



Arusha Declaration, 2022

The Africa Chapter of the International Association of Refugee and Migration Judges (IARMJ), assembled in final plenary session of its regional conference in Arusha, Tanzania, on 18 November 2022.

RECALLING and REAFFIRMING the Cape Town Declaration adopted by the Africa Chapter of the IARMJ at its regional conference in Cape Town, South Africa, on 6 September 2019;

The Africa Chapter of the IARMJ, Asylum Seekers and Refugees

APPLAUD the solidarity and the efforts of many African States in hosting refugees and finding collective solutions for them, including under the auspices of the African Union (AU);

URGE African States that are not yet party to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees and the 1969 OAU Refugee Convention Governing the Specific Aspects of Refugee Problems in Africa to accede to these instruments and to incorporate all international standards relating to protection of refugees into their national legislation to ensure that refugees and asylum-seekers can effectively enjoy all the civil, economic, and socio-cultural rights in their country of asylum;

OBSERVING that the principle of *non-refoulement* constitutes the cornerstone of international refugee protection, and that, to prevent *refoulement*, African States should uphold the right to seek and obtain asylum as set out in Article 12(3) of the African Charter on Human and Peoples' Rights;

RECALLING that asylum-seekers' non-discriminatory access to territory and to national asylum procedures is critical to the fulfilment of States' *non-refoulement* obligations and to the prevention of incidents of *refoulement*;

URGE African States to monitor and strengthen border management procedures to prevent *refoulement*, to address concerns with regard to inconsistent access to asylum, and to expand and strengthen protection-sensitive entry systems in their border management policies, to enhance identification and referral of asylum-seekers to the responsible authorities;

ACKNOWLEDGE the challenge of irregular onward movements of refugees and asylum-seekers for States and for both the regional and international protection system as a whole;

URGE States to ensure due process in individualized assessment of cases of onward movers as a means to prevent incidents of (chain) *refoulement*, and to identify appropriate responses to the root causes of onward movement;

NOTING WITH CONCERN that the right to seek and obtain asylum is only effective if African States have asylum systems which are consistently accessible, fair, efficient, adaptable and which have integrity, and that some African States still do not provide such;

RECALLING that critical to the quality and fairness of asylum procedures are: asylum-seekers' access to information about asylum procedures, including information on their practicable recourse to appeal and judicial review procedures; consistent implementation of transparent asylum procedures; and impartiality in the adjudication of asylum cases with reference to up-to-date, objective and reliable country of origin information;

URGE States to consistently provide, without discrimination, information on, and access to justiciable quality asylum procedures to all persons who may wish to make an asylum application;

RECALL UNHCR's mandate on international protection and the responsibility granted to UNHCR by the United Nations General Assembly to ensure the promotion and supervision of refugee protection instruments and CALLS on African States to grant UNHCR and UNHCR's partners access to monitor borders, entry points and other locations where persons may wish to make asylum claims, and access to observe and advise on all stages of the asylum procedures, and CALL on African States to welcome UNHCR support to strengthen asylum systems;

RECALL the centrality of international cooperation to the effective functioning of the refugee protection regime as reaffirmed in the New York Declaration for Refugees and Migrants, adopted by the United Nations General Assembly in September 2016 and affirmed in the Global Compact on Refugees (GCR) in 2018;

RECOGNIZE the exemplary efforts and actions of African States in implementing the GCR since its affirmation, including through its Comprehensive Refugee Response Framework and by developing new refugee laws and policies to advance protection, inclusion and solutions; and

CALL ON African states to implement the GCR through refugee law reform, strengthening of asylum systems, and the social and economic inclusion of refugees in host countries in line with the 1951 Convention relating to the Status of Refugees, 1969 OAU Refugee Convention Governing the Specific Aspects of Refugee Problems in Africa and other international and regional human rights law, particularly the African Charter on Human and Peoples' Rights;

ACKNOWLEDGE the African States that made pledges at the first Global Refugee Forum (GRF) in 2019 relating to the development of the capacity of asylum systems and APPLAUDS efforts made by States to implement those pledges; COMMITS to continue to support GCR implementation, in particular by contributing to the capacity development of asylum systems and by supporting the activities of the Asylum Capacity Support Group; NOTING the second GRF planned for December 2023, CALL on African States to demonstrate their commitment, including through new GRF pledges, to address challenges with regard to the accessibility of asylum procedures, and to address key gaps in asylum capacity which are resulting in lapses in fairness, efficiency, adaptability and integrity of asylum procedures (which, in turn, can result in *refoulement*, irregular onward movement and RSD backlogs);

RECOGNIZING that in order to ensure the fairness, efficiency, adaptability and integrity of asylum systems, it is necessary for judges and other decision makers to receive professional development training in refugee status determination (RSD) and related topics.

APPLAUD the establishment of a 'Centre for Excellence' through a tri-partite Memorandum of Understanding between the Judicial Institute for Africa (JIFA), the African Chapter of the International Association of Refugee and Migration Judges, and UNHCR to deliver international refugee and asylum law training programmes as well as statelessness and nationality law courses to judicial officers, legal practitioners, asylum and refugee decision makers, and academics.

INTERNAL DISPLACEMENT

RECOGNIZING the plight of persons who are forced to leave their homes because of armed conflict, generalized violence, human rights violations or natural or human-made disasters, and who have not crossed an international border.

REALIZING that the problems of internal displacement affect most African States and constitute a threat to socio-economic development, political stability, national security and the environment.

CALL on African States that are not yet party to the 2009 AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) to accede to this instrument and to incorporate it into their national legislation to ensure the protection and assistance of persons affected by internal displacement.

RIGHT TO A NATIONALITY and ERADICATION OF STATELESSNESS

ACKNOWLEDGING that statelessness can be a cause and a consequence of forced displacement, the latter particularly in protracted refugee situations; RECOGNIZING THAT the right to a nationality is a fundamental right recognized by many international and regional human rights instruments, including Article 15 of the Universal Declaration of Human Rights and Article 5 of the African Charter on Human and People's Rights affirming 'the right to the respect of the dignity inherent in a human being and to the recognition of his legal status', a critical component of which is the right to a nationality; CALL upon African States to ensure that comprehensive refugee solutions are adopted to mitigate the risk of statelessness arising from prolonged exile;

SUPPORT the collective efforts initiated since 2013 by the African Commission on Human and Peoples' Rights, the African Committee of Experts on the Rights and Welfare of the Child, and the African Union Commission to finalize the text of the draft Protocol to the African Charter on Human and Peoples' Rights on the Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa in order to ensure its finalisation and adoption by the Executive Council and the Assembly of African Union;

NOTING that the adoption of this specific regional human rights instrument in Africa will complement the African Charter on Human and People's Rights to facilitate the inclusion of individuals within African States by providing legal solutions for the resolution of practical problems linked to the recognition and

exercise of the right to a nationality, to eradicate statelessness, and to identify the principles that should govern relations between individuals and States in relation to these issues;

CALL on States to prevent and reduce statelessness by closing gaps in their domestic nationality laws which lead to statelessness, including by inserting the necessary safeguards to avoid childhood statelessness in line with Article 6 (3) and (4) of the African Charter on the Rights and Welfare of the Child;

RECALLING that universal birth registration for all persons born on the territory of a State and issuance of birth certificates without discrimination, including for asylum-seekers and refugees born in country of asylum as well as members of minority and cross border communities, help to prevent statelessness;

RECOGNIZING the critical importance of the judiciary to exercise *ad minimum* judicial/due process review to ensure that a person entitled to the nationality according to the law of the State has access to a conclusive proof of nationality;

URGES African States that are not yet party to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, to accede to these instruments; and to COMMITTS to eradicate statelessness in Africa.

Proposed by Judge President Dunstan Mlambo of South Africa.

Seconded by Justice Isaac Lenaola

Adopted by the Africa Chapter of the IARMJ

in Arusha, Tanzania, on 18 November 2022