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**REFUGEES
FACING
COVID-19:
A DOUBLE
BURDEN**

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Refugees facing Covid-19: a double burden

Summary :

The worldwide spread of the Covid-19 pandemic has had a severe human impact, mainly in the United States and Europe. For the time being, Africa seems to be less affected, based on the relatively small number of infected people and deaths. Several explanations have been put forward to support this finding, ranging from hot climates to acquired immunity from previous health challenges to traditional miracle cures. In their management of the new epidemic, African countries must logically face up to their primary responsibility towards their own citizens, which raises the problem of refugees who, in their vast majority, are settled in African countries. However, most of these countries cannot honour their conventional and moral commitments to this vulnerable population without external support. Such support, in the form of humanitarian aid and development assistance, is likely to be affected by the socio-economic consequences of this crisis on the financial capacity of the major donor countries. As a result, this could lead to a possible worsening of the refugee situation in the African continent.

Faced with the turmoil of the Coronavirus, which has swept across the world and created panic and confusion in its wake, governments had to focus their attention and energy on the pressing need to mobilize the resources needed to limit the number of victims and manage, as best they can, the crisis and its short-term and long-term implications. In these circumstances, the authorities' concern to demonstrate their capacity to overcome this ordeal, in its health, economic and social dimensions, generally takes precedence over all other considerations.

This reaction is quite natural and predictable, given the responsibilities devolved on governments to respond, first and foremost, to the expectations of their own citizens, to whom they are accountable in the first place. The management of the Covid-19 crisis has highlighted efforts made by the majority of governments, at all levels of development, to support the most vulnerable social strata and those most affected by the crisis and to redress economic activity that has been frozen.

In this crisis context, the imperatives of national solidarity, social cohesion and economic recovery are relegating the duty of international cooperation and humanitarian assistance. As a result, little attention is paid to the plight of refugees, displaced persons, migrants, stateless persons and asylum-seekers, whose already precarious situation has worsened since the spread of the pandemic in the countries of settlement.

According to the United Nations High Commissioner for Refugees (UNHCR), there is an estimated number of 70 million uprooted people worldwide, including 41 million refugees, 25.9 million displaced persons and 3.5 million asylum-seekers.

With the emergence of the new pandemic, this population, already affected by violence, famine and multiple epidemics, has seen its condition exacerbated by an additional threat it must endure in hygienic and overcrowded conditions that jeopardize its survival.

Once we add to this gloomy picture that 85% of these refugees and displaced persons are hosted in countries of the South for a minimum period of five years, we can measure both the security challenges and the financial burden on these countries, as well as the distress of the refugees. Although the refugee phenomenon is not recent, its intensity, volume and economic ramifications have reached such proportions that African countries can no longer cope with them without support from foreign countries and organizations.

Under international conventions and general international law, this population benefits from fundamental human rights and the general principle of protection, which places a legal, political and moral “responsibility to protect” on refugee-receiving States, international institutions and, for that matter, the entire international community. This shared responsibility implies, on the part of these partners, solidarity and coordination to guarantee the widest and most effective possible protection for this population.

This paper addresses the particular situation of refugees in Africa in the context of the new pandemic, as well as the obligations of host States towards them and the demand for international solidarity, in a context of national retrenchment, widespread economic recession and an inexorable erosion of multilateral action.

1- The situation of refugees in Africa: from one crisis to another

Conflicts in Africa, fuelled by terrorism and climate change, continue to hamper the continent’s stability and undermine its integration and development efforts. The struggle for power and the monopoly of natural resources are feeding conflicts in different parts of the continent, with their share of victims, refugees and internally displaced persons. The cases of the Central African Republic, Mali, Sudan and Somalia are examples of conflicts whose longevity and recurrence unduly prolong the suffering of this category of population.

During the Cold War, which was dominated by inter-state conflicts, the situation of refugees was temporary and was resolved within a relatively short space of time through voluntary repatriation, local integration or resettlement in a third State. However, the current situation is marked by asymmetrical conflicts of internal nature which are protracted because of the political and economic stakes that fuel them, and regional rivalries and foreign interferences that rekindle or perpetuate them. The result is a large influx of refugees who settle primarily in neighbouring states in makeshift camps for an indefinite period.

Eight Sub-Saharan African countries alone host more than 5 million refugees, including Uganda (1.2 million), Sudan (1.1 million), Ethiopia (903,200), the Democratic Republic of Congo (DRC), Chad and Kenya (about half a million each) and Rwanda (54,200).

The vast majority of this population has been living for decades in camps located, for the most part, far from urban centres.

These cramped, overcrowded areas, where malnutrition prevails and where access to health services, safe drinking water and sanitation is difficult or insufficient, are conducive to the rapid transmission of diseases and epidemics, such as malaria, tuberculosis, or HIV/AIDS.

Under these conditions, it seems obvious that social distancing, hygiene measures and lockdown recommended by the World Health Organization (WHO) are practically inoperative within these reception facilities.

For these reasons, and since the announcement of the first cases in Africa, senior United Nations (UN) and WHO officials have warned of the critical situation in which Africa is facing this new humanitarian ordeal and called on the international community to help the continent to limit the impact of the virus on the African population, particularly refugees and displaced persons.

The arrival of this new virus in Africa could, according to the World Food Programme (WFP) “double the number of people on the brink of famine to 250 million by the end of 2020”, and this threat hangs over the refugees in the first place.

2- The impact of Covid-19 on Africa: a limited initial effect

Following the announcement of the first cases of infection on the continent, the statements of the heads of international agencies and analysts have fluctuated between the projection of a catastrophe and the claim of an “African exception”¹, implying a limited impact of the virus on the continent. The prevailing opinion has predicted a dramatic progression, even a “catastrophe”² or a “tsunami”, due to the shortcomings of the health systems, the modest budgets allocated by African governments to the health sector and the lack of medical coverage. Since February 14, 2020, when the first case of Coronavirus was discovered in Egypt, Africa has accumulated, until May 13, a total of 69,947 cases, with 2,410 confirmed deaths³. Compared to Europe (160,000 victims) and the United States (84,184 deaths), Africa appears to be more resistant to the new virus. Even with a tenfold increase in these figures, the rate of contamination remains very low, representing barely 0.02% of the African population, currently estimated at 1,340 billion.

This low percentage of contamination can be explained by a number of factors, in particular:

- Low population density: 43 inhabitants per km², compared to 181 in Western Europe and 154 in South-East Asia⁴;
- Capitalization by African countries on the good practices observed in the affected countries at the beginning of the pandemic;
- Relatively low tourist numbers in Sub-Saharan African countries;

1. Covid-19: L'exception Africaine à l'épreuve des statistiques (The African exception challenged by statistics), Albert Savana 22 March 2020)

2. Tanguy Berthemet “Scénario catastrophe pour l'Afrique désormais touchée par le coronavirus” (Disaster scenario for Africa, now affected by the coronavirus) in Le Figaro of April 1st, 2020.

3. Africa CDC (Centre for Disease Control and Prevention of the African Union).

4. See Population data.net

- The youth of the African population, more than 60% of whom are under 25 years old and 95% under 65 years old;
- Widespread vaccination of the population against BCG, which has contributed to its immunization;
- Africa's experience in the treatment of malaria, HIV and Ebola, which has contributed to strengthening the immune system of this population;
- The rapid mobilization of community health workers and managers who had been involved in the fight against HIV/AIDS and Ebola and whose know-how facilitates the detection and alerting of Covid-19 cases;
- The susceptibility of the virus to heat above 8 degrees suggests that most African countries with temperatures around 15°C would have low levels of infection;
- The creativity shown by Africa in the local manufacture of masks and even ventilators;
- The use by several African countries, such as Morocco, of Chloroquine and traditional treatments in countries such as Benin, Cameroon, Ghana, Guinea-Bissau, Madagascar, Senegal, Zimbabwe and the Democratic Republic of Congo (DRC).

On the basis of the resilience that characterized the response of the African countries affected by the Ebola epidemic in West Africa, and thanks to the change in the behaviour of their populations, there is hope that Africa can, once again, and despite its multiple handicaps, belie the catastrophic forecasts and overcome the ordeal of Covid-19 with the least possible damage and casualties, both among their citizens and among the thousands of refugees they are hosting on their territories. This resilience will depend on maintaining the rigorous approach adopted by the most affected counties, on the discipline of the populations in implementing the measures taken and prudence used in beginning to lift the lockdown.

3- The dilemma of host states: national duty vs. international responsibility

The emergency caused by Covid-19 is experienced by both refugees and the country of asylum. It puts thousands of lives at risk and requires prompt action to spare as many people as possible, regardless of their status.

The management of this crisis, which is unprecedented, unpredictable and of uncertain duration, presents refugee-receiving states with a difficult choice: either fulfil their constitutional duty to protect their populations or meet their conventional and moral obligations towards the refugees on their territory by providing them with aid and assistance. Very few countries are able to reconcile these two objectives. The African countries that receive the largest number of these refugees certainly do not fall into this category, hence the need for the international community to support and assist them by all available means.

In international law, there are rules that apply when the national state fails or is unwilling to protect its own citizens. These rules have been codified in a set of instruments including refugee law, human rights law and international humanitarian law. A form of "interim and

palliative protection”⁵ of the fundamental rights of refugees is provided, at the universal level, by the 1951 Convention relating to the Status of Refugees and, at the African level, by the 1969 Convention governing the specific aspects of refugee problems in Africa.

As part of the obligations incumbent on the receiving state, the 1951 Convention provides that “The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals” (Article 23). The same instrument adds that “Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.” (Article 20).

To the extent that the African Convention is considered the “regional and effective complement to the 1951 Convention”, the latter’s provisions on national treatment can be considered to apply *mutatis mutandis* to the situation of refugees in Africa, taking into account the broad definition of the term “refugee” adopted by the regional instrument.

It is with this requirement for national treatment in mind that the United Nations High Commissioner for Refugees is advocating for the inclusion of refugees and asylum seekers, as well as internally displaced persons, in national Coronavirus monitoring, preparedness and response plans. « It is a call to mobilize for refugees to be included in national plans against Covid-19 »⁶.

These two conventions are not the only basis for the obligations that are incumbent upon the host states of refugees and the international community. Human rights instruments confirm and refine the standards of protection for these persons.

Article 12 of the 1966 Protocol on Economic, Social and Cultural Rights provides for the recognition by States Parties of the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health” and for the adoption by the authorities of those States of “measures for the treatment and control of epidemic, endemic, occupational and other diseases, and for the creation of conditions which would assure to all medical services and medical assistance in the event of sickness”.

UNHCR Executive Committee Conclusion No. 81 (1987) calls upon receiving States «to take all necessary measures to ensure that refugees are effectively protected, including through national legislation and in accordance with States’ treaty obligations under human rights instruments and international humanitarian law directly relevant to the protection of refugees»⁷.

In addition, the Global Compact, despite its non-binding nature, commits States to “support host countries with resources and expertise to expand and improve the quality of their national health systems to facilitate access to them by refugees and host communities, including, as appropriate, the construction and equipping of health centres

5. Maryline Roger “Le maintien des camps de réfugiés à long terme : Érosion de la protection internationale des réfugiés” (Maintaining Refugee Camps for the Long Term: Compromising International Protection for Refugees), Mémoire, Laval University, 2013, page 17

6. Déclaration de Cécile Pouilly, porte-parole du HCR lors d’un entretien accordé à ONU Info le 31 mars 2020 (Statement by Cécile Pouilly, UNHCR spokesperson in an interview with UN Info on 31 March 2020).

7. UNHCR, Executive Committee, 1997: Conclusion 81 para. E

and the improvement of services, including through the development of capacities and training opportunities for refugees”.

There is, however, a difference between the willingness to assume a treaty obligation and the ability to ensure its effective implementation. It is with the difference in the level of development between States in mind that the 1966 Protocol made two clarifications in its Article 2:

The first, according to which the satisfaction of this category of rights is an obligation of means and not of result, is reflected in paragraph 1, which stipulates that “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant”.

The second, in paragraph 3, states that “developing countries, having due regard to human rights and their national economy, may determine the extent to which they will guarantee the economic rights recognized in the present Covenant to non-nationals”.

More explicit is the African Convention which states that “where a Member State encounters difficulties in continuing to grant asylum to refugees, that Member State may appeal to other Member States, both directly and through the Organization of African Unity (OAU); and the other Member States, in a spirit of African solidarity and international cooperation, shall take appropriate measures to alleviate the burden on the Member State granting asylum”.

This spirit of African solidarity has been demonstrated by most African countries hosting refugees since the emergence of the new virus on the continent. For example, Ethiopia, Kenya, Sudan, Tanzania and Uganda have increased water and soap supplies to their camps and installed additional handwashing stations, an illustration of their approach to managing this crisis. This effort remains, however, limited and cannot be sustained or expanded without international assistance to host African countries.

4- The eternal problem of funding

The multitude of challenges, the development gap and the lack of financial resources account for the continent’s dependence on foreign partners for the financing of peacekeeping operations deployed there, for humanitarian assistance for refugees and displaced persons and for the fight against epidemics.

Most African States hosting the continent’s large number of refugees are least advanced countries (Chad) or middle-income countries (Ethiopia) whose limited financial resources do not allow them to invest adequately in the health sector and increase the capacity of their hospital infrastructure to cope with the new virus. They are, therefore, unable to meet the demands of their own citizens, let alone those of refugees, who represent an additional burden.

Although international cooperation is a prerequisite for the effective protection of the rights of refugees, no binding legal instrument provides for the sharing of responsibilities. At most, there are indirect references in the preambles of the 1951 and 1969 Conventions

and in the Global Compact on Refugees. In reality, each donor commits itself according to its strategic interests and international agenda.

In the mother Convention of 1951, the preamble recognizes that « the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international cooperation ».

As for the Global Compact, it commits States to “support host countries with resources and expertise to expand and improve the quality of their national health systems in order to facilitate access to them by refugees and host communities, including, as appropriate, the construction and equipping of health centres and the improvement of services, including through the development of capacities and training opportunities for refugees”.

However, whether in the area of development assistance or humanitarian aid, developed States have always been reluctant to accept obligations on the basis of the principle of solidarity, particularly with regard to sharing the financial costs of refugee protection and resettlement⁸. The refugee and migrant crisis of 2015 has, moreover, revealed the limits of this solidarity even among the Member States of the European Union. What about the present crisis?

As the virus has spread among African countries, there have been repeated calls from senior officials of the UN, WHO, the World Bank, the International Monetary Fund, the African Union, UNHCR and WFP for ad hoc assistance to help Africa fight the pandemic. The recipients of these appeals are always the same partners among States, which provide direct bilateral aid or voluntary contributions through international organizations, NGOs or philanthropic foundations.

In terms of government assistance, China held in April a videoconference with the health services of several African countries and provided them with emergency in-kind assistance and medical teams.

France has committed 1.2 billion euros to the « Covid-19 – Health in Common » Initiative, the United States \$1.3 billion and the European Union 15.6 billion euros in aid.

At the level of the UN system, the Office for the Coordination of Humanitarian Affairs (OCHA) has been tasked with coordinating the \$2 billion Covid-19 Global Humanitarian Response Plan, launched by the UN Secretary-General, a programme that will mainly benefit Africa.

As for the African Union, in addition to meetings at various levels and commitments to assist, especially refugee-hosting countries, the African Covid-19 Intervention Fund, established on 26 March 2020, has received only \$4.5 million for Africa CDC (Centres for Disease Control and Prevention).

Finally, in respect of philanthropic foundations, two names have come to the fore: Bill Gate, the owner of Microsoft, and Jack Ma, the owner of the Chinese retail chain Ali Baba. The former has donated \$250 million for vaccine research and support to the

8. Agnès Hurwitz “The collective responsibility of States to protect refugees”, 2009.

WHO and the latter has delivered one million test kits and six million masks to all African countries.

It is sure that the aid promised, which does not always correspond to that actually disbursed, is allocated to several African countries and that only a tiny part will, eventually, be allocated to refugees. At a time when all the donor countries are absorbed in managing the consequences of the crisis and the modalities of reviving their economies, African refugees may have to pay a high price for this pandemic.

Conclusion

If there is one lesson to be learned from this ordeal, it is the inescapable fact that mankind is one and indivisible. The new virus has demonstrated that it makes no distinction between the powerful and the weak, the haves and the have-nots, the head of government and the unemployed... National reactions marked by individualism and lack of coordination, even among partners and allies, have reinforced the advocates of sovereignty and the primacy of narrow national interests over the requirements of cooperation between states.

There is still a long way to go before the dynamics of the Coronavirus can be reversed and the pandemic defeated. In the meantime, humankind will have had the painful experience of fear, anxiety and uncertainty about the future, the same feelings that millions of refugees have been experiencing every day, all year round and, for some, for three or four decades. While the first reflex of States after Covid-19, will be to recover their economic sovereignty and strengthen their social cohesion, the challenges of the beginning of this century can only be met within the framework of strengthened international cooperation that takes into account the need for solidarity with the most vulnerable and a shared responsibility between North and South, in a new, reformed, more representative and equitable multilateral system.

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Mr. Loulichki is a Senior Fellow at the Policy Center for the New South, previously known as OCP Policy Center, who focuses on Diplomacy, conflicts resolution and Human rights. He has an extensive experience of 40 years in diplomacy and legal affairs. He assumed inter alia the functions of Head of the Department of Legal Affairs and Treaties in the Ministry of Foreign Affairs. He was also Ambassador of Morocco in Hungary, Bosnia – Herzegovina and Croatia (1995-1999), Ambassador Coordinator of the Government of Morocco with MINURSO (1999 – 2001), Ambassador of Morocco to the United Nations in Geneva (2006-2008) and New York (2001-2003 and 2008-2014), as well as President of the Security Council (December 2014).

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