Borders recolonised – the impacts of the EU externalisation policy in Africa

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Abstract

This article examines the impacts of the European Union's (EU) border externalisation policy and how it has contributed to prolonged refugee encampment in Africa. The EU signed interdiction and readmission agreements with a few African countries whereby refugees and asylum seekers en route to Europe are forcefully captured and refouled to Africa. The EU-Africa cooperation is often framed in humanitarian language as 'development cooperation', which characterises a neo-colonial engagement with Africa. There is a plethora of literature on the EU externalisation policy but largely written from a Eurocentric perspective as they glorify refugees and asylum seekers' refoulement to Africa. Sadly, the majority of those refouled in the past two decades come from war-torn countries such as Somalia and Sudan where they faced torture and the death penalty.

I advance an Afrocentric perspective to critique the EU externalisation policy which is largely focused on keeping African refugees in their region of origin. I deploy numerous theoretical frameworks, including Third World Approaches to International Law (TWAIL) scholarship, Anibal Quijano's coloniality theory, Frantz Fanon's decoloniality theory, Achille Mbembe's postcolonial theory and Giorgio Agamben's theory of the state of exception to critique that the outsourcing of the EU's immigration control to some of the poorest nations in the world is understood in the context of colonial relations to Africa.

Keywords: externalisation, camp, borders, refugees, decoloniality, state of exception

Introduction

This article deploys decolonial critique and critical border theories as a cross-disciplinary engagement to analyse the EU externalisation policy. The term coloniality/decoloniality was first coined by Anibal Quijano in his 1989 essay 'Coloniality, modernity/rationality' which refers to the colonial matrix of power or colonial structure of power (Quijano 1992: 4). Founded in Latin American literary tradition, decoloniality has influenced African scholarship in appraising the history and the ongoing colonial/neo-colonial structures that persist on the continent to this day. Other African scholars have theorised decoloniality as a form of writing from a position that is aligned with the peoples of the Global South (Grosfoguel 2007), or a mode of self-actualisation for African people (Wiredu 1998), or as the realisation of epistemic justice for peoples of the Global South (Kumalo and Praeg 2019). All these theoretical frameworks are aligned with the intellectual and political struggles from the Global South which have historically been peripheral to mainstream literature. This article moves beyond the theorisation of decoloniality by reasserting the significance of Afrocentric thinking that strives to detour away from Eurocentric refugee literature. Afrocentrism or Africology as a philosophy was coined in the 1980s (Asante 2001). It was later institutionalised by its intellectual and ideological antecedents such as Garveyism, the Negritude movement, Fanonism, Kawaida, and Cheikh Anta Diop's historiography. Afrocentrism as a theoretical framework challenges the traditional Eurocentric perspective with its distorted view of Africa. As Sidaway observed, 'in many respects Africa is a mirror. However, distorting it may be, it reflects our own political image and has a lot to teach us about the springs of our western modernity' (Sidaway 2002: 32). As Sidaway alluded to, Africa should be a mirror through which Europe should first look at itself when addressing issues specific to Africa. Decoloniality is expressed in multiple ways: from written and oral discourses to social movements, academia, political manifestos, dance and performance, music, poetry, and visual art, etc. Most critically, my Afrocentric approach provides a 'revolutionary shift' which seeks to correct the misconception and misrepresentation of Africa perpetuated by Western academics.

Border theories

It is globally acknowledged that the ability to formally define and control territorial borders is the *sine qua non* of the state (Salter 2011). As a technology of containment or 'dataveillance' (Amoore & de Goede 2005), borders utilise the strategy of deterrence, exclusion, containment, and refoulement, as a way of governing human mobility (Amoore and de Goede 2005: 339). This bordering practice is also referred to as the 'exclusionary mechanisms of identity production' (Belcher, Martin, and Tazzioli 2015). In anthropological terms, borders construct differences, cultures, and people of different iconographic makeup. The administration of justice in this space fluctuates between law and no law. This aligns with the Agambenian concept that 'the sovereign interiorises that which it can and exteriorises that which it cannot' (Agamben 2005: 34). It is this duality of inclusion and exclusion that makes the border the state of exception. This bureaucratisation or the epistemological displacement of justice creates a veneer of illegality that grants the state the monopoly of violence in this space. I contend that it is fundamentally important to think of justice in ways that are not pre-emptively curtailed by the exigencies of territoriality. Technically, externalisation provides a space where sovereign law is extended to those it excludes because the law legislates their inclusion, but also their removal. In essence, the border is a space where the sovereign relates with the refugees and asylum seekers, but through their exclusion.

Sogut dramatically captured a remarkable journey of asylum seekers to Europe. 'Watchout! The French border can reach out and grab you in the air over Guinea or the Spanish border can capture you in a trailer even when you are in Spain' (Sogut 2003: 291). Sogut is alluding to the fact that the border is not only a permanent wall fence but can also be mobile technology. It is a paradoxical zone of resistance and rogue embodiment enforced by the state with impunity. A border is mobile, ephemeral, elastic, and constantly changes its meaning. As a political agency, its elasticity allows it to fold inward and outward. It also takes on many different shapes and forms far away from where it lies lifeless on the map. This elasticity is carefully designed to restrict, contain, detect, deny, or capture refugees in this political space. In other words, wherever refugees and asylum seekers are located within the state, the border can still find and catch them. As Sogut pointed out, 'bodies fallen, drowned, frozen, mangled, and suffocated, highlight border's capture of people daring to move unauthorised' (Sogut 2003: 291). In security discourse, the border inaugurates and

draws territorial resolutions between the inside and outside to regulate mobile bodies, but the line is blurred. Although the border can be represented by a mountain, a wall fence, or a drawing on a map, this political space is ever mobile except its statist and territorial governmentality, which it is compelled to reflect and embody. This territorial modernisation is conceived as a tool of exclusion and inclusion to protect against a phantasmic threat of undesirable others (Kumar & Grundy-Warr). This otherness tends to become flesh in the demonised and abject figure of refugees and asylum seekers. This othering has become the specialty of the nation-state.

Wall fences, mountains, rivers, or seas are not the only tools that are deployed legitimately as borders, but the refugee camp has also emerged as a powerful limit marker although it does not pronounce itself as a border. For context, the camp is a purposefully built shelter that accommodates refugees and asylum seekers and other population groups in general displacement. The camp takes many shapes and forms, including detention camp, asylum offshore processing camp, transit camp or the preferred refugee camp. The camp is reflective of the emergent modalities of territoriality, which is prevalent, yet it remains within the statist territorial logic of control and hierarchy. Although couched in humanitarian language, refugee camp continues to operate with force to create a situation of power to justify the violence being inflicted on the refugees, people whom Agamben refers to as *homo sacer* (Agamben 1998). Agamben's concept of bare life and *homo sacer* or the sacred one is critical in understanding how externalisation policy operates at the border. This is exemplified by the EU-funded Libyan detention camps which are spaces where the state of exception is realised (Davitti 2019). Although the EU claims to be saving lives in the seas using the concept of 'safe third countries', such a humanitarian narrative masks the increasing militarisation, privatisation, and externalisation of asylum. Edward Said critiqued that it is through such civilising language in which the expansion of empires is couched. He is concerned that such civilising language has created the very 'orient' that defined the colonial hegemony of the West (Said, 2003:205). The EU externalisation policy makes detention camps function as border extension or what Agamben calls 'the spatial container filled with biopolitical matrix' (Agamben 1998). Such sovereign abandonment of the *homo sacer* is what Agamben refers to as the state of exception. The normalisation of the state of exception allows externalisation policy to function with violence and become a permanent state of exception through the adoption of deterrent measures that strip refugees and asylum seekers of their human rights, the rights to seek asylum.

In line with Agambenian theory, the EU externalisation policy is a demonstration of an archetypal zone of exception. In his critical appraisal of borders, Michel de Certeau theorises that the border 'colonises space' as it continues to function as a silent theatre (de Certeau 1988: 127). While the border on the map is immobile, non-emotional, lifeless, and standstill as an 'illusionary inertia', it is still the case that the EU externalisation policy continues to define the modern geography of space. In line with de Certeau's theory, although the border lies lifeless and illusionary, it is dynamic, adventurous, it is everywhere and takes many forms. Most importantly, the border has maintained its status quo as a colonial apparatus, lying lifeless yet violent when it serves as a political space.

The EU externalisation policy

The EU introduced its externalisation policy in early 2000 by fundamentally expanding its borders beyond the physical lines on the map. The term externalisation refers to diverse policy initiatives such as the operation of border institutions, the extra-territoriality and shifting border practices by moving borderlines forward, backward, or sideways to disrupt the migration of refugees and asylum seekers en route to Europe. Jeff Crisp defines externalisation as:

> 'measures taken by states in locations beyond their territorial borders to obstruct, deter or otherwise avert the arrival of refugees, asylum seekers, and other migrants who do not have prior authorisation to enter their intended country of destination' (Crisp 2020:3).

In this context, externalisation refers to the outsourcing of border management to distant countries through readmission agreements, interdiction agreements, or imposing border checkpoints and visa procedures in countries of departure. Externalisation also refers to the transfer of responsibility from the rich countries in the Global North to poor countries in the Global South and funding refugee and detention camps to prevent refugees and asylum seekers from migrating to Europe. Suffice to state that the North-South concept references an entire history of colonialism, postcolonialism and neo-imperialism of the coloniality of power which emphasises the legacy of colonialism in contemporary culture and politics.

While encampment policy as a practice is considered a recent development in

Western philosophical ideology, it has already been encoded as a tool for imperial expansion in Africa. The idea of the camp first emerged during 18th-century colonial expansion. Arsenio Martinez Campos, then Commander of the Spanish garrison in Cuba, first spoke of the 'concentration camp' in 1895 (Lal 2005). He aimed to relocate or 'reconcentrate' the natives into colonial camps through imperial force. The camp was later used as a privileged site of protection for the civilian population displaced by Africa's decolonisation wars. The camp or a 'neo-colonial outpost', (Perera 2002) which is constitutive of the epistemology of the West, was later universalised in the age of civilisation (Aileen 2006). As a territorial trap, the camp has become a globally legalised institution for the concentration of millions of refugees and asylum seekers to keep them in their region of origin, in the Global North.

All the refugee camps in Africa are funded by the West. This North-South humanitarianism is managed by the United Nations High Commissioner for Refugees (UNHCR), the agency that oversees a network of refugee camps across Africa. Paradoxically, the refugee agency also manages the EU refoulement obligations to which the African Union (AU) is vocally opposed. As a continental bloc, the AU did not sign an externalisation agreement with its European counterpart. Instead, the EU uses the strategy of divide and rule by cherry-picking on African countries with the weakest economies and enticing them with 'development assistance' (Silja 2010). To justify its concept of 'protection in the region of origin' and the processing of asylum claims in Africa, the EU believes that its externalisation policy in Africa does not amount to refoulement but can be a substitute to internal EU refugee policy (Betts 2005). With a geographical focus on Africa, the EU has prioritised securitisation and interdiction on the high seas which function as a trailblazer of the overall EU refugee policy. However, this is done without regard to the rights, safety, and protection of refugees and asylum seekers—people who are demonised as 'illegal migrants'. The EU often justifies the use of force against refugees and asylum seekers en route to Europe in the context of security.

In 2004, the former Danish Minister of Foreign Affairs Anders Samuelsen envisioned extending asylum camps beyond Europe when he said, 'we will make a little piece of Denmark in Jordan, Lebanon, or Israel' (Gjertsen & Kae 2021). Such rhetoric affirms the continuity between the EU externalisation policy and neocolonialism. Similarly, Matteo Renzi, the former Italian prime minister once caused an uproar when he liked the EU naval operation to the 19th- century slave trade saying that the smugglers were 'the slave traders of the 21st century' (Renzi 2015).

For context, it was during the 19ᵗʰ - century Trans-Atlantic Slave Trade that more than 12.5 million Africans were transported as slaves to Europe and the Americas. The EU captivity of refugees on the high seas, their containment and refoulement which revolves around the idea of displacement governance and humanitarianism, demonstrates the reproduction of coloniality in Africa. In this double displacement, African countries bordering the Mediterranean seas such as Libya, Morocco, Niger, Tunisia, Mauritania, and land-locked countries such as Mali, Niger, and Chad, are funded by the EU as intermediaries to exercise its displacement politics, but beyond its borders.

In the absence of an official policy, most of the asylum seekers refouled by the EU end up in detention camps in these countries as the AU refused to succumb to the EU's request to formalise a readmission agreement. This aligns with the observation that the EU neocolonial encounter with Africa imposes a very different set of power relations, administered through political, economic, and ultimately psychological domination (Swati & Michael 2021: 2). While the Trans-Atlantic Slave Trade was officially abolished in 1833, which still stands as a cornerstone for the universality of human rights, the EU-racialised border policy is far from over as it aligns with domestic policy across Europe where ironically, the doctrine of human rights and equality first emerged. It is not surprising that the EU destination countries fund some of the poorest countries in Africa in what Amnesty International exemplified as 'carrot and stick' diplomacy (Amnesty International 2005). Given the number of refugees in need of asylum in Africa, the concern is not that refugees pose security threats to the EU, but it is the context in which they exist that results in securitisation and xenophobia. This article offers a decolonial perspective centred on the inseparability of modernity from coloniality which translates into a Southern lens by focusing on the Global South as the primary site of emancipatory struggles. There is a plethora of academic scholarship on the EU externalisation policy but largely written from a Eurocentric perspective. Sadly, the Global South perspectives are either absent or are largely peripheral. Being acutely aware of the inequality and politics surrounding South-related terminology, this article reveals the inequality that permeates relations between the North-South divide which I argue requires a decolonial mind to address the question of inclusion and exclusion.

The African nation-states derive their territorial integrity from the colonial boundaries carved out arbitrarily by European superpowers at the Berlin Conference in 1884. This begs the question: Should African borders drawn after the Conference

of Berlin be maintained or redrawn? (Beluce 2010:11). As refugees are technically produced through the technique of territory and borders, this means the EU securitisation practice is associated with neo-imperial politics of difference. In the last two decades, the bedrock of the EU externalisation policy demonstrates what Ruben Andersson calls 'captive markets' (Andersson 2018). The refugees and asylum seekers interdicted in the high seas were refouled to Africa and put in detention camps built, funded, and resourced by the EU. To assert control over its borders, but beyond its political boundary, the EU has poured in millions of Euros to warlords in Libya to establish a network of asylum detention camps in which gross human rights abuse and war crimes were committed with impunity (Amnesty International 2020). A senior EU official Dimitri Avramopoulos acknowledged this situation as 'appalling and degrading' (Human Rights Watch 2021), but justified the EU policy as preventing dangerous journeys in the seas. While the official number of refugees and asylum seekers refouled has been concealed from the onset, the Guardian Newspaper reported that the EU countries used brutality to stop nearly 40 000 people trying to enter Europe (Tondo 2021). Truth be told, it serves the interest of the EU that Africa religiously maintains the institution of asylum to keep the majority of the refugees on this continent. However, to argue that asylum should be provided only in the region of origin because it is cheapest to do so undermines African solidarity with refugees and asylum seekers.

For context, hosting people in forced displacement which has historically been the feature of Africa's humanitarian response, is often being undervalued by the EU. Of the 82.4 million people displaced worldwide, 86 per cent are hosted in developing countries (UNHCR 2021). Nonetheless, non-Western humanitarianism or what Nicholson refers to as 'household work' (Nicholson 2012), provided by Africa as a form of burden-sharing and responsibility-sharing, is ignored. In the minds of Western humanitarian scholars, the hosting of refugees is 'feminine' (Pacitto & Fiddian-Qasmiyeh 2013) private household chores, whereas the EU institutional support is 'masculine' and in the public sphere. This 'elite relief' model meant that Eurocentric scholarship focus largely on Western-style institutional support with an emphasis on financial contributions while neglecting the plurality of non-traditional humanitarian support. This is a misguided understanding of Africa's humanitarianism which feeds into the neo-colonial engagement with Africa. As being witnessed in Libya, the African states have been reduced to their coercive apparatus of using the police, the army, armed guards, or the prison cells against innocent refugees and

asylum seekers as part of donor conditionalities. The deepening reliance on foreign aid by some African countries was not experienced even during the colonial period.

Africa is home to one of the oldest humanitarian systems or social organisations that existed on planet earth. Epistemologically, African humanitarianism differs from Western humanitarianism in many respects. For example, the precolonial humanitarianism founded by the Ga-Dangme people of Ghana, which embodies 'virtues and values that seek to keep the community together', has survived for millennia (Ayitte 2006:16). In other words, humanitarianism is neither a monopoly nor a Western creation. So, the EU humanitarianism represents an epistemological order which continues to function as a postcolonial project. As the EU externalisation policy continues to be a residual of coloniality, Africa whose concept of humanitarianism falls outside of the dominant framework of Western humanitarianism decolonise its borders.

Ghana's first President Kwame Nkrumah had warned that Africa's politics should not be directed from outside (Nkrumah 1965). Nonetheless, to this day, 'we still live in neocolonial, not postcolonial times' (Huggan 1997: 19). To epistemologically decolonise the African borders, there is a need for 'provincialising Europe' and 'deprovincialising Africa' (Ndlovu-Gatsheni 2018: 4–5). According to Ndlovu-Gatsheni, 'to provincialise Europe is fundamentally to de-Europeanise the world', while 'deprovincialising Africa' represents 'an intellectual and academic process of centering Africa as a legitimate historical unit of analysis and epistemic site from which to interpret the world' (Ndlovu-Gatsheni 2018: 4). Doing so will avoid overstating the power imbalance between the Global North and the Global South in postcolonial discourse (Bhabha 1994: 86). Contextually, this means invoking the precolonial in neocolonial discourse will promote the indigeneity and uniqueness of Africa.

Convention Plus and Agenda for Protection

During his tenure as High Commissioner for refugees, Ruud Lubbers introduced several development-oriented initiatives for Africa. This included Convention Plus, Agenda for Protection, Development Assistance to Refugees, and Development through Local Integration (UNHCR 2005). This was done in consultation with the EU as the funding body. To support its non-entry regime, the EU also championed the policy of 'protection in the region of origin' through its Communication on

Durable Solutions and its Regional Protection Plan (EU 2004). These international initiatives were coordinated and implemented by the UNHCR through special agreements with partner organisations. The UNHCR claims that these initiatives were aimed at improving refugee protection frameworks by providing solutions, including development assistance to refugee host nations (UNHCR 2005). As this was a 'closed door' European affair, the African Group in Geneva was never invited to participate in the initial discussion stages. These initiatives which were later adopted by the UNHCR were aimed at keeping refugees and asylum seekers in their region of origin to prevent them from onward migration. The African Group was alarmed:

> '… we are, however, disappointed that discussions relating to this strand [targeting development assistance] seems to be about assistance to major refugee host countries or country of origin and no discussion with such countries'. (EU 2004)

Noting that the concept of 'protection in the country of origin' is Eurocentric, the African Group was concerned about the lack of transparency and lack of involvement of refugee host countries in the initial development of this initiative. Nonetheless, a few months later, the UNHCR adopted Convention Plus during a meeting in which a pre-written statement of good practice on the targeting of development assistance was handed over to the African Group (EU 2004). The EU not only avoided open dialogue with the African countries but also undermined refugee protection in Africa. Besides, the EU did not demonstrate willingness to commit additional funds more than what it already provides as part of development assistance. Through this strategy, the EU shifted development assistance from one recipient country to the other which raised suspicions among African nations (Betts & Milner 2006). Proponents of the EU border externalisation policy argue that the institutionalisation of exile as a premise for refugee protection undermines the fundamental rights of refugees to return home and unjustifiably relieves the country of origin of responsibility towards its citizens (Alienikoff 1992). I contend that the externalisation of immigration or the forceful return of refugees to their region of origin represents a dramatic reformulation of international refugee law. Technically, this means that refugee law could collapse into human rights law unless a norm is developed requiring that states' responsibility be invoked to hold the sending

state accountable (Opi 2021). It is also important to note that most refugee returns take place in countries where serious human rights abuse still strives. This means returns are not purely voluntary as the EU fleshes its muscle to ensure refugees are kept in their region of origin at all costs. It is not surprising that 33 of 54 African nations have established some of the largest refugee camps in the world. This fact nullifies the proclaimed universality of the 1951 Refugee Convention Relating to the Status of Refugees (the 1951 Convention), as refugees are being kept in prolonged encampment to deny them the right to seek asylum beyond the continent.

As it is not explicitly prescribed in the 1951 Convention, returning refugees to their countries of origin has become morally and legally acceptable. So, the UNHCR had to innovate non-binding frameworks such as Convention Plus and Agenda for Protection derived from the Global Consultation on International Protection established in 2003 (UNHCR 2001). As a condition for receiving development assistance, the UNHCR is required to support bilateral readmission agreements and promote the return of persons interdicted on the high seas en route to Europe. The UNHCR's commitment to this illegality amounts to a deconstruction of the ethos of the 1951 Convention which is the cornerstone of the refugee regime.

The High Commissioner for Refugees, Filippo Grandi, made the following comments in his response to xenophobia on refugees across Europe:

> 'Those shouting about a refugee emergency in Europe or America should visit African communities giving care to millions of refugees with small resources. Take three East African countries: Ethiopia, Kenya, and Uganda, their average GDP per capita is about 20 times less than Europe's. And yet they collectively host about 2.8 million refugees, more than the entire number arriving in all of Europe's 28 member states during the entire 2015-16 refugee crisis.' (UNHCR 2018)

Grandi's statement is a testament to the fact that African hospitality towards refugees which predate the universality of the international refugee law is unquestionable. It is important to note that the circumstances of refugees have evolved over the past few decades. As such, having a very restrictive interpretation of the refugee legislation and externalisation policy may not adequately address refugee situations in Africa and other parts of the world.

My systematic review of the UNHCR-led development assistance programmes

reveals that these initiatives do not provide long-termed solutions to refugees and asylum seekers. Instead, they reinforce the status quo where refugee host nations will continue to take the lion's share of the refugee crisis. Whereas the EU will continue to provide a tiny portion of humanitarian aid, but without outlining any rights-based approaches to the existing standard for refugee protection under international refugee law. Subsequently, this has led to the institutionalisation of the encampment, to discourage refugee onward migration. Refugee host nations such as Kenya and Uganda that received the EU 'development assistance', set up camps very far away from the local communities so the refugees rely solely on international assistance and discourage local integration. Besides, there is no independent framework to scrutinise the standard of protection afforded to the refugees in such a situation. In other words, the refugees are supported through the institutionalisation of the camp which is located at border zones and technically outside the state. This colonial mentality of keeping refugees in captive mode remains the hallmark of Africa's refugee policy. As the 1951 Convention is incapable of amendments, refugee camps are likely to take a more exclusive and violent nature. It is in this context that the EU sponsored humanitarianism exercised through social distancing is intended to avoid legal obligation towards the refugees and asylum seekers. Punitive detention measures in some African countries such as Libya has worsened this crisis. When examined holistically, the EU externalisation policy has eroded the institution of asylum in Africa.

Kenya is one of the African countries in which the UNHCR implements the EU's externalisation policy. As a case study, an analysis of the Kenyan refugee situation provides some insight into the phenomenon. Kenya began hosting refugees in the late 1960s, a period referred to as the 'golden age' for refugees in Africa. Over the years, the institution of asylum in Kenya has plummeted, prompting the UNHCR to resort to care and maintenance of the camp, now extending over three decades. Kenya currently hosts over half a million refugees and asylum seekers (UNHCR 2006). Freedom of movement is a significant component of refugee protection, but its one of the rearest commodities within the camp space. It is even more critical especially in a protracted refugee situation in a country such as Kenya with a very large number of refugees and limited resources. However, Kenya's immigration law and refugee law are guided by its foreign policy orientation. In 2006, the Kenyan Parliament introduced the Kenyan Refugee Act (KRA) 2006. The KRA defines the status of the refugee, but the framework is replete with exclusion and cessation

clauses. From this point onwards, Kenya's refugee policy shifted considerably to a very strict encampment policy. Articles XVI(2)(b) and XVII (a, c, d, e, and f) of the KRA make it explicitly clear that camps are the rightful residence for the refugees. Under section 25(f) of the Act, it is an offence for a refugee to reside outside the designated camp zones. It is also a criminal offence for the refugees to leave the camp vicinity without a movement pass (Kenya Refugees Act 2006). This strict encampment policy which mirrors the EU's externalisation policy has a significant impact on refugees and asylum seekers. It is for this very reason that across Africa, conferring citizenship to refugees is a very sensitive and polarised issue. In Kenya, the refugees are required by law to live in designated camps and are prohibited from leaving this designated zone without authorisation.

The UNHCR claims it does not have jurisdiction over the EU externalisation policy and it clarifies its commitment to this policy by stating it:

'stands ready to play its role, as a multilateral organisation, to facilitate agreements among states that will enhance refugee protection world-wide in conformity with the letter and spirit of international refugee law, and result in more effective and reliable burden-sharing. The responsibility of UNHCR for monitoring the adoption and implementation of inter-state agreements that have an impact on the protection of refugees must be seen as flowing directly from its Statute' (UNHCR 2014: 17).

First, all the bilateral agreements the EU signed with a few African countries is problematic. For example, how can Mali with a GDP of about US$17.8 million sign an agreement with the EU, the second-largest economy in the world with a GDP of US$16.6 trillion? (World Bank 2021). Such external domination and control under the disguise of the EU-led development assistance have made some African countries remain in the category of fragile/failing/failed states (Bajpai & Parashar 2020). The EU still uses a colonial lens and sees Africa as a welfare state in need of care, edification, disciplining, punishing and sometimes coercion (Van Beek 2011). The EU's assumption that Africa needs development assistance is misguided as the EU aid is never intended to develop Africa as colonialism created the failures of the post-colonial state. The EU development assistance which hides the awful evidence of colonial indecent aligns with Lugard's observation that European brains, capital, and energy have not been, and never will be, expended in developing the resources of

Africa from motives of pure philanthropy (Lugard 1926: 617). The bottom line is that the African nation states' continuous reliance on foreign aid presented as a panacea only leads to a perpetuation of poverty as they are still neatly tied to the metropole. This is because just as accountability in the colonial state was to the metropole and not to the local population, this exploitative continuity remains intact to date.

In his last book *The wretched of the earth*, Frantz Fanon prophesied what was going to happen in the postcolonial period: colonial continuity (Fanon 1961). It is this futurity of Africa that resonates with the overall aim of my article. In the words of Pan Africanists such as Ade Ajayi, Dike, Chinua Achebe, Ogot and others, Africa should return to its pre-colonial past by acting indigenous and using socialist frameworks such as the *ujamaa* in Tanzania, *authenticité* in the Congo, and *Harambe* in Kenya, and many other socialist philosophies across the continent. African socialism differs with especially the Marxist-Leninist strand of socialism. As *Ujamaa's* founding father former President Julius Nyerere put it, 'we glorify human beings, not colour' (Nyerere 1968). This is because the African way of life is communitarian, characterised by the collectiveness of sharing and solidarity. It challenges the capitalist monopoly and rejects the class system embedded within the EU externalisation policy of exclusion which emerged during the industrial revolution in Europe.

The UNHCR reference to the universality of international refugee law requires, as cited above some critical analysis. International refugee law was universalised at the end of the 19th century or the 'age of empire' when the European superpowers Britain, France, Germany, Belgium, etc. owned vast colonial empires in Africa. When the UNHCR intervened in Africa in the 1950s, the entire continent of Africa was still under colonial rule, including the Democratic Republic of Congo where the refugee agency first pitched its flag. Nonetheless, Africa welcomed the refugee agency, but with one eye open as the intervention might have required the use of force. The UNHCR provided aid to people displaced by decolonisation wars, but without disturbing its colonial root. In post-independence, colonialism mutated and took a different shape. Ever since, the UNHCR continues to carry out the vision of its donors by managing a network of refugee camps across Africa as its preferred model of refugee management. I contend that while the universality of international refugee law with all its creed is desirable and inevitable, it should not trump fundamental human rights like the right to seek asylum. Suffice to state that international refugee law continues to operate like colonial machinery because it is being applied as a neutral object without giving attention to the circumstances of refugees (Opi 2021). It is in

this context that the prospect for the additional protocol to the 1951 Convention is very slim. Besides, if the 1951 Convention is to be availed for amendments with an additional mandate, no country will sign it, at least not an African country. In Africa, the UNHCR's focus has always been on adopting non-binding frameworks such as Convention Plus and Agenda for Protection, both of which are funded by the EU to serve its political interests. By using a decolonial approach, I do not only critique the illegality of the EU externalisation policy but also that its funding of detention camps in Africa demonstrates a neocolonial engagement with this continent.

According to the UNHCR, Convention Plus is used as a framework for states to:

'consider the usefulness of specific burden-sharing agreements, negotiated either bilaterally or multilaterally… and …to target financial and technical assistance in a manner that boosts the capacity of countries of first asylum to meet basic protection needs and to provide essential services'. (UNHCR 2003: 4)

If at all there is any kind of responsibility sharing provided for in this framework, this is in the context of refoulement where asylum seekers are returned to a third country and locked up in detention camps or are returned to their countries of origin in areas of active armed conflict, or to first countries of asylum to face indefinite encampment. The EU's preoccupation with the notion of insecurity, exclusion, segregation, and externalisation is manifested in the daily life of the refugees (Opi 2021). Effectively, any refugee who attempts to seek asylum within the EU is highly unlikely to pass the qualification threshold for claiming refugee status. This is because the individuated refugee definition in the 1951 Convention negates the mass exodus of refugees which characterises Africa's situation since the decolonisation wars of the 1950s. This is the reason the EU has shifted responsibility for refugee protection to the Global South. This 'necropolitics' (Mbembe & Meintje 2003: 24) is what Jeff Crisp describes as a 'dark period for refugee protection' (Crisp 2016: 7). Due to the EU's ongoing institutional support, refugee prolonged encampment in Africa has become the UNHCR's official policy.

As refugees are technically produced through the technique of externalisation practices, the camp is not only a space of protection but also a political space where the sovereign exercises violence on the refugees by denying them the freedom of movement. In this context, the camp as a border zone reinforces the EU externalisation measures. It is this bordering practice that allows the camp to function as a political

site where the refugees and asylum seekers are stripped of their fundamental human rights—the right to the freedom of movement. Living in limbo without any hope for repatriation, or resettlement, or local integration means that Africa's refugees will continue to be kept under captivity in their region of origin which resembles life in the colonies. This aligns with what the former US President Donald Trump declared in his first speech to the United Nations General Assembly (UNGA) in September 2019, '… we seek to support recent agreement of the G20 nations that will seek to host refugees as close to their home countries as possible' (Ward 2018: 4). This implies that the refugee situation in Africa is not a global crisis but a regional one. I take the view that Africa whose concept of humanitarianism or burden-sharing and responsibility-sharing fall outside of the dominant Western framework of humanitarianism should instead adopt a decolonial approach by seeking an indigenous solution to its refugee without invoking the protection mandate of the UNHCR.

The right to the freedom of movement is recognised by the United Nations as a critical component of universal human rights. However, when it comes to African refugees, the EU often interprets it either implicitly or explicitly in a way that denies the refugees onward migration, to prevent them from becoming their responsibility. As such, the focus leans towards the denial of basic human rights—the right to seek asylum. This aligns with Hannah Arendt's observation that 'the refugee is caught between nativity, embodied by the inalienable rights of man and nationality and the rights of the citizen of the state' (Arendt 1991: 23). However, the EU in its externalisation policy does not incorporate its protection obligation when dealing with African refugees and asylum seekers. Giulia Tranchina, a UK citizen observed that 'European governments, in our name, with our taxpayers' money, are paying Libyan authorities, militias, and army generals to continue detaining and torturing refugees on our behalf, to make sure they don't get to Europe' (Taylor 2018: 2). This also aligns with the Agambenian concept that the sovereign interiorises that which it can and exteriorises that which it cannot (Agamben 2005). It is this duality of inclusion and exclusion that makes the EU border externalisation the state of exception. As Kumar and Grundy-Warr observed, it is fundamentally important to think of justice in ways that are not pre-emptively curtailed by the exigencies of territoriality. I am of the view that although refugees whose status is encoded both in domestic and international refugee law constitute Western modernity, some of the core features of a refugee camp—isolation, concentration, containment, etc.—were

pioneered in the colonies. Epidemiologically, the camp continues to be used for the concentration of the civilian populations in crude but purpose-built structures as currently being witnessed in the EU-funded asylum detention camps in Libya, Niger, Mali or in refugee camps across Africa. Technically, it is through its externalisation policy that the EU relates to the refugees and asylum seekers, but through their exclusion.

Conclusion

This article examined the impact of the European Union (EU) externalisation policy and how it has contributed to prolonged refugee encampment in Africa. Although the EU attempts to devote its externalisation policy to saving lives in the seas, this extra-territoriality has perpetuated the colonial logic of extra-territoriality. Acknowledging that the EU promises to provide humanitarian aid to keep its borders closed, it is within this space that humanitarianism functions as a long-standing colonial trap. Through this humanitarianism, the EU externalisation policy functions through social distancing by funding refugee camps to keep the refugees in their region of origin. This humanitarian project is what Michel Agier refers to as the left hand of empire (Agier 2000: 23). For him, humanitarianism forms part of global police which exercises control during the crisis in the Global South as part of imperial politics of containment. Technically, this humanitarianism has transformed the EU externalisation policy into a modern security apparatus aimed at keeping refugees encamped. By and large, colonialism continues to play a major role in explaining the politics of modern African states.

Throughout this article, I deploy a decolonial theory to argue that the EU externalisation policy with its development assistance model demonstrates a neo-colonial continuity but one that is epistemologically untannable for Africa. This decolonial approach not only breaks away from a Eurocentric representation of Africa but also offers a counter-colonial critique of existing theory in mainstream refugee literature. By reading the EU externalisation policy through the lens of colonialism, I argue that the EU 'search, rescue, detain, and deport' operations in the Mediterranean seas demonstrate a return to the Trans-Atlantic Slave Trade, but in a new form. I also argue that the EU's framework of effective protection in the region of origin amounts to refoulement as it has eroded the institution of asylum in Africa. Effectively, 33 of the 54 African nations have established some of the largest

refugee camps in the world. These camps function as deterrents to prevent refugees and asylum seekers from seeking asylum outside of this continent.

I also argued that the refugee camp has become the physical and legal embodiment of the state which is being used to control and regulate population movement, particularly by keeping the refugees in their region of origin. Epistemologically, refugee camps should not only be understood as a fixed geographic place for refugee protection but also as a mobile institution aimed at controlling the mobility of refugees and asylum seekers or people whom Nyamnjoh refers to as frontier people. The camp that emerged at the height of colonial empires is not just an ideology, it has developed into a permanent security apparatus. Over the years, the camp has retained its colonial features: lack of free movement (confinement), identity (borders), and ethics and social justice (exclusion), which were symbols of anti-colonial struggle. In Africa, the ability to receive and host aliens dated back to the precolonial period. Ever since, African states have maintained the discipline to the principle of non-refoulement by admitting millions of refugees, even in very difficult circumstances. For example, Kenya, Uganda and Ethiopia alone host over 2.5 million refugees. In contrast, the UNHCR has continued to glorify encampment policy under the framework of Convention Plus or Agenda for Protection. The refugee agency claims to be the protector of the refugees and asylum seekers, but it equally continues to supervise the EU's imperial project in Africa. As a Western phenomenology, the EU development aid is assumed to be the best form of refugee protection in Africa, a position that this article critiques.

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