

BOOK REVIEWS

Goran Melander and Peter Nobel, International Legal Instruments on Refugees in Africa. Scandinavian Institute of African Studies, Uppsala, 1979.

Africa has lived with the refugee question for about two decades now. The latest OAU's estimates of the number of refugees in Africa put the figure at 4 million.¹ Over the last twenty years, the number has been constantly rising instead of falling. Of equal significance is the number of African countries affected by the refugee question. UNHCR figures show that in the spring of 1979, twenty one African countries were hosting refugees.² Thus, viewed from any angle, the refugee problem in Africa is very alarming.

The development of the refugee question in Africa has brought with it a number of important questions concerning the legal status of refugees. Hence the immediate necessity of disseminating refugee law. To start with, the refugee himself is haunted by the following questions: "How do I survive now that I am uprooted and have severed relations with my state? How do I relate to the state where I have sought refuge? How do I relate to the international community? Briefly, what are my rights and obligations?"

Secondly, the would-be country of asylum asks itself how to handle the new-comers especially during the crucial task of granting them or refusing them asylum. In case asylum is granted, the host country further wonders what to do with the refugees as regards matters like employment, education, residence, movement etc.

At this point, knowledge of the legal instruments, worked out over the years by the international community in response to the refugee question at various times and places in the history of mankind, becomes indispensable to the policy makers of the country of asylum. Similarly, the governmental and non-governmental organizations that rush to the scene to provide material and other forms of assistance need that knowledge in the formulation and execution of their aid programmes.

Fortunately, there has been a great deal of international legislation on refugee matters since 1921, first under the League of Nations and later under the United Nations, and later still, under such regional organizations as the OAU. The conventions, protocols, and similar instruments that have been drafted, signed or ratified by nations over the years, serve as a good repertory for whoever gets entangled in the solution-seeking abnormality of the refugee problem individual refugees, governments and aid agencies alike.

It is against this background that a loud call was made at Arusha³ for the dissemination of refugee law - a call that I had personally made in 1976 in the following words:

One of the unfortunate things I have noticed about Muyenzi (refugee settlement) is that throughout the fifteen years of its existence, there has been a very poor communication flow from the settlement administration to the masses of refugees, in matters other than directives. Leaving alone such distant things like the UN General Assembly resolutions relevant to the Rwandese refugees, which I think they should have been made aware of, they do not even have enough knowledge of the information contained in the (Tanzania) Refugee Control Act of 1966, which is very vital to them.(4)

Goran Melander and Peter Nobel have responded to this important call by embarking on a selective collection of documents deemed relevant to the development of the protection and rights of African refugees. The result of this exercise is the publication under review.

In reviewing a work of this type, where the editors do not argue a case of their own, but simply use their discretion in selecting texts formulated by others to make a collection relevant to a body of knowledge, what the reviewer can comment on is how such editors have used their discretion vis-a-vis the felt need for such a collection.

Given the archival availability of a huge bulk of agreements and resolutions having some bearing on the African refugees question, it becomes clear that the co-editors assigned themselves a very difficult task. The difficulty lies in the fact that in order to make a good choice, one ought to acquaint oneself with all there is to choose from.

That the co-editors did their assignment well is reflected by the following observations:

- (i) the selected texts cover the period 1922-1977, (i.e. up to about the time when the collection was being prepared). The period covered tallies with the period of formal international concern for the refugee question through inter-governmental organizations like the League of Nations, the UN, the OAU, etc.
- (ii) Some basic treaties which are indirectly, but closely, related to the African refugee question have been included. The usefulness of these texts is that they can generate avenues for decision and action, where treaties directly concerned with the refugee

question do not stipulate what ought to be done in a given set of peculiar circumstances.

- (iii) Some relevant declarations and resolutions by inter-governmental organizations have been reproduced, and these are instrumental in helping a person interested in the refugee question to understand the dynamics of the problem in time and space.
- (iv) One feature of the selection of texts has been to reproduce some of them "by extracts", a method which is commendable, bearing in mind the ultimate readability of the book. Without using this method the book would have been too bulky, and this could very easily put off an otherwise enthusiastic reader. In the present form the reading of the collection is manageable.

In view of the above observations, coupled with my modest knowledge of the legal instruments that constitute refugee law, Goran Melander and Peter Nobel have, in my opinion, made a judicious selection of the material available for use in the dissemination of refugee law.

The publication of the selected materials in both English and French concurrently is a useful device to begin with, but if the message contained in the texts is to reach the majority of refugees, these two media will have to be translated into the various languages of the refugees - a task that is, of course, not meant for the co-editors.

While still on the question of language, let me say I am not happy with the English-French equivalence in some parts of the texts. A random comparison of the English and French texts led me to problems of non-correspondence and even grammatical mistakes.

Example: Section 9.2

- a) English Version: Commission on the Problem of Refugees in Africa (p.316) ≠ French Version: Refugees's Africainés (p.317). The French version should read: Commission sur le Probleme des Refugies en Afrique. Note also that even if the French version were to remain as it is, the correct adjectival agreement would be "Refugies Africains" and not -- Africaines.
- b) See also the English Version: The United Republic of Tanganyika and Zanzibar (p.316) which is incorrectly translated in French as "la Republique Unie du Tanganyika, de Zanzibar --" (p.317). The correct translation should be: La Republique Unie de Tanganyika et Zanzibar.

The above example shows that there is need to authenticate the translations of the texts.

I do not know what the co-editors' position is concerning the debate as to who are the personalities of International Law. If they are of the opinion that only states are personalities of International Law, then this is well reflected in the selection of texts, all of which are formulations of inter-governmental organizations. Without insinuating that non-governmental international organizations deserve a legal personality in International Law, I would suggest the inclusion of relevant extracts of the refugee aid policies of the most important non-governmental voluntary organizations that have involved themselves in the refugee problem in Africa, such as the All Africa Conference of Churches, the International University Exchange Fund, the Lutheran World Federation, the World Council of Churches, etc... I am making this suggestion on the following grounds:

- (i) These policies are arrived at through some form of legislation within those organizations and they bind the Organizations and influence their activities vis-a-vis countries of asylum and refugees themselves.
- (ii) Individual refugees, governments and other non-governmental organizations need to know what to expect from these organizations, and for this reason there is need for disseminating these aid policies.

For the above reasons, I think such an addition to the book would be useful and at the same time not misplaced. The extracts could conveniently be tacked at the end of the book as appendices.

Another addition I would suggest to the introductory part of the book is a brief account of the historical development of the refugee question and the corresponding development of refugee law - a development which, curiously, acquires new dimensions in the aftermath of major crises of imperialism. For example, the first international concern in legislation on refugee matters came after the Great October Revolution in Russia and the first Imperialist World War, the alarm being raised by the fate of Russian and Armenian Refugees. Similarly, the famous 1951 UN Convention relating to the status of Refugees was a culmination of efforts to deal with refugees from East European Countries which had joined the Communist Camp after the second imperialist World War. In line with the foregoing pattern, the famous 1967 UN protocol relating to the status of refugees and the famous

1969 OAU convention are a phenomenon of the massive decolonization aftermath.

The absence of such an introduction denies the would-be user of the book a link between the historical use of the tool offered to him and the contemporary circumstances in which he has to apply that tool though not necessarily in the traditional way.

Otherwise, the co-editors deserve a congratulatory word for breaking the ice. Their work is an invaluable vade-mecum for a wide spectrum of people caught up in the quest for knowledge that would be instrumental in minimising the hardships of the refugee predicament: the refugee himself; the administrator of a refugee settlement; the government Policy maker in such areas as education, manpower Planning, immigration, etc.; the representative of a governmental or a non-governmental organization; the social science researcher.

The book deserves wide circulation.

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NOTES:

1. See IUEF's paper REF/AR/CONF/BD 16 entitled, "Pan-African Conference on Refugees - Education and Training of African Refugees", presented at the Pan-African Conference on Refugees, held at Arusha from 7th to 17th May, 1979, p. 11.
2. HCR, Nouvelles du Haut Commissariat des Nations Unies pour les Refugies, Printemps, 1979, pp. 6-7.
3. See paper REF/AR/CONF/WP 8 entitled, "Dissemination of Refugee Law", Pan African Conference on Refugees, op.cit.
4. Gasarasi, C.P., The Life of a Refugees Settlement: The Case of Muyenzi in Ngara District - Tanzania, (Mimeo), A research project project written for the UNHCR, Dar es Salaam, 1976, p.152.
Brackets added.