priest’s price. In June 1998, a law was passed outlawing Trokosi. However, the practice remains a problem as the ethnic group practising it, the Ewe, have strong political clout and because of Trokosi’s strong cultural and religious significance.

In Ethiopia, abductions, rape and subsequent forced marriage of girls is a common practice, particularly in rural parts of the country. The abduction usually occurs as a way of compelling the woman into a forced marriage. The young woman is forcibly taken from her home, usually by a group of men and brought to a man’s home where she is forced to have sexual intercourse. Later, elders in support of the man go and apologise to the family of the young girl. The girl’s family, now having a daughter who is no longer a virgin, and thus less valued in society, often feels compelled to allow the abductor and rapist to marry their daughter. In this way, the man is never pursued for having raped his wife.

Article 558(2) of Ethiopia’s Penal Code provides that where the woman carried off is responsible and freely contracts with her abductor a valid marriage, proceedings shall be instituted only where such marriage is subsequently annulled. Article 599 of the same code states that where the victim of rape, indecent assault, seduction or abuse of her state of dependence upon another, freely contracts marriage with the offender, and where such marriage is not declared null and void, no prosecution will follow. Where proceedings have already taken place and have resulted in conviction, the sentence shall terminate forthwith. This provision, providing absolution from the crime of abduction through marriage, is not included in the current draft of the penal code but the new code has not yet been enacted into law.

Forced marriage is also a problem in Ghana, Nigeria and Uganda. In Nigeria, it is reported that poor families have sold their young daughters into forced marriage, and that girls are forced into marriage after having reached puberty, in order to avoid situations of premarital sex. Similar to Nigeria, poorer families who claim to have betrothed the girl to a man at an early age, often force girls in Ghana into marriage. However, forced marriage is illegal under Ghanaian law and perpetrators have been

brought before the national courts. In Uganda, these types of pre-arranged marriages of young girls are said to be common in rural areas.

4.1.5 Child soldiers

Article 22 of the Children's Charter prohibits the recruitment or participation of children in armed conflict of the countries under review. The use of child soldiers is currently a problem in Uganda, but child soldiers were also used in Ethiopia during its border war with Eritrea. Reports estimate the forcible recruitment of children by the Ethiopian government numbered in the thousands. As recently as 2000, there were reports that Ethiopia was forcibly recruiting Oromo and Somali children, and putting them in the front lines of battle. Peasant and urban dweller associations were being asked to fill quotas. Unemployed youth were targeted for recruitment as well.¹²⁹

In Uganda, the LRA has been abducting young boys and using them as soldiers or guards. It has been reported that more than 85 per cent of their forces comprise children who have been abducted and forced to work as soldiers. From mid-2002 to mid-2003, LRA abductions of children numbered almost 8,500.¹³⁰ Children are also recruited into the Ugandan Peoples' Defence Force (UPDF), albeit in much smaller numbers. Many of these children are former LRA abductees and soldiers who, in turn, are held in protective camps for long periods of time by the UPDF and used for intelligence missions. Local Defence Units (LDUs), which are supposed to provide security in villages, but which have also been used by the UPDF, have been reported to be recruiting children into their forces.

4.1.6 Child labour and child trafficking

Article 15 of the Children's Charter calls for the protection of children "from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral or social development". This provision addresses

129 Global report 2001 – Ethiopia, <<http://www.child-soldiers.org>> (accessed on 13 April 2004).

130 This number includes young girls who were abducted to work as servants, sex slaves and forced to become wives of soldiers.

the formal and informal sectors, and calls for the implementation of legislative and administrative measures that are in accordance with the International Labour Organisation's (ILO) instruments related to children.

It is estimated that of the 250 million children between the ages of 5 and 14 working in developing countries, 32 per cent are in Africa. Child labour has many forms, and can simply entail helping the family on the family farm. However, it can also entail much more serious forms of labour, under slave-like conditions, whereby children are literally forced to work in order to earn income for their families or guardians.

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The major form of child labour practiced in the countries under review is the use of children in the informal sector where there is less government regulation. Children engaged in the informal sector work in numerous areas including as domestics, porters, ticket sellers, fare collectors, taxi hustlers, shoe shiners, etc. In Ethiopia, the ILO found that children between 5 and 17 years of age worked an average of 32,8 hours a week and that approximately 13 per cent of children between 5 and 9 years old worked from 58 to 74 hours per week. Two-thirds of those children were giving all or part of their earnings to their parents or guardians.¹³¹

In Ghana, children even work as miners and in the fishing industry, which is said to be one of the most hazardous sectors. The ILO found that of the 2,47 million Ghanaian children engaged in some form of economic activity, 1,27 million were engaged in child labour as defined by age and hazardous conditions. In Nigeria, over 12 million children are engaged in some form of economic activity and there is an active trade of children into neighbouring countries to work in the agricultural sector. In Uganda, child labour is a serious problem, with children in urban areas working as sellers, in the sex industry, or as beggars. Children are also used to smuggle goods along the Kenyan and Tanzanian borders. In Senegal, primarily in the urban centres, children are commonly forced to work as

¹³¹ Country reports on human rights practices – Ethiopia, *op cit*, 2004.

beggars. Many of these children, known as *talibés*, have been placed under the tutelage of a *marabout*, a Koranic school teacher, who forces them to beg for money which must be given to the *marabout*. Many of these children face beatings by the *marabout* if their earnings are not deemed sufficient. The most extreme form of child labour was found in Uganda, where young girls are often abducted by the LRA and used as servants and as sex slaves to the rebels.

Article 29 of the Children's Protocol prohibits the abduction, sale or trafficking of children "for any purpose or in any form". However, this is a problem in all of the countries under review, with the exception of Senegal.

In five of the countries under review, children are trafficked to work in the sex industry. In Algeria, armed groups reportedly kidnap young women and girls, raping them and forcing them into servitude until their release. In Ethiopia, girls are taken from rural to urban areas, such as Addis Ababa, to engage in child prostitution. Many are reportedly forced into prostitution by their families. This is also a problem in Kenya. In Uganda, LRA forces are abducting girls to be used as sex slaves and subsequently, as wives, to the rebels. Beyond the LRA's practices, other children in Uganda are being trafficked and sexually exploited. In Nigeria, children are trafficked to neighbouring countries to engage in prostitution. In South Africa, the trafficking of children into the country to work in the sex industry is big business, with the number of affected children reaching almost 30,000. This figure includes children brought from Malawi, Mozambique, Thailand, China and Eastern Europe.¹³²

Other forms of trafficking include Ethiopian children being trafficked into adoption. It has been reported that children from the southern and Oromiya regions of Ethiopia are trafficked into other regions to work as servants. In Uganda, LRA forces abduct young girls to work as servants. In Ghana, children are trafficked in and out of the country and used as farm workers, labourers and servants. Within Ghana, boys from rural areas are trafficked to work in fishing communities or in mines. Girls, most often, are trafficked to work as servants and assist local traders. Most of this interior trafficking is done with the consent of the parents, who receive money and are promised that their children will be well cared for.

¹³² Country reports on human rights practices – South Africa, *op cit*, 2004.

4.2 Security of refugees

Thirty years ago, African heads of state realised that the problem of refugees on the African continent needed to be addressed. Thus, a regional commitment towards these persons was made with the enactment of the

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OAU Convention Governing the Specific Aspects of Refugee Problems in Africa in 1974 – the first, and still the only, regional document of its kind to address refugees. Currently, there are over 15 million refugees, internally displaced or uprooted persons throughout Africa, making it all the more important to address the conditions of such persons.¹³³

The OAU definition of refugees encompasses a broader range of persons than does the UN Convention. According to both Conventions, a refugee is “one fleeing his country on account of persecution due to race, religion, nationality, membership in a particular social group or political opinion”. However, the OAU Convention also includes:

“Every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country or origin or nationality.”¹³⁴

The indicators that were used in addressing the situation of refugees, internally displaced persons and returnees, in the countries under review, were as follows:

- Has the state ratified the OAU Convention Governing the Specific

¹³³ *Refugees*, UNHCR, 2(131), 2003, p 15.

¹³⁴ Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969, art. 1, para. 2.

Aspects of Refugee Problems in Africa, as stipulated under section s, paragraph 4 of the Khartoum Recommendations?

- Has the state acceded to the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, as stipulated under paragraph 3 of the Khartoum Declaration and section 2, paragraph 4 of its Recommendations?
- Does the state abide by the principle of *non-refoulement* as stipulated in article 2, section 3 of the OAU Convention?
- Does the state have proper measures in place for reviewing asylum applications and for hosting refugees?
- Are the rights to life, arbitrary arrest and detention, and freedom from cruel, inhuman and degrading treatment, upheld for refugees by the state?¹³⁵

4.2.1 Ratification of OAU Convention

All of the countries under review have either ratified, or acceded to, the OAU Refugee Convention, with Senegal, Ethiopia, Algeria and Ghana being among the first to do so, having ratified the Convention in the 1970s. Nigeria and Uganda ratified the Convention in 1986. The remaining countries, Kenya and South Africa, ratified the Convention in the 1990s. However, of the countries under review which have national refugee laws, only Ghana's refugee law encompasses the OAU's expanded definition of a refugee.

4.2.2 Ratification of the UN Convention Relating to the Status of Refugees and its Protocol

All of the countries under review have acceded to the UN Refugee Convention and its Protocol, the last accession having been that of South Africa in 1996. both Ethiopia and Uganda signed the Convention with reservations, Uganda having made numerous reservations concerning the rights that a host state must accord to refugees.¹³⁶

¹³⁵ No rights beyond these were addressed, however, both the OAU and UN Convention make provisions for other fundamental rights to be accorded to refugees.

¹³⁶ Information on Ethiopia and Uganda's reservations to the Convention Relating to the Status of Refugees is available at <<http://www.unhchr.ch/html/menu3/b/treaty2ref.htm>>π (accessed on 23 March 2004).

4.2.3 National legislation

Surprisingly, the two countries with the highest refugee populations, Uganda and Kenya, have no current national laws in place for granting refugee status.¹³⁷ Uganda has no specific legislation for providing refugee status to asylum seekers but, in practice, asylum is granted and refugees are not repatriated to the country from which they are fleeing persecution. Likewise in Kenya, refugees are not forcibly repatriated. Somali and Sudanese refugees – who comprise the greatest portion of Kenya’s refugee population – receive *prima facie* refugee status. However, a new bill is currently being considered in Kenya, whereby a well-defined statement on refugees is being sought. Further, within the Ministry of Home Affairs, a commissioner would be appointed to handle refugee issues. Responsibility for the refugee camps would then lie with the government and not the UN High Commission for Refugees (UNHCR). The government would also have more involvement in refugee status determinations.

Among the countries under review, South Africa, Ghana, Nigeria and Ethiopia have the most elaborate national refugee schemes, with laws and national boards on hand to deal specifically with refugee matters. In South Africa, the asylum process is governed by the South African Refugee Act of 1998 and is completed by the refugee section of the Department of Home Affairs, in five designated refugee reception centres. In Ghana, the Ghana Refugee Board has primary responsibility for making refugee status determinations. The Board, which was reconstituted in 2003, is governed by the Ghanaian Refugee Law of 1992 and is comprised of 12 members, with the UNHCR having observer status. Ghana’s refugee law also encompasses the broader OAU definition of a refugee. Ethiopian and Senegalese law both provide for the granting of refugee status to persons meeting the 1951 UN Convention refugee definition, however, an asylum process does not seem to be in place in either country. Algeria is the only country under review that actually guarantees the right of *non-refoulement* in its Constitution.¹³⁸

137 Uganda still follows the 1960 Control of Aliens and Refugees Act, a law that has been said to treat refugees as a threat.

138 Art. 66 provides that no refugee, who has been granted asylum, will be “delivered or extradited”.

4.2.4 *Non-refoulement* and asylum in practice

While the responsibilities that states have towards refugees are the same, regardless of the actual number of persons hosted by the state, the countries with the higher influx of refugees have a more arduous task in having to allocate more resources to these groups. Among the countries under review, Uganda and Kenya have the highest refugee populations, each hosting 217,000 and 250,000 refugees respectively. Ethiopia hosts approximately 140,000 refugees and Algeria about 85,000. The other countries are also hosts to refugees, albeit on a much smaller scale.

None of the countries under review have a record of forced repatriation of refugees. That is, there were no accounts of refugees being sent back involuntarily to the country from which they were fleeing persecution. However, there have been accounts of refugees being harassed, tortured or even killed in the country of asylum, showing a lack of protection mechanisms by the host country.

In Kenya, problems arise from lack of clear and concise national legislation on refugees, the government's lack of involvement in refugee matters – with virtually all the responsibility being placed in the hands of the UNHCR – and the government's tacit encampment policy. While the OAU Convention and the Khartoum Declarations call for co-operation between host countries and the UNHCR, governments continue to have a responsibility towards refugees, something which the Kenyan government, like some of the other governments under review, has yet to take responsibility for. Furthermore, under the encampment policy, one must be located in a designated camp in order to be formally recognised as a refugee and to receive any protection or assistance. For the 50,000 or so refugees choosing not to enter one of the two designated refugee camps, protection, as well as humanitarian aid, are virtually non-existent. Likewise, the risks of harassment, arrest and abuse by bandits, Kenyan government authorities and authorities from their country of citizenship, are high. For example, in 2003, Kenyan police arrested hundreds of refugees and asylum seekers who were officially registered with the UNHCR. These persons had been singled out as “illegal immigrants”.

Uganda's largest refugee population is from Sudan. Similar to the Sudanese in Kenya, the Ugandan government grants *prima facie* refugee

status to persons fleeing Sudan. However, refugee rights advocates claim that other asylum seekers face the greatest danger when seeking refugee status. They claim that Uganda's refugee determination process is too bureaucratic and is handled unprofessionally. Also similar to Kenya is that the Ugandan government does not provide humanitarian assistance to refugees living outside designated camps or settlements, creating hardship for the 50,000 or so *bona fide* refugees choosing to live outside these areas – such as in Kampala. Refugees and asylum seekers in Kampala are often harassed and threatened by security agents of foreign governments.¹³⁹ Sudanese refugees living in designated areas have also been targeted by the LRA forces. In the most recent attack, LRA forces hacked, shot and burned alive approximately 200 people living in the Barlonya refugee camp in northern Uganda, which housed approximately 5,000 refugees and internally displaced persons. Refugees living in Uganda have also been followed and threatened by secret agents from their country of persecution, specifically Rwanda and Ethiopia.¹⁴⁰ The Ugandan Government has a responsibility to protect and ensure the fundamental rights of all persons living within its jurisdiction, including refugees. Therefore, it has the responsibility to protect these groups against abuses by insurgent forces and by foreign agents.

Ethiopia hosts approximately 140,000 refugees, predominantly from Sudan and Somalia, with the Administration for Refugee and Returnee Affairs (ARRA) handling refugee matters in co-operation with the UNHCR. In 2002, there were reports that ARRA officials had beaten or physically abused Sudanese refugees living in a refugee camp.¹⁴¹ Allegations of torture of Sudanese refugees by Ethiopian security forces were also brought before ARRA in December 2001. To date, the government has still not investigated these allegations.¹⁴² Over the course

139 World refugee survey 2003 – Uganda, US Committee for Refugees, <http://www.refugees.org/world/articles/wrs03_Africa1.cfm.htm (accessed on 26 March 2004).

140 Uganda: "Suspects" at home and rejected by their hosts, United Nations High Commissioner for Refugees, World News 16 September 2002.

141 Country reports on human rights practices – Ethiopia, *op cit*, 2003.

142 World refugee survey 2003 – Ethiopia, US Committee for Refugees, <http://www.refugees.org/world/articles/wrs03_Africa1.cfm.htm> (accessed on 26 March 2004).

of five months in 2002, more than 100 refugees were killed in ethnic clashes in the Gambella region of Ethiopia, which hosts over 85,000 refugees.¹⁴³ Subsequent to the killings, the government has installed a military presence in the affected Fugnido camp, located a new camp for the refugees, and many of the suspected perpetrators have been charged and brought before local courts.¹⁴⁴ However, this was not before a large number of the refugees, fearing for their lives, had decided to return to Sudan, the country from which they had originally fled persecution and where they would likely face persecution again. Several reports also allege that Ethiopia sends officials to other countries, such as Uganda, to locate and intimidate people who have fled the country and sought asylum.

Another problem faced by refugees hosted by Ethiopia is their confinement to semi-arid areas that are unsuitable for subsistence farming. Food aid is of critical importance to them. However, in February 2004, the UN World Food Programme, which provides food rations to meet practically all of the refugees' dietary needs, announced that it would be cutting food rations by 30 per cent, starting in March. There is concern that the food shortages will not only lead to adverse health consequences, but might also lead to more violence between local populations and refugees.¹⁴⁵

The ethnic Sahwari of Western Sahara comprise the large majority of Algeria's 85,000 refugee population. As in Uganda, Kenya and Ethiopia, refugees live in designated refugee camps. The four designated Algerian camps are located in remote desert areas of the country where conditions are harsh and inadequate for any subsistence farming. Water, which meets only about half of the minimum international humanitarian standards, is delivered to the refugees via tanker trucks. Food, which is provided by the UN World Food Programme, is occasionally in shortage.¹⁴⁶

143 The clashes occurred between camp residents and local communities located outside the camps. Most of the killings occurred in November 2002, when more than 40 refugees were killed.

144 Terrified refugees at Ethiopian camp could be relocated soon, UNHCR News Stories, 21 February 2003.

145 Ethiopia: Urgent appeal for refugee food aid, UNHCR, 24 February 2004.

146 World refugee survey, <<http://www.refugees.org/world/countryrpt/africa/2003/algeria.cfm>> (accessed on 3 May 2004).

South Africa hosts approximately 65,000 refugees and asylum seekers. Unlike the situations in Uganda, Kenya, Ethiopia and Algeria, refugees and asylum seekers in South Africa live in urban areas, rather than in remote rural camps. Most are self-supporting, but struggle to do so. Only about 2,000 refugees receive humanitarian aid. Similar to urban refugees living in Kenya and Uganda, urban refugees in South Africa are often harassed by government officials due to a lack of identity documents (the government fails to distribute them) or because of the non-recognition of these documents by officials. According to the 1998 Refugee Act, both asylum seekers and refugees are supposed to be issued with written documentation recognising their status.¹⁴⁷ It has also been reported that undocumented immigrants, held in detention, have been beaten by security personnel.¹⁴⁸

Senegal hosts approximately 45,000 refugees. Approximately 40,000 of these refugees are from Mauritania, having been expelled from Mauritania in 1989–1990. These refugees live in sites located along the Senegal River, near the Mauritanian border. Most of these refugees are self-sufficient, receiving little aid from the UNHCR, which maintains little contact with this group. These refugees have had difficulty obtaining status papers from the Senegalese government.

Ghana has been said to have a fairly liberal policy for accepting West African refugees and hosts approximately 45,000 refugees, the majority being from neighbouring Liberia. Most refugees and asylum seekers reside in one camp; namely, Buduburam. However, the government reported that less than 5,000 of the 27,000 refugees living in the camp could still claim refugee status. Furthermore, UNHCR provides little assistance to these people, having determined that most were self-sufficient.

Nigeria hosts significantly fewer refugees, approximately 9,000, but still maintains a National Commission for Refugees, established in 1989, to handle refugee matters. It also has been designated to address issues relating to internally displaced persons. The Commission's Eligibility Committee, on which the UNHCR has observer status, handles refugee

147 South African Refugees Act (Act no 130 of 1998), regulations 7 and 15.

148 World refugee survey 2003 – South Africa, US Committee for Refugees, <http://www.refugees.org/world/articles/wrs03_Africa1.cfm.htm> (accessed on 26 March 2004).

status determinations. Nigerian law allows for the granting of asylum for those meeting the 1951 UN Convention definition of refugee.

4.3 Conclusion

Through the entry into force of the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa in 1974 and the African Charter on the Rights and Welfare of the Child in 1999, AU member states have made a clear and open commitment to protect the rights of children and refugees on the African continent. Yet despite these commitments, both of these groups still face serious safety and security issues in the countries under review. Children are still vulnerable to various harmful cultural and traditional practices and to various forms of economic exploitation. These practices, such as forced prostitution and labour; forced recruitment into armed conflict; FGM; and forced marriage can, and often do, harm children for life. Therefore, all of the states under review must make better efforts to protect and promote the rights of children.

Refugees are also very vulnerable to rights violations and are often viewed as not worthy of rights that even remotely parallel the rights of citizens or residents. Yet, through the commitments made in the OAU and UN Conventions on Refugees and in the commitments set forth in the Khartoum Declaration, is it clear that host states must improve the process of asylum and provide better protection and security for refugees. Host states should also improve the location of refugee camps so that those refugees might have the opportunity to become self-sufficient rather than having to rely on donor aid. Further, refugees should not be forced to reside only in designated camps in order to be have their refugee status acknowledged. Finally, host states should make an increased commitment towards providing refugees with a life that resembles those of citizens and residents.

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