

## **CHAPTER ONE**

### **INTRODUCTION:**

In international politics, the refugee predicaments have been a call for concern with the main reason being that these refugees are found everywhere. For a very long time now the by-product of wars, man-made and natural disasters, human rights violations have caused the production of multitude of refugees with a majority of them belonging to developing countries. These refugee problems or predicaments have created the urgent need for “durable solutions” with voluntary repatriation as the most preferred and the other two, that is, local integration and resettlement lesser in the order of priority (Chimni, 1991). Armed conflicts result in large scale exodus of refugees from their countries of origin to economically and politically weak neighboring states. These neighboring states or asylum countries have a huge burden on them and this can only be partly taken away by the intervention of protective agencies and international aid. With such a heavy burden on them, asylum countries are looking for the slightest opportunity to bring refugees status to an end and commence repatriations to their country of origins (Hathaway, 2005). Most if not all refugees during the cold war resettled in western countries and forgot about the issue of returning or reconciling with their countries of origin. Nowadays permanent resettlement is a far fetch solution to the global refugee problems. To many refugees returning to their home countries is no longer a solution to the issue of protracted displacement but an obligation (Bradley, 2013). With this gloomy atmosphere of repatriation, one is left with questions such as: what can these refugees lawfully expect from repatriation? What are the conditions of a just repatriation and who is responsible to see into it that these conditions are met? Are these refugees entitled to anything other than ruined homes in communities where their livelihood is uncertain and they are not really welcomed? While much have been said and written about the responsibilities of a host state toward the refugees found in its borders, with few exceptions like in the case of Guatemala, little have been said about that of the state of origin in the case of repatriation of these refugees (Bradley, 2013). When one look at the cases of Guatemala and Cambodia to the Balkans and Afghanistan, it will not be an exaggeration to say that identifying the responsibilities of the states of origin to these returned refugees and seeing into it that these responsibilities are carried out, is part of a safe and sustainable repatriation and peace building process and all these will entail a stable political future.

As long as the protection of refugees is the primary concern of the international refugee regime, repatriation is supposed to be voluntary and carried out in a safe and dignified manner back to their

country of origins where the main reason for their flight to exile is no longer in existence (UNHCR). Repatriation involving issues of change, human rights and end of refugees status, has been defined as a protection exercise itself. In international law, repatriation is a favorable durable solution as a matter of principle because it upholds the right of a citizen to return to his or her country of origin (Lang, 2001). Repatriation can conclude the temporary role of international law by which protection is conditional on the risk of return for refugees in their country of origins. As such refugees are not to be repatriated to a place where their lives or freedom will be threatened. They are protected by the principle of non refoulement. Their return should be voluntary and carried out following legal procedures. The desire of most refugees if not all just like in the case of Nigerian refugees in Cameroon is to one day return to a safe and peaceful homeland. Voluntary repatriation to a safe and secure home is the desire of most if not all the Nigerian refugees on the Cameroon territory and its border. They want to go back to continue with their lives without war, fighting and running away. But we are going to find out if they are returning to a safe and secure environment where they will continue with their daily activities without war. The government of Cameroon has since July 2015 been returning Nigerian refugees from its territory. Its actions caught my attention and pushed me to have a more insight of the case. This case will be important for the following reasons, the case will help us understand most contemporary repatriations by trying to comprehend the actions of the Cameroonian authorities and help shed light on the issue of repatriation and non refoulement. Cameroon like many other asylum countries in the world especially those in Africa has prematurely been repatriating refugees found within its territory. Its repatriation of Nigerian refugees is surrounded with a lot of controversies and choosing Cameroon as a case study is to help shed more lights on the general problem of most current repatriation. The general tendency is that refugees are to be protected and not repatriated. Repatriation is only accepted when it is voluntary and carried out in a safe and dignify manner. The case of Cameroon will help us understand why these refugees instead of being protected are repatriated.

The protection of refugee gained its important by the access to asylum and the principle of non refoulement. This principle prohibits the return of refugees to their country of origin where their freedom or lives are threatened. The principle of non refoulement applies both at the border and the territory of the receiving state (Lang 2001). This principle is governed by the 1951 Convention relating to the Status of Refugees. It has also attained the status of customary international law. It applies with or without accession to the refugee instruments. Repatriation is not mention in the 1951 Convention but the Statutes of the United Nation High Commission for Refugee (UNHCR)

specifically make mention of voluntary repatriation in its article 8(c). However in the 1951 Convention it is made mention in a negative way, it forbid the expulsion or forcible return of refugees or refoulement (ibid). To better under the discourse on reparation it will be good to look at the different political context affecting the attitudes toward refugees.

### **1.1 Politics of Repatriation.**

It will be very impossible to understand the discourse on present repatriation without first expatiating on the changing political context affecting attitudes towards refugees. The tendency in industrialized democracies is to control immigration in a period of high unemployment and also the fear of importing ethnic conflict. Unfortunately, this tendency has been extended to refugee. Most refugees are refused formal refugees status because they are considered as not meeting with the criteria laid down by the 1951 Convention. As black and Koser (1999) argued, these criteria are interpreted by states in a stern manner (Black and Koser, 1999). Most northern countries have developed a range of policies to prevent if not reduce the arrival of asylum seekers. Policy makers see refugee status as something exploited by persons to twist immigration rules rather than as a means to protect people suffering from persecution (ibid). Such an attitude has given rise to the interest toward repatriation as a durable solution. The increase in political interest in repatriation has worked in favor for the increase in the restriction of granting refugee status (Hathaway, 1995). Most countries see repatriation as the best way to deal with the refugee problem. These refugees are easily denied the refugee status and send back to their country of origin. Cameroon for example has claimed that those she is returning to Nigerian are not refugees but members of the Boko Haram sect who came under the guise of refugees.

Repatriation has become the most favorable solution by the government of many Africa states. Most of them have being drifting away from the protection of refugees provided by the 1951 UN (United Nations) Convention and the Organization of the African Union (OAU) Convention on Refugees. Where these refugees are viewed to have a negative impact on the state limited resources and where they are considered to present social and political tension, a political push for the repatriation of these refugees always come into play (Black and Koser, 1999)). I am not saying that these African governments are not integrating refugees, where the number is manageable and repatriation is uncertain, they will go in for local integration. These Africa governments are also very ready to welcome any foreign aid that will help in their protection of these refugees (ibid). There have been reported clashes between the newly arrived from Nigeria and Cameroonian living

at the border over the already limited resources they have. These Nigerians who left their homeland and came to Cameroon because of Boko Haram raids have been accused of causing insecurity and high crime wave in the Northern part of country. Because of these reasons the Cameroonian authorities have taken the initiative of sending them back to Nigeria instead of granting the protection they so desired.

Refugees are mostly viewed by the host country as a burden and a threat to their national security. This mostly happens when there is a lapse in the asylum conditions and when political pushes for repatriation occur (Lang, 2011). Cameroon for example is host to many refugees from Central Africa and Nigeria in particular and it is clearly not happy with most of these refugees in its territory, as exemplified amongst the reasons for the recent repatriation of Nigerian refugees from its territory. According to the government of Cameroon most of the suicides bombing that have been taking place in the northern part of the country have been carried out by these Nigerians who came in the guise of refugees. To make this claim serious she banned the wearing of veils in this part of the country (irin.org). These refugees according to the government of Cameroon are seen as a source of insecurity in the northern region of the country. Most of the suicide bombings that have taken place in this part of the country have been blamed by the present of these refugees in that part of the region. The voluntary return of these refugees to Nigeria is now a priority for Cameroon but due to the complexities and difficulties involve in the process, one is left with the question of the voluntariness of the repatriation. With the frequent raids of this region by the insurgent group known as the Boko Haram, there is contending pressure on the government of Cameroon regarding these refugees. The government on the one hand, is under high pressure to end the refugee predicament on its Northern border, especially as this cross border chaos has deteriorating security implications. On the other hand, these attacks have also shown that these refugees need great protection.

Apart from the host government, the role of the home governments has also been underestimated if not ignored. They can also politicized and affect the repatriation policies (Black and koser, 1999). The absence of a country's nationals can be detrimental to the government legitimacy and also the presence of refugee camps is a reminder of the horrible situation at home. Their presence may also present an embarrassment for the home country. International relation sees refugees as a breach in the bond or ties between the citizen and the state. Refugees and displaced persons are the responsibility of the sending states (Lang, 2011).

After examining briefly the politics of reparation, I will like to give a brief background of my case study country Cameroon, regarding its relationship with refugees and asylum seekers found within its territory. The Republic of Cameroon found in central Africa has an open border policy towards refugees and asylum seekers. Cameroon is a signatory to the 1951 Refugee Convention and also the 1969 OAU Refugee Convention. In July 2005, Cameroon adopted a law defining the legal framework for the protection of refugees. This law went into effect in November 2011 ([www.unhcr.org](http://www.unhcr.org)). With the going into force of this law, the government was able to provide protection to refugees and asylum seekers. It has provided land for seven refugee sites in the East and Adamaoua regions of the country. It has also provided a refugee camp in the far North region of the country (the Minawao refugee Camp). It is also due to the generosity of this law that Cameroon has been the largest recipient of refugees and asylum seekers in Central Africa. Cameroon hosts the largest number of Central African refugees. Cameroon has been hosting refugees from neighboring states such as the Central African Republic (CAR) and Nigeria. In 2014 precisely in the month of August, the country was having more than 240,000 people of concern to UNHCR ([unhcr.org](http://unhcr.org)). This is a great number to a country which is not economically vibrant.

As a result of the crisis in Nigeria, the country has received an influx of Nigerian refugees since 2009 but the number tripled in 2013 when the government of Nigeria in a counteraction to the Boko Haram raids passed a state of emergency in Northeast Nigeria. The Taliban group retaliated to the government decision which resulted to the destruction of public and private institutions; killing of civilians, kidnapping. The torture was too much on the people and they have to seek refuge in Cameroon and other neighboring countries. The presence of these Nigerian refugees in the country has resulted to great insecurity at the border of the country including endless attacks by this armed group from Nigeria. These insurgents from Nigeria pose serious risks of targeted violence, kidnapping and violence. This has pushed the government of Cameroon to be repatriating some of these refugees back to Nigeria. This repatriation requires a great consideration especially as the interest of this thesis is to understand the recent and ongoing repatriation of these refugees from Cameroon, that is to see whether Cameroon is complying with international law obligations regarding the repatriation of refugees or if not what justification does she have for sending back these refugees. It is a sovereign right for states to control their borders. Also they have as a right to control the entry and exile of foreigners. State should not also forget that this sovereign right of theirs is limited by the principle of non refoulement which states that, no state should return an individual to a country where his or her life and freedom is at risk ([www.unhcr.org](http://www.unhcr.org)). For instance

any person who may be subjected to death, torture or any form of violence or persecution in a particular country because of his or her political opinion or membership to a particular social group should not be returned to that country. The principle of non refoulement is always seen as the international legal regime for the protection of refugee. Even though the exact scope of the principle of non refoulement is still argued and interpreted differently by states, it is accepted as a norm of customary international law. Despite the different interpretation given by scholars and states to this principle, one thing is clear: any individual who is a refugee or an asylum seeker within the territory of a state and repatriated without a procedural examination and determination of his or her status will be consider as forcefully repatriated. However there is an international debate on the non admission of refugees or asylum seekers into an asylum country and whether that falls under the principle of non refoulement. Whatever the result of this debate, deliberation on the 1969 OAU Convention and the Refugees act will show that Cameroon has the obligation to admit refugees and asylum seekers into its territory.

## **1.2 Aim and Objective:**

The aim of this project is to explore the repatriation of Nigerian refugees living in the Far North region of Cameroon precisely in the Minawao refugee camp and to try and understand the repatriation of these refugees by the Cameroonian authorities. The repatriation will be examined from a legal dimension and also the justifications the government of has for doing what he is doing will be taken into consideration. This legality will be examined based on the obligations imposed on the government of Cameroon following the principle of non refoulement observed by international, regional and national refugee law obligations. This study will try to examine repatriation (voluntary repatriation) and the principle of non refoulement and compared it with the repatriation of Nigerian refugees carried out by the government of Cameroon and see whether it was legal or if not under what grounds were they repatriated. To achieve the aim of this paper, several research questions will be asked or formulated and answers provided before drawing any conclusion as to whether the repatriation of these Nigerian refugees was involuntary or illegal. Firstly, we will need to find out whether these Nigerians are currently in need of international refugee protection. To know if they are truly in need of international protection, I will try to look at the risk involve in their repatriation back to Nigeria. Secondly, the treatment of the Cameroonian government towards these refugees needs to be considered. This will be done by looking at the availability and effectiveness of Cameroon's asylum system towards these Nigerian refugees. Thirdly, the responsibility imposed on

the government in respect of the principle of non refoulement under their international, regional and domestic refugee law needs to be examined. The particular concern here will be if the government of Cameroon in under any legal obligations to admit and protect asylum seekers found within its territory. In answering the above questions, one will be able to comprehend if the repatriation of these refugees was legal that is, in line with the principle of non refoulement or under what reasons where they retreated back home.

### **1.3 Research question.**

- ◆ How can we understand the recent and ongoing repatriation of Nigerian refugees by the government of Cameroon?

In an attempt to give a possible answer to the research question, this thesis will examine what is meant by repatriation and the legal backing of repatriation. Also we will examine vividly the principle of non refoulement. We will further examine the repatriation process of these refugees and try to come out with an argument to show if the repatriation was lawful or justifiable. Moreover the project will be guided by the following working questions:

- ★ Are these Nigerians in need of international protection?

By analyzing the international refugee regime, this thesis will be able to answer the question as to whether these Nigerians who found themselves in the northern region of Cameroon are in need of international protection.

- ★ What legal implications are there in the repatriation of these Nigerian refugees from Cameroon?

This project will try to examine Cameroon's obligation under international, regional and national refugee law and see if the act of sending back these refugees to Nigeria has any legal implication.

- ★ If the repatriation of these refugees was illegal, what other grounds could they have been retreated?

Even though the repatriation of these refugees could not have had a legal backing, the government of Cameroon has its justification for repatriating these Nigerians back to their homeland. The government of Cameroon argues that the presence of these refugees in its territory is a threat to its national security and that some of those who claimed to be refugees are economic migrants and

members of the Taliban group Boko Haram who have disguised themselves as refugees and are not protected by the international refugee regime.

#### **1.4 Structure of the Dissertation**

Following this introduction, chapter two will present the theoretical and methodological framework of this study. The first part of this chapter will examine the theoretical framework. I began by looking at the theory of securitization. The government of Cameroon is repatriating these refugees on the ground that they are a threat to its national security and securitization being a “speech act”, is considered a better theory to explain this study. Another concept will be the concept of refugee. These two theoretical frameworks are presented in order to analyse the repatriation of Nigerian refugees from Cameroon. The second part of this chapter will outline the research methodology used in this work, the thematic analyses used in responding to the research question. Chapter four outlines the historical background of the study. This chapter deliberates on the reasons why these refugees flee from Nigeria and try to look at their stay in Cameroon before their repatriation. Chapter five presents the analysis.

#### **1.5 Literature review**

Voluntary repatriation asserts that refugees’ repatriation to their homeland should be voluntary, based on the fact that the socio-political and ethnic condition that generated the problem is no longer in existence. All refugees need durable protection and resettlement. This issue of durable protection and resettlement for all refugees has been contrasted with the issue of forced repatriation which has compelled many refugees especially African refugees to return in unsafe conditions to their homelands. Contemporary repatriation has been transformed from small voluntary repatriations that are secure to large repatriations to countries still experiencing conflicts or better still to troubled countries. Repatriation to these troubled countries is often violent, forced and premature. Present day voluntary repatriations are not like past repatriations. In most cases it occurred when peace is still fragile, there is still too much insecurity and the homeland is still in ruins (Stein, 1997a). Most repatriation involves thousands of refugees returning to ravaged homelands. Most contemporary repatriations take place amidst conflict, without change in the regime or change in the situation that originally caused the exodus. Most of these refugees return in the midst of continued risk. This literature review by Barry N Stein is similar to this paper in that it deliberates on how these refugees are repatriated to countries that are still experiencing conflict and



the situations or circumstances that originally caused the flight have still not change. Nigerian refugees are repatriated back to Nigeria meanwhile Nigeria is still experiencing conflict and the reason for the conflict has not been resolved. The paper will differ with Stein in that; the government of Cameroon is repatriating these refugees to a region other than the region of conflict.

Voluntary repatriation has been considered as the most favorable solution for most refugees especially those in the African continent. Before, the reasons for refugee movements were associated with the colonial period. During this era, refugees were highly welcomed and also well treated by their host countries. At the end of the conflict, these refugees willingly and voluntarily returned to their homeland. Today, the situation is quite different. The causes for these refugees exodus are more complex. More so, there is high pressure on the host states making these refugees less welcome in exile. As such many Non Governmental Organizations (NGOs), the United Nation High Commission for Refugees (UNHCR) and the international community are increasingly involved in dealing with these refugees, they are sometimes been compelled into considering repatriation as the most favorable choice for these refugees (Collins, 1996). These different pressures mounted on the host communities and the international communities have given rise to the question of the voluntariness of the many refugee repatriations carried out nowadays especially in Africa. Some of these refugees have been forced to return home by surrounding circumstances or they have been forced to return intentionally to their homeland (ibid). It is due to pressure that the government of Cameroon viewed the repatriation of these Nigerian refugees as the best solution to the problem even though the cause of their flight has not yet been resolved.

Even though repatriation has been classified as the most preferred amongst the three 'durable solution' by the UNHCR, the return of refugees has rarely been an intentional option (Black and Gent, 2004). In fact, by the end of the Second World War and the last quarter of the 1980s, the main part of the international refugee regime hardly considered repatriation of refugees as that important (Chimni 1999: 2). During this period ideological concern of the west was mostly local integration as most of the refugees were from communist countries. It is after the end of the cold world that international attention has been turn toward the return or repatriation of refugees. As refugees are now coming from many different countries and their flows have increased greatly in number, the world have become impatient with what it terms refugee burden (Black and Gent, 2004).

## **Chapter Two**

### **2.1 Theoretical framework and Methodology**

This chapter encompasses the theoretical and methodological framework on which the analysis of this paper is based. As stated above, the main objective of this study is to understand the current and ongoing repatriation of Nigerian refugees from Cameroon. The first part of this chapter deals with the theoretical frameworks that represent the analytical tools of this paper. Firstly, the theory of securitization has proven useful to show how these Nigerian refugees have come to be represented as a security issue and thus a threat to the national security of Cameroon. Secondly, the refugee concept will be applied. We will look at the concept of refugee and its use and definitions and argue that the displacement of people is mostly link to war or violence rather than voluntary determination. And this concept is applicable to those who fled the Boko Haram insurgency to Cameroon. This definition is in accordance with these Nigerian refugees who left their country and came to Cameroon for refuge. The second part of this chapter will expatiate on the methodology.

#### **2.1.1 The theory of Securitization**

Before looking at the theory of securitization, it will be good to briefly look at security in general as this will help to throw more light on the perception that refugees constitute a threat to national security. Security can be defined as the, “object’s degree of Vulnerability ’’. Any notion of security has two main elements, that is, a threat and a referent object (Betts, 2009). Security has been as a” contested concept” following the different ways in which the two main components of security are defined, limited and extended. Following neo realist and realist assumptions, International relation (IR) has taken the referent object to be the nation state and source of threat to mean military capacity (ibid). Despite this consideration by IR, other approaches to security have argued that the state might not be the only referent object, that there are other referent objects other than the state such as individuals, groups or identities. These alternative approaches to security also argued that they are a wider range of threats above military threat, for instance, economic threat, social threat or environmental threats. All approaches to security studies have been used to address forced migration. They have been used from a more critical perspective and a traditional state-centric perspective (Betts, 2009). Great deals of scholars have been examining the empirical connection between forced displacement and security issues such as war and violence. These scholars have argued how immigration and asylum, refugees and Internally Displaced Persons (IDPs) constitute a

threat to national security. The interpretation of refugees and security depends on which theoretical lens one uses to interpret the relationship between refugees and security. Security studies offer a variety of different ways to look at security. But as far as this study is concerned, we will look at securitization which falls under critical security studies.

It has been accepted by many that refugees along constituting a humanitarian problem, represent a source of insecurity to the host country. The former United Nations High Commissioner for Refugees, Sadako Ogata has acknowledge this on several occasions: “Because if there is one lesson we have to learn out of the bloodshed and carnage in Bosnia-Herzegovina, it is this; the refugee issue is not only a matter of humanitarian concern, but also of international peace and security” (Ogata, 1993). It is this political believe or perception between refugees and security that the government of Cameroon is repatriating these Nigerian refugees found within its territory back to their home country. The government has raised the issue of national security as justification for the repatriation. This raises several questions: Could it imply that repatriation can be justified base on a country’s national security? Can repatriation be seen as the best way forward in the midst of a refugee problem? In order to answer these questions, it seems important to first explain how refugees can come to be seen through the lens of security, subsequently being presented as a threat to national security. And to better demonstrate this, the theory of securitization will be applied.

The Concept of securitization is a creation of the Copenhagen school. The Copenhagen school is conceptualized within the framework of the critical security study which is out to refute the realist views toward security by stating that a state centric view of security does not account for all individuals (Betts, 2009). According to the critical security theory, the state is not the referent object but its citizens and as such, individual’s rights should outweigh those of the state. Also threats can emerge from the state itself. By considering the citizens as the referent object of security, critical security studies widen the scope of threats. With this, states will be able to better understand and tackle security problems or issues.

The critical security studies have gone beyond military threats to include political, economic, social and environmental threats. Its inclusion of different aspects as security threats has made this theoretical framework useful in examining not only the security threats posed to refugees, but those threats created by refugees. The critical security studies is made up of two school of thoughts, the Copenhagen School and the Welsh School. The Welsh School upholds the security of the privileged elites by undermining the security of those who are politically and economically marginalized. The

Copenhagen School is associated with the work of Ole Waever. Waever's work is mostly associated to the concepts of "societal security" and "securitization" (Betts, 2009).

Securitization refers to the way an issue can be understood and seen as a security threat. According to Ole Waever, securitization is a "speech act" which has real political consequences. The mere fact of uttering that something is a security issue gives it a special status and legalizes any action taken to solve the issue. Waever said by uttering 'security' a state representative moves a particular development into a specific area and thereby claims a special right to use whatever means are necessary to block it" (Waever, 1995 in Stritzel, 2007). By clearly stating that a particular referent object is at risk or threatened, a securitizing action justifies extraordinary measures to enhance the survival of the referent object. The issue is then taken out of its normal political sphere and classified under the sphere of political emergency for major actions to be taken without respecting normal rules and regulations (Rita, 2006). Securitization can be seen as a justification to exceptional actions. Due to the nature and urgency of security, securitizing an issue legalizes immediate and exceptional actions even though these actions could have been considered incommensurate in a different situation (Betts, 2009). As such the repatriation of Nigerian refugees from Cameroon has been done in the name of security.

In order to avoid the classification of everything as a security issue, a good securitization consists of three steps. Firstly, there must be the existence of identified threats; secondly there must be a perceived or evoked of emergency actions and thirdly, the breaking free of rules and regulations (Buzan et al. 1998 in Rita, 2006). From these three steps, it can be seen that the securitization of Nigerian refugees carried out by the government of Cameroon is a successful one because all these steps are applicable. A securitizing move is the first step toward a successful securitization. This is so because it is only when the people are convinced by their government that there is need for emergency actions (that is, actions that go beyond normal rules and regulations) that one can talk of a successful securitization. The people of Cameroon are convinced that the presence of these Nigerian refugees in the Northern Region of the country is a threat to national security and have seen their repatriation as the best option even if it goes contrary to national and international law.

### **2.1.2 The Concept of refugee**

In order to analyze international migration, sociologists, demographers and migration scholars have focused their studies on refugee flows and their determination to their end destination. Another set

of studies on the other hand that is, some political scientists and specialists of international law have focused more on the effect of refugee flow rather than the determination of these refugees (Salt, 1986). It is a popular sentiment that, the movement of people from one geographical location to another is a voluntary determination. But rather, there is a reasonable amount of data which proves that the increase in the number of refugees in the world is due to conflict, violence and war rather than voluntary determination. The UNHCR definition of a refugee, associate the nature of a refugee with conflict. The 1951 United Nations Convention relating to the status of a refugee that was approved on the 28<sup>th</sup> of July 1951 and the 1967 Protocol are the foundations of a refugee right. A refugee according to the 1951 Convention 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,... or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it (Wilkinson, 2001).

Following report from the UNHCR, there are about 42 million people in the world who have been displaced by force. Amongst this number 16 million are asylum seekers and refugees (UNHCR, 2009). These groups of people have been pushed by circumstances beyond their control to settle where they are not wanted. There are about 500 000 non Cameroonians residing in the country ([www.unhcr.org](http://www.unhcr.org)). This number only stands for those who have applied for refugee status.

Research on refugee phenomenon is still very recent. According to Stein, research on the problems of refugee is still isolated and abandoned. Most studies on refugee phenomenon do not differentiate the various groups of persons fleeing conflict, war and other reasons of exile. Even though the refugee problem have been there for centuries and these problems have created great pains to these refugees and those who have tried to render assistance to them, there have been very little research work on this issue which could relieve these refugees from their suffering and also help those who try to come to the aid of these refugees (Stein, 1981).

The rampant increase in the movement of people in the world has led to the need for a theoretical framework to explain their experiences. Amongst the many refugee concepts that were developed, a more and understandable refugee concept is that developed by Kunz in 1981. He argued that whether a refugee left his or her country of origin because of acute or anticipatory circumstances, the social relationship which the refugee left behind in the home country classifies the refugee into three categories. Kunz classifies refugees into three types (Kunz 1981). The three types of refugees

are; majority identified refugees, the events alienated refugees and the self alienated refugees. The majority identified refugees referred to refugees who have profound attachment to their country of origin and the people from their homeland. Kunz argued that the majority identified refugees are those whose opposition to social and political events back home is shared by majority of their compatriots. These refugees are happy to identify themselves with the nation even if they are not happy with what is going on back home (ibid). Majority of the Nigerian refugees found within the territory of Cameroon identify themselves with Nigeria rather than Cameroon. Also some of these Nigerian refugees in Cameroon are still involved with social and political groups back home and this is the reason why some of them are still mobilized by the Boko Haram group to be carrying out suicide bombing in Cameroon. They are also involved with home activities and celebrations back in exile, for instance the celebration of Nigerian Independence day in Cameroon to mark their attachment with their home country and also show their Nigerian identity. This is an indication that these Nigerian refugees who fled from their country are not happy with the political upheaval that separated them with the rest of the nation. It is also an indication of their great attachment to their country of origin. They have expressed their desire to return home immediately things return back to normal. The event alienated refugees refers to those refugees who left their country of origin due past discrimination. These refugees are often embittered in their attitude to their fellow citizens. Individuals in this category are in uncertain situation in the way they have that original desire to be identified as part of the nation and their subsequent realization of their rejection by the nation or part of the nation (Kunz, 1981). Refugees who have fled their homeland because of racial and religious discrimination fall within this category. Most of the Nigerian refugees found within the Cameroonian territory left Nigeria because of racial and religious discrimination. The self alienated refugees are those who left their country of origin for personal reasons. It might be as a result of a stigma attached to them or their families (ibid). Kunz sees a refugee as a person who leaves his or her country of origin against his or her will with the desire to return but his or her social relationship back home may be broken during exile. Following Kunz three types of refugees, the majority identified refugees and the events alienated refugees can be applied to the Nigerian refugees in Cameroon. These refugees have been forced to flee the conflict in their country. In this study, am going to use Kunz theory of refugee to analyze the Nigerian refugee situation in Cameroon. In light with this theoretical and conceptual framework, the next part of this chapter will present the research methodology.

## **2.2 Research Methodology**

To shed more lights on the objectives of this study, a research method must be applied. This second part of chapter two presents the research strategy adapted to analyze the repatriation of Nigerian refugees from Cameroon and to examine its legality (that is, to see if the repatriation was done in line with the principle of non refoulement). It also presents the methodological approach of the paper.

### **2.2.1 Research Design**

The study is based on R.K Yin's approach in research design. The thesis is an exploratory case study. Case study research strategy can be defined as an empirical inquiry that investigates a contemporary event (Yin, 2009). Yin (1994) came up with five distinct research strategies; survey, experiment, archival analysis, history and case study. All these research strategies have its advantages and disadvantages depending on what the researcher is investigating. Amongst these five different research strategies, this paper has chosen the case study approach because it gives a greater understanding of a complex issue such as repatriation and it also widened the knowledge gained from already conducted research. Reasons for choosing the case study research method in this thesis refer to the fact that in examining the repatriation of Nigerian refugees from Cameroon one deals with a complex situation that requires a lot of knowledge and understanding. Another reason is because we are dealing with a contemporary and real life issue rather than a past or historical event. Case study also examines the general findings in research, test hypothesis and question existing ideas. Furthermore, case study produces new empirical knowledge of a phenomenon as repatriation. The above reasons make case study a preferable research method. Even though it is a preferred method in this study, case study research method has its demerits. One of its limitations is that its information is really not accurate to provide a reasonable conclusion since it lacks thorough research especially as it is restricted only to a particular group of people. Another demerit is that it is limited in its scope and thus do not provide enough material to arrive at a general conclusion but this can be advantageous in that it helps the researcher to concentrate on a particular event or group of people and thus accurate results. Even with these limitations we still believe that using the case study research strategy will enable us to have a better insight in the repatriation of these refugees.

### **2.2.2 Source of data**

For the purpose of this thesis, a qualitative data will be employed. Strauss and Cobin defines a qualitative research method as any type of research or findings not gotten through a statistic procedure or through quantification (Strauss and Cobin, 1990). A qualitative research method lays its focus in an individual case rather than general cases (Maying, 2003). The thesis is based on examining a particular case that is Cameroon rather than a general situation of repatriation.

To gain more insight in the repatriation of Nigerian refugees from Cameroon, the study has made use of secondary data and secondary literature. Secondary data may be considered of great importance to this thesis because it makes use of other relevant studies to shed light on certain issues. It is considered as already used data considering the fact that the data comes from already existing projects before being used in new project (Kumar, 2000). Nevertheless, secondary data is still of great value because of its availability of data, time span, accuracy of data and cost factor (Sekaran, 2002). The secondary data used in this project involves the exploration of books written by scholars within the field of the repatriation of refugees and also legal instruments relating to the legitimacy of the repatriation of refugee.

Data collection is also an integral part of this research. Data collection includes assessment of documents, varying from legal documents, texts, legislation and more popular sources like newspapers, websites. Data collection method is based on secondary documents since the paper is based on secondary data. Data has been collected from many published research books and articles, websites, international, regional and national legal documents (all mentioned in the reference part of this paper).

### **2.2.3 Limitations**

There are some identified limitations to this study. One of the main stumbling block of this thesis was the shortage of literature regarding the repatriation of Nigerian refugees from Cameroon. Very little has been written about this issue both by scholars in Cameroon and other countries. To



overcome this obstacle, i made used of literature other repatriations that were similar to the repatriation of Nigerian refugees from Cameroon. Another limitation of this study was the present location of the author. My geographical location made it impossible to have the direct testimonies of these refugees and talk to some Cameroonian authorities. For health reasons my doctor advised me not to travel to Cameroon. I had to deal with information from websites without really talking to those of concern.

## **2.3 Definition of Concepts.**

It is important to define some key terms that are recurrent in this thesis. The term refugee, internally displaced and asylum seeker will be defined in order to delineate the extensive meaning of these terms, wipe away any subjective interpretation and hence prevent their misconception where need be.

### **2.3.1 Refugee**

The diversity of situations that forced people to leave their country of origin calls for a well founded definition of the term refugee because to a lay man's point of view a refugee is a person who has been forced to move as a result of war, famine, manmade or natural disaster. A more restrictive definition of the term refugee is that adopted by the 1951 Convention Relating to the Status of Refugees. Article 1a of the 1951 Convention defines a refugee as:

Any 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 or, owing to such fear, is unwilling to avail himself of the protection of that country (UN Convention, 1951).

This definition has a time and geographical limitation. The 1967 Protocol lifts the time and geographical limits. These are the two international instruments defining who a refugee is. The Organization of African Unity (OAU) convention adopted in 1969 added to the 1951 Convention definition of a refugee those who are forced to leave their country of origin as a result external aggression or occupation, foreign domination and in events seriously disturbing public order regardless of the fact that this public disorder is affecting only part or the entire country. To Salehyan and Gleditsch (2006) a refugee should be that person, who flees from his or her country of

origin due to political motivated harm, international war, civil war, break down of political regimes and government persecution (Salehyan and Gleditsch, 2006).

Following the above definitions, this thesis will focus specifically upon those refugees who are compelled to leave their country of origin owing to well founded fear of persecution for belonging to a particular social group and religion. These refugees from Nigerian who found themselves in the Cameroonian soil were forced to leave their country of origin for fear of persecution from the terrorist group Boko Haram for the simple fact that they have refused to be Islamized. So they suit the definition of a refugee as enshrined in the 1951 UN Convention.

The definition of a refugee according to the 1951 Convention only points out to those who flee their country of origin as a result of persecution or for fear of being persecuted. It did not take into consideration those who fled but still remained within their country of origin that is the internally displaced persons. As postulated by Stein (1980), the definition of a refugee as consecrated in the 1951 Convention did not included displaced persons who have not crossed an international boundary (Stein, 1980).

### **2.3.3 Internally Displaced Persons**

Internally displaced persons are those people who have been forced to leave their place of habitual residence as a result of armed conflicts, situations of generalized violence, manmade or natural disaster, and violation of human rights but have not yet crossed an international recognized boundary (Newman and Selm 2003). They are those who fled their homes during crisis especially civil war but did not sort refugee outside their country. They still remained within their territorial boundary. The main difference between a refugee and an internally displaced person is that the later crosses an international recognized boundary and seek protection outside the country of origin while the later remains in the country of origin but changes residence as a result of the same causes that forced the former to flee (Chimni, 2000). Internally displaced persons need as much protection as refugees but since they have not crossed an international boundary, they are neither covered by the 1951 Convention nor the UNHCR Statute. This thesis does not really deals with internally displaced persons but it definition is very necessary as the term is being mention in most part of the project. The presence of these Nigerian refugees in the Northern part of Cameroon has resulted to

the internal displacement of thousands of Cameroonians. Also those repatriated by the government of Cameroon become internally displaced in the border town of Adamawa in northern Nigeria.

### **2.3.2 Asylum and asylum seeker**

Asylum is not part of this thesis but it is of essence to repatriation especially voluntary repatriation. Asylums serve a great purpose to a refugee; it is safety, security and sanctuary to a refugee. It provides the foundation for refugee protections (it protects refugees while they heal from their trauma, while their home condition changes to the better and while they prepare for their voluntary return back to their country of origin) and makes sure that the solutions to the problems of a refugee are pursued. The term asylum is not mentioned by the 1951 Convention. It can be defined as legal protection offered by a country to any person who has fled from his country of origin for fear of being persecuted for reasons similar to those outlined in the 1951 Convention. The premature return of refugees is as a result of the lack of asylum. The return is premature because the country of origin and the refugees are not yet ready for repatriation. Premature repatriation is done in the midst of conflict, without change in the situation that pushes these refugees to leave in the first place. Refugees in premature return are compelled by the asylum country to leave (Stein, 1997). This is exactly what is happening with the repatriation of Nigerian refugees from Cameroon. Neither these refugees nor their government is prepared for their repatriation. Their current repatriation can be understood as premature.

An asylum seeker is somebody whose application for the status of a refugee has not yet been decided. The term applies to anybody who is waiting for a response to his application of a refugee status or who has not yet submitted any application. All those who applied for asylum must not necessarily received a positive answer but majority will. The asylum seeker is not to be returned to his country of origin until his or her application is examine fairly. Chimni (2000) refers to an asylum seeker as a person who decides to seek protection not through the UNHCR but directly through a foreign country where he or she thinks his or her life can be protected (Chimni, 2000). The principle of non refoulement is against the repatriation of asylum seekers where their lives or freedom will be threatened.

A refugee is protected by the 1951 Convention and is also provided with basic needs but the situation of an asylum seeker is controversial and open for discussion. Most of those fleeing

persecution are always regarded as criminals. Asylum seekers just like refugees are also seeking refuge somewhere. So it is the terms seek refuge that shows some connection between a refugee and an asylum seeker. All those repatriated from Cameroon left Nigerian to Cameroon to seek refuge. They were convinced that their protection in Cameroon was guaranteed.

### **2.3.3 Repatriation**

Repatriation can be understood as the sending or returning back of refugees to their country of origin. Repatriation can be forceful or voluntarily. A voluntary repatriation connotes two things, the refugees returns home willfully and the relationship between citizen and homeland is reestablished (Stein, 1997). Voluntary repatriation is the most preferred “durable solution” to the refugee problems. Despite much emphasizes on the part of the UNHCR that repatriation should be voluntary, forced or involuntary and other forms of spontaneous repatriations are still carried out in many part of globe. Many individual refugees and well organized groups of refugees still return home in the midst of conflict, without any organized program put in place (Chimni, 2000). In most cases the root cause of the exodus is still in existence. In other words, the cause of their forceful movement has not yet come to an end. In the case of the repatriation of Nigerian refugees for example, the reasons that triggered their exile has not yet been settled, they are returned to Nigeria while the Taliban group Boko Haram is still continuing with it insurgency. The UNHCR through its hand book has laid down grounds for a voluntary repatriation. For repatriation to be voluntary it must not be forced, it should be done in a safe and dignified manner and that whatever triggered the refugees to go no exile must have changed significantly so that those who decide to return home should feel secure in doing so (UNHCR’s Handbook, 2004). Voluntary repatriation as defined by the European Council on Refugees and Exiles (ECRE) is a process put in place by a conventional refugee even though he or she is having the legal right to remain in the host country. The refugee’s decision to return must not be done under duress and due procedure has to be followed (ECRE, 2003). For repatriation to be voluntary, it must constitute the refugee’s consent. The refugee choice becomes a determinant factor for the voluntariness of repatriation. According to the UNHCR, repatriation is no longer voluntary when host countries do not give the refugees the option to decide on their return.

The above definition of repatriation will help us understand the current repatriation of Nigerian refugees from Cameroon. We will be able to say whether the repatriation of these refugees by the

Cameroonian authorities is legal or do they have any other justifications for returning these refugees to their homeland.

## **Chapter three**

### **Historical Background.**

Cameroon has been experiencing the movement of Nigerians into its territory long before the second half of 2009. Most Nigerians who migrated to Cameroon before 2009 came purely for economic reasons. They were mostly economic migrants. But by the end of 2009 with the rise of the insurgent group Boko Haram things took another dimension. Thousands of Nigerians were seen fleeing into the Cameroonian territory no longer as economic migrants but as refugees. This chapter will examine the reasons for the movement of these Nigerian refugees into the Cameroonian territory. The first part of the chapters presents the rise of Boko Haram and the second part deals with the reason for the migration of these refugees to Cameroon.

### **3.1 The rise of Boko Haram**

The insurgent group Boko Haram was founded in 2002 by an Islamist cleric known as Mohammed Yusuf. Boko Haram which in another sense means “western education is forbidden” was created in response to Nigerian democratic transition, nationalism and western influence (Clarion Project). The official name of the group Boko Haram is Jama’atu Ahlis Sunna Lidda’awati wal-Jihad, which refers to “People committed to jihads and the propagation of the prophet’s teachings” (ibid).

Even though it is believed that Boko Haram was created in 2002, it has its roots right back in the 1980s during the Maitatsine riots in northern Nigeria. Mohammed Yusuf uncle served as a lieutenant in the riots. He survived the subsequent put down of the riots by General Muhammadu Buhari and later went on to train his nephew Mohammed Yusuf who later on took after him.

Bin Laden in 2002 invested the sum of 3 million US dollars in the Northern region of Nigeria to help form a terrorist group. It should be noted that Muslims are the majority in Northern Nigeria. The aim of Bin Laden was to expand his Salafist Islamism. With the assistance from al-Qaeda, Mohammed Yusuf created a local youth group at a university in Maiduguri, hence Boko Haram

(NTREPID). Mohammed Yusuf doctrines were very rigid and exclusive, denouncing any form of western culture and claiming that the earth was flat. From the year 2003 to July 2009 he concentrated on the structural organization of Boko Haram, recruiting Nigerians especially the poor into his group. In order to fortify himself, he did everything possible to gain favor from politician in the Northern part of Nigeria. This helped him cement his position as a power broker and one of the richest persons in Northern Nigeria. In July 2009, he launched an uprising that took away the lives of about 800 Nigerians. He was captured and killed by the Nigerian military that same year.

When Yusuf died, people thought that Nigeria was free from the menace of Boko Haram. This was because for almost a year and a half there was division in the group as a result of power struggle. The members were divided amongst themselves as to who will replace Mohammed Yusuf. Despite this division the group was able to create international ties with other terrorist groups. They established international relations with terror groups across the Magherb and Sahel. This made them even more powerful. In 2011 the group reorganized around a new leadership (Abubaker Shekau) thus another beginning of its deadliest phase of insurgence.

There are many diverse reasons as to why the Boko haram rebels. Some of the reasons include 1.) The feeling from the northerners that they have been alienated from the move developed Christian South of Nigeria; 2.) Inefficient and uncivilized state security services; 3) high level of corruption in the government; 4.) Also there is the belief that collaboration with the western world is a corrupting influence in the country. Some people are of the opinion that Boko Haram is sponsored by disgruntled rich Muslim politicians from the north to make life a living hell for the Christians in the South. To some Muslims, Boko haram is sponsored by non muslims to discredit Islam. Whatever the reasons behind their ruthlessness, this extremist group is acting under the guise of Islam. It says it want to transform the Northeast of Nigerian into an Islamic state. Boko Haram has targeted Christian institutions in the North of Nigeria such as churches and schools. Because of these attacks most of the inhabitants of this region have fled to Cameroon.

### **3.2 Why Nigerians migrated to Cameroon as refugees**

For so many years they have been movement of Nigerians to Cameroon but between 2009 to 2015 Cameroon received about 80 000 Nigerians. In 2014 there was an estimated 44 000 Nigerian asylum seekers in Cameroon. This amount does not account for those who have entered the country and refused to be registered as refugees. Before 2009, most of these Nigerians moved to Cameroon

for economy reasons but from 2009 till date things has taken another dimension. Cameroon has received thousands of Nigerians from the northern part of the country fleeing the atrocities of the extremist group Boko Haram. According to the UNHCR Cameroon is hosting about 44 000 Nigerian refugees.

The conflict in North East Nigerian initiated by Boko Haram has caused widespread displacement of people. This conflict has lasted for almost seven years and there is no sign of its coming to an end (OCHA). Since the beginning of this crisis in 2009, more than 20 000 people have been killed and about 2000 females have been kidnapped. Almost 2.5 million people have fled their homes with about 2.2 being internally displaced and about 177 000 seeking refuge in neighboring countries of which Cameroon in amongst. On the 1<sup>st</sup> of August 2015 the government of Cameroon repatriated about 20 000 Nigerian refugees under circumstances falling short of international standards (ibid). Since July 2009 Boko Haram has set up its inhumane attacks against the citizens and government of Nigeria. They have succeeded in doing this through suicide bombing, abducting, driving and shooting on different civilians and government targets. In May 2013 in responds to these ruthless actions carried out by this terrorist group, the then President of Nigeria Goodluck Jonathan declared a state of emergency in the three Northern States of Nigeria (Adamawa, Yobe and Borno). This emergency measure was fruitless as it made the insurgent group to be more brutal in respond to government actions (Agbiboa, 2014). The state on the other hand has been putting on a strong offensive against Boko Haram and this has made thousands of Nigerians to flee to neighboring countries. They are running away from retaliatory attacks from the Boko Haram group and also from the fear of general insecurity. Many of them have fled into the Cameroon territory. The UNHCR has recently announced that Cameroon is hosting about 44 000 refugees from Nigerian (ibid).

Different reasons have been advanced as to why Nigerians moved to Cameroon but according to IRIN report, those moving as from 2009 are fleeing prosecution from the Boko Haram sect. They are fleeing the increasingly frequent and deadly Boko Haram attacks (irin.org). Whatever is behind their running away from their homeland, the government of Cameroon is in a limbo on how to deal with the massive and constant influx of registered and unregistered Nigerian refugees in its territory. In August 2015, the government of Cameroon carried out a mass deportation of about 16 000 Nigerian refugees from Cameroon.

### **3.3 The arrival of Nigerians in Cameroon.**

In analyzing the refugee situation in Cameroon, the MEDECINS SAN FRONTIERERS suggests that about 100 to 200 refugees from Nigeria arrive each day in the Minawao camp of North Cameroon. This camp is already shelter to about 48 000 Nigerian refugees. The Minawao refugee camp created by the UNHCR in August 2013 is already saturated with the overflow of these refugees. It has a carrying capacity of 33 000 refugees but right now it harbored about 45 000 Nigerian refugees (msf.org).

Running the increasingly frequent and deadly attacks from Boko Haram, these refugees passes through the usual control by the Cameroonian military at the border before finding a temporary home. At the border, they are merely sheltering with host families, local churches, mosques and schools. Following continuous Boko Haram attacks, most of these schools and churches are destroyed forcing many of the refugees to continue some 40 Kilometers to the Minawao refugee camp. Also most Cameroonians have become internally displaced as their homes have been destroyed by the Boko haram insurgency. According to the UNHCR spokesperson Babar Baloch, these refugees are arriving hungry and exhausted with sore and wounded feet as a result of long trekking (irinnews.org, 17/09/2014). Most of the refugees are women and children arriving on foot and carrying their possession with barely anything to eat.

When these Nigerians arrive, they are granted prima facie status. This implies that they are automatically considered as refugees immediately they set foot on the Cameroonian border. The UNHCR from the beginning of the crisis in Nigeria has been negotiating with the Cameroonian government to grant these Nigerian refugees prima facie refugee status. Because of the large number of these refugees and the nature of the violence they have been running from, it has been difficult to conduct individual asylum interviews. Cameroon declared prima facie status to all Nigerian fleeing Boko Haram insurgency. Prima facie status was granted to both those living in camps and host communities. Those Nigerians from Northern Nigeria that were already living in Cameroon before the crisis were also granted prima facie status since it was difficult if not impossible for them to return home. But the increased insecurity in North Eastern Nigerian had led to a multitude of refugees running from Boko haram into Cameroon. The number of refugees in Cameroon has doubled and this has caused great insecurity in the border and Northern part of Cameroon. The influx of these refugees has creates scarcity of the already limited natural resources and services that Cameroon is having. Now these refugees and Cameroonians have to compete for



basic services. Even though these refugees were granted prima facie status, the government of Cameroon breached its international commitment as a result of the increasing numbers of Boko Haram raids on its territory and also because there are a great number of undocumented Nigerians in the guise of economic migrants who can easily be deported. The Cameroon government has started conducting pre screening and pre registration at the border before these refugees are allowed to enter its territory. Notwithstanding, Cameroon maintains an open border policy for Nigerian refugees and asylum seekers. Cameroon is signatory to all the International legal frameworks relating to the protection of refugees.

### **3.4 Repatriation of Nigerian refugees from Cameroon**

Despite many calls from the UNHCR to the government of Cameroon to receive Nigerian refugees with open hands, the government still undermined it and went ahead with the repatriation of some of these refugees. What pushed the Cameroon government to repatriate these refugees was the series of Boko Haram attacks in its territory. The Cameroonian government is of the opinion that Boko Haram militants have entered the country under the guise of refugees (acaps, 26/08/15). More than 70 000 Nigerians have fled to Cameroon as refugees since 2009 with about 16 000 – 17 000 unregistered. Following the series of Boko Haram raid, the Cameroonian government has promised its citizens that it is determined to curb this insecurity caused by Boko haram. The government has taken measures such as, the increase in the numbers of military checkpoints on the roads, restriction of movement and above all the repatriation of undocumented refugees. The governor of the Adamawa state of northern Nigeria has criticized this act, claiming that most of the returning refugees are not related to the Boko Haram sect and that the Cameroonian authorities are using security concerns as an excuse to send back refugees who fled into its country for safety. These refugees are sent back into the Boko Haram violence (global observatory, 19/01/16).

In July 2015, Cameroon repatriated about 3 500 Nigerian refugees. The Nigerian National Emergency Management Agency (NEMA) treated this act as a forced repatriation of Nigerian refugees by the government of Cameroon. These refugees were taken to a temporary camp on the outskirts of Mubi town in the Adamawa state of Northern Nigeria. The Mubi camp is an old brick factory which has undergone very little renovation to make it fit for human habitation. The camp was intended to be used as a triage and thus, did not have the capacity to provide for the necessary support to these refugees. Some of these refugees were moved to more suitable camps at Maiduguri. Notwithstanding, there was no organized process for the registration, relocation and repatriation of

the returnees. Only an estimated figure was given for the first arrivals and nothing about the later arrivals. The government of Nigeria with support from the World Health Organization (WHO), the International Rescue Committee (IRC) and the Nigerian Red Cross held an emergency humanitarian response. Even local civil society also provided food and other things. Upon all these responses, the basic needs of the refugees were not still met. The newly arrived were sheltered in an old warehouse and some in the machine rooms of the factory (OCHA, 04/07/15).

In August 2015 the Cameroonian government still continued with its mass deportation of Nigerian refugees. From August still December 2015 more than 15 000 Nigerians who entered into the Cameroonian territory fleeing the attacks from the Islamist group Boko Haram were sent back to their country. A move considered by some as Cameroon's violation of international law and by the government of Nigeria as "inhumane". Most of the repatriated Nigerians were those who have not formerly applied for asylum. They were living within host communities or had built temporary shelters in the fields along the border with the intention of returning home immediately the crisis subsided (IRIN, 21/08/15). This second repatriation caused anger in Nigeria. The Nigerian authorities claimed they were never contacted or informed that their citizens would be deported. Mr Sa'a Bello the head of the Nigerian NEMA said " we were never informed of the transfer of refugees and now we see that many have been abused, transported in trucks like animals and then dumped at home in inhumane conditions"(ibid).

These refugees were not even informed about their repatriation back to Nigeria. They were taken unaware and some even separated from their families. On the 16 of November 2015 Mr Sani Ahmed a refugee in Fotokol, a town in Northern Cameroon near the Nigerian border got up to fetch firewood when suddenly armed Cameroonian soldiers and heavy vehicles surrounded the whole village. At gun point Nigerians in that village were ordered to follow them. Anyone who will not comply was rough handled. Before Mr Sani and many others who realized what had happened, they were being packed into truck like cattles. He said he was not aware of anything. That they were just collected like animals and put into trucks. His wife and children did not even know what was happening to him as he left while they were still sleeping in their little hut. While in the truck, they travelled for days without knowing where they were going to or what will happen to them when they get to their destination. About a 1000 Nigerians were transported in cattles trucks back to Nigeria that day. The journey took three days from Fotokol to Sahuda. Old people, children and pregnant women were packed tightly in cattle trucks under abusive conditions. In transit most of

these refugees were separated from their families. Sani for example did not even know the where about of his family. Sani like thousands of other Nigerians sought refugees in Cameroon when their villages were destroyed by the Boko haram insurgency (OCHA, 04/07/15).

Return should be voluntary and must be made under conditions of informed consent. Mr Sani Ahmed like all the other thousands of Nigerians repatriated did not really want to return to Nigeria since they were not really certain as to what returning to their homes will mean. They were only hoping to return when the violence has subsided and some degree of security maintained. This deportation can be considered a violation of international law. Despites the politicization of the return, those who have been repatriated to Nigeria are in precarious situations.

About a week ago (IRIN, 1/07/2016) Nigerian officials said Cameroon was threatening to force the repatriation of about 70 000 Nigerians and these has forced the Nigerian government to agreed to Cameroon's voluntary return of some tens of thousands of Nigerian refugees fleeing Boko Haram insurgency. Previously, the government of Cameroon has dumped thousands of these refugees on the border with Nigerian. On the 12/06/16, Mr Sani Datti, the Nigerian emergency spokesman said Nigeria has signed an agreement with Cameroon and the UNHCR for the repatriation of Nigerian refugees in a "dignified and voluntarily manner". This background knowledge on the repatriation of Nigerian refugees from Cameroon will help in analyzing the legal implications of this repatriation and their political incentives or justifications of the exception.

## **Chapter Four**

### **Institutional framework toward the protection of refugees in Cameroon**

This study was conducted to understand the current and ongoing repatriation of Nigerian refugees from Cameroon and since the thesis was aimed at analyzing the legal implication of this repatriation of Nigerian refugees by the government of Cameroon it is necessary to look at the refugee law framework in Cameroon. Cameroon has consigned to comply with an extensive body of laws regarding refugees and asylum seekers. It is signatory to all international instruments regarding refugees. At the universal level, Cameroon is signatory to the Universal Declaration of Human

Rights (UDHR), the 1951 Convention and its 1967 Protocol, at the regional level it is a party to the 1969 Organization of African Unity (OAU) and the African Charter of Human and People's Rights. At the national level Cameroon has the July 2005 refugee law to comply with.

#### **4.1 International Refugee Law.**

Even though the 1951 Convention is the centerpiece of refugee law, the UDHR that was adopted and proclaimed by the United Nations (UN) General Assembly Resolution 217 A of 10<sup>th</sup> December 1948 professed the right for people to seek asylum in another countries. In its article 14(1) the UDHR recognizes the fact that “everyone has the right to seek and enjoy in another countries asylum from prosecution”. The main concern here is the right to seek and enjoy asylum from another country.

The 1951 Convention Relating to the Status of a Refugee is the cornerstone of international refugee law. This Convention came into force on the 22<sup>nd</sup> of April 1954 and since then has been subject to only one amendment that is the 1967 protocol. The protocol removed the geographical and temporal limitation of the 1951 Convention and gave the Convention a universal standard. The Convention in its Article 1(A) sets out the definition of the term refugee focusing on individual prosecution based on one of the following; religion, race, political opinion, membership to a particular social group and nationality. This Convention also lays down the minimum standards for the treatment of people who are qualified for refugee status. Article 33(1) of the Convention sets out the principle of non refoulement which is to the effect that a person should not be expelled or return to a country where his or her life or freedom will be threatened. The principle of non refoulement has always been considered as a norm of customary international law by the UNHCR (UNHCR). Even some scholars have argued that it is a customary international law (Farmer, 2009). Notwithstanding the fact that this principle has been considered a norm of customary international law, its scope as a principle of customary international law is still debatable. State through its actions has widened the scope of article 33 of the Convention. It has done this by expanding the principle to exclude measures such as the rejection of refugees at its border (Godwill-Gill, 1988). Of recent, some countries that free heartedly opened their doors to asylum seekers are now shutting those doors. They do so because they do not want to risk their national security and because they are afraid of assuming endless responsibilities. Because of the abuse of the asylum system by immigrants, some states have been skeptical of asylum seekers claiming that their resources are not sufficient enough for its citizens. Refugees have been denied admission into asylum countries; sometimes those who

managed to enter an asylum country are turned down or sent back to their country of origin, thereby denying these refugees the right to asylum. States who denied these asylum seekers entering to their territory claimed that the non admission of refugees into their territory does not fall under the protective clause of article 33 of the 1951 Convention. The UNHCR on the other hand has argued that State practices the non admission of refugees at its border is guilty of refoulement because the principle also covers the rejection of refugees at the border (UNHCR). The non admission of refugees is relevant to this thesis as some of the Nigerian refugees were blocked at the border by the Cameroonian military.

#### **4.2 Regional Refugee Law**

Cameroon is a state party of the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. The 1969 Convention sets out the standards for the protection of refugees in Africa. This convention is a complement of the 1951 Convention in Africa. Just like the 1951 Convent, the OAU Convention includes the individual prosecution concept in its definition of a refugee and goes further to extend this definition to include those running from foreign aggression or occupation, foreign domination or events seriously disturbing public order (OAU Convention). The Boko Haram insurgency is seriously disturbing public order both in Nigeria and Cameroon and as such this clause of the 1969 Convention is of importance to this thesis and will be applied below to analyze the repatriation of Nigerian refugees in Cameroon.

The 1969 OAU Convention in relation to the 1951 Convention principle of non refoulement also addresses some of the different interpretation of this principle. In relation to the security and refoulement of refugees the 1969 Convention states in its article 2(3) that no individual shall be subjected to measures such as rejection at the frontier, return or expulsion which will forced him or her to return to or remain in a territory where his or her life, liberty or physical integrity will be threatened (ibid). In addition to this, article 2(6) states that for security reasons, asylum countries shall as far as possible settle refugee population far away from the frontier of their country of origin. Following the OAU Convention, the rejection of refugees from the border constitutes refoulement.

#### **4.3 Cameroon Refugee Law**

In July 2005, Cameroon adopted a law governing the legal framework for refugee protection within it territory. The 27 July 2005 law relating to the Status of refugees in Cameroon was enacted in

2005 but came into force in 2011. This law incorporated many international instruments relating to refugees and remain the main piece of legislation governing refugees issues in Cameroon. The Law definition of a refugee includes both definitions found in the 1951 Geneva Convention relating to the Status of a Refugee as amended by the 1967 Protocol of New York and the 1969 OAU convention governing the Status of Refugee Problems in Africa.

The drafters of the 2005 refugee law also stated expressly the principle of non refoulement. Article 7 of the law is to the effect that, “no person shall be turned back at the border, nor subject to any measure, whatsoever, that may force him to return to or remain in a territory where his life, physical integrity or freedom is threatened” (OAU Convention). This section prohibits the return of an individual to a country where his or her life or freedom would be at risk. Also this section denounced the refusal of non admission of refugees into the territory. The law states that no sanction shall be taken on the ground of illegal entry against an individual who comes directly from a country where his or her life is threatened. It is not a crime against the Cameroonian law to enter its territory without any legal authorization provided you are coming from a place where your life and liberty is threatened. Refugees from Nigerian did not break any Cameroonian laws by entering without legal documents. Before, Cameroon did everything possible to respect the provision against implementing sanctions to refugees or asylum seekers against illegal entering. Of recent, there have been great concern about the way Cameroon is treating asylum seekers claiming that they are unauthorized asylum seekers. For instance, in the beginning of 2015, precisely in the month of January 17 Nigerian asylum seekers were detained for entering the country illegally.

The 2005 refugee law in Cameroon incorporates the obligations of the principle of non refoulement as found in article 33 of the 1951 Convention and articles 1(2) and 2(3) of the 1969 OAU Convention. The law also makes sure that the application of the principle of non refoulement in Cameroon stretches to the OAU expanded refugee definition which includes events greatly disturbing public order. This incorporation of the principle of non refoulement into the 2005 law answered any question been raised as regard the scope of the application of the principle within the Cameroonian territory. The government of Cameroon cannot return a refugees to a place where his or her life is endangered. An individual seeking asylum on the ground of persecution cannot be denied entry into the territory by the Cameroonian authority.

## **Chapter Five**

### **Analysis: How can we understand the recent and ongoing repatriation of Nigerian refugees from Cameroon?**

From the above explanations, one has clearly established the responsibility of Cameroon under international, regional and domestic law to protect these Nigerian refugees within its territory. In this chapter, we will try to understand the recent repatriation of Nigerian refugees carried out by the government of Cameroon. We will be looking at the legal implication of this repatriation in order to understand if it was done on a legal base. If the repatriation was illegal, what other justification can the government of Cameroon have for repatriating these refugees? For a better understanding of this act perpetrated by the government of Cameroon the following provides some insight into the principle of non refoulement.

#### **5.1 The Principle of Non Refoulement.**

In discussing the principle of non refoulement emphasis will only be laid on the part of this concept relevant to this thesis. In the sphere of international law the principle of non refoulement has been considered by so many actors whether the governments, non state actors or scholars as fundamental to refugee law or regime (Rodger 2001, p 2). This principle is found in international human right and refugee laws, customary law, treaties and doctrines as a solid foundation for the protection of refugees (Goodwin Gill, 2011, p 444). An expert in refugee law states that the idea behind the principle is that no refugee should be returned or be expelled to a place or country where he or she is going to face persecution or torture (ibid).

The principle of non refoulement was customarily consecrated in the 1951 Convention Relating to the Status of a Refugee. The 1951 Refugee Convention deals with different aspects of laws towards refugees and remains the primary instrument of refugee law. The convention defined who should be considered as a refugee and set out the rights of a refugee. The principle of non refoulement is defined in article 33 of this Convention. In its article 33(1) it states “No Contracting State shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion” and article 33(2) states, “The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable ground for

regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country” (UN Convention).

The principle of non refoulement with the exception of article 33(2) goes beyond state sovereignty. It is an indispensable right which exceeds any material or territorial limitations. Any refugee found within the jurisdiction of a signatory state enjoys the protective prohibition enshrined in article 33(1) of the 1951 Convention. Non refoulement is very important in the protection of refugees especially as it is the only instrument that protects the refugee from the prosecution that made the refugee leave his or her country of origin. The protective clause of the principle of non refoulement applies not only to the refugee’s country of origin or to the place of former habitual residence as in the case of a stateless person but also to any place where the refugee fears that his or her life or freedom may be in danger or threaten (Weis, 1995, p. 341).

The principle of non refoulement at its basic level prevents the government of a country (State B) from sending a refugee from another country back to that country (State C back to state C) where there is evidence that his or her life could be in danger in the case when he or she is returned. Following article 33(1) of the 1951 Convention the repatriation of Nigerian refugees back to Nigeria has no legal justification as it is wrong to return a refugee to a place where they may face persecution. Following this subsection of article 33 Cameroon is guilty of refoulement. On the other hand, article 33(2) gives another understanding of the recent repatriation of these Nigerian refugees from the Cameroonian territory. The government of Cameroon has evoked security issues as the main reason while she is returning these refugees back to their country of origin. Article 33(2) gives the government of Cameroon the right to carry out this repatriation because it is to the effect that the protective clause of the principle of non refoulement will not apply to any refugee which for any reason has been perceived as a threat to national security. Subsection 2 of article 33 gives a legal backing to the repatriation of these refugees from the Cameroonian territory. This article fails to give the grounds under which a refugee can be considered a threat to national security as such it is left at the discretionary of the authority to decide. The government of Cameroon has claimed that those repatriated are not refugees but members of the Boko Haram sect who have come under the guise of refugees and some are also economic migrants (HRW). She has succeeded in convincing its citizens that these refugees are a threat to its internal security. It will be necessary to



examine the general situation of these Nigerians and see if those repatriated are really in need of international protection.

## **5.2 Are the repatriated Nigerians in need of international protection?**

Now that we have clearly understood how the principle of non refoulement is of great essence in the refugee regime and we have also seen the obligation of Cameroon under international, regional and national law to protect refugees within its territory, we need to understand if the repatriation of Nigerians by Cameroon was done contrary to the Cameroon obligations to protect these people. In a nutshell can these Nigerians be considered to be in need of international refugee protection?

Nigerians found in the Northern part of Cameroon whether documented or undocumented live with the danger of being arrested, detained and repatriated back to their country. Amongst those repatriated are refugees, asylum seekers, those the government of Cameroon considered to be the members of the Boko Haram insurgent and economic migrants. Within these different groups you have orphans, women and children. This group of people warrants particular attention due to their vulnerability.

As already mentioned the government of Cameroon considered all those repatriated as a threat to its security. Most of the attacks in Northern Cameroon have been blamed on Boko Haram and the authorities believe these militants are entering the country disguised as refugees (BBC) .Some of the refugees are believed not to have the rightful documents. Some are considered as economic migrants. According to the Cameroonian governments these migrants are not in need of international protection and should be considered as “labor migrants”. Looking at the many Boko Haram raids in Northeast Nigeria over the years, causing this exodus into the Cameroonian territory it will be unfair to call them economic migrants. Since 2009, these Nigerians have been fleeing from the violent attacks of Boko Haram and most of them have suffered socio economic deprivations because of their religious affiliation. Some civil societies have preferred to refer to these refugees as survival migrants. Survival migrant is a new terminology in respect to refugee and migration. A survival migrant as defined by Alexandra Betts and Esra Kaytaz is an individual running away from an existential danger of which he or she has no domestic remedy. The cause of their flight might be as a result of state collapse, environmental disaster and livelihood failure (Betts and Kaytaz, 2009). These Nigerians are facing livelihood failure because all their villages and farm lands have been destroyed. Even if these migrants are economic migrants, their reasons for fleeing

their country are interrelated. Amongst them are those fleeing prosecution from Boko Haram (BBC). The mass influx of Nigerians into the Cameroons only started with the rise of the Boko Haram insurgency. They came under very unfavorable conditions in need of food and shelter.

Not contradicting the claim by the Cameroonian government that those repatriated are militants of the Boko Haram insurgent and economic migrants, there is still the conviction that there are also some fleeing persecutions from the Islamic group Boko Haram. This later faction may be fleeing due to the fear of persecution as enshrined in the 1951 convention and as such are in need of international protection. Returning them is a breach of international, regional and domestic obligations. If the government of Cameroon is repatriating them without necessary inquiries then it is guilty of refoulement. The Cameroonian government not admitting a Nigerian at the border who is seeking asylum is acting contrary to its international and national obligations. Every government needs to carry on a good investigation of an individual status before repatriation. This is to ensure that genuine asylum seekers are not repatriated. It is rather unfortunate that this is not what is done in Cameroon (BBC). Because of this negligent, the government is repatriating those who need international protection. The 1951 OAU Convention while maintaining the definition of a refugee as contained in the 1951 Convention includes, “owing to external aggression, foreign occupation or domination or events seriously disturbing public order in either part or the 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 of origin or nationality” (UNHCR). This implies that within the African context, for one to be considered a refugee and issued a refugee status, he or she need not prove a well founded fear of persecution. It suffices for he or she to be able to show that there are events which are seriously disturbing public order in his or her country of origin or place of habitual residence. The Boko Haram insurgency is seriously disturbing public order in the Northern part of Nigeria and this has caused most of these Nigerians to flee for safety to neighboring countries. Those that came to Cameroon are qualified for international protection.

Some of those repatriated by the government of Cameroon are regarded as economic migrants not minding the fact that they are Nigerians who may have a valid refugee claim as consecrated in the 1951 Convention. The UNHCR has qualified most of these Nigerians as refugees giving the conditions under which they came to Cameroon. They fled from the numerous raids of the Boko Haram insurgency (UNHCR). A person may still flee as a result of mixed motives, for economic reasons and the fear of being persecuted. Such a person should be given protection if he or she can

be proven to have a well founded fear of being persecuted. In line with the issue of mixed motives Michelle Foster is of the opinion that, whenever the asylum seeker has decided to seek for refugee status on the grounds of economic reasons which has nothing related to the fear of being persecuted, this does not preclude a claim if the person in question have a well founded fear of being persecuted (Foster, 2007). Following this context even though these Nigerians are considered as economic migrants by the government of Cameroon, they should be granted refugee status because there is evidence of well founded fear of being persecuted.

### **5.3 What are the legal implications of the repatriation of Nigerian refugees from Cameroon?**

What makes refugees different from other persons in need of humanitarian aid is their need for protection by the international community. They need protection from persecution because they find themselves in situation where they can no longer rely on their government for protection. In order to qualify for such protection, these refugees need to belong to a group considered by international law as being the recipient of rights. These refugees are made up of an identified group upon which countries or states have accorded their protection under international law (Grieg, 1980). The Nigerians who fled into the Cameroonian territory did so because they are desperate in need of protection. They constitute that group considered by international law as recipients of rights. Generally, countries which have ratified the 1951 Convention and the 1967 Protocol to the Convention, grant asylum to those who suit the definition of a refugee as enshrined in these texts. Cameroon has ratified many international laws that bestowed the obligations to protect these refugees under international law. These Nigerians came to Cameroon as refugees but they were in turn repatriated by the government of Cameroon. This section will look at the legal implication of the repatriation of the Nigerians by the Cameroonian authorities.

International law sets out the right of a refugee to return and the right not to be subjected to a forceful returned to a situation of persecution or where the refugee life may be in jeopardy. The refugee law that is the 1951 Convention has lay down emphasizes on the right not to be returned to a place where one is likely to face persecution that is the right to non refoulement. The 1951 Convention refers to repartition in terms of the negative side of refoulement. The UNHCR statutes on the other hand assigned the High Commissioner to facilitate the voluntariness of repatriation wherever appropriate. The 1969 OAU Convention addresses the issue of return and emphasis on the voluntary character of repatriation. It calls for the collaboration of the necessary agents to facilitate the repatriation of refugees (FMO). Legal experts and scholars have also set out conditions under

which repatriation should be made. These conditions will make repatriation to be considered voluntary and safe. For instance, they are of the opinion that refugees should not be forced to return to their country of origin or place of habitual residence. On the other hand where humanitarian assistance has been withdrawn in the asylum country, they can be forced to return (ibid). Recent international assumptions and the principles regarding repatriation are to the effect that repatriation should be voluntary, carried out and monitored by the asylum state, the state of origin and the UNHCR. This should be done under the term of a tripartite agreement (Stein and Cuny, 1991).

A tripartite agreement is done between the government of the country of asylum, the government of the country of origin and the UNHCR. This tripartite agreement is out to ensure the refugees safety and socio economic integration (Stein and Cuny, 1991). The terms of this agreement should be based on the principles set out in the refugee law and the international human rights law and also according to the term of the peace agreement (FMO). The UNHCR Hand Book contains a sample of a voluntary tripartite agreement. The parties to this agreement identify and acknowledge their obligations as regards the safety and security of these refugees on their way back home, at the border and finally at home. The tripartite agreement contains confidence after return. The UNHCR Hand Book sample for voluntary repatriation for example expresses that the country of origin should assure refugees that they can return without a fear of embarrassment, persecution, favoritism, discrimination. And that they can retrieve their lost possessions. Even though a tripartite agreement gives some assurance to refugees, this agreement reflects the political will of the parties involve while the particular interest of the refugee is left out. A tripartite agreement may be considered as an obstacle to a refugee who did not consider home as safe enough for his return (Harrel Bond, 1989).

Repatriation has its legal standards and core principles. The repatriation of refugees may range from individuals to mass repatriation. Repatriation might be the initiative of the refugees, the UNHCR or the government of the asylum state and the government of the state of origin. It is generally accepted that the voluntary repatriation of refugees whether random or organized must follow some common principles (UNHCR). Firstly, refugee's repatriation to their country of origin must be voluntary. Secondly, all parties involved in the conflict must make enormous efforts to address and do away with the reasons of the refugee exodus. Thirdly, repatriation should take place only upon the freely expressed wish of the refugees. The voluntary and individual nature of repatriation must

be respected. Fourthly, repatriation must be done under circumstances of dignity and safety to the refugee's place in his country of origin (ibid).

Unfortunately it is in very rare difficult situations that we will find repatriation done in such an organized manner. Nowadays, most voluntary repatriation takes place under ongoing conflict. This is done without any change to the situation that originally caused the refugees to flee. In the case of the repatriation of Nigerian refugees, they were returned home in the face of continue risk, without any repatriation agreement, without their consent and even without the end of the Boko Haram insurgency. The forced return of these refugees by the government of Cameroon under such horrible conditions raises important questions about the legality or voluntariness of their repatriation. The repatriation was done contrary to international and national law making it illegal and involuntary.

It is a general principle of international law that every treaty or law in force is binding upon those who adhere to it and must be exercised in good faith (Jastram and Achiron, 2001). It is the responsibilities of states that are parties to the 1951 Convention to respect and protect refugees found within its territory according to the terms of the convention. Cameroon being a party to the 1951 Convention is obliged to respect the terms of the convention. It is rather unfortunate that in the case of the Nigerian refugees found within its territory, the government of Cameroon acted contrary to its international obligations.

### **5.3 If the repatriation of Nigerian refugees from Cameroon is illegal, then on what grounds could the refugees be retreated to Nigeria?**

Generally, countries that have signed the 1951 Convention and the 1967 Protocol grant asylum to those who satisfy the definition of a refugee as defined in the 1951 Convention and the 1967 Protocol. However, despite the ratification of this Convention by states, the definition of a refugee as stipulated in the 1951 Convention still has some lapses as there is still room for the liberal interpretation of the definition. The international refugee regime defines a refugee based on the politics of punishments in persecution, a definition that is limited and confusing not only in the international arena but also in national asylum procedures. For example the catchphrase "well founded fear from persecution" contains a good number of prejudice elements. It will not be an exaggeration to say that international refugee law gives states the opportunity to decide on how to protect refugees found within their territory and also on how best they deem fit to conduct the

refugee status determination procedure. A country can ratify an international law or treaty but that law does not automatically become part of that country's national legislation. This notwithstanding, states have the moral and political obligations to make sure that their national laws is in conformity with international laws. The July 2005 refugee law in Cameroon for example complies with international and regional refugee laws. Its definition of a refugee complies with that of the 1951 Convention and 1967 protocol and also complies with the extended 1969 OAU definition of a refugee. Even though Cameroon has ratified international and regional refugee laws one can argue that these laws are not necessarily part of Cameroon's national legislation. Cameroon's repatriation of Nigerian refugees within its territory may fall short of its obligations under the international refugee law but the act in its entirety cannot be condemned without looking at the justification the Cameroonian government has for doing what it is doing. The government of Cameroon is evoking security as the main reason for its repatriation of these Nigerians within its territory. Apart from security reasons, the repatriation can also be understood and justified by looking at legal exceptions especially in the case of the state of exception which i will address next

Since July 2015, the government of Cameroon has been carrying out mass deportation of Nigerian refugees found within its national territory. These series of deportations have attracted the international community and human rights advocates who have condemned the act. The Cameroonian authorities have justified their actions and went ahead to suspend the prima facie refugee status that was granted to Nigerian asylum seekers. The official justification for the repatriation of Nigerian refugees from the Cameroonian territory is national security. The mass influx of these Nigerians into Cameroon since the second half of 2009 still present date has exposed Cameroon to the threat of Boko Haram insurgency. A series of Boko Haram attacks have killed so many Cameroonians and made thousands of Cameroonians from the northern region internally displaced. Villages and schools have been destroyed by this terrorist group. The government of Cameroon claimed that these Nigerians who came in the guise of refugees have been involved in these Boko Haram attacks. The Cameroonian government is of the opinion that those repatriated are members of this Taliban group Boko Haram. The presence of this refugees in Northern part of Cameroon has generated to conflict between the inhabitants and the newly arrive. Cameroonians in that part of the country are accusing them of theft. Cameroonians are convinced that the presence of these refugees in the Northern part of the country is a threat to national security and have seen their as a necessary evil even if it goes contrary to international, regional and national law. This has made

the Cameroonian government to be acting defensive. She is making it difficult for these Nigerians refugees to reach the border not to talk of crossing it.

Still looking at the lens of national security, article 33(2) which is the exception to the principle of non refoulement gives the government of Cameroon the right to retreat these refugees back to Nigeria. This article is to the effect that, if the asylum country has good or reason grounds to regard an asylum seeker as a threat to its security then it has the right to repatriate that asylum seeker back to his or her country of origin regardless of the fact that he or she might face persecution back home. The government of Cameroon is convinced that the presence of these refugees in its territory is a threat to its national security and so has deemed it very urgent and necessary to send them back to Nigerian. Cameroon action is sanctioned by article 33(2) of the 1951 Convention.

Beyond security concerns, the sovereignty of a state gives it the ability to transcend the rule of law for the general good of the public. Sovereignty can be understood as the full right and power for a state to govern itself without any interference of outside body. A sovereign can be taken to be he who decides on the state of exception (McConkey, 2013). In a state of exception judicial and legislative powers are suspended (Agamben, 2005). According to Agamben, in a state of exception constitutional rights can be diminished, bypassed and even abolished where the government wants to claimed the extension of power in a case of urgency. Modern states have used the state of exception as their justification of bypassing judicial and legislative order. An order which requires due process, the respects of human rights, the respect of international law, the respect of refugee rights and so on is tramped or set out during a state of exception (Kisner, 2007). The state of exception is characterized by the suspension of law and the abolition of separation of power between the legislative, executive and the judiciary (ibid). During the state of exception, the political powers obtained by a government or branch of a government, makes it very powerful exercising power outside the ordinary law. During the time of exception, certain actions shall be regarded as privileged and legal. Following the state of exception, the repatriation of Nigerian refugees from Cameroon can be justifiable. The Cameroonian constitution in its article 9 states that a state of exception can be applied if it is for the general good. According to the constitution a state of exception applies in extreme situations that affect the security of the public, its nation and institutions. The government has proven that the presence of these refugees within its territory have generated into insecurity and have also threatened it national security. Its citizens are no longer

comfortable with the presence of these refugees. As such it has the right conferred to it by the constitution of the land to retreat these refugees back to Nigeria.

The government of Cameroon has different backings for returning these refugees to Nigeria. It has evoked security as its main concern. If one has to look kindly to the issue of security it will be discovered that the issue of Security is covered by article 33(2) of the 1951 convention and the Cameroon constitution which gives the government the power in the state of exception to trample on the law. Sending back these refugees to Nigeria Cameroon is not guilty of refoulement.

## **Conclusion and recommendation**

### **Conclusion**

Of concerned to the study were repatriation and the principle of non refoulement. The repatriation of Nigerian refugees from Cameroon was scrutinized in an attempt to understand the legal implications of this repatriation and under what justification the government of Cameroon is repatriating these refugees. The government of Cameroon is obliged under international, regional and national refugee laws to protect refugees found within it territory. Despite its obligation to protect these refugees, she is sending them back to their home country there by breaching its international obligations. Cameroon been a sovereign state has all the reasons to protect its citizens from any previewed or anticipated threat. She saw the presence of these refugees as a threat to it national security and had to retreat them back to Nigeria.

The Cameroonian government has since July 2015 been returning Nigerian refugees found in the northern part of its country. Some of these Nigerians were arrested, detained before being repatriated. Despite criticism from the international community and human rights organizations especially those in Cameroon, the government continues to justify her actions by stating that these Nigerians are a threat to it national security. Understanding the definition of a refugee as stipulated in the 1951 Convention and the 1969 OAU convention which maintains the conditions under which a person should be classified as a refugee and a clear distinction between civil, political and socio economic rights, it is clear that, most of those repatriated to Nigeria are entitled to protection under refugee law. Many of these Nigerians who have fled or are still fleeing the Boko Haram insurgency into the Cameroonian territory can be considered as legitimate refugees following the 1951 and 1969 OAU conventions. They are in need of protection and Cameroon repatriating them is guilty of



refoulement. The government of Cameroon on the other hand has succeeded to convince its citizens that these refugees are a threat to its national security and that many of those who claimed to be refugees are disguised Boko Haram militants. Thus their repatriation is justifiable especially when one looks at article 33(2) of the 1951 Convention. Also in exceptional situation the government of Cameroon can bypassed the laws. Once proven that these Nigerians are a threat to its national security the government of Cameroon has the rights to send them back to their country of origin and thus is not guilty of refoulement.

Cameroon has gone contrary to its legal obligation by carrying out the repatriation of these refugees back to Nigeria despite call from the international community and NGOs that it should follow the due procedure of repatriation as lay down by the UNHCR Handbook. This thesis is in support of all those who have criticized this act, accusing Cameroon of violation of human rights and melting out inhumane treatment to these refugees. The repatriation has been called illegal looking at it surrounding circumstances. Despite inadequacy on the part of international and national refugee regime to protect these refugees from being repatriated back to Nigeria, it is clear that the Cameroonian government is still going on with it refoulement of these refugees and refusing entering to asylum seekers even though it is contrary to their legal obligation. With the mass deportation carried out by Cameroon, many refugees with valid documents have been deported as well as asylum seekers who have a valid ground for asylum. All this acts constitute refoulement. However, we should also take into consideration the situation the Cameroonian government is facing, a series of suicide bombing in its territory, high crime wave and many unregistered refugees causing a drain on the limited services available its citizens.

### **Recommendation**

The government of Cameroon in carrying out its repatriation of Nigerians has beyond reasonable doubt send back those who have a valid claim and even refugees. Many of these refugees have testified how they were just embarrassed by the Cameroonian military and puts into trucks without any questioning. Some were even denied entry into the Cameroonian border and when sent back without terror investigation of their case. The government of Cameroon needs to improve on its standard of refugee status determination and access to asylum before carrying repatriation. If this is not done, Cameroon risks repatriating people who risk facing persecution back home. We are not denying the claim of the Cameroonian government that those repatriated are not refugees but it is clear that amongst are individuals with a well founded fear of being persecuted. The government

should not assume that all those returned are members of the Boko Haram insurgent but should considered a declaration of individual cases before returning them. A more rigid investigatory team should be put in place which will take into consideration individual cases making sure that those who have fled from persecution should not be deported. If this is not done the government of Cameroon will be guilty of refoulement.

The government of Cameroon should pay more attention to the profile of women, unaccompanied minors, orphans and children. This thesis has shown how the government of Cameroon is deporting pregnant women, children and even disables packed in cattle trucks like animals. These groups of people need special attention and they may lack the means or knowledge to apply for Asylum. Cameroon should find out if they have families back home who can support them or if there is any social network in their country of origin that can carter for them. Sending this people without actually ensuring whether they will be safe back home may expose them to persecution and this will constitute refoulement.

The continuous repatriation of Nigerians from Cameroon is in contradiction of the international regional and national refugee law obligations of the Cameroonian government. Due procedure has to be follow before repatriation if not Cameroon run the risks of sending back those who have a valid refugee claim. There are no doubts that amongst those repatriated are refugees and those with valid refugee claims that are in need of international protection.