

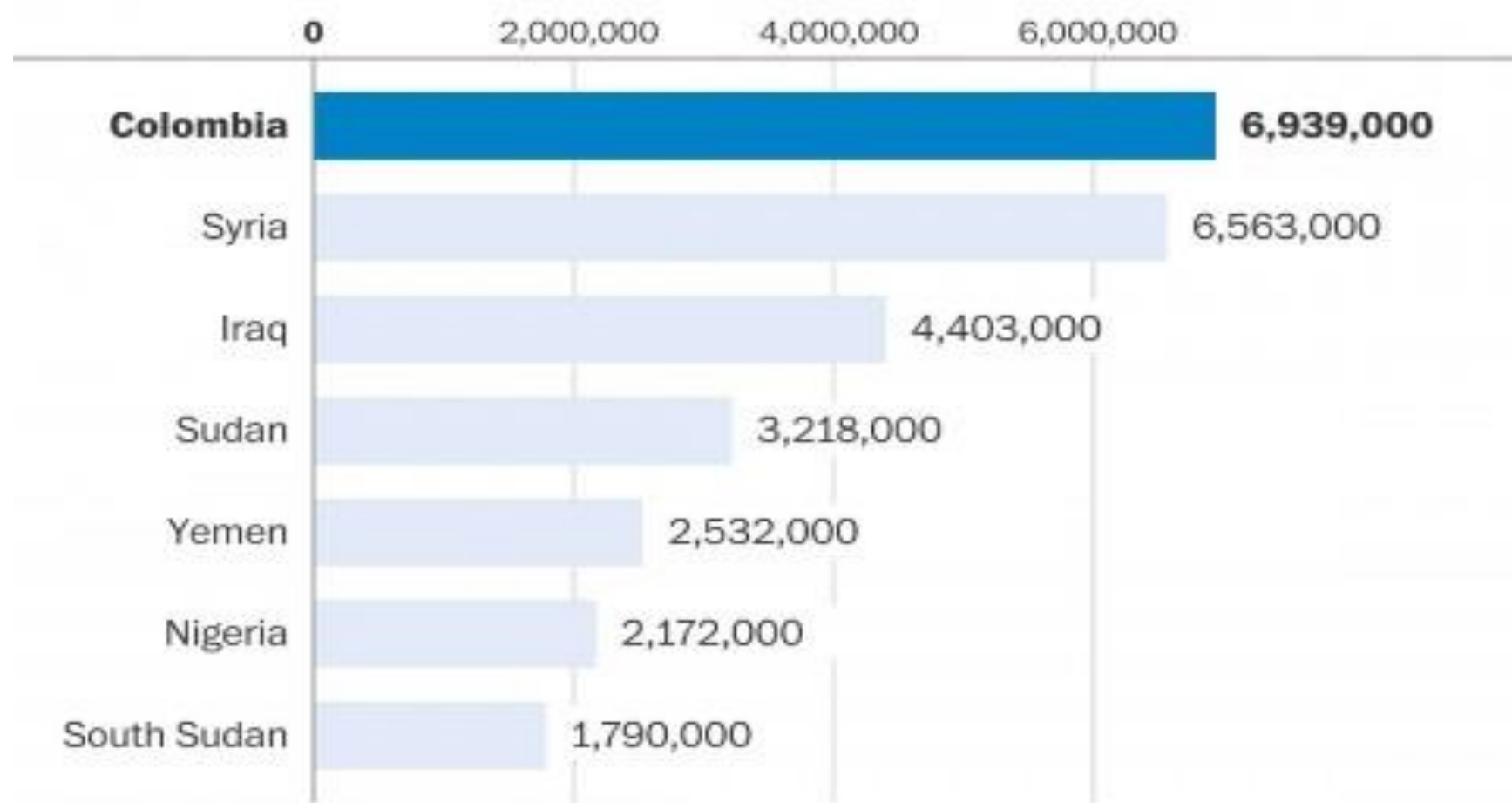
# Refugee Law Class 8

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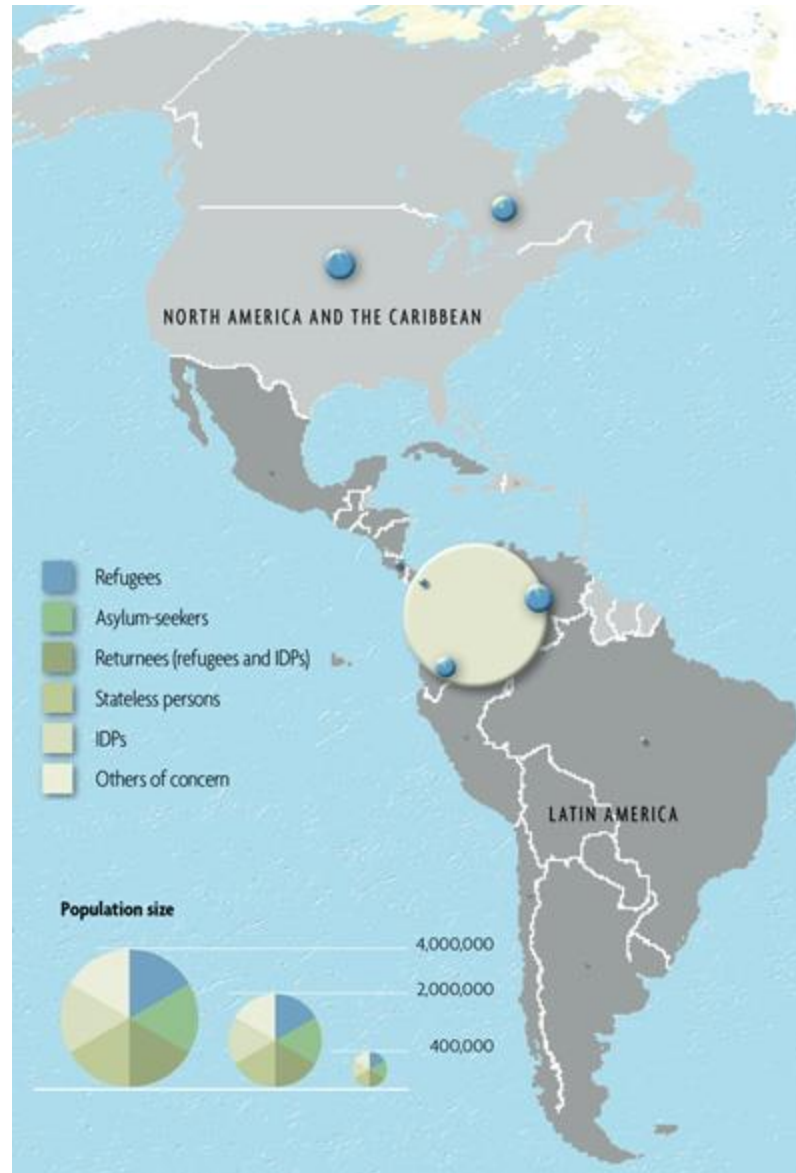
## Top countries with internally displaced people in 2015

The United Nations estimates a total of 37 million people worldwide have been forced to leave their homes as a result of conflict as of 2015. Colombia has the highest number of internally displaced people, or IDPs.



Source: UNHCR, 2015 report on global displacement

THE WASHINGTON POST







- 400,000 Refugees and Asylum Seekers in Latin America
- Asylum seekers from Horn of Africa and Middle East in addition to Latin Americans, migration of Haitians to Brazil
- Rescue at sea in the Caribbean
- 3 million IDPs in Colombia, natural resource extraction displacement, armed groups, lack of resettlement- new law on land resititution for victims
- Violence, criminality, drug trafficking, gangs, irregular armed actors, kidnapping of asylum seekers and refugees by human trafficking gangs, sexual violence, smugglers, mixed migration, victims of transnational crime in Guatemala, Honduras, and El Salvador seek asylum in Costa Rica, USA, Canada, and Mexico
- Insecurity of asylum seekers in border areas of Colombia, Ecuador and Venezuela

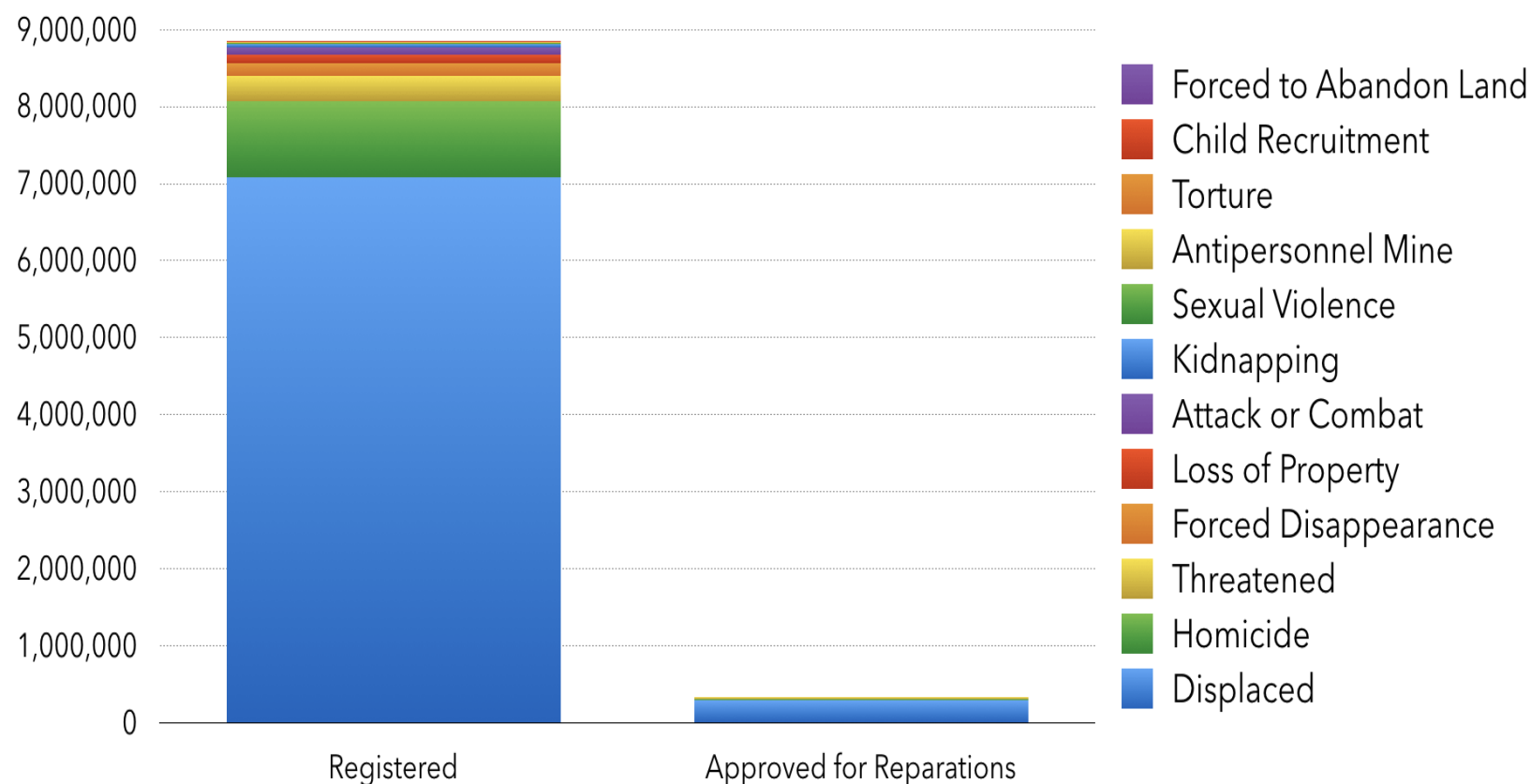
- High unemployment, limited access to labour markets, lack of documentation, lack of access to housing in urban areas
- Need to strengthen local integration, voluntary repatriation not viable
- Problems with discrimination, xenophobia, restrictive refugee status determination & pre-admissibility procedures, mixed migration (poverty and inequality)- priority of National Security, difficult access to territory
- States pledge to reduce statelessness, protect women and children, provide durable solutions
- High number of Unaccompanied and Separated children



# Peace Colombia

- Local Integration
- Voluntary Repatriation
- Concern about demobilization, new armed groups, secondary displacement
- Explore migration to Argentina, Brazil via MercoSur mobility

## Colombian Conflict Victims: Those Registered with the Government, and Those Approved for Reparations



Source: Colombian Government Victims' Unit: <http://bit.ly/2kflY1p>

- Canada-US Safe Country Agreement
- Canada and US receive highest number of resettled refugees in the world, and their acceptance rates are among the highest of industrialized countries
- UNHCR seeks alternatives to detention

# UNHCR in the Americas

- UNHCR seeks to incorporate Age, Gender, and Diversity Mainstreaming (AGDM) approach- protection, prevention, identification and response mechanisms to combat sexual and gender based violence, consider needs of children, indigenous people, people of African descent, special needs, lesbian, gay, transgender rights and community based framework

# Cartagena Declaration on Refugees 1984

- Refugee definition, in addition to containing the elements of the 1951 Convention, includes persons who have fled their country because their ***lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.***

# Cartagena Declaration on Refugees

- To confirm the peaceful, non-political and exclusively humanitarian nature of grant of asylum or recognition of the status of refugee and to underline the importance of the internationally accepted principle that nothing in either shall be interpreted as an unfriendly act towards the country of origin of refugees.

# Cartagena Declaration on Refugees

- To reiterate the importance and meaning of the principle of **non-refoulement** (including the prohibition of rejection at the frontier) as a corner-stone of the international protection of refugees. This principle is imperative in regard to refugees and in the present state of international law should be acknowledged and observed as a **rule of jus cogens**.

# Cartagena Declaration

- To reiterate to countries of asylum that refugee camps and settlements located in frontier areas should be set up inland at a reasonable distance from the frontier with a view to improving the protection afforded to refugees, safeguarding their human rights and implementing projects aimed at their self-sufficiency and integration into the host society. (Military Attacks)



# Cartagena Declaration

- To ensure that the countries of the region establish a minimum standard of treatment for refugees, on the basis of the provisions of the 1951 Convention and 1967 Protocol and of the American Convention on Human Rights

# Cartagena Declaration

- To express its concern at the situation of displaced persons within their own countries. In this connection, the Colloquium calls on national authorities and the competent international organizations to offer protection and assistance to those persons and to help relieve the hardship which many of them face.

# Cartagena Declaration

- To reiterate the voluntary and individual character of repatriation of refugees and the need for it to be carried out under conditions of absolute safety, preferably to the place of residence of the refugee in his country of origin.
- Family Reunification

***Declaration and Concerted Plan of Action***  
***in favour of Central American Refugees, Returnees and Displaced Persons***  
adopted by the International Conference on Central American Refugees  
(CIREFCA) 1989

- Voluntary, individually manifested character of return
- Choice of destination of return
- Freedom of movement and residence
- Non-discrimination
- Access to means of subsistence and land
- Economic and social development strategies
- Attention to women and children
- Non-refoulment

# **SAN JOSE DECLARATION ON REFUGES AND DISPLACED PERSONS**

1994

- To stress the complementary nature and convergence between the systems of protection to persons established in International Human Rights Law, International Humanitarian Law and International Refugee Law

# San Jose Declaration

- Repatriation, reintegration and local integration
- Documentation of refugees
- State responsibility to eliminate root cause of mass flight (Prevention and Solution)
- Support full observance of economic,
- social and cultural rights
- Children (CRC)
- Indigenous people (consultation, participation, land rights, cultural identity)
- Protection of Internally Displaced Persons

# San Jose Declaration

- To reaffirm that refugees as well as those persons who migrate for other reasons, including **economic ones**, have **human rights** which should be respected at all times and in all circumstances and places. These inalienable rights should be respected **before, during and after their flight or return to their places of origin**, with a view to ensuring their well-being and **human dignity**.

# San Jose Declaration

- To underline the importance of addressing the needs of refugee and displaced **women and girls**, particularly those in a vulnerable situation, in the field of **health, security, employment and education**, as well as to encourage the inclusion of **gender-based criteria in the examination of claims for refugee status**. (Also participation)



# San Jose Declaration

- To encourage an integrated approach to the solution of problems of forced displacement, particularly as regards voluntary return and repatriation, within the framework of coordinated efforts in order to ensure, in addition to the security and dignity of the beneficiaries, the durability of solutions. In this sense, reintegration and rehabilitation efforts should be linked to medium and long-term sustainable development efforts intended to alleviate and eradicate extreme poverty, satisfy human needs, and strengthen respect for human rights, with due regard for civil, political, economic, social and cultural rights.

# San Jose Declaration

- To affirm that the problem of the internally displaced, albeit the fundamental responsibility of the States of their nationality, is nevertheless of concern to the international community because it is a human rights issue which can be linked to prevention of causes which generate refugee flows. In this regard, persons in this situation should be assured of the following:
  - (a) application of human rights norms and, when applicable, International Humanitarian Law as well as, by analogy, certain relevant principles of Refugee Law, such as non-refoulement;
  - (b) recognition of the civilian character of displaced populations and of the humanitarian and apolitical nature of the treatment afforded to them;
  - (c) access to effective protection by the national authorities and to essential assistance, with the support of the international community;
  - (d) attention to those rights which are crucial for their survival, security and dignity, as well as other rights such as adequate documentation, ownership of land and other assets, and freedom of movement, including the voluntary nature of return; and
  - (e) the possibility of attaining a dignified and safe solution to their displacement.

# Inter-American Convention Against Terrorism 2002

- **Article 12**
- **Denial of refugee status**
- Each state party shall take appropriate measures, consistent with the relevant provisions of national and international law, for the purpose of ensuring that refugee status is not granted to any person in respect of whom there are serious reasons for considering that he or she has committed an offense established in the international instruments listed in Article 2 of this Convention.
- **Article 13**
- **Denial of asylum**
- Each state party shall take appropriate measures, consistent with the relevant provisions of national and international law, for the purpose of ensuring that asylum is not granted to any person in respect of whom there are reasonable grounds to believe that he or she has committed an offense
- established in the international instruments listed in Article 2 of this Convention.

# Mexico Plan of Action 2004

- Cities of Solidarity- Supports local integration and self-reliance of persons in need of protection in urban areas. Health care, education, access to employment, and housing on par with services provided to nationals. Income generating projects and entry into labour market.
- Borders of Solidarity- Local integration via linking of refugee assistance to national and regional development plans.
- Solidarity Resettlement- Regional responsibility program- resettle refugees at risk in their countries of asylum.

# **Brasilia Declaration on the Protection of Refugees & Stateless Persons 2010**

- To consider the possibility of adopting appropriate national protection mechanisms to address new situations not foreseen by the international instruments for the protection of refugees, giving due consideration to the protection needs of migrants and victims of trafficking, including whether they are in need of international protection as refugees

# **Brasilia Declaration on the Protection of Refugees and Stateless Persons**

- To promote the values of solidarity, respect, tolerance and multiculturalism, underscoring the non-political and humanitarian nature of the protection of refugees, internally displaced persons and stateless persons, and recognizing their rights and obligations as well as their positive contributions to society.

# Cartagena + 30 (2014)

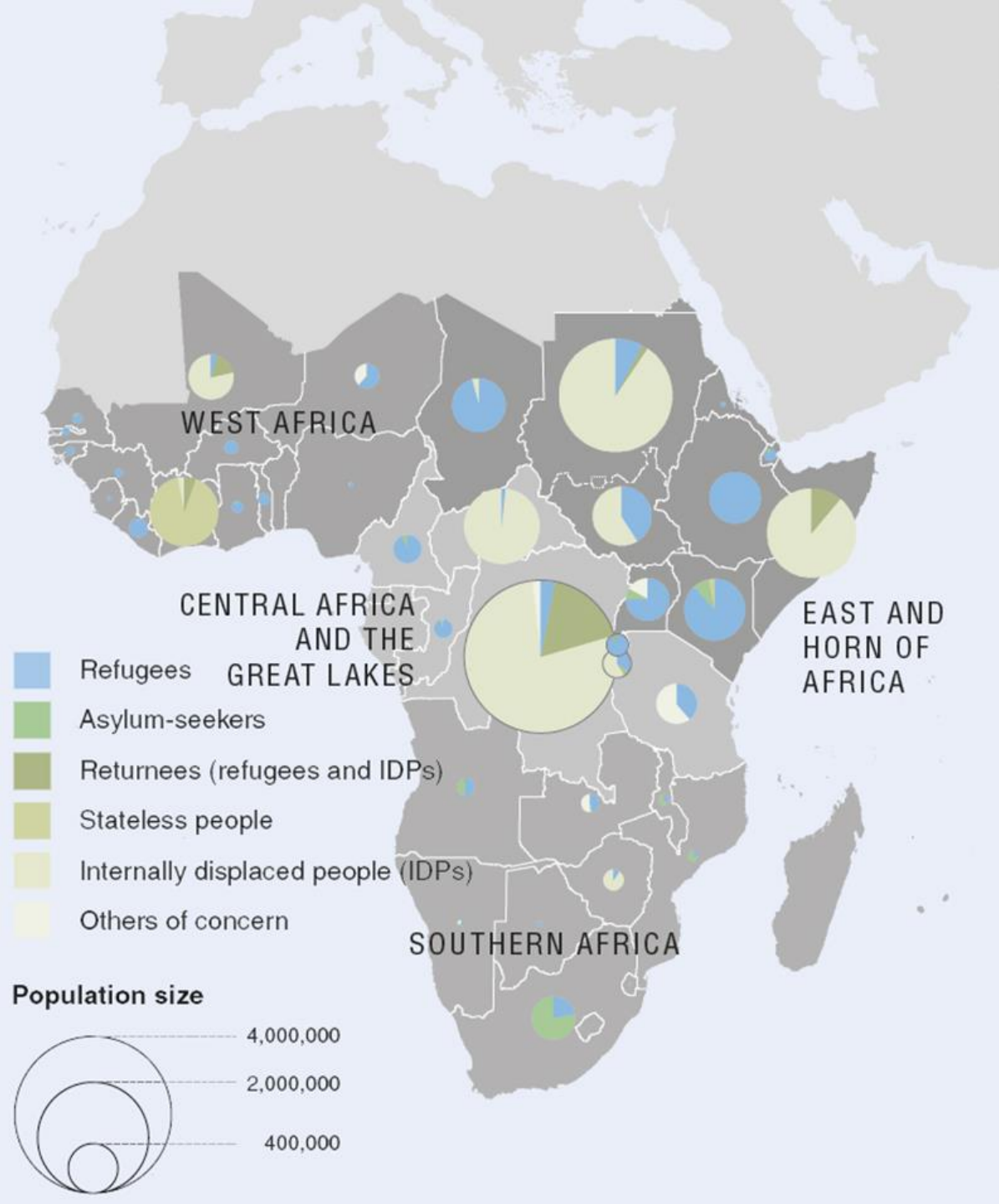
- Adopted by acclamation the **Brazil Declaration and Plan of Action**, agreeing to work together to uphold the highest international and regional protection standards, implement innovative solutions for refugees and displaced persons and end the plight of stateless persons in the region.

# Group Work

- Please read and critique the **Brazil Declaration and Plan of Action-**
- Assess for clarity, added value, and viability of implementation







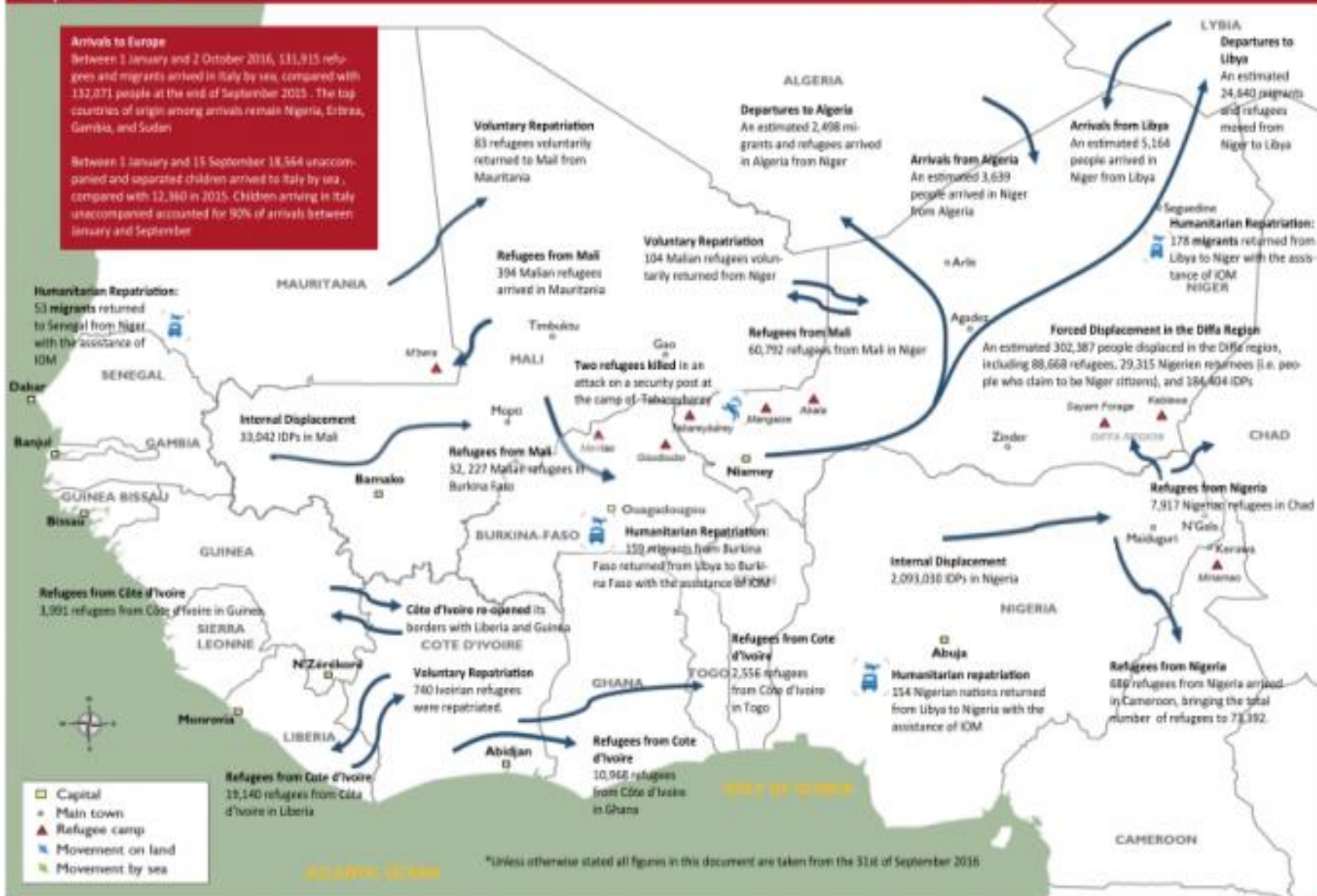


September 2016

## Arrivals to Europe

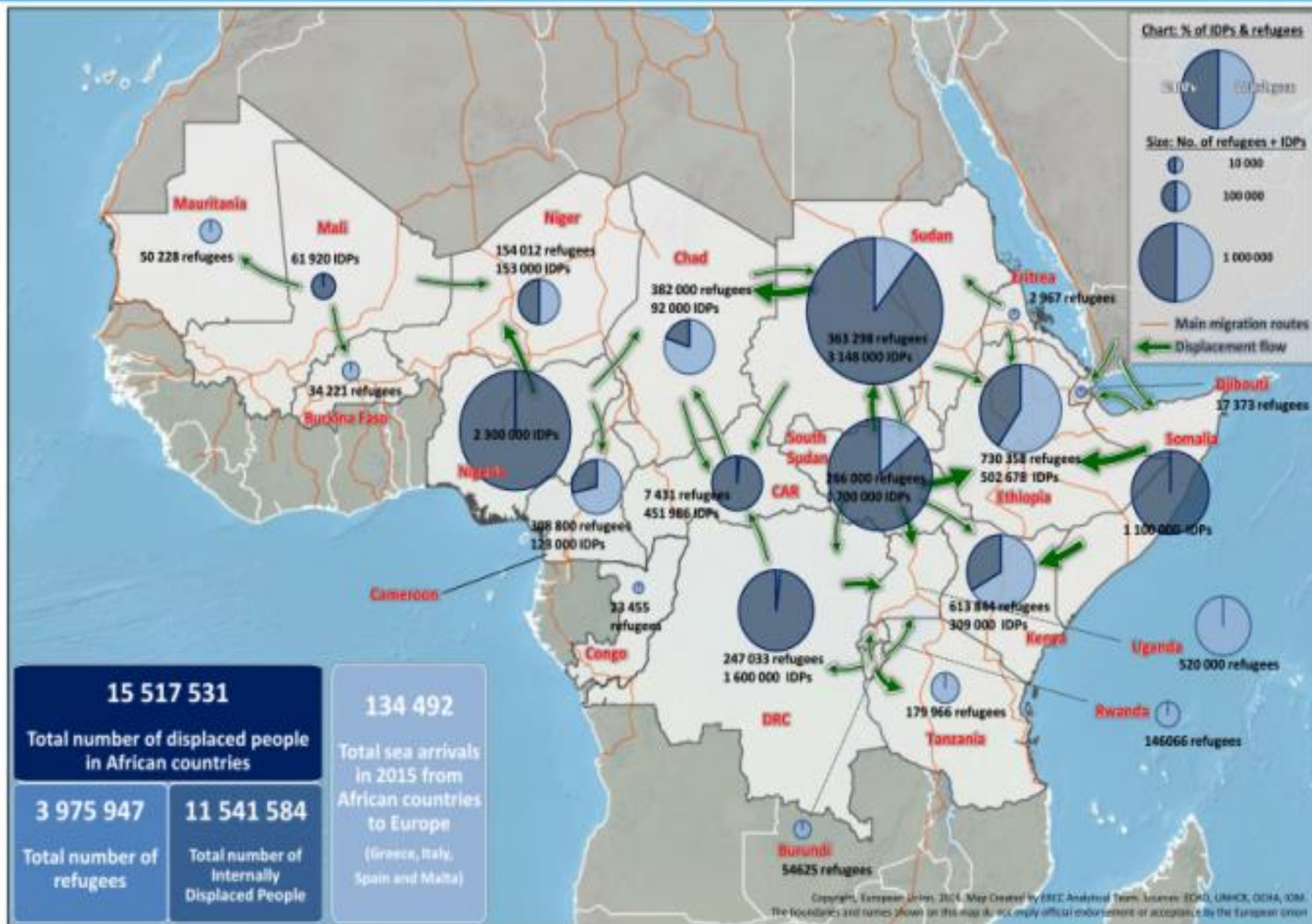
Between 1 January and 2 October 2016, 131,915 refugees and migrants arrived in Italy by sea, compared with 132,071 people at the end of September 2015. The top countries of origin among arrivals remain Nigeria, Eritrea, Gambia, and Sudan.

Between 1 January and 15 September 18,564 unaccompanied and separated children arrived to Italy by sea, compared with 12,360 in 2015. Children arriving in Italy unaccompanied accounted for 90% of arrivals between January and September.



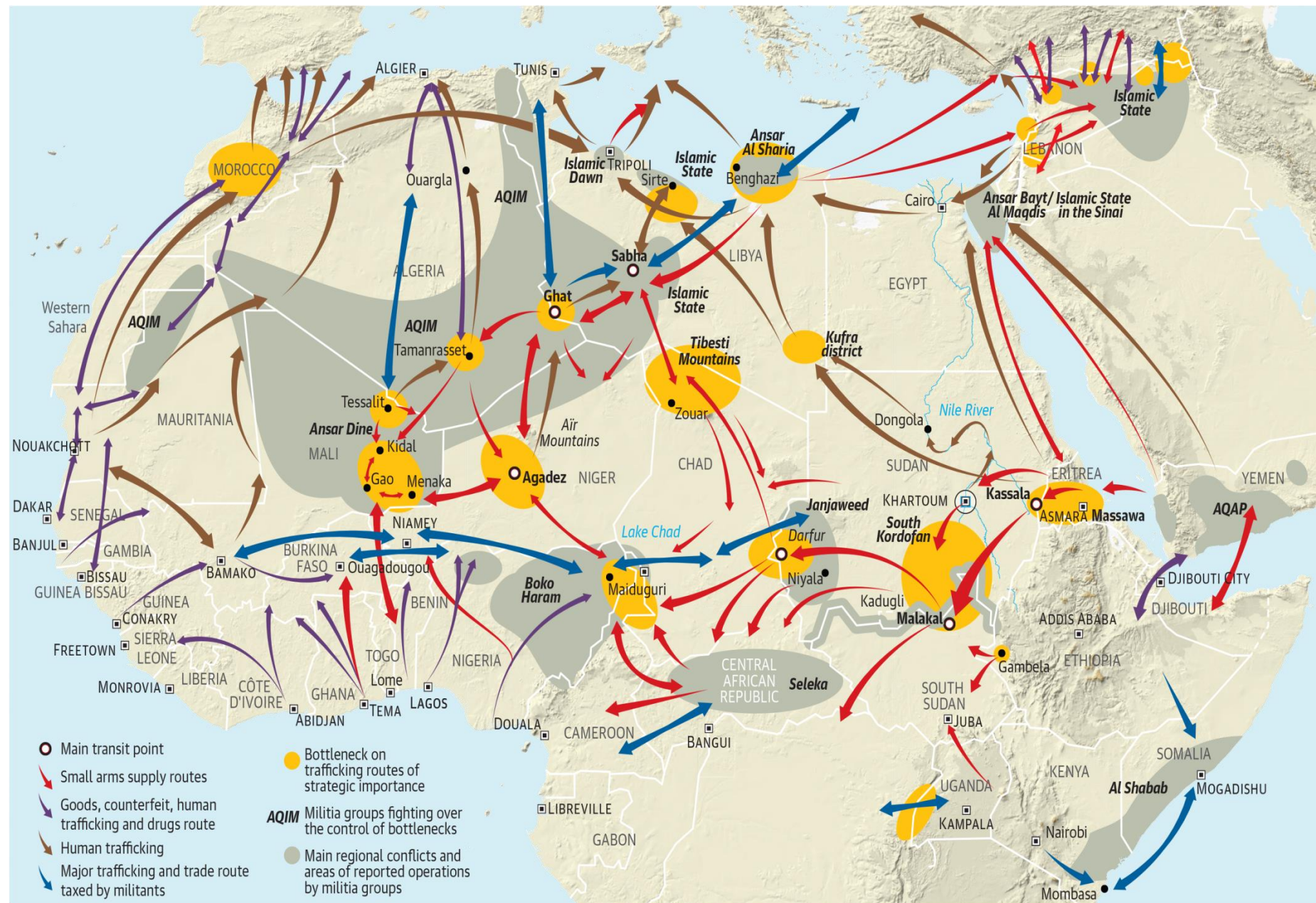
\*Unless otherwise stated all figures in this document are taken from the 31st of September 2016.







# TRANS-SAHARA TRAFFICKING



## OAU Convention Governing the Specific Aspects of Refugee Problems in Africa 1969

- **Accepts 1951 Convention refugee definition**
- **The term "refugee" shall also apply to every person who, owing to external aggression,**
- **occupation, foreign 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.**

## **OAU Convention Governing the Specific Aspects of Refugee Problems in Africa Article 3**

- 1. Every refugee has duties to the country in which he finds himself, which require in particular that he conforms with its laws and regulations as well as with measures taken for the maintenance of public order. He shall also abstain from any subversive activities against any Member State of the OAU.**
- 2. Signatory States undertake to prohibit refugees residing in their respective territories from attacking any State Member of the OAU, by any activity likely to cause tension between Member States, and in particular by use of arms, through the press, or by radio.**

# **OAU Convention article 2**

- 2. The grant of asylum to refugees is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any Member State.**
- 3. No person shall be subjected by a Member State to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in Article I, paragraphs 1 and 2.**
- 4. Where a Member State finds difficulty in continuing to grant asylum to refugees, such Member State may appeal directly to other Member States and through the OAU, and such other Member States shall in the spirit of African solidarity and international cooperation take appropriate measures to lighten the burden of the Member State granting asylum.**
- 5. Where a refugee has not received the right to reside in any country of asylum, he may be granted temporary residence in any country of asylum in which he first presented himself as a refugee pending arrangement for his resettlement in accordance with the preceding paragraph.**
- 6. For reasons of security, countries of asylum shall, as far as possible, settle refugees at a reasonable distance from the frontier of their country of origin.**



# OAU Convention Article 5

- 1. The essentially voluntary character of repatriation shall be respected in all cases and no refugee shall be repatriated against his will.
- 2. The country of asylum, in collaboration with the country of origin, shall make adequate arrangements for the safe return of refugees who request repatriation.
- 3. The country of origin, on receiving back refugees, shall facilitate their resettlement and grant them the full rights and privileges of nationals of the country, and subject them to the same obligations.
- 4. Refugees who voluntarily return to their country shall in no way be penalized for having left it for any of the reasons giving rise to refugee situations. Whenever necessary, an appeal shall be made through national information media and through the Administrative Secretary-General of the OAU, inviting refugees to return home and giving assurance that the new circumstances prevailing in their country of origin will enable them to return without risk and to take up a normal and peaceful life without fear of being disturbed or punished, and that the text of such appeal should be given to refugees and clearly explained to them by their country of asylum.
- 5. Refugees who freely decide to return to their homeland, as a result of such assurances or on their own initiative, shall be given every possible assistance by the country of asylum, the country of origin, voluntary agencies and international and intergovernmental organizations, to facilitate their return.

# African Protocol on Women's Rights, Article 4

- ensure that women and men enjoy equal rights in terms of access to refugee status, determination procedures and that women refugees are accorded the full protection and benefits guaranteed under international refugee law, including their own identity and other documents;
-

# African Protocol on Women's Rights Article 10

- Participation of women in the local, national, regional, continental and international decision making structures to ensure physical, psychological, social and legal protection of asylum seekers, refugees, returnees and displaced persons, in particular women;
- in all levels of the structures established for the management of camps and settlements for asylum seekers, refugees, returnees and displaced persons, in particular, women;

# African Protocol on Women Article 11

- States Parties undertake to protect asylum seeking women, refugees, returnees and internally displaced persons, against all forms of violence, rape and other forms of sexual exploitation, and to ensure that such acts are considered war crimes, genocide and/or crimes against humanity and that their perpetrators are brought to justice before a competent criminal jurisdiction.

# AU Kampala Convention for IDPs

- States shall refrain from, prohibit and prevent arbitrary displacement of populations
- Prevent political, social, cultural and economic exclusion and marginalization, that are likely to cause displacement of populations by virtue of their social identity, religion or political opinion

# AU Kampala Convention for IDPs

- Ensure the accountability of non-State actors concerned, including multinational companies and private military or security companies, for acts of arbitrary displacement or complicity in such acts.
- States Parties, as much as possible, shall prevent displacement caused by projects carried out by public or private actors

# Challenges

- Security in camps, poor location of camps
- Donor fatigue for protracted refugee situations
- Failed implementation of voluntary repatriation programs due to disease, political issues, etc.
- Sexual violence in and around camps