

Human Rights, Dignity and Well Being: The Plight Of Zimbabwean Refugees And Displaced People In Southern Africa

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Abstract

In this paper we looked at the various reasons why refugees, economic migrants and IDPs leave their countries / home areas, how the foreign migrants manage to cross borders into other countries and the lives they are experiencing in foreign countries. More importantly, the focus of this paper has been their treatment by the nationals of the host countries as well as other foreigners. We argue that there has not been enough humanitarian attention given to the people displaced by their home country economic downturn and political mayhem by South African authorities because South African legislation regards them as economic migrants who do not qualify for a refugee status. It is only recently that Zimbabweans got a sympathetic ear from the South African authorities as the process of legalising their stay in South Africa is now less cumbersome. Our conclusion is that the international community, Southern Africa, and South Africa in particular have not treated refugees and economically displaced people especially those from Zimbabwe with a human face.

Keywords: Human rights; refugees; IDPs; migration; Zimbabwe; plight; southern Africa; foreigner.

1. Introduction

Migration and movement of people looking for a better living environment has been there since time immemorial. Traditionally most of these wonderous were men in search of employment and treasure. For instance during the *Wenera* period, most men from Northern countries (Zimbabwe, Malawi, Zambia, Mozambique) were coming into South Africa in search of employment in mines and farms. Men came down South with only a handful of women who were relatives, children or wives. In most cases women were left back home looking after children and property. Today things have changed. The majority of the displaced people in countries with civil strife are women. Hence we see them moving from their countries of origin enmass to foreign countries.

In this paper we look at the plight of both foreign and local displaced people in Southern Africa, especially Zimbabweans in the past few years. The main aim of the paper is to contribute background and reference information to the migration body of knowledge. We also intend to enlighten the world and the people of Southern Africa on the plight of these displaced people especially women.

2. Orientation and Statement of the Problem

South Africa is the economic powerhouse of Sub-Saharan Africa and therefore has been the final destination for most displaced people in the region. Most countries in the region have socio-economic and political problems (Zimbabwe, Democratic Republic of Congo, Somalia, Eritrea, Rwanda, Mozambique, etc.). In the past decade, the most internationally publicised case has been the Zimbabwean crisis. As a result of a combination of mismanagement by the

political elite and general outcry, especially by the west, there is unbearable suffering in Zimbabwe. Because of this, Zimbabweans are all over the world with southern Africa carrying the biggest share of the burden. This, however, should not overshadow the fact that southern Africa, especially South Africa is full of internally displaced people (IDPs) from all over the world. Thus although southern Africa has been home to displaced people from the region's traditionally strife countries (Angola, DRC, Mozambique, Rwanda, and further North), currently Zimbabweans are the dominant group with approximately a population of 3 million residing in South Africa, 500 thousand in Botswana, and several millions moving in and out of all countries of southern Africa (These statistics are based on South African media speculation).

It is also worth noting that when it comes to South Africa almost every country in the world has exported some of its nationals to *Egoli* (land of gold). Most of these people become destitutes and illegal residents in the country since they do not enter the country in respectable ways. Many run away from strife in Lesotho, Swaziland, and other countries mentioned above.

Thus people move from their homes because of a combination of factors; among them poverty, unemployment, war and political instability. The movement is even worsened by people who run away to a better economy first as illustrated in the Zimbabwean case. People who came to South Africa for greener pastures lie about their economic position in South Africa when they occasionally visit their relatives back home. The relatives are left with the impression that South Africa is a paradise. Most of them end up crossing borders to South Africa only to discover that there is no paradise in South Africa. Instead they are now faced with xenophobic attacks, rape, unemployment, exploitation, derogatory terms (*girigamba* or *kwere-kwere*) and generally negative attitude by both South African business community and the working class who believe that foreigners are taking away their jobs.

This brings us to the question: Do refugees and IDPs have rights? What exactly do we mean by rights? The answers to these questions are the subject of the following subsections.

3. Statement of Purpose

The purpose of this paper is to discuss problems faced by the displaced people (whether foreign or local) so as to come up with recommendations or solutions to the problem. Specifically the objectives of the paper are;

- to alert the world of the plight of the refugees and internally displaced people (IDPs) in Southern Africa;
- to alert the refugees and IDPs of their rights;
- to enlighten refugees and IDPs on the procedures to take when their rights are violated;
- to advocate for friendly laws and procedures to protect human rights for refugees and IDPs,
- to encourage an awareness campaign of human rights for refugees and IDPs among southern African people;
- to encourage brotherhood and sisterhood among different nationals in southern Africa as given in the Universal Declaration of Human Rights article 1;
- to share ideas and experiences of refugees and IDPs;
- to advocate for protection of the vulnerable groups (women and children) from abuse and injustice; and
- to create a platform for coming up with solutions to the plight of refugees and IDPs.

4. Research Methods

The research undertaken included a review of theoretical literature as well as the use of empirical methodology. The following sources were consulted to ensure a balanced review of

both primary and secondary sources of relevance: published academic works, academic journals, Internet sources, as well as magazines and newspapers. Data was collected through the use of documented data, informal discussions and observation data collection techniques.

5. Conceptualising Human Rights

According to the Stanford Encyclopedia of Philosophy (2010) human rights are international norms that help to protect all people everywhere from severe political, legal, and social abuses. Examples of human rights are the right to freedom of religion, the right to a fair trial when charged with a crime, the right not to be tortured, and the right to engage in political activity. The main sources of the contemporary conception of human rights are the Universal Declaration of Human Rights (United Nations, 1948) and the many human rights documents and treaties that followed in international organisations such as the United Nations, the Council of Europe, the Organisation of American States, and the African Union.

The Universal Declaration of Human Rights (1948) sets out a list of over two dozen specific human rights that countries should respect and protect. These specific rights can be divided into six families:

- *security rights* that protect people against crimes such as murder, massacre, torture, and rape;
- *due process rights* that protect against abuses of the legal system such as imprisonment without trial, secret trials, and excessive punishments;
- *liberty rights* that protect freedoms in areas such as belief, expression, association, assembly, and movement;
- *political rights* that protect the liberty to participate in politics through actions such as communicating, assembling, protesting, voting, and serving in public office;
- *equality rights* that guarantee equal citizenship, equality before the law, and non-discrimination; and
- *social (or “welfare”) rights* that require provision of education to all children and protections against severe poverty and starvation (Musingafi and Dumbu, forthcoming).

Another family that might be included is *group rights*. The Universal Declaration does not include group rights, but subsequent treaties do. Group rights include protections of ethnic groups against genocide and the ownership by countries of their national territories and resources (see Anaya 2004, Baker 2004, Henrard 2000, Kymlicka 1989, and Nickel 2006).

According to the Stanford Encyclopedia of Philosophy (2010), the most obvious way in which human rights exist is as norms of national and international law created by enactment and judicial decisions. At the international level, human rights norms exist because of treaties that have turned them into international law. For example, the human right not to be held in slavery or servitude in Article 4 of the European Convention and in Article 8 of the International Covenant on Civil and Political Rights exists because these treaties establish it. At the national level, human rights norms exist because they have through legislative enactment, judicial decision, or custom become part of a country's law. For example, the right against slavery exists in the United States because the 13th Amendment to the U.S. Constitution prohibits slavery and servitude. When rights are embedded in international law we speak of them as human rights; but when they are enacted in national law we more frequently describe them as civil or constitutional rights. As this illustrates, it is possible for a right to exist within more than one normative system at the same time.

6. Conceptualising refugees, economic migrants and IDPS

According to the United Nations High Commissioner for Refugees (UNHCR) (2007) a refugee is a person who crosses borders due to events seriously disturbing public order in either part or

the whole of his country of origin or nationality. The report further says most refugees remain in their regional areas especially in the developing countries where resources to move away from the region are scarce. According to the report three quarters of refugees are found in developing economies. This increases pressure on relatively stable economies in the region like what is happening to South Africa today as already explained above.

A refugee, according to the South African refugees act (1998), is someone who has been granted asylum as per the requirements of the act. The weakness of this definition is that it excludes those who have not yet got asylum status. Worse still it does not recognise people running away from malfunctioning economies and dictatorial regimes which maybe worse than war situations as in the case of the Zimbabwean crisis. Such cases are categorised as economic migrants, and therefore their case is regarded as minor if compared to those coming from war torn countries. This makes deserving cases, as per the United Nations definition, excluded from refugee status in the country. This made the South African government take too long to recognise Zimbabweans as desperate displaced people who needed their support and protection. This had serious repercussions on the vulnerable foreigners as they become prey to the business community, police, home affairs and other unscrupulous groups who profited from their plight.

In this paper we adopt the above United Nations definition of a refugee. Whoever is running away from home because of various reasons coming to foreign country is a refugee because he/she is seeking protection from the authorities of that country. Since these people are forced by the prevailing situation in their countries to move abroad, the receiving country is expected to grant protection and security to them. Therefore it becomes a moral obligation for the receiving country to grant them protection, combat public prejudice and seek long term solutions to refugees' plight. Our definition of a refugee thus includes those recognised as refugees and those referred to as economic migrants by the South African legislation.

Now we answer the question on whether refugees have rights. The South African Refugee Act Chapter 5(27) provides for the protection of all refugees living in South Africa. It outlines the rights of refugees as follows;

- is entitled to a formal written recognition of refugee status in the prescribed form;
- enjoys full legal protection, which includes the rights set out in chapter 2 of the Constitution and the right to remain in the Republic in accordance with the provisions of this Act
- is entitled to apply for an immigration permit in terms of the Aliens Control Act 1991, after five years continuous residence in the Republic from the date on which he/she was granted asylum, if standing committee certifies that he/she will remain a refugee indefinitely;
- is entitled to an identity document referred to in section 30
- is entitled to a South African document on application as contemplated in section 31;
- is entitled to seek employment
- is entitled to the same basic health services and basic primary education which the inhabitants of the Republic receive from time to time. In fact refugees are human beings and therefore they deserve all human rights as per the Universal Declaration of Human Rights (UDHR) some of which are;
- everyone has the right to life, liberty and security of person;
- no one shall be held in slavery or servitude;
- no one shall be subjected to torture, cruel, inhuman or degrading treatment or punishment;
- everyone has the right to recognition everywhere as a person before the law;
- all are equal before the law; and
- everyone has the right to seek and enjoy in other countries asylum from Persecution

In conclusion therefore all the displaced people in southern Africa deserve human rights as outlined in the UDHR. Specifically economic migrants who have not been given enough recognition by the South African authorities are also defined as refugees in this paper. Having said this lets look at what happens to these people in southern Africa, especially in South Africa where most of them reside.

7. The plight of refugees and IDPS in southern Africa

In this part of the paper we will be mostly referring to the Zimbabwean situation although every displaced person suffers the same plight as the Zimbabweans. The plight of women compared to that of men is that the former is more vulnerable. In all these circumstances women are the most vulnerable. They are exposed to a range of dangers right from their country of origin to the country where they seek refuge. Most refugees from Zimbabwe are classified as border jumpers and before they get recognition as refugees they become illegal residents in South Africa. Throughout the journey from home women are harassed, gang-raped by male counterparts, raped or abused by truck drivers and forced into sexual relationships with the South African Police. This situation makes the probability of women getting HIV/AIDS very high. Most of them are already ill and have the burden of looking after children they get unwillingly. Of course, men are also abused by well-to-do and powerful men (homosexuals), but proportionally they are far below the level at which women are exposed to these dehumanising experiences. Also the fact that traditionally men have more commercial or job marketable skills put them ahead of their women counterparts when it comes to getting formal employment. The education system in Zimbabwe or any other region in southern Africa used to favour the boy child at the expense of the girl child. Even today when there are laws and policies initiated to empower women there are still a whole lot of institutional and cultural structures that put women at a weaker position that leaves them more vulnerable than men. In disastrous situations as in Zimbabwe this has a serious bearing on what happens to the two sexes. Women find themselves at the mercy of men whether back home or in the foreign country like South Africa. They are either forced to sell themselves for peanuts or forced to provide sexual pleasure/services to men for nothing but death.

What then has so far happened to the refugees, economic migrants and internally displaced people in South Africa? Some of the inhuman experiences of these displaced people are as follows:

- On their way to South Africa illegal migrants (border jumpers) are either gang - raped by fellow border jumpers, or raped/sexually abused by truck drivers, police and other government officials.
- In South Africa they either have to bribe officials and authorities or they are put in cells before they are deported back home, only to come back by the same route they came before.
- Most of them are given work for peanuts; the money they get is far below what can sustain a human being throughout the month. Hence most find themselves supplementing the meagre wages with either prostitution or any other illegal ways e.g. stealing, selling drugs, selling fake identification documents etc.
- Human trafficking-They are moved from Zimbabwe or any other troubled area as sex slaves in brothels where they provide sexual services in exchange for either accomodation or meagre wages from the brothel owner who gets all the money paid by those who come in for the exploited girls' services.
- Most women are forced into 'love relationships' which they wouldn't otherwise accept if they were economically stable. In these relationships they are economically, emotionally and physically exploited /abused by their so called lovers. For instance, one of the researchers' women-friends who works at an internet cafe of her Nigerian

lover is seriously exploited. The guy is using her to pursue his economic and sexual desires since she is not paid as he manipulates her to believe that she owns the shop. The guy takes all the money gained from the business. He frequently beats her up and chase her away from the house but still the girl believes the guy loves and care for her. This is common in South Africa today.

- According to the IOM Report on the Xenophobic attacks, dozens of women were raped during the xenophobic violence. The report also states that 62 people, including 21 South Africans, were killed, 100 000 people displaced and property worthy millions looted and destroyed or seized by local residents and leaders.
- Foreigners are seen as sub-human and therefore they are given derogatory terms like *kwerekwere* and *girigamba*, an attitude that shows the negative attitude associated with foreigners.
- They are exposed to high risk of HIV/AIDS infection both as mistresses, prostitutes, forced lesbians and homosexuals. They get into these relationships for survival.
- They marry South Africans whom they may not be in love with so that they get official residential documents.
- They are murdered, burnt in their shacks, beaten up, humiliated by locals as they are accused of going out with locals' wives, accessing social grants using fraudulent identity documents, spreading unknown diseases (e.g. the worm disease that spread into the vagina which is said to be caused by the Nigerians), not participating in local practices and struggles but wait to benefit from the efforts of others, stealing locals jobs and space since they are preferred by employers ahead of locals, and so forth. At superficial level some of these accusations maybe true but depending on how you analyse the situation but I think these people deserve South African jobs as much as the local themselves. Furthermore, the South African labour market on its own could not have managed to prepare for the World Cup in 2010 had it not been for the support of foreign manual labour. As for the issue of taking South African wives, that is a subjective issue. No one can run away from persecution at home to come here to take someone's wife.

We are not arguing that these economic immigrants are saints, no. Most of them engage in criminal activities, but in most cases it is the dehumanising experiences that make them criminals.

8. Conclusions and recommendations

In this paper we looked at the various reasons why refugees, economic migrants and IDPs leave their countries / home areas, how the foreign migrants manage to cross borders into other countries and the lives they are experiencing in foreign countries. More importantly, the focus of this paper has been their treatment by the nationals of the host countries as well as other foreigners. We argue that there has not been enough humanitarian attention given to the people displaced by their home country economic downturn and political mayhem by South African authorities because South African legislation regards them as economic migrants who do not qualify for a refugee status. It is only recently that Zimbabweans got a sympathetic ear from the South African authorities as the process of legalising their stay in South Africa is now less cumbersome. Our conclusion is that the international community, Southern Africa, and South Africa in particular have not treated refugees and economically displaced people especially those from Zimbabwe with a human face.

We therefore recommend the following;

- Opening up of more channels for legal migration (currently we are witnessing that process). Such an approach would not only encourage legal migration and ease clandestine migration. Corruption and abuse of these 'illegal migrants', which has been

prompted by the cumbersome and expensive visa requirements, will be reduced. Furthermore, this development will certainly contribute towards reducing labour exploitation and other practises that undermine the rights and welfare of both South African and foreign nationals.

- Promote a human rights culture among the people of South Africa and the rest of the world. Leaders, citizens and non-nationals should be made aware of rights, entitlements and responsibilities of various categories of foreign nationals. Effective interventions should not be limited to appeals to tolerance, but must also draw attention to the country's laws, the rights of different groups, mechanisms, for countering discrimination, and the negative consequences of not respecting the law and rights of all.
- Coming up with mechanisms and strategies to help accommodate displaced people within or outside the countries in a bid to try and solve migration problems not only in South Africa but the rest of Africa. Systems must be helpful to victims and authorities must hold perpetrators accountable rather than protecting them.
- Passing stiffer penalties for sexual crimes like rape and human trafficking. Also there is need for making prostitution and related activities illegal. By prostitute, we are referring to both men and women who engage in commercial sex activities (these would include conventional sex relationships, forced lesbians and homosexuals relationships). Obviously this will reduce diseases especially HIV/AIDS and death among both the desperate victims and the perpetrators.
- A lot of awareness is needed to sensitise the locals as well as foreigners about human rights and promoting better living conditions where people are not considered by their language, colour, region, country etc.
- As these experiences and lives are often neglected and unrecognised, the injustice and brutalities happening to these people must be looked at and those responsible facing justice. Their stories should be documented and shared in the world so as to find ways to make this world a better place for all.
- Last but not least we propose sponsorship for a more detailed and deeper research on the experiences of these vulnerable groups. There is also need for documenting victims' testimonies in South Africa. This is the only way we can make the world feel the depth and seriousness of the injustices.

References

- Anaya, S., 2004. *Indigenous Peoples in International Law*, Oxford: Oxford University Press.
- Baker, J., 1994. *Group Rights*, Toronto: University of Toronto Press.
- Chemhuru, M. 2010. Democracy and the Paradox of Zimbabwe: Lessons from Traditional Systems of Governance. *The Journal of Pan African Studies*. 3(10) pp 180-191
- Edgar, L., Marshall, C. and Bassett, M. 2006. *Partnerships: putting good governance principles in practice*. Institute on Governance: www.iog.ca
- Graham, J., Bruce, A. and Plumptre, T. 2003. *Principles for good governance in the 21st century: policy brief number 15 (August, 2003)*. Institute on Governance: www.iog.ca.
- Henrad, K., 2000. *Devising an Adequate System of Minority Protection*, The Hague: Martinus Nijhoff
- Hunt, J. and Smith, D.E. 2006. *Building indigenous community governance in Australia: Preliminary research findings. Working paper no. 31/2006*. The Centre for Aboriginal Economic Policy Research. Australian National University
- Kymlicka, W., 1989. *Liberalism, Community, and Culture*, Oxford: Clarendon Press.
- Nickel, J., 2006. *Making Sense of Human Rights*, Second edition. Oxford: Blackwell Publishing.
- Nikolic, I. 2008. *Participants manual on good governance*. Consortium for Rehabilitation and Development
- Paris, R. 2006. 'Bringing the Leviathan back in: classical versus contemporary studies of the

liberal peace'. *International studies review* (2006) 8: 425-440
Rohmann, C. 1999. *A World of ideas: A dictionary of important theories, concepts, beliefs, and thinkers*. New York: The Ballantine Publishing Group.
The Stanford Encyclopedia of Philosophy 2010. *Human Rights*. Metaphysics Research> Stanford University.