16/SMS09/051

JACINTHA NKENCHO

 A refugee is a person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself f of the protection of that country... "
*- The 1951 Convention relating to the Status of Refugees*

 A refugee has the right to safe asylum. However, international protection comprises more than physical safety. Refugees should receive at least the same rights and basic help as any other foreigner who is a legal resident, including freedom of thought, of movement, and freedom from torture and degrading treatment. Economic and social rights are equally applicable. Refugees should have access to medical care, schooling and the right to work.

 With the rise of immigration crisis in Europe, the rights of immigrants are easily violated and not protected enough, despite the fact that EU was acknowledged to ensure human rights protection level equivalent to the one ensured under European Convention on Human Rights (ECHR), it is doubtful if the EU was able to ensure human rights in time of recent migrant crisis. It is argued that, absence of comprehensive EU-level migrant policy restricted EU's ability to prevent the crisis and to mitigate its consequences as well as human rights violations. In addition, being oriented to ex post rights defense, EU's system was also practically unsuitable to defend the rights of the asylum seekers after the violations actually occurred. It is proposed that EU should address migration issues immediately by introducing major migration policy reform.

 Migrants and refugees trying to reach Europe are taking enormous risks, including abuse at the hands of smugglers, freezing temperatures in winter and negotiating unknown and dangerous terrain such as forests and fast-flowing rivers. This is an often terrifying situation where robbery, injuries and even death are the price being paid. In March 2016, the shutdown of the Western Balkans route to Europe has left thousands of them stuck in limbo and facing an uncertain future, many in unsafe accommodation. European borders have been militarized with aggressive controls, fences and border patrols, with little consideration for human dignity. Yet, every day, people attempt to make the border crossing, driven by the desire to continue their journey to find a better life in Europe, despite a lack of access to asylum procedures and fear of mistreatment in the Balkans countries. Rather than being places of safety, those countries have failed to offer protection to many new arrivals. A new NGO report reveals that migrants and refugees in Serbia, Macedonia, Croatia, Hungary and Bulgaria are being routinely mistreated by law enforcement officials. Violence and intimidation are used to illegally push them back and deny them access to asylum procedures, even though such actions are strictly prohibited under international human rights law.

 There are several collected testimonies alleging systematic abuses and brutal treatment at the hands of police, border guards and other officials, including accounts of people being stripped of their clothes in freezing temperatures and having cold water poured over them, attacks by dogs, beatings and robbery. Even when people have decided to try and stay, they are regularly being denied access to processes for claiming asylum and to proper information. In some cases their requests are being entirely ignored.

Such brutal tactics are deliberately used to forcibly push people back to to their previous country of transit or even another country. Without explanation or a chance to ask for asylum, thousands have already been illegally expelled. Authorities are turning them from one country to another outside of the legal system, without their individual cases being heard, without legal assistance or interpreters and without any possibility of appeal. Such actions create a climate of fear and mistrust. It makes people more likely than ever to avoid official systems, instead relying on smugglers to continue their journeys towards places elsewhere in Europe that they hope will be safer.

 Governments of Serbia, Macedonia, Croatia, Hungary and Bulgaria must immediately end all illegal pushbacks and collective expulsions. They must urgently investigate crimes committed against migrants, including refugees, and introduce measures to prevent future violations. All governments must ensure that people in need of international protection have access to fair and effective asylum procedures.

In 2017 and 2018, President Trump’s administration has implemented immigration policies that have caused catastrophic irreparable harm to thousands of people, have spurned and manifestly violated both US and international law, and appeared to be aimed at the full dismantling of the US asylum system.

Those policies and practices have included, among others: (1) mass illegal pushbacks of asylum-seekers at the US–Mexico border; (2) thousands of illegal family separations, through which the Trump administration has deliberately and purposefully inflicted extreme suffering on families, ill-treatment which rose to the level of torture in some cases; and (3) increasingly arbitrary and indefinite detention of asylum-seekers, without parole, constituting cruel, inhuman or degrading treatment or punishment (ill-treatment) which is absolutely prohibited in international law. Based on public statements by US government officials, those policies and practices were indisputably intended to deter asylum-seekers from requesting protection in the United States, as well as to punish and compel those who did seek protection to give up their asylum claims.

 These are not isolated aberrations. The US Department of Homeland Security (DHS) has implemented these interrelated policies in unison: closing the borders to asylum-seekers, and pushing them back into harm’s way; and making life so intolerable in immigration detention facilities that asylum-seekers would think twice before requesting protection in the United States. Fueling these policies of cruelty with discriminatory and demonizing rhetoric, President Trump and his cabinet members have routinely called asylum-seekers “criminals,” and denounced international standards on refugee protection as legal “loopholes” and “magic words” that the administration has professed its intention to abolish. The Trump administration is waging a deliberate campaign of human rights violations against asylum seekers, in order to broadcast globally that the United States no longer welcomes refugees. Simultaneously, the Trump administration is seeking to dismantle the US asylum system, including by narrowing definitions of who qualifies for protection – in violation of international law. Setting a dangerous precedent, the US government’s abrogation of its obligations under human rights and refugee law is undermining the international framework for refugee protection, grossly violating the right to seek asylum, and is inviting a race to the bottom by other countries.

The US government has also sought legal authority to indefinitely detain unaccompanied children and families with children, despite it being unlawful in the United States and contrary to international standards.

US authorities have leveraged the agony of prolonged detention in order to compel asylum-seekers to “voluntarily” give up their asylum claims, and accept deportation back to their countries-of-origin where they had fled persecution. That anguish of indefinite detention has often been amplified by family separations and inadequate conditions of detention, including routinely substandard health care that has contributed in some cases to asylum-seekers’ deaths in immigration detention facilities.

REFERENCES

Borbolla , S. O. (2018). USA: "YOU DON'T HAVE ANY RIGHTS HERE". Retrieved April 23, 2020, from <https://www.amnesty.org/download/Documents/AMR5191012018ENGLISH.PDF>

Connor , P., & Passel , J. S. (2019, November 14). 5 facts about unauthorized immigration in Europe. Retrieved April 23, 2020, from <https://www.pewresearch.org/fact-tank/2019/11/14/5-facts-about-unauthorized-immigration-in-europe/>

Internationals, O. (2019, November). At Europe's borders, migrants and refugees are denied their basic human rights. Retrieved April 23, 2020, from <https://www.oxfam.org/en/europes-borders-migrants-and-refugees-are-denied-their-basic-human-rights>