

**EXPERIENCE OF PROFILING BY SECURITY AGENTS ON THE RIGHTS OF NON-
REFOULMENT AND FREEDOM OF MOVEMENT AMONG SOMALI ASYLUM
SEEKERS IN EASTLEIGH SUB-COUNTY IN KENYA**

BY

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**A Project submitted in partial fulfillment of the requirements of the Award the Degree of
Master of Arts (Human Rights) of the University Of Nairobi.**

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DECLARATION

This is to certify that this research project is my original work and has not been presented for a degree award in any other university or institution of higher learning.

Signature

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This project has been submitted for examination with our approval as the university supervisors.

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LIST OF ABBREVIATIONS

ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Political Rights
OAU	Organization of African Unity
UDHR	Universal Declaration of Human Rights
UNHCR	United Nations High Commissioner for Refugees

DEDICATION

I dedicate this dissertation to my wife Miriam Orito.

ACKNOWLEDGEMENT

I wish to express my sincere gratitude to my supervisors, Dr. Jack Mwimali and Dr. Luke Odiemo, for their guidance and assistance from the initial stage, reading my work several times. I also acknowledge my family members and close friends for their great support throughout my research.

ABSTRACT

This research was undertaken to determine the impact of profiling of Somali asylum seekers on their human rights in Kenya with reference to Eastleigh in Nairobi County. Specifically the study sought to determine how profiling influences the right of freedom of movement of Somali asylum seekers in Eastleigh Sub-county; to investigate how profiling affects the right to non-refoulment of Somali asylum seekers in Eastleigh sub county; and to explore measures the state can take to protect human rights during profiling while maintaining national security. This study utilized descriptive research design which employed quantitative data. The research was conducted in Eastleigh Sub County. This research targeted both adult men and women over 21 years of age residing in Eastleigh sub-county. Stratified sampling was applied to obtain representative populations of different age sets (21 – 30 years, 31-40 years). The questionnaire was semi-structured in that it had both closed and open ended questions. The study involved quantitative data analysis techniques. The descriptive data was analyzed through percentages, frequencies, means and standard deviation. For Inferential statistics, the use of Chi square was utilized. Quantitative data was analyzed using Stata version 14 and presented in tables. Majority of the respondents were of the opinion that asylum seekers are affected by profiling operation in there residential areas. Majority of the respondents indicated they did not report the violation to any person or organization. According to responses from many of the participants the government of Kenya has not taken adequate measures to protect the rights of asylum seekers during profiling operations. There should be engagement between the Kenyan government and law and policy makers to come up with laws and policies that discourage discriminatory practices, and train security agencies to enhance teamwork and professionalism.

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CHAPTER ONE:

INTRODUCTION

1.1 Background of the study

The right to asylum is as necessary today just like it was in the past fifty years ago. Human populations and communities that have lived together for generations have continually been displaced by wars, conflicts and strife, causing millions to seek asylum in other countries, whether in Africa, Europe or the Middle East (Selm & Cooper, 2016). Due to the displacements problems countries that host huge numbers of asylum seekers end up with challenges which leads to the question of how this responsibility can be shared among different countries so as not to direct all the burden to one or a few nations (Gustavsson, 2016).

Profiling is the collection and examination of information about a person in an attempt to get an accurate idea of what they are like (Oxford, 2016). The right to asylum can be defined as the right to protection of an individual in a foreign country by the host state. It is a right that is guaranteed under the structured human rights for all that implies that everybody has the right to search and savor asylum for purposes of fleeing from persecution (UDHR article 14). Profiling can be categorized into two aspects. One, it is the formal process of examining why an asylum seeker wants to come in to a particular country for purposes of granting them refugee status (Refugees Act 2006). Secondly, it can be defined as the scrutinizing of an asylum seekers characteristic by law enforcement agents so as to determine whether they have criminal intent or inclinations. It is this second definition that this study seeks to examine, and its effects on Somali asylum seekers.

Profiling has been an issue facing asylum seekers globally. It is said to be the first process that occurs when the status of a person is to be investigated and its goal is to differentiate and categorize the needs of different people that are moving to a host nation. It is done based on age, education, socio-economic status, race, country of origin, religion, height among other characteristics. Profiling is mainly done where there are security issues facing a country due to an influx of asylum seekers. Considering the hostilities in the United States dated September 11 2001 issues on security have raised an alarm, even in the migration department, and is a topic of discussion, with given nations revisiting the way they treat asylum seekers when it comes to their security and in the process putting on more stringent measures when it comes to the admission of asylum seekers.

Another problem that has also resulted from the increase of relocation of people is the smuggling and trafficking of people. This has led to profiling of asylum seekers entering a country (Selm& Cooper, 2016).

By asking the question who the asylum seekers are, profiling is immediately placed at the heart of asylum protection. Profiling is often a result of cooperation with other organizations and can be a tool for strengthening partnerships. The capacity of sharing information will in itself put the asylum country in a stronger position when negotiating cooperation agreements with reception organizations, Non-governmental Organizations and other migration departments (Guy & Adam, 2007).

Profiling is usually conducted by security agents. According to Guy and Adam (2007), coordination between authorities in charge immigration and asylum, and the networks that are in charge of enforcing the law has highly been elevated. Procedures put in place to acquire a visa, carrier sanctions, re-admission agreements, and profiling are some of the tools that have been used by states to safeguard their territories from unlawful entry (Gustavsson, 2016).

From the year 2011 there has been a sharp increase in the figures of displaced people. Between 2014 and 2015 the numbers increased by 10%. Where in 2014 the displaced people in the world were 59.5 million, this number rose to 65.3 million in the following year. Among the increased figures 1.7 million were refugees, 2.6 million were internally displaced individuals while 1.4 million were asylum seekers. Gustavsson (2016) notes that the main causes of the sharp increase of these numbers was the crisis in Syria in addition to other global conflicts. In addition to the Syrian crisis other notable crises that contributed to the increase in displacement of people included the conflicts in Nigeria, Iraq, Burundi, Niger, Libya and the ongoing conflicts in Yemen, Congo, South Sudan and Afghanistan. With such a rise in figure of displaced individuals, states have been obliged to introduce measures to regulate the entry and access to asylum by persons fleeing their countries of origin for a better life(Gustavsson, 2016).

Worldwide, states have conducted profiling exercises as a measure of controlling access to asylum for certain nationalities. According to Selm and Cooper (2016), Australia intercepted and returned 41 asylum seekers from Sri- Lanka and conducted on board ship profiling of the asylum seekers status. According to Selm and Cooper (2016), the profiling procedures were not in accordance

with international law. Selm and Cooper (2016) suggest people who are seeking asylum have a right to be heard and their eligibility to get the asylum determined by qualified people in line with the stipulated law. As pointed out by the UN Executive Committee Conclusion No. 53 (1988), stowaway should not be forced to return to their home nation.

In the USA and Australia, profiling has also been conducted for asylum seekers arriving by boat. The two countries have used navy boats and coast guards to prevent migrants from entering the countries (Selm & Cooper, 2016).

Gustavsson (2016) research was done to assess the securitization of asylum and immigration in regard to social practices in political discourses at state and European Union level. The research deconstructed the discourses of political actors in France, Britain and EU in a bid to deduce the securitization process of immigrants and asylum seekers. The study found that criminals who pose as asylum seekers should be detained and deported to avoid cases of terror or crime in the host country. Border security should be responsible for doing this at the country's entry points. The study concluded that genuine asylum seekers should not be profiled based on race or religion, as this may create infringement of human rights.

In some European states interception at sea is practiced (Selm & Cooper, 2016). Some North African boats have been sent away in some of these coasts and the asylum seekers denied the chance to be heard. For instance, Italy performs interception in the Mediterranean Sea. UNHCR has urged the nations that are based on the European Mediterranean borders to be more committed to protection of asylum seekers especially after the increased deaths of asylum seekers in the sea.

In international case law, the Norwegian Ship MV Tampa, which in 2001 rescued 433 asylum seekers 75 miles from the Australian coast, the people were found on a sinking vessel. The Australian authorities had directed the ship to change course from the Australian waters towards Indonesia and told the captain that the asylum seekers would be prosecuted under the Australian Immigration Act of 1958 for alleged smuggling if it was seen on Australian waters. This incident observed that a vessel that does not belong to a country is neither a suitable area for the screening and categorization of asylum seekers, nor a floating detention center (Guy & Adam, 2007).

Legomsky (2012) did a study on ethnic and religious profiling of noncitizens in the USA. After the United States terrorist attacks that happened on 11th September 2001, the country authorities

took up security measures more so on people who were not citizens of America but living in the country. However the measures undertaken were mostly profiling young men who were Arabs and who followed the Islamic religion. Most of these young men were arrested and said to have violated immigration laws. The detention of noncitizens was done if the people were not to belong to the Al Qaeda group or were involved in activities that adversely affected the US, national security, economy, its citizens and foreign policy. A number of the deprivations subjected on asylum seekers such as denial of visa, detention and removal from the US are very serious because the effects on these people last long and are invasive to their rights. The study concluded that some of the profiling means used affect the victim's human rights and raise serious compatibility questions when it comes to the US agreement with the Race Convention.

One of the notable ironies of modern times is that nations that say that their procedures and systems protect asylum seekers are also the ones noted to prevent the same people from setting foot in their countries. Thus, many asylum seekers who come in such countries expecting to have access to proper living conditions, and social support are deported to other countries where their rights are not protected in line with the international requirements.

Regionally, in Africa, Tanzania noted that mass asylum seeker influxes to the country has resulted to the destruction of the country's environment, has been a burden to the people and the country's government and had led to more insecurity instances in the country (UN doc A/AC.96/SR.510 para 14 (1996)). A government representative noted that the burden of asylum could endanger national security, exacerbate tension amongst nations, and cause extensive damage to the environment and infrastructure (UN doc. A/AC.96/SR.520 para 77). For that matter, Tanzania launched a massive profiling exercise of Burundians residing outside of refugee camps. This involved Burundians that had lived self-sufficiently in the country from the 1960s. Most of these Burundians had lived in the villages, intermarried with the Tanzanians and mingled successfully with the communities. Throughout the time of profiling, a big number of Burundians were coerced to leave their homes, isolated from their families and also denied time to take away their possessions with them (Refworld,2013).

Morfo (2012) did a study on detention of Asylum seekers in Ghana. The study determined that asylum seekers are profiled based on race, ethnic background and religion. The asylum seekers who were black and Muslims were detained for no reason and assumed to be terrorists who were

a threat to the security of Northern Ghana. Asylum seekers from countries like Mali and Somalia were not given refugee status as they were assumed to be terrorists.

Adebayo (2005) investigated profiling activities in Nigeria. The study found that top officials and low ranked officers used forceful and violent powers in their operations in handling asylum seekers. He concluded that profiling by security officers has affected the freedom of movement of asylum seekers by forceful detention in camps or police stations. In Kenya Campbell (2006) noted that although refugees do positively impact the country's economy, there are anti-terror processes done by the government that often discriminate certain refugees more so those who are Somali in origin. According to Campbell (2006), asylum seekers have their freedom of movement limited by the policies which call for profiling of asylum seekers by the security officers with some detained. There are approximately 468,910 asylum seekers in Kenya, with 255,527 being Somalis.

Research has shown that profiling of asylum seekers infringes right to non-refoulment. Rikhof (2011) noted that people who have been accused of criminal activities in the past are always seen as suspicious and are often not granted asylum and if they are given asylum it is done in a limited manner. They are usually forcefully returned to their home country due to their criminal record despite them having a right to asylum and non-refoulment. Chambo (2005) in his study on the principle of non-refoulment in the context of asylum operation in Tanzania indicated that the closure of refugee entry points and profiling of asylum seekers like Congolese and Burundians led to sporadic expulsion of asylum seekers. This was found to contravene the principle of non-refoulment. Tanzanian's approach to asylum seeking changing from 'open-door' policy to limited respect of refugee rights led to restrictive admission policies, decreased durable solution opportunities, and general disregard of other human rights. Kiswii (2013) conducted a study on the effects of asylum seeker influx in Kenya. The study indicated that the asylum seekers especially Somalis are viewed as terrorists and hence are usually forcefully returned to their home countries with very few getting asylum in Kenya.

In Kenya, there has been an influx of Somali asylum seekers since 1992 after the fall of the Siad Barre regime. This has led to security concerns within the country after Somali nationals fled to Kenya to seek asylum. With the increasing of asylum seeker populations in the country, coupled with an increase in deadly terror attacks, there has been a conflict between Kenya's obligations to

offer protection to Somali asylum seekers as a basic human right, versus maintaining national security.

In Kenya, law enforcement agencies, including the police, have continuously conducted profiling as part of security operations to expel illegal foreigners. In criminal case number 85 of 2017, at the Mwingi law court, police intercepted 29 Somali Asylum Seekers who were profiled and later denied access to the refugee camps by the government camp manager. The asylum seekers were later deported to Somalia despite a court order to have their legal status determined by the Refugee Affairs Secretariat. In response to the recent terror attacks that Kenya has experienced, the government has been compelled to initiate security operations in order to tackle rising insecurity. One of the security operations the government has implemented in order to suppress the terror attacks was announced in April 2014 by the Cabinet Secretary for internal security, as a government project to crack down on terror (Amnesty International, 2014). Law enforcement agents, including the police and intelligence officers, were tasked with identifying and arresting illegal immigrants who were suspected of engaging in criminal and terrorist activities. The intention of the government was to arrest and deport persons who were found to be unlawfully present in Kenyan territory. Under the Citizens and Migrations Act (section 33), persons found unlawfully present in Kenya should be deported to their country of origin after being convicted of the offence of unlawful presence. The profiling operation sought to identify and arrest terrorists and terrorist sympathizers, and was based on the argument that the presence of Somali asylum seekers has jeopardized internal security in Kenya (Amnesty International, 2014).

According to Human Rights Watch, (2010), every year Kenya police intercept and profile an unknown number of Somali asylum seekers entering Kenya at the Liboi border point. Kenyan authorities have been mandated to control the border points by filtering the persons who are not supposed to enter the country and permitting those who have the right to enter the country in order to secure the nation's interests (Kenya Immigration Act 1967). Although the country has a legal mandate to reject foreigners from getting into the country on matters security, the law does not give clearance for refoulment (Refugees Act 2006). The Kenyan and international law further prohibits the refoulment of anyone to a situation where they would be subjected to uncertainties and/or degrading, inhuman and cruel treatment and threats of torture (UN Convention Against Torture and Degrading Treatment, 1992).

Kenya's profiling operation was specifically launched targeting persons of Somali descent mainly residing in Nairobi's Eastleigh, South C and Komarock estates of Nairobi, and took place between April and December 2014. This targeted exercise of profiling of Somalis is what this research aims to explore, and its human rights implications on the right to asylum as incorporated in the 1951 Refugee Convention, the 1969 OAU convention, and the Kenya Refugees Act of 2006. Kenya is a host to a majority of asylum seeker population with the a big number of individuals worldwide. At the end of May 2018, the asylum population in Kenya stood at 468,910 persons, with 69,996 registered in Nairobi, 186,088 in Kakuma, and 208,616 in Dadaab. According to Mutambo (2016), the growing perception is that most asylum seekers, in particular Somalis, are harboring terrorist elements among the refugee population residing in Kenya. This perception has led to resentment towards Somali asylum seekers who reside in the refugee camps as well as in Nairobi. This perception has also led the government to profile the Somali asylum seeker population residing within its territory so as to effectively eliminate criminal elements amongst refugees. The profiling has however targeted Somali asylum seekers residing in Nairobi (Yusuf, 2013). Somalia has been experiencing internal armed conflict which has made the country to have the highest number of asylum seekers in East Africa. They occupy the major refugee camps in Kenya with a large number of them entering the country illegally as they run away from war in their country. The security agents and other concerned parties carry out profiling activities on the Somalis in order to ensure that they have the records on their number and ensure that it is only those who need asylum have been given asylum. According to Mutambo (2016), the perception that the growing number of Somali asylum seekers strains the economic resources in Kenya has led to resentment towards Somali asylum seekers who reside in the refugee camps as well as in Nairobi. This perception has also led the government to profile the Somali asylum seeker population residing within its territory so as to avoid conflict with the Kenyan population. The profiling has targeted Somali asylum seekers residing in Nairobi as majority are in the country illegally (Yusuf, 2013).

1.2 Statement of the problem

According to Verdirame (2014), there has been an influx of asylum seekers in Kenya from other nations such as Ethiopia, Burundi, Rwanda, Democratic Republic of Congo and Somalia. In the case of Somalis, the fall of the Siad Barre regime caused an influx of Somali asylum seekers into

Kenya. With the increase of asylum seekers in the nation, coupled with an increase in deadly terror attacks, there has been a conflict between Kenya's obligations to offer protection to asylum seekers as a basic human right, versus maintaining national security (Kagwanja, 2010). National security concerns have prompted the Kenya government to take actions against persons who are suspected of terrorism (Amnesty international, 2014).

Al Shabaab has prompted the State to react in efforts to protect its citizens. One of these actions has been to conduct profiling activities of asylum seekers in order to screen and identify criminals. The law enforcement agents have randomly arrested asylum seekers for purposes of checking their identification documents, their legal status in the country, and to find out their reasons for being in Kenya (Amnesty international, 2014). This begs the question, do law enforcement officers adhere to human rights standards when they conduct security operations? Such rights include right to liberty, freedom of movement; right to family life and unity; and the right to non-refoulement. Is there a probability of violation of rights that are committed by the police during profiling exercises? This study sought to invoke scholarly attention to the issue of profiling and its effects on asylum rights.

Kitur (2016) did a study on refugees as threat to national security in Kenya. The study found that asylum seekers and refugees cause insecurity in host countries as majority seek asylum as a result of hostilities in their countries. Kirui and Mwaruvie (2012) conducted a study on the dilemma of hosting asylum seekers in north-eastern Kenya. The study found that host government often formulates policies that are unfavorable to the asylum seekers. Verdirame (2014) investigated human rights and refugees in Kenya. He found that family members especially men were arrested at the entry points. The studies do not bring out the profiling aspect and its impact on rights asylum seekers in Kenya. This creates a research gap that this study sought to fill by establishing the impact of profiling by security agents on the rights of Somali asylum seekers in Eastleigh sub-county in Kenya.

1.3 Objective of the study

This research main objective was to explore the impact of profiling of Somali asylum seekers on their human rights in Kenya with reference to Eastleigh in Nairobi County.

1.3.1 Specific objectives

Specifically, the study sought to:

- i. To determine how profiling influences the right of freedom of movement of Somali asylum seekers in Eastleigh Sub-county.
- ii. To examine how profiling affects the right to non-refoulment of Somali asylum seekers in Eastleigh sub county.
- iii. To determine the measures the state can take to protect human rights during profiling while maintaining national security.

1.3.2 Research questions

- i. To what extent does profiling affect freedom of movement of Somali asylum seekers in Eastleigh sub county?
- ii. In what ways does profiling affect the right to non-refoulment of Somali asylum seekers in Eastleigh Sub County?
- iii. What measures can the state put in place to protect human rights during profiling?

1.3.3 Research Hypothesis

H₁: There is a relationship between profiling and the right of freedom of movement of Somali asylum seekers in Eastleigh Sub County.

H₂: There is a relationship between profiling and the right to non-refoulment of Somali asylum seekers in Eastleigh Sub County.

H₃: There is a relationship between measures the state can take and the rights of freedom of movement and non-refoulment.

1.4 Justification of the study

The right to seek and find joy in asylum is promised for any persons running from their home country due to persecution as stated by the Universal Declaration of Human Rights, the right to seek and enjoy asylum is guaranteed for any individual fleeing their country due to persecution (UDHR Art 14.) The 1951 Convention and 1969 OAU convention also protects asylum seekers from being punished when they cross international boundaries in order to save their lives.

However, due to national security concerns, police and other law enforcement agencies conduct profiling for persons entering the territory or already residing within its boundaries in order to flush out illegal migrants.

Profiling exercises came to be in Kenya after continued terrorist attacks on civilians, allegedly conducted by Somali nationals. However, its efficiency has been highly questioned due to the alleged use of force and selective targeting by the police during the profiling operation on persons perceived to be of Somali origin, on the basis that they are the cause of insecurity in the country (Mohamed Guleid, The Standard 2014).

Worldwide, there have been researches on how profiling has affected asylum seekers in different countries. However, few researches on profiling exist in Kenya. This study will therefore seek to determine if the government adheres to protect human rights of persons being profiled. It sought to establish if there exist violations of human rights during the profiling exercises in Kenya.

This study may therefore provide a basis for policy development on the exercise of profiling for law enforcement agencies in Kenya. The findings of this study may assist the Kenya government in formulating procedures that respect human rights during profiling. The study may also assist humanitarian actors, civil society and other stakeholders in advocating for protection of asylum rights. Findings from this study may aid in the revision of the Refugees Act of 2006 which is currently being debated in parliament.

Further, this research may provide a basis for further studies on asylum profiling and human rights in Kenya. Scholars may benefit from the study by acquisition of literature for their assignments and further academic research.

1.5 Scope and limitations of the study

This study sought to determine the influence of profiling on the rights of Somali Asylum Seekers in Eastleigh Sub County. The specific rights examined were the rights of freedom of movement and the right to non-refoulment. Factors such as age, gender, education, marital status, family background, and socio-economic status were included in the study as confounding variables.

Due to the wide spectrum of national security and asylum rights, it is not possible to investigate comprehensively all the inter-relationships between profiling as a means to achieve national security, and its interaction with asylum rights. The profiling exercise this research sought to

examine took place nationwide, but this study geographically limited itself to profiling of Somali asylum seekers in Eastleigh sub-county by police officers. This was justified by the fact that there is a predominance of the Somali asylum seekers residing in this area, and therefore, by and large, the target of law enforcement profiling operations.

Temporally, profiling activities often take place in Kenya as a government reaction to emerging security threats. However, this study will limit itself to effects of profiling conducted in a specific time period, between 2nd April 2014 and 12th August 2014. Within this period, the then Cabinet Secretary of Interior and National Security, declared the profiling exercise and gazetted Kasarani sports Stadium as an official police station (National Police Service Act, Gazette notice 2719).

Key limitations envisaged in the study included obtaining the correct sample size from the population, as well as the data collection instruments to be utilized during the research limited the study. Secondly, the research is dependent on the feedback and cooperation of key informants who are Somali asylum seekers. The information obtained from the sources may be biased based on the respondents' personal opinions. Confidentiality also limited the study. Asylum seekers were considered a vulnerable population, and subsequent protection of their individual identities. Language barrier was limitation as majority of Somalis can only speak Somali language and would require an interpreter when administering the questionnaires.

1.6 Definition of terms

Asylum is the protection given by a country to an individual who is a political refugee because he or she has fled from their home country.

Asylum seeker refers to an individual who has entered Kenya and wishes to in the country as a refugee, and who intends to have their asylum claim determined (Refugees Act 2006).

Profiling for the purposes of this research, profiling is defined as the scrutinizing of an asylum seekers characteristic by law enforcement agents so as to determine whether they have criminal intent or inclinations.

Refoulement involves the forcing of asylum seekers to return to their home country even though such persons might be persecuted in their home country (1951 Convention Article 33)

CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction

The objective is to evaluate past research on profiling activities on asylum seekers. The study will also examine different forms of profiling, and the confounding variables that influence asylum seekers' right to asylum. This chapter will also outline the theoretical framework, as well as the research gaps. Profiling is the process of collecting and examining information about a person in order to get an accurate idea of what they are like (Oxford, 2016). It is defined as a process that precedes any formal status determination procedure, and aims to identify the needs of, and differentiate between, categories of persons travelling as part of mixed movements as soon as possible after they arrive in the host State. It is done based on age, education, socio-economic status, race, country of origin, religion, height among other characteristics. Profiling is mainly done where there are security issues facing a country due to an influx of asylum seekers.

Bond (2015) defines formal profiling as the one that is done by security agents in order to identify criminals. Sabrineh (2015) cited that actually most asylum seekers do not know about the availability of the counsel and hence they end up not paying attention to the laid out rules in the United States regarding a one year filing time limit. 15% of asylum seekers who did apply from 1998 and 2009—53,400 people—received rejection on their application as a result of the same. She noted that increased detention will greatly exacerbate this problem. Hassan (2010) said that the asylum seekers are only interested in gaining from the advantages that come with being in the country of asylum, and also the fact that the Western nations are kind to let them live in their countries.

Bosworth (2016) pointed out that there are modern policies such as the mandatory detention of unregistered immigrants and their children that are an outright violation of these individuals' rights. The US law further terms such policies unconstitutional (Welch 1999). His conclusion was that the poor treatment of such individuals is often disregarded when it comes to human rights and most governments often deny abusing such rights on the basis that these people are not citizens of the countries under scrutiny (Welch 1999).

Marta (2016) points out that the increased arrival of immigrants in Hungary led to restrictive measures being put up such as the construction of strong fences along the border lines of Croatia and Serbia and the criminal code was changed where unauthorized individuals who entered the country could be jailed for a period of three years or more. Her conclusion was that the measures pointed out did not meet the human rights commitments of the country and they were an infringement of the immigrant's human rights since the entering of a country and seeking of asylum is not a violation of any law.

Notably, Egypt has been an important country for most Mediterranean immigrants as they seek asylum and cross to other nations from here. Since the crisis in Syria and Gaza started Egypt has been the destination for many refugees from Palestine and Syria. However, there are many Africans that have been found in the country's jails after being reported missing and trafficked by the Bedouin tribes (Yasmine, 2010). At first Egypt openly welcomed the Syrian asylum seekers but today many of them are found in the country's jails. Additionally, most of these asylum seekers refugees who choose to flee the country due to the inhuman treatment are arrested and shot at even when found in the Egyptian shores trying to leave for Europe (Malek, 2008). In legal terms the status of these immigrants is unknown since they shuffle between criminal and immigrant status. According to the Global detention project there are approximately 60 detention facilities that are prison cells used to detain immigrants in the last few years (Van Reisen, 2014).

Profiling has been experienced in Finland. Persons especially from African and Middle-Eastern countries and the Roma people report unjust treatment by the police and distrust towards the police (Hautaniemi, 2004; Saari, 2009; Egharevba, 2004). These studies report experiences of being stopped in the street or while driving a car and being asked to show ID-cards, as well as other activities that can be referred to as ethnic profiling. A large-scale study that focused on the standards of living of 3 migrant groups within Finland showed that over 25 percent of the Kurdish, 15% of Somali and 7% of Russian respondents had experienced being discriminated by the police (Castaneda et al, 2012).

Many of the recent events of social unrest and riots in multi-ethnic residence areas in European countries, for example in the UK, France and Sweden, during the last decade have started as a reaction to police actions (Castaneda et al, 2012). Although the background to these riots is more complex and relates to the racial and socioeconomic inequalities that characterize European

societies, the triggering cause has often been actions by the police that have been violent or otherwise experienced as unjust by the inhabitants of the residence areas. Ethnic profiling is a central practice that has been mentioned in interviews conducted in the residence areas after the riots. Many international studies have indeed shown that those belonging to radicalized minorities are stopped more frequently than majority of persons in public places, often by the police but also by security guards, border control and other control actors. In the US Between 2000 and 2010 there was a bigger number of blacks and males from the Latin population as compared to other years. The rate of increase was 319%. Increased incarceration rates have also become part of the immigrations policies provided in modern society.

Researchers have located the main reasons of why racial profiling turned into a major political question in the 1980s and 1990s is the use of traffic stops in “the war on drugs” and the stop and frisk tactics and different zero tolerance policies. The main body of racial profiling research has been done in the United States and is methodologically quantitatively oriented. An essential research question has been the scope of racial profiling: to what extent are stops exercised in a racially proportionate or disproportionate way? Although abundant in number, the body of US research is quite divergent. Some scholars have focused on traffic stops, others on profiling at airports, and yet another group of scholars on how profiling occurs in commercial spaces. According to the US-based research, racial profiling occurs in various everyday environments. Phrases such as “driving while black” and “shopping while Black” have been developed to reflect the results of the quantitative studies. Particularly those categorized as black, and to some extent those categorized as Latinos, suffer from heightened police scrutiny in various spaces. Moreover, it has been indicated that, compared to white people, black and Latino populations consider the stop and search practices of the police more inappropriate and illegitimate. Finally, some scholars have reminded that racial profiling is not only related to race or ethnicity, but it is also a question of gender and class as well. The risk of being stopped and searched is relatively high for men, particularly if they are black. Furthermore, men consider the police control that targets them more illegitimate than that which targets women.

In Spain, a national survey on police ethnic profiling was conducted in 2013. It indicated that members of a minor ethnicity are more likely to be suspected by police than members of the ethnic majority population. For certain minorities, such as the Roma and groups of North African origin,

the numbers were even higher. The survey was carried out by the Human Rights Institute of the University of Valencia and Oxford University in the UK. The survey concluded that the over representation of minority ethnic groups in Spain's prisons is a product of police racial profiling practices.

Profiling is based on age, gender, education, religion, socio-economic status and family background among other characteristics. Age is a major profiling aspect of asylum seekers. Age is a factor that determines if the person seeking asylum will be granted his or her wish and how he will be treated in the circumstances at hand. Children are also given or denied access to healthcare and education based on their age. The young people are the main population that has to seek asylum.

Lundman and Kaufman (2013) explain that 83% or more than five of the immigrants in African in 2016 were aged below 34 years. The asylum seekers that were aged between 18 and 34 years were 51% of the total first time immigrants and 32% of the first time applicants for asylum were minors aged below 18 years. These age statistics were common in all the eight largest African nations that had the largest asylum applicants. According to Reitzel and Piquero (2016) more than 44% of asylum seekers globally are below the age of 18. Governments verify the ages of those who claim to be minors with the assistance of physicians since people may take advantage of this. Article 7 of the UNC on the context of children supports that age is key to the realization of rights and needs of the community.

Gender is another characteristic used in profiling. During the drafting of the 1951 Convention Relating to the Status of Refugees ('the Refugee Convention') gender was omitted since it is not one of the convection grounds listed by the convention that can be used to seek protection by a refugee under international law (Haines, 2009). However, gender is an important factor and it affects the persecution of immigrants. Many women seeking asylum they suffer the same fate of harm and in humane treatment as others (Crawley & Lester, 2004). The reasons for targeting women might be that they are community organizers, political activists, they fight for their rights, those of the community or others in the society or that they are members of women movements that are involved in the named activities. Of note is that women experiences are different because their activism, protests and resistance can be seen in different ways. Additionally, women cry for justice and protection of human rights might be ignored by policy makers on the basis that they

are living alone, they are single mothers and they might also face more exploitation, harassment and violence in countries where they are seen as the weaker sex (Crawley & Lester, 2004).

The experiences of the men due to displacement and forced migration are increasingly being recognized in different contexts. Just like women, gender is an important factor to men and it can affect their decision to flee or their ability to access protection or refugee status (Spijkerboer, 2010). For example, men are more likely to be forced to be part of militia groups or recruited by army groups to fight in conflicts. Additionally, during conflict men often lose their jobs and their status as bread winners which are interlinked with their identity as husbands, fathers and men. Men are also subjected to social sanctions and other harassments if they are seen as not following the traditional ways of masculinity.

Research done on men seeking asylum has shown that their experiences and vulnerabilities are not always highlighted. Of note is that they often are victims of sexual violence which is not always highlighted. Spijkerboer and Jansen (2011) note that, sexual violence against men has been pinpointed in more than 25 armed conflicts especially for men who are detained. Most men will not report such incidences as there is a lot of stigmatization for men victims and very few mechanisms and support systems are available for men who are victims of sexual violence. Due to such issues and the silence that is often associated with the experience, sexual violence in times of conflict is missing in most conflict information (UNHCR, 2010). Further, in the context of legal basis sexual violence is often treated as torture.

Gender minorities' experiences in times of conflict are another notable group that is being highlighted (Spijkerboer, 2010). International Alert in their recent report looks at the different vulnerabilities to threats, violence and discrimination of people that result due to their gender or sexuality in addition to their legal and national status (UNHCR, 2010). There is situation that crop up in different forms, degrees and stages of migration as the Immigrants move from their home country to other countries while seeking asylum. The risks faced by gender minorities are similar to the ones faced by heterosexuals and they become worse if peer support is non-existent or if the individuals gender identity, sexual practices or orientation is revealed (Crawley & Lester, 2004). Further the risks might also be higher if the heterosexual is seen to be non-conventional by others.

Education is a major characteristic used in profiling asylum seekers. Asylum-seekers have a right of access to basic, secondary and tertiary education. These groups possess little socio-political power, and therefore struggle to access rights in their host country. Socio-economic rights, of which education is one, are already an embattled category of rights for citizens. In attempting to access education, asylum seekers of all ages and at all levels face barriers to education that limit their human rights. Barriers to the right include the lack of enabling documentation, fees, access costs, admission policies and language difficulties. Age and grade-placing are also concerns, specifically with respect to basic education. Hathaway (2002) estimated that fewer than half of asylum seeker children receive[d] even elementary education. Greater challenges exist for asylum-seekers trying to access secondary and tertiary education. Fees exemptions are not routinely available for higher levels of education, the responsibility of the state to assist is greatly reduced or non-existent and access to enabling documentation remains a crucial difficulty for students in these circumstances.

The effect of the education policies on education institutions is not the same. International organizations that volunteer to help vulnerable children like the Children's society, UNICEF and Save the Children are in agreement that the modern day laws put up in regard to immigration are likely to affect refugee and asylum seekers children in a negative manner. One of the notable observations that has been determined by the organizations and the named researchers is that countries always treat the children in these situations as asylum seekers first ignoring that they are children that are in need of education and social protection. The result is that these needs are often ignored.

Kao (2004) is the opinion that asylum seeker parents that might have a hard time understanding the system of education in the new country, those who find it hard to access education facilities for their children or communicating with teachers due to language barrier or other reasons can find help in social capital to successfully ensure their children access educational facilities in the new country. However, some countries lack social capital and this might be a barrier in itself when it comes to refugee children accessing education in such countries. Ofsted (2003) and Remsbery (2003) note that their observations is that many of these children and their families find themselves in places where the education system is not ready to accommodate them.

Since there is no data that explains how this group of students is fairing in the local and international scene, there is little support rendered on these students when they seek for education. Data on the presence, admission and attainment of education of asylum seekers and refugees children can help in the provision of educational support and in the monitoring of their progress in schools. One of the issues that have come up in recent years when it comes to meeting the needs of refugee children is the securing of their right to education. Even refugee children who are doing well in schools are often seen as a threat to the school's achievements and standards (McDonald, 1998). However, educational institutions have a choice to exclude asylum seekers students or pupils who are learning English as a second language from the results of the tests done more so if the students have been in the country for two years or less (McDonald, 1998).

Religion is another major factor considered in profiling of asylum seekers. The law provides the provision that people seeking asylum on religious persecution should be given a chance to be heard. However, the provision of asylum based on religious application can be complex and challenging because of the personal and internal nature of religious beliefs (Krishnaswami, 2009). Further, religious persecution violates multiple human rights and it is also characterized by other complex issues that have to do with people politics, conflicts, identities and radical beliefs (Odio, 2008).

In most of the developed western nations there are strict immigration laws that discourage asylum seekers from going to these countries to seek for refuge (Amor, 2010). However, the reasons why people are seeking asylum are increasing by day which has led to less asylum protection (Pedersen, Attwell & Heveli, 2005). This situation is especially serious in places where individuals can only access their rights if they are citizens of the country in question (Allport, 1996). In the midst of these problems, religious organizations and facilities have provided refugees with what they need and have advocated for the protection and acceptance of the asylum seekers (Krishnaswami, 2009). One of the main causes for individuals to seek asylum is religious persecution and even when the person is in a refugee camps they are likely to fear for their lives (Amor, 2010). Still faith is an important factor when it comes to asylum seekers being able to respond to their immigration situation. It is also a factor that motivates the refugees to seek asylum and for others in an able capacity to help them. Faith based institutions are a key part of mechanisms that accept and help asylum seekers (Pedersen et al, 2005). They are ready to help because of their history where they

have in the past helped the needy, outcasts and strangers. Therefore when it comes to understanding the complex issues of asylum seekers we cannot ignore the major role of religion, spirituality and faith.

Faith-based individuals and institutions are important in the global protection of those in need of protection (Amor, 2010). However, while these organizations are recognized and encouraged to collaborate with other organizations, there is little recognition of faith and spirituality issues affecting the society (Allport, 1996). Additionally, there is little collaboration when it comes to understanding the situation and reasons for individuals who are seeking asylum between the secular and faith based organizations. Further secular institutions often essentialise “religion” and “religious actors” on the basis of what they believe spirituality and faith to be (Pedersen et al, 2005). The result is that people only recognize certain religions and their beliefs and leadership styles while in essence the religious formations at local levels might be very different.

Asylum adjudicators will often have a difficult time understanding and deciding whether to give asylum to individuals who are seeking it on religious persecution grounds (Allport, 1996). Religious affiliations might be characterized by group identities based on nationality and race or voluntary characteristics such as social or political groupings but may also be characterized by other beliefs and activities (Krishnaswami, 2009).

When it comes to assessing asylum claims on the basis of religious persecution there are three key things that jurists making the asylum decision should understand (Odio, 2008). For a person seeking asylum based on religious persecution basis one of the three claims should be in existence or a combination of the three. However, in some cases other religions facets will exist although the three discussed are almost likely to be present (Krishnaswami, 2009). One of such facets is religion as a set of beliefs. Such beliefs might include karma, the Nicene Creed, the transmigration of souls, the wisdom of the Lotus Sutra, the thirty-nine articles of the Church of England, the dharma of Hinduism, or the five pillars of Islam (Allport, 1996). The person seeking to persecute the asylum seeker might term these beliefs as superstition, heresy, apostasy, or blasphemy. Leaders who are advocating for such beliefs might also be said to be false prophets, tricksters, cult leaders, or blasphemers who are mind controlling or manipulating others (Krishnaswami, 2009). Other instances where persecution is common is in cases where individuals convert to other religions that might not be common in an area a common example is the conversion of a Muslim from the

Saudi or Pakistani region to Christianity. In other cases groups of people might be said to be heretics and be prosecuted despite them following the same religious beliefs as their persecutors (Oodio, 2008).

Religion as a belief is an easy to understand facet of religion for jurists deciding on the fate of asylum seekers. However, religion as an identity is another facet of religion that is not as easy to understand although it is the most common cause of religious persecutions in the world (Krishnaswami, 2009). When it comes to the issue of religion being an identity it touches more on it as a belief and becomes more of an issue in regard to it as a form of ethnicity, family, nationality and culture. Someone might term themselves as a Christian although he or she has not been in a church for many years and have not read the Bible or known about it for their lives (Allport, 1996). Others will regard themselves as Muslims because their relatives were born in a given country. For instance many people consider residents of Russia to be Orthodox while in Armenia residents are considered to be Christians and those living in Uzbek are often considered as Muslims.

Today, religion is often seen as a group of individuals that have similar beliefs who associate with each other as discussed above (Oodio, 2008). In instances where religion is treated as in principle private and in principle as a belief such as where believers are believed to attend a church on different times and behaving in a given way, the beliefs of a particular religion are shown and manifested in such times as in funerals, baptism, high holidays and marriage occasions. For instance, in most nations Christians go to church on Sundays and the Christian holidays are celebrated as national holidays. Religious manifestations might be limited to such occasions (Krishnaswami, 2009). However for some religion might be part of everyday life. It might be characterized by praying five times in a day, wearing of certain clothes, refusal to eat certain kind of foods, constant efforts to tell others about the religion, shaving of heads or growing of beards. This is the facet where religion is seen as part and parcel of human activities. Persecutors will persecute such people because they live a different way of life or because they use a language that is seen to be of zealotry and fanaticism. Religious individuals whose every part of their lives revolves around their religion are seen as fanatics (Allport, 1996).

Socio-economic status of the asylum seekers is considered in the profiling exercise of asylum seekers. Politicians and the media will in most instances paint a picture of asylum seekers as either people who are in genuine need of protection or as people who only want to take advantage of the

host nation policies for their personal or economic benefit (Lewis, 2015; Every & Augoustinos, 2008).

Aduwa (2015) found that encampment policy has composite effects on livelihoods of asylum seekers especially the youth and more specifically their ability to achieve economic self-reliance, acquisition of not only basic but also quality formal education and their mental and preventive health. The study recommended measures that can be undertaken to mitigate encampment's effects on the youths including construction of more schools and provision of more material resources and trained teachers; prioritization of secondary and tertiary education to alleviate effects on youths' education; investing more on the economic empowerment of asylum seekers by facilitating them to establish income-generating activities; recruiting more counselors to provide counseling to asylum seekers and initiating "accelerated" education programme to provide education to "mature" learners and to engage more children and youth in the arts, music, sports and cultural activities.

Asylum seekers are mainly poor both economically and socially. For example, poverty levels in sub-Saharan are significantly high (Aduwa, 2015). The end effect is that the number of asylum seekers in countries with better economy has increased. In Australia the condition of asylum seekers is dire with many living as destitute, others in houses without basic amenities such as refrigerators and beds (Selm & Cooper, 2016). The services that offer some support for asylum seekers are overwhelmed by the high numbers of the individuals in need and the resources they need to get by. Most of these individuals cannot access basic items and services that most people take for granted such as having enough and nutritious food, access to medicine, insurance, money to use public transport and the ability to be part of the society and social occasions. The fact is that many of the asylum seekers seek help from charities to get by (Lewis, 2015). Many of the host nations further perceive asylum seekers as a security threat to their nation. Kitur (2016) did a study looking at refugees "a threat to national security in Kenya". The results showed that most of the refugees post a security concern in host countries because they seek for asylum due to war and conflict in their home countries. The study found out that some asylum seekers were economic migrants and were a threat to Kenya's human security. This is supported by Kiswii (2009) who found that armed groups from neighboring countries at war lead to increased insecurity in the host

nation. The refugees are often coerced or sought to be part of illegal activities such as the traffic of illegal weapons to the host countries which are used for criminal activities.

Every and Augoustinos (2008), noted that asylum seekers have limited income and find themselves running to other countries for employment/income generating projects. They further noted that majority of asylum seekers have no work rights. Aduwa (2015) explains that those seeking for asylum are hindered by different factors when they seek for jobs. It is true that some of these people have very good qualification and education background from their home countries or overseas but these might not be recognized in the asylum countries. Other barriers that prevent them from finding employment include language barriers, lack of child care support, lack of apprenticeships, lack of traineeships and lack of resume (Ndege, Kagwanja & Opiyo, 2012). Others face discrimination during interviews with most employers choosing their host nation's candidates over asylum seekers even though the former might have the necessary qualifications. Further many employers are unaware that asylum seekers have a right to employment even when awaiting the results of their asylum application. The barriers to get jobs have led many asylum seekers to be engaged in criminal activities, corruption and exploitation. Allport, (2016) reports that some refugees have been misused by employers who pay them as little as \$10 every hour or in some cases they are not given any money. The asylum seekers will in most instances not report such exploitation since they fear being detained for working without permits.

Asylum seekers' profiling is highly impacted by the family background of the individual. There have been many reports written by advocates showing the negative effects forceful migration has had on families and their protection (Jacobsen, 2013). Family unity is an essential international law principle. The principle has different facets when it comes to the protection of asylum seekers. Maintaining the integrity of the asylum seekers family is a humanitarian goal and a legal principle. Further, it is part of the protection and the achievement of a lasting solution that helps restore the asylum seekers view of what is seen as a normal life.

A key risk that asylum seekers are faced with when they are evicted from their homes is the risk of separation from their families (Verdirame,2011). For asylum seekers who do not have the protection of their home countries the separation from family members can mean they lose their major source of care and protection and in other cases they can separate from a family who he feels are his responsibility (Ndege et al, 2012).The right to seek and enjoy asylum in another nation

is a right for every individual but this right should not come at the cost of the person being separated from his family. Family plays a major role in societies as it is recognized as the key unit of the human society in all culture including the modern cultures and the human rights culture

The right to family life and unity has also been affected by profiling of asylum seekers by security officers. Brabeck and Xu (2010) in their study in South America concluded that the wellbeing of a child is affected if the parent is denied asylum. The study showed that children suffer both emotionally and psychologically due to the parent's absence and they are likely to perform poorly in school or fail to attend. Similarly, in Africa, family life and unity has been affected by profiling of asylum seekers. Luster et al (2009) in their study on asylum seeking in South Sudan noted that profiling by security officers leads to frustrations since there is little to no emotional support from family members. In Kenya, Verdirame (2014) noted that family members especially men are arrested at the entry points due to their gender.. This separates them from their families leaving them shaken by the experience.

Limited resources also affect the unity of a family (Jacobsen, 2013). In some instances host countries will not provide enough resources to asylum seekers to ensure the unity of a family. Additionally, host countries might hinder entry of families seeking asylum since they might be concerned that more people will mean additional resources for their maintenance unlike the resources needed by only one person. Others will be provided with the same resources for accommodation and income as if they are just one immigrant. Notably, some countries even bar some family members of asylum seeking families who might have a health problem in fear that the needs of the sick family members might drain the health resources of the country.

Families are often a channel for the distribution of resources where resources are distributed from the primary earners to dependents and this scenario is replicated in cases of asylum seekers. The function of the family as a channel of distribution of resources from primary earners or producers to care-givers and dependents is commonly replicated in the methods of providing assistance to asylum seekers (Wren, 2007). A household is the main unit that is used in the distribution of food and other resources by international and national agencies. Individuals who are not part of any family can have a difficult time accessing any basic items. Humanitarian organizations will try to reunite families for humanitarian purposes but will also do so for easier distribution of resources. For the reasons of getting help by organized institutions asylum seekers agree that a family as a

unit can increase the possibility of getting assistance and spreading the resources to other people including distant family members (Strang & Ager, 2010).

2.2 Profiling and Right of freedom of movement of asylum seekers

Freedom of movement is termed as the right to freely travel in the host nation and to comfortably resides in any location of the said state in a similar manner as the citizens of the said state. Of note is that the European or international law does not prohibit the detention of asylum seekers (Boeles, 2013). However, of importance to note is that, asylum seekers are not ordinary aliens, as there are compelling circumstances for them to seek international protection, inter alia, being vulnerable due to the violation of their fundamental human rights; therefore, they require special treatment under international human rights protection.

According to Campbell (2006), asylum seekers have their freedom of movement limited by the policies which call for profiling of asylum seekers by the security officers with some detained. There are approximately 468,910 asylum seekers in Kenya, with 255,527 being Somalis.

Age is a key factor in the right of movement for asylum seekers. Age defines the areas where the asylum seekers can visit or live in (Strang & Ager, 2010). For example, in majority of the countries in Europe, asylum-seeking children are usually placed in children's institutions (shelters, orphanages, and boarding schools) to avoid placing them together with adults in temporary accommodation centers for asylum-seekers. The freedom of movement for children is unreasonably restricted and the personnel are not trained to meet adequately the needs of children (Eileen, 2016). Old people are placed in homes of the elderly where their movement is restricted. Majority live there under the caregivers with limited freedom to move to towns or other areas in the host country. Alzate (2016) conducted a study on age as a factor relating to freedom of movement of asylum seekers. She indicated that the elderly are allowed to flee and seek asylum elsewhere, whereas the youth are recruited in militia groups. The youth are feared as they pose a security threat to the host country and so their movement is highly monitored and restricted in the country of asylum. He also found that children faced challenges in accessing the asylum system and enjoying particular rights like freedom of movement.

Gender is another key factor that affects the right of movement of asylum seekers. Refusal of movement for women who are asylum seekers is done on the basis of a gender blind view on the

claim. Issues that are supposed to be confidential such as rape, medical conditions, abuse and abortion are often told to male interpreters since most of the women are not aware that they have the right to be provided with a female interviewer or interpreter. The female asylum seekers are often restricted to only stay in rural camps especially in Africa (Dumper, 2002). Many of the female asylum seekers are silent with threats especially if they try to speak their minds (Mbugua, 2003). This makes the women not enjoy their right of movement in the host country. Men, on the other hand, have freedom to move to the urban areas in search for business.

Education also influences the right of movement for asylum seekers. According to Sonntag (2016), in his study on the rights and responsibilities of asylum seekers, he found that the educated have the papers to show their real identity and access job opportunities in the host countries. The uneducated are rarely given asylum and are held in detention centers where their movement is restricted. He also found that the educated were given a chance to move to the urban centers for employment. This makes them enjoy their right of freedom of movement.

The socio-economic status of the asylum seekers also influence their right of freedom of movement. The asylum seekers with a high level of income buy their freedom and are allowed by the authorities in the host country to settle in places of their choice. They also get the travel documents and permits that enable them to travel to any town in the country. The asylum seekers with limited income do not enjoy their right of movement due to lack of proper travel documents.

The family unit is another key factor relating to the right of freedom of movement of asylum seekers. Many of the refugees that seek asylum due to conflict and the fear of persecution are separated from their family members. They are forced to leave their families behind even when they are sure they might not be safe in the home countries (Boeles, 2013). Others are separated during the migration. One of the key concerns of individuals seeking asylum is finding their lost family members or being united with their families. A small family is easy to monitor for the authorities in the host country (Sonntag, 2016). This enables such families to enjoy the right of freedom of movement as they are allowed to move to various localities within the country.

2.3 Profiling and the right to non-refoulement of asylum seekers

Right to non-refoulement prohibits the return of an asylum seeker to a nation where he is probably likely to be subjected to real risks of grave human rights violations or persecution or of further

transfer to a third state where there would be a real risk of such violations (ICJ, 2014). This places a limit on the right of states to expel someone from their territory as an expression of sovereignty (Freudenthaler, 2011). This principle in international human rights places an obligation on states to recognize, secure and protect the human rights of all individuals within their jurisdiction and for the interpretation and application to be done in a way to ensure its safeguards are adequate and practical (Amnesty International, 2014).

The objective of non-refoulement is strongly illustrated in article 3 of the 1984 UN Convention against Torture (CAT 84):” That no country shall coerce an individual to go back to their own country (‘refouler’) given reasons that if the person goes back to the country will be subjected to threats of cruelty and torture. Article 7 of the 1966 International Covenant on Civil and Political Rights has been interpreted as containing an implied prohibition on *refoulement*. This obligation arises out of article 7 and 2 (1), which requires states to be responsible of promising rights to everyone within their jurisdiction not excluding asylum seekers.

Research has shown that profiling of asylum seekers infringes right to non-refoulement. Rikhof (2011) noted that people who have been accused of criminal activities in the past are always seen as suspicious and are often not granted asylum and if they are given asylum it is done in a limited manner. They are usually forcefully returned to their home country due to their criminal record despite them having a right to asylum and non-refoulement. Chambo (2005) in his study on the principle of non-refoulement in the context of asylum operation in Tanzania indicated that the closure of refugee entry points and profiling of asylum seekers like Congolese and Burundians led to sporadic expulsion of asylum seekers. This was found to contravene the principle of non-refoulement. Tanzanian’s approach to asylum seeking changing from ‘open-door’ policy to limited respect of refugee rights led to restrictive admission policies, decreased durable solution opportunities, and general disregard of other human rights. Kiswii (2013) conducted a study on the effects of asylum seeker influx in Kenya. The study indicated that the asylum seekers especially Somalis are viewed as terrorists and hence are usually forcefully returned to their home countries with very few getting asylum in Kenya.

According to Boeles (2013), youths, young men and minors are often sought and coerced to join guerrilla or military groups and taught to fight in civil conflicts. This affects the right to non-refoulement of this group as majority are not given asylum but are sent back to the country of origin.

Old men and women are not taken as a threat to national security in the host country and majority enjoy the right to non-refoulement.

Fifty per cent of today's asylum seekers are women and children (Dumper, 2002). According to Loper (2010), gender plays an important role when it comes to the experiences of persecution. He found that in Hong Kong 45% of the women who sought asylum were given asylum compared to 10% of men who were given asylum. Loper (2010) also found that majority of the men who sought asylum in Hong Kong were either prosecuted or sent back to their country of origin.

Bond (2015) found that an educated population encourages the economic development of a country. Lack of education for asylum seekers may be a challenge to accessing asylum in a country. Mushkat and Loper (2013) found that majority of the people given asylum had at least basic education which would enable them to contribute to the economic growth of India. They found that 70% of the asylum seekers could not read or write and so were not given asylum but sent back to their country.

Religion also defines the level at which asylum seekers enjoy asylum in a country. In the modern geopolitical situation, nationality, religion and the country of origin are factors that have become interrelated and a source of politics when it comes to provision of asylum for the refugees. According to Fiddian-Qasmiyeh and Qasmiyeh (2017), Muslim asylum-seekers find themselves exposed to an uncertain legal status due to stating voluntarily or after being identified as Muslims. Majority of the Muslims are taken back to their country of origin as they are assumed to be attached to the terrorist groups like ISIS, AlShabaab among other terror groups. Kacou (2016) did study on when the "religion" ground of persecution might qualify an applicant for asylum in the United States. The study found that the US gave more Christians asylum (65% of the asylum seekers) compared to the Muslims who were assumed to be terrorists. Majority of the Muslims were deported back to their country of origin therefore did not enjoy the right to non-refoulement.

The socio-economic status of the asylum seekers affect their right to non-refoulement. Foster (2016) found a range of emerging asylum seekers claims involving poverty and economic disadvantage which led to deportation. Ristik (2017) did a study on the Right to asylum and the principle of non-refoulement Under the European Convention on Human Rights. The study found that majority of the asylum seekers in Europe did not enjoy asylum but were deported on the basis of their socio-

economic status. 80% of the asylum seekers were poor and would strain the resources in the European nations offering asylum. 63% of the asylum seekers were deported based on their socio-economic status.

The family background defines the right of non-refoulement for asylum seekers. Havrylchyk and Ukrayinchuk (2015) found that in France, asylum seekers with family were denied family reunion and do not have access to other forms of basic rights available to asylum seekers. This was based on the fact that they would create a large burden to the country in terms of resources and other requirements by the asylum laws. 20% of the married couples were deported with only women and children given asylum with less than 5% of the singles deported. Abdi (2015) did a study on the dependency, insecurity, and identity amongst Somali Refugees in Dadaab Camps. The study found that the Somalis who had large families were deported back to Somalia with only women and children allowed into Dadaab Camp.

2.4 Measures to protect human rights of asylum seekers during profiling

Individuals seeking asylum due to the many factors discussed are often unable to find a lasting solution to their predicament in the form of resettlement in other countries, local settlement or voluntary repatriation. The increased influxes are a source of concern for many nations. Although many are committed to achieving lasting solutions for asylum seekers, they are more likely to admit asylum seekers to their borders as a temporary solution without the willingness to permanently host them in the country. There is need therefore to protect asylum seekers in situations of large scale influxes even when they are offered temporary stay in host countries as they await the provision of a permanent solution to their needs. It is also essential that there is international solidarity and that host countries that receive many asylum seekers are offered a helping hand by other countries in terms of burden sharing of the responsibility.

Asylum seekers find their rights being infringed during profiling. Ageism has been a great challenge in asylum seekers protection. Ageism is the systematic discrimination of persons on the ground of their age. In order to protect the human rights of the asylum seekers in regards to age, majority of the countries have established laws that define the treatment of asylum seekers. Asylum seekers ought to be given asylum in the country where they first seek asylum. In cases where such a country cannot offer them asylum in a permanent capacity, it should offer them a temporary

solution and give them protection. Admission should be made without discrimination on the basis of their age. The countries should have centers where people of the same age can settle as they await the status of their asylum protection. The young men seeking asylum should be differentiated from the terrorists and should not be branded terrorists which infringes their rights.

Gender is another basis of discrimination during profiling. Apart from the laws relating to asylum, there is need to strengthen the institutions that supervises relevant public authorities whenever profiling practices are adopted. The institutions would be able to correct the required data that would prove beyond doubt on the kind of people the asylum seekers were. This would enable men to gain refugee status and would not be discriminated based on their gender. These institutions must ensure and oversee the incorporation of safeguards in the law and the protection of citizen's rights.

Education is another key factor affecting the human rights of asylum seekers during profiling. The profiling authorities should, instead of deporting the uneducated, organize ways in which the asylum seekers can have basic education. This can be done through establishment of education centers especially for the young men and women who if trained would offer human resources to the host country. The educated rather than be seen as a threat to the residents of the host nations should be provided with employment and if they prove that they are worth can be absorbed into the local workforce.

Religion is a major discrimination basis for the asylum seekers. The Muslims who are the most rejected group of asylum seekers have faced the wrath of the profiling authority when seeking asylum. The international laws protect the asylum seekers from such discrimination. The countries should allow the asylum seekers into their country irrespective of their religion. This enables the asylum seekers especially Muslims access asylum in countries not so harsh to them.

Socio-economic status is another factor considered during profiling of asylum seekers. Asylum seekers with time staying in a host country should become [part of the society and be able to feed themselves and their family members (Nelson & Dorsey, 2013). Thus, an asylum seeker should be able to earn a living and live decently which is his right. Having a job allows the asylum seeker to be a productive member of the society which reduces their poverty level, improves their well-being restore their dignity and protect themselves from shocks in the economy.

Family is another factor considered during profiling. When the families are in their country of origin parents can make calculated risks when they move to local areas in regard to their children. However, the case is different when it comes to conflicts that force families to move to other countries. It not uncommon for such families to gamble with their children future in a bid to preserve lives by letting their children go to other countries in the hope that they will be in luck in their destination nations and get permanent resettlement and a better life.

The objective of non-refoulement is strongly illustrated in article 3 of the 1984 UN Convention against Torture (CAT 84):” That no country shall coerce an individual to go back to their own country (‘refouler’) given reasons that if the person goes back to the country will be subjected to threats of cruelty and torture. Article 7 of the 1966 International Covenant on Civil and Political Rights has been interpreted as containing an implied prohibition on *refoulement*. This obligation arises out of article 7 and 2 (1), which requires states to be responsible of promising rights to everyone within their jurisdiction not excluding asylum seekers.

International humanitarian law provides more support. The protected individuals should not be given to a power that is not part of the convection. The protected individual should never be taken to a country where they are likely to be persecuted based on their religious or political beliefs (1949 Geneva Convention)

Article 22 of the 1969 American Convention on Human Rights (ACHR69) explains that no person should be coerced to go back to their birth nation if at all their life are at risk in that country they are being forced to go back to or are being discriminated due to differences of race, nationality, religion, or political affiliations. Article 12 (3) of the 1981 African Charter of Human and People’s Rights (ACHPR81) deals majorly on asylum and suggests that each person has a right to be ask and be provided with asylum in another nation if search for freedom from persecution is done in line with respect to laws of the respective countries. Coercion of individuals to return to their own countries is contrary to article 3 specifically where there is disregard of grounds such as threat to life as outlined by the European Court of Human Rights.

In Kenya, asylum seekers are protected under the Kenya refugees Act of 2006. The act domesticates the 1951 and 1969 refugee conventions. It further provides the rights and responsibilities of the asylum-seekers. The Refugees Act also establishes institutions that are

responsible for the management of refugee affairs in the country. These include the Department of Refugee Affairs, the Refugee Affairs Board, and the Refugee Affairs Committee. The act does give asylum seekers with basic rights such as the right to move and earn a living, freedom of movement with requisite travel documents, and special consideration for women and children refugees in standards of treatment.

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) was developed in 1969 on 4th January. The states that are part of the convention are urged to come up with policies that are against racism and to show sympathy towards different races. The ICERD have 177 states. According to ICERD racial definition is the restriction, distinction, preference or exclusion that is based on nationality, descent, color, race or ethnicity which is done to nullify or impair the exercise, enjoyment or recognition of equality in human rights and freedoms in the cultural, social, economic and political; way of life of a person.

2.5 Theoretical Framework

2.5.1 Global Social Theory

This theory was developed by Bonilla-Silva in 1997. According to the theory, racism is characterized by more than prejudicial actions and attitudes. Racism according to Bonilla-Silva is a conceptualized concept that has become part of the society which he termed as the 'racialized social system approach' (Bonilla-Silva, 1997). According to this approach most of the democratic nation's that claim to be without racism have 'racialization in a real structure' whereby there are racial groups that have practices and social relations just like in groups where racism is practiced (Bonilla-Silva, 2015). Bonilla-Silva (2015) key focus was in United States and according to his argument whites have a social collectivity and have racist practices in a bid to ensure their status quo is preserved. According to the global social theory, prejudice is more of a societal problem rather than an individual trait. Race according to this model is dependent on context and the term can only be used when it comes to prejudice against society members of a marginalized race as shown by a dominant race (Bonilla-Silva, 2006).

Bonilla-Silva emphasis is on the way whites that are found at the topmost social systems are keen to maintain their dominant positions. A major way that this dominance is maintained is the circulation of 'colourblind ideology'. Bonilla (2013) explains this concept in his book titled

'Racism without Racists: Color-Blind Racism and the Persistence of Racial Inequality in the United States'. Colorblind ideology according to him is found in four facets. The first one is 'abstract liberalism' which seeks to ensure a person's freedom of choice or individualism. Whites use this concept to separate themselves from processes that are openly seen to promote racism, for instance, segregation based on race by the whites is regarded as the freedom to choose where to reside. The second facet is the frame of naturalization. This frame explains racism as a natural process, for instance residential segregation based on race is regarded as individuals gravitating towards likeness. Cultural racism is the third frame. The frame emphasizes on the cultures of radicalized races as the reason for their inequalities. For example blacks are often said to be lazy while Mexicans are said not to value education. The last frame is the minimization of the racism. The idea here is that discrimination is not an important issue that faces those who are not white or that even if discrimination exists there are numerous opportunities available for such people to make it in life.

Bonilla further points out that these ideologies affected even academia. According to him, this is observable in the arguments that class is more important than race which have been there since the US civil right legislation. Bonilla does not support the white methods and logics used in academia. A sure way that these logics shape academia is the view that any non-white person that provides data on studies related to race is seen as biased. On the other hand white scholars that do not do such studies are seen as objective and disinterested. The theory provides a view on how whites are bent on maintaining their racial status quo and this order is often seen as normal or as he terms it the 'invisible weight of whiteness'. This can be observed in the daily 'racial grammar' – where every act is seen as either racial or non-racial. For example, US has Historically Black Colleges and Universities (HBCU's). However, there are no historically white universities although HBCU's came up due to this. Additionally, there are 'black' TV programs such as the Cosby show, but there are no 'white' TV shows although well-known sitcoms such as Friends are made of only white casts.

2.5.2 Social cognition theory

Social Cognitive Theory (SCT) is a development of the Social Learning Theory (SLT) that was developed by Albert Bandura in the 1960s. In 1986 it was developed to SCT. According to this theory, learning happens in a social context where the individual interacts with the environment

and his behavior. The theory particularly emphasizes on social influence which further emphasis on internal and external social reinforcement. The model looks at the distinct means that people maintain and have certain behaviors while also regarding the environment in which such behaviors are done. Past experiences are a factor that is considered when it comes to the unique behavior of a person. Such experiences affect expectations, reinforcements and expectancies, which are some of the reasons some people will act the way they act.

However Bandura's research took a more holistic way in the mid-1980s, and he gave more comprehensive analyses on the topic of human cognition in a social learning concept. The social learning model had to change to the social cognitive theory (Bandura, 1999). This model has a framework that helps understand, predict the changing behavior of an individual (Green & Peil, 2009). Its emphasis is how people children included behave in a certain way due to their social experiences and how the human cognitions impact the development and behavior of a person.

The model emphasizes that an individual's behavior is not driven wholly by internal factors or by external forces. According to Bandura (1986), human behaviors and functioning is driven by a combination of internal forces such as cognitions and emotions and also external factors such as the environment that act as a determinant of each other. The model provides three modes of agency that are necessary if humans are to function well in their cultural and social contexts. These are direct personal agency, proxy agency which depends on others actions and collective agency which is characterized by the actions of groups (Bandura, 2002).

Since people have no control on the factors that affect their lives, they have to exercise agency by building relationships and interactions with others. An important view of this theory is that it is impossible for humans to live in isolation but they have to jointly work with others to survive and enjoy the change they want (Bandura, 2006).

One of the concepts of this model which is very important is that of self-efficacy. Self-efficacy impacts on a person's behavior and the behavior of others (Schunk & Meece, 2006). Bandura (1977) notes that people whose self-efficacy levels are high can change stressful situations to benign situations (Bandura, 2004). On the other hand, people whose self-efficacy levels are low do not take up difficult tasks, do not have high aspirations and their commitment to their own goals is weak (Bandura, 2000; Matsushima & Shiommi, 2003).

The model considers many levels of the social ecological model when it comes to looking at asylum seekers behavioral changes. SCT has been considered in the asylum seeking cases putting more emphasis on the person and the environment they are in with the latter being looked into by more studies that focus on the plight of asylum seekers. The self-efficacy of asylum seekers enables them to deal with the stress that comes with profiling by the host countries. This would enable them to persevere and hence gain refugee status at the end given that others have gained the status in the past.

2.6 Research Gaps

This section covers a review of the literature regarding asylum rights and security operations. Most of the studies that have been a focus of this literature review have been done in other countries other than Kenya. The local studies reviewed in the study focus mainly on refugees other than asylum seekers. None of the reviewed studies have focused on profiling and human rights of asylum seekers in Kenya. This shows that a research gap existed. The question is: what is the impact of profiling of Somali asylum seekers on their human rights in Kenya? This study sought to fill the research gaps by undertaking a study on the impact of profiling of Somali asylum seekers on their human rights in Kenya with reference to Eastleigh in Nairobi County.

CHAPTER THREE: RESEARCH METHODOLOGY

3.1 Introduction

This section discusses the Research Design, Sampling method, sampling procedures, study area, target population, research instruments, data collection procedures and ethical considerations that were considered in the study.

3.2 Study Area

The research was done in Eastleigh Sub County in Kenya. Kenya Map shown below in Figure 1.

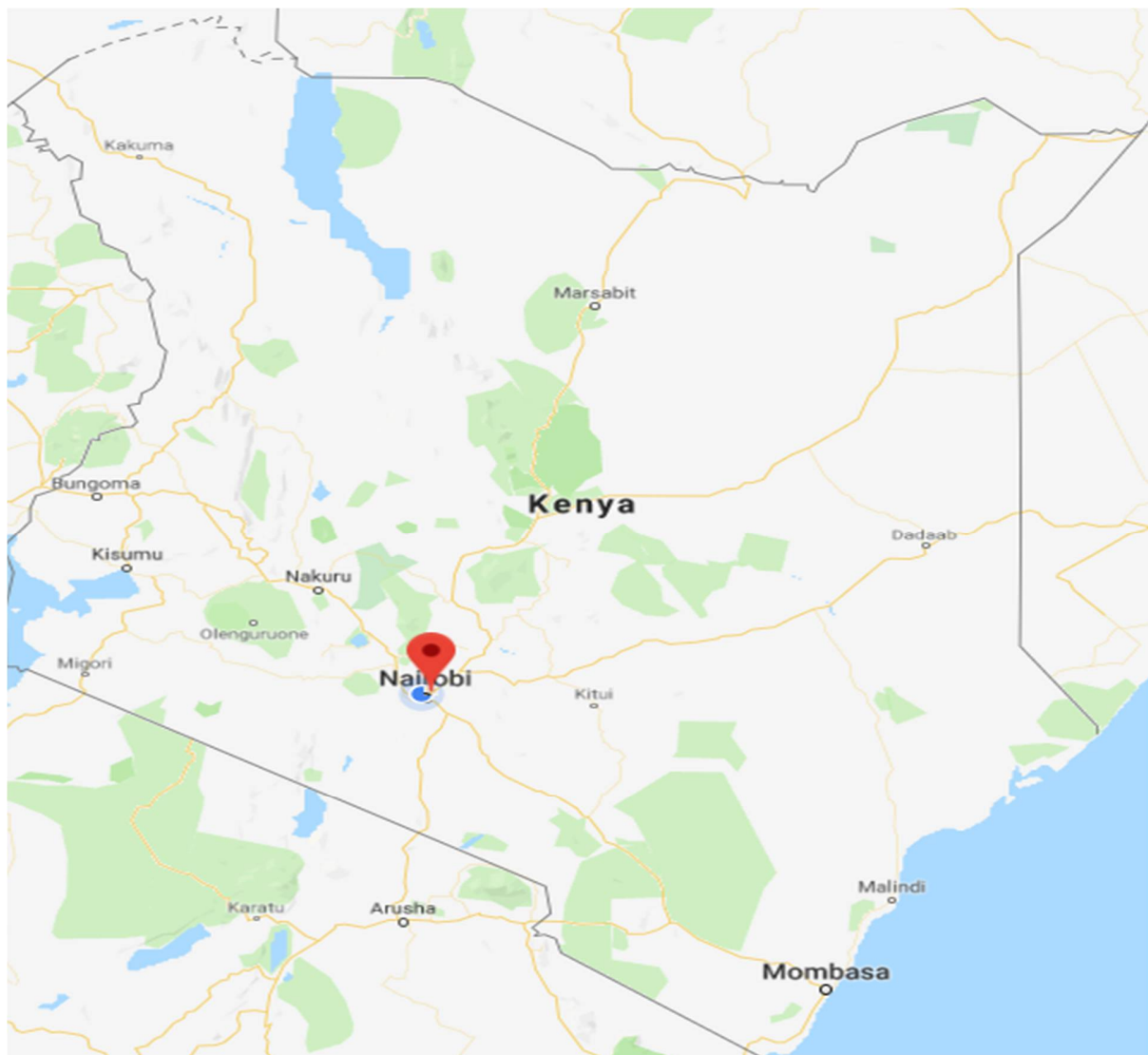




Figure 2: Eastleigh Sub-County

The research was conducted in Eastleigh due to the fact that there is predominantly a large population of asylum seekers of Somali origin residing in this area, and the location where security operations are mostly undertaken (Amnesty 2014). It is estimated that about 80% of the Somali refugee community in Nairobi resides in Eastleigh. According to the Eastleigh Business Community (EBC), most Somali business activities, which account for almost one-third of Nairobi's total economy, are centered in Nairobi's Eastleigh neighborhood) (Carrier & Lochery, 2013).

3.3 Research Design

The study utilized descriptive design applying quantitative methods which employed quantitative data. This research design provided a complete and accurate picture of the situation. Quantitative data was used to describe the situation in terms of frequencies, measures of central tendencies and dispersions (Struwi & Stead, 2011).

3.4 Target Population

According to UNHCR 2017, there were about 32,401 Somali asylum seekers registered in Nairobi by end of 2017. Out of these, 27.7 % were men while 29.4 % were women. This research targeted both adult men and women aged over 21 years residing in Eastleigh sub-county, who account for

38% of the total population of Somali asylum seekers. This gives a target population of 12,383 Somali asylum seekers aged between 18 – 55 years.

3.5 Sampling method

Stratified sampling was used to collect quantitative data of the population in an attempt to obtain representative populations of different age sets. The sub groups were homogenous, mutually exclusive and every element in the population was assigned to only one stratum (sub group).

3.6 Sample Size

The appropriate sample size for the research was based on the below formula (Kothari, 2004).

$$n = \frac{Nt^2.p.q}{d^2N + t^2.p.q}$$

Where

n = sample size

N = Total Population

t = confidence level (for 95 % confidence level t =1.96)

p = possibility of an event occurring (50%)

q = the possibility of an event not occurring (50%)

d = the acceptable error rate during sampling (0.05)

The Somali asylum seeker population in Eastleigh aged between 18 – 52 years is 12,383 individuals. The sample size was:

$$n = \frac{(12383) * 1.96^2 (0.5^2)}{(0.05^2 * 12383) + 1.96^2 (0.5^2)}$$

n = 372.6 = 373. Hence, the study will sample a total of 373 asylum seekers in Eastleigh.

3.7 Data collection instruments

This study used self – administered questionnaires for those who are able to read and write but those not able the researcher administered them to the respondent population. The questionnaire

was semi-structured in that it had both closed and open ended questions to make the research collect as much information as possible while at the same time guiding the research based on the research objectives.

3.8 Data collection Procedure

The researcher administered the questionnaire himself. The researcher explained the importance of the research to the participants. The use of an interpreter for Somali speaking respondents was utilized to address language barrier. The researcher asked the respondents and filled the answers on the questionnaire to ensure that the right response is recorded. This was used as most of the respondents could not read and write.

3.9 Validity and Reliability of Research Instruments

To ensure that the instruments and data collected was valid and reliable; the researcher conducted a pilot study test on a sample of asylum seekers selected through purposive sampling. The participants in the pilot test did not participate in the main study. The pilot test which ensured that unambiguous questions were removed to improve the quality of data collected. The pilot study identified any problem to be encountered during data collection, and the time it took to administer the questionnaire. The questionnaires were administered to the asylum seekers were graded on a likert scale where respondents' feedback was mapped from strongly disagree to strongly agree.

3.10 Data Analysis

The study involved quantitative data analysis techniques. The descriptive data analysis was done with the help of means, frequencies standard deviations and percentages. For Inferential statistics, the use of Chi square and regression was utilized. The quantitative data was analyzed using Stata version 14 and presented in tables. The results were discussed and conclusion and recommendations made.

3.11 Ethical Considerations

The following ethical considerations were taken into account.

3.11.1 Confidentiality and Anonymity

Asylum seekers were assured that their names and the names of their family members would not be revealed. The respondent's identities would remain anonymous; coding was used instead of the participants' names.

3.11.2 Voluntarism and right to participate

The data collection was conducted in a voluntary manner, with the participants not being coerced in any way to take part in the research. They could also withdraw from the study as participants at any point in the data collection process.

CHAPTER FOUR:

DATA ANALYSIS, INTERPRETATIONS AND PRESENTATION

4.1 Introduction

This section presents the empirical results obtained from the analysis of the data collected from the field. The descriptive and inferential statistics will be presented. The variation between the independent variable, the confounding variables and the dependent variables will be presented with an aim of seeing how the responses obtained from the respondents vary. Inferential statistics will be obtained from estimation of Chi-square and the Linear Probability regression models. The analysis, presentation and interpretation of the findings will be done systematically for each of the three objectives of the study.

Table 1: Summary/Descriptive statistics

Variables		Observations	Mean	SD	Min	Max
Confounding Variables	Gender	345	1.46087	.4991904	1	2
	Age	345	2.689855	.9791645	1	4
	Religion	345	1.144928	.3525391	1	4
	Marital status	345	1.828986	.9259033	1	4
	Family residence	345	1.202899	.4027417	1	2
	Family income	345	3.875362	1.505456	1	6
	Family members	345	1.64058	.7950279	1	5
IV	Profiling	345	1.17681	.3820633	1	2
DV	Freedom of movement	345	1.510145	.5006231	1	2
DV	Non-refoulment	345	1.084058	.2778777	1	2

Table 2 presents the summary statistics on the variables that were used in the analysis. It indicates the total observations for every variable, the mean, standard deviation, minimum and maximum

values for each variable. Each variable used in the analysis had 345 observations. Since the data is categorical in nature, the mean and standard deviation for each variable do not convey any special meaning. The minimum and maximum values for each variable have special meaning in that they indicate the minimum and maximum values for individual variables and help indicate whether the data was correctly transferred from the research instruments into the database from which analysis was done. Gender was coded as a binary variable with 1 and 2 standing for males and females respectively. Age is categorical in nature where 1, 2, 3, and 4 represent those aged between 21-30 years, 31-40 years, 41-50 years, and ≥ 51 years respectively. Religion was coded as 1, 2, 3, and 4 representing Muslims, Christians, Hinduism, and Buddhism respectively. Marital status was equally coded as a categorical variable with 1, 2, 3, and 4 representing Married, Single, Divorced, and Widowed respectively. Family residence was binary with 1 and 2 representing the family lives in Kenya and family does not live in Kenya respectively. Family members was a categorical variable with 1, 2, 3, 4, and 5 representing less than 3, 3-5, 6-8, 9-11, and ≥ 12 members respectively. Family income was categorical with 1, 2, 3, 4, 5, and 6 representing $\leq 10,999$, 11,000-24,999, 25,000-34,999, 35,000-49,999, 50,000-74,999, and $\geq 75,000$ respectively while government measures was equally a categorical variable with 1, 2, 3, 4, 5, 6, and 7 representing non-refoulment principle, appraisal of security officers, professionalism, community participation in security matters, training, refugee law, and fairness and non-discrimination respectively. Profiling is a dummy variable with 1 indicating that asylum seekers were profiled and 2 indicating asylum seekers were not profiled. Right of freedom of movement is binary with 1 representing freedom of movement is protected and 2 freedom of movement is not protected. Right to non-refoulment is binary with 1 representing right to non-refoulment was protected and 2 it was not protected. The summary statistics also indicate that the data was properly transferred from questionnaires to the database since there are no outliers.

4.2 Analysis of Demographic information

Table 2: Variation between profiling, gender and human rights

Profiling	Confounding variable	Freedom of movement protected		Right of non-refoulment protected	
Yes	Gender	Yes	No	Yes	No
	Male	50.0%	54.1%	52.4%	47.1%
	Female	50.0%	45.9%	47.6%	52.9%
Attribute percentage (%)		48.6%	51.4%	94.0%	6.0%
Total (%)		100.0%		100.0%	
No	Male	51.6%	73.3%	65.3%	50.0%
	Female	48.4%	26.7%	34.7%	50.0%
Attribute percentage (%)		50.8%	49.2%	80.0%	19.7%
Total (%)		100.0%		100.0%	

Table 2 presents on the variation between profiling, gender, freedom of movement and right of non-refoulment. The results indicate that majority of the respondents who experienced profiling had freedom of movement unprotected at 51.4% while majority said the right to non-refoulment was protected at 94.0%. Among those who had not experienced profiling, the majority said the freedom of movement was protected at 50.8% while 80.0% of them reported the right to non-refoulment had been protected. Additionally, majority of the males who experienced profiling reported that their right to freedom of movement was not protected at 54.1% compared to 52.4% who reported the right to non-refoulment was protected. Majority of the females who experienced profiling reported that the right of movement was not protected at 50.0% compared to 52.9% who

reported the right to non-refoulment was not protected. Majority of males who did not experience profiling reported that the right to movement was not protected at 73.3% compared to 65.3% who reported that the right to non-refoulment was protected. Majority of females who did not experience profiling reported that the right to freedom of movement was protected at 48.4% while 50.0% reported that the right to non-refoulment was not protected.

Table 3: Variation between profiling, age and human rights

Profiling	Confounding variable	Freedom of movement protected		Right to non-refoulment protected	
		Yes	No	Yes	No
Yes	Age (Years)				
	21-30	20.3%	9.6%	15.0%	11.8%
	31-40	31.2%	21.2%	25.5%	35.3%
	41-50	29.0%	42.5%	35.6%	41.2%
	≥51	19.6%	26.7%	24.0%	11.8%
Attribute percentage (%)		48.6%	51.4%	94.0%	6.0
Total (%)		100.0%		100.0%	
No	21-30	9.7%	16.7%	12.2%	16.7%
	31-40	22.6%	13.3%	16.3%	25.0%
	41-50	45.2%	53.3%	53.1%	33.3%
	≥51	22.6%	16.7%	18.4%	25.0%
	Attribute percentage (%)		50.8%	49.2%	80.3%
Total (%)		100.0%		100.0%	

In *Table 3*, majority of the respondents who had experienced profiling reported that freedom of movement was unprotected at 51.4% while 94.0% said right to non-refoulment was protected. Among those who had not experienced profiling, the majority reported that freedom of movement was protected at 50.8% while 80.3% said right to non-refoulment was protected. Additionally,

majority of those experiencing profiling and violation of freedom of movement were aged 41-50 years at 42.5% while 41.2% reported the right to non-refoulment was violated. Majority of those who did not experience profiling and reported violation of the freedom of movement were aged 41-50 years at 53.3% while 53.1% felt the right to non-refoulment was protected.

Table 4: Variation between profiling, religion and human rights

Profiling	Confounding variable	Freedom of movement protected		Right to non-refoulment protected	
		Yes	No	Yes	No
Yes	Religion				
	Muslims	87.0%	85.0%	86.9%	70.6%
	Christians	13.0%	15.0%	13.1%	29.4%
	Hinduism	0.0%	0.0%	0.0%	0.0%
	Buddhism	0.0%	0.0%	0.0%	0.0%
Attribute percentage (%)		48.6	51.4%	94.0%	6.0%
Total (%)		100.0%		100.0%	
No	Muslims	90.3%	76.7%	81.6%	91.7%
	Christians	9.7%	23.3%	18.4%	8.3%
	Hinduism	0.0%	0.0%	0.0%	0.0%
	Buddhism	0.0%	0.0%	0.0%	0.0%
Attribute percentage (%)		50.8%	49.2%	80.3%	19.7%
Total (%)		100.0%		100.0%	

In *Table 4*, majority of the respondents who had experienced profiling reported their freedom of movement was unprotected at 51.4% while 94.0% said right to non-refoulment was protected. Among those who had not experienced profiling, the majority reported that freedom of movement was protected at 50.8% while 80.3% said right to non-refoulment was protected. Additionally, majority of those who experienced profiling and reported that freedom of movement was not

violated were Muslims at 87.0% compared to 86.9% who reported that the right to non-refoulment was protected. Majority of those who did not experience profiling and reported that the right to movement was protected were Muslims at 90.3% compared to 91.7% who reported violation of the right to non-refoulment.

Table 5: Variation between profiling, marital status, and human rights

Profiling	Confounding variable	Freedom of movement protected		Right to non-refoulment protected	
		Yes	No	Yes	No
Yes	Marital status	Yes	No	Yes	No
	Married	42.8%	44.5%	43.8%	41.2%
	Single	38.4%	27.4%	32.2%	41.2%
	Divorced	13.0%	18.5%	16.1%	11.8%
	Widowed	5.8%	9.6%	7.9%	5.9%
Attribute percentage (%)		48.6%	51.4%	94.0%	6.0%
Total (%)		100.0%		100.0%	
No	Married	61.3%	53.3%	55.1%	66.7%
	Single	22.6%	30.0%	26.5%	25.0%
	Divorced	12.9%	16.7%	18.4%	8.3%
	Widowed	3.2%	0.0%	0.0%	0.0%
Attribute percentage (%)		50.8%	49.2%	80.3%	19.7%
Total (%)		100.0%		100.0%	

In *Table 5*, majority of the respondents who had experienced profiling reported freedom of movement was unprotected at 51.4% while 94.0% said right to non-refoulment was protected. Among those who had not experienced profiling, the majority reported that freedom of movement was protected at 50.8% while 80.3% said right to non-refoulment was protected. Additionally, majority of the respondents who experienced profiling reported violation of the right to freedom

of movement were married at 44.5% while 43.8% reported the right to non-refoulment was protected. Majority of those who did not experience profiling and reported protection of the right to freedom of movement were married at 61.3% compared to 66.7% who reported that the right to non-refoulment was violated.

Table 6: Variation between profiling, family residence, and human rights

Profiling	Confounding variable	Freedom of movement protected		Right to non-refoulment protected	
		Yes	No	Yes	No
Yes	Family in Kenya				
	Yes	76.8%	82.2%	79.8%	76.5%
	No	23.2%	17.8%	20.2%	23.5%
Attribute percentage (%)		48.6%	51.4%	94.0%	6.0%
Total (%)		100.0%		100.0%	
No	Yes	77.4%	83.3%	77.6%	91.7%
	No	22.6%	16.7%	22.4%	8.3%
Total responses		31	30	49	12
Attribute totals		61		61	
Attribute percentage (%)		50.8%	49.2%	80.3%	19.7%
Total (%)		100.0%		100.0%	

In *Table 6*, majority of the respondents who had experienced profiling reported freedom of movement was unprotected at 51.4% while 94.0% said right to non-refoulment was protected. Among those who had not experienced profiling, the majority reported that freedom of movement was protected at 50.8% while 80.3% said right to non-refoulment was protected. Majority of those who experienced profiling and reported that the right to freedom of movement was violated were

living in Kenya at 82.2% compared to 79.8% who reported that the right to freedom of movement was protected. Majority of those who did not experience profiling and reported the right to movement was violated were living in Kenya at 83.3% compared to 91.7% who reported that the right to non-refoulment was not protected.

Table 7: Variation between profiling, monthly income and human rights

Profiling	Confounding variable	Freedom of movement protected		Right to non-refoulment protected	
		Yes	No	Yes	No
Yes	Monthly income	Yes	No	Yes	No
	≤10,999	8.0%	15.1%	12.0%	5.9%
	11,000-24,999	3.6%	3.4%	3.7%	0.0%
	25,000-34,999	29.7%	24.7%	26.6%	35.3%
	35,000-49,999	18.1%	18.5%	18.4%	17.6%
	50,000-74,999	25.4%	26.0%	25.5%	29.4%
	≥75,000	15.2%	12.3%	13.9%	11.8%
Attribute percentage (%)		48.6%	51.4%	94.0%	6.0%
Total (%)		100.0%		100.0%	
No	≤10,999	19.5%	3.3%	12.2%	8.3%
	11,000-24,999	3.2%	3.3%	4.1%	0.0%
	25,000-34,999	16.1%	16.7%	20.4%	0.0%
	35,000-49,999	25.8%	30.0%	20.4%	58.3%
	50,000-74,999	19.4%	23.3%	22.4%	16.7%
	≥75,000	16.1%	23.3%	20.4%	16.7%
Attribute percentage (%)		50.8%	49.2%	80.3%	19.7%
Total (%)		100.0%		100.0%	

In *Table 7*, majority of the respondents who had experienced profiling reported freedom of movement was unprotected at 51.4% while 94.0% said right to non-refoulment was protected. Among those who had not experienced profiling, the majority reported that freedom of movement was protected at 50.8% while 80.3% said right to non-refoulment was protected. Additionally, majority of those who experienced profiling and reported that the right to freedom of movement was protected had monthly income of between 25,000-34,999 at 29.7% compared to 35.3% who reported that the right to non-refoulment was violated. Majority of those who did not experience profiling and reported that the right to freedom of movement was not protected had monthly income of between 35,000-49,999 at 30.0% compared to 58.3% who reported that the right to non-refoulment was violated.

Table 8: Variation between profiling, family members and human rights

Profiling	Confounding variables	Freedom of movement protected		Right to non-refoulment protected	
		Yes	No	Yes	No
Yes	Family members				
	<3	47.8%	49.3%	47.6%	64.7%
	3-5	43.5%	43.2%	43.8%	35.3%
	6-8	5.1%	3.4%	4.5%	0.0%
	9-11	1.4%	3.4%	2.6%	0.0%
	>11	2.2%	0.7%	1.5%	0.0%
Attribute percentage (%)		48.6%	51.4%	94.0%	6.0%
Totals (%)		100%		100%	
No	<3	51.6%	53.3%	51.0%	58.3%
	3-5	45.2%	33.3%	40.8%	33.3%
	6-8	0.0%	10.0%	6.1%	0.0%
	9-11	0.0%	3.3%	2.0%	0.0%
	>11	3.2%	0.0%	0.0%	8.45
Attribute percentage (%)		50.8%	49.2%	80.3%	19.7%
Totals (%)		100.0%		100.0%	

In *Table 8*, majority of the respondents who had experienced profiling reported freedom of movement was unprotected at 51.4% while 94.0% said right to non-refoulment was protected. Among those who had not experienced profiling, the majority reported that freedom of movement was protected at 50.8% while 80.3% said right to non-refoulment was protected. Additionally, majority of those who experienced profiling and reported violation of the right to freedom of

movement were had less than 3 family members at 49.3% compared to 64.7% who reported violation of the right to non-refoulment was violated. Majority of those who did not experience profiling and reported violation of the right to freedom of movement similarly had less than 3 family members at 53.3% compared to 58.3% who reported the right to non-refoulment was violated.

Table 9: Variation between profiling, government measures, and human rights

Profiling	Confounding variable	Freedom of movement protected		Right to non-refoulment protected	
		Yes	No	Yes	No
Yes	Government measures				
	Non-refoulment principle	9.4%	7.5%	8.6%	5.9%
	Security officer appraisal	5.8%	6.8%	6.7%	0.0%
	Professionalism	5.8%	13.0%	9.7%	5.9%
	Community participation	27.5%	24.0%	24.0%	5.3%
	Training	29.0%	24.7%	26.2%	35.3%
	Refugee law	9.4%	10.3%	10.5%	0.0%
	Fairness & non-discrimination	13.0%	13.7%	14.2%	0.0%
Attribute percentage		48.6%	51.4%	94.0%	6.0%
Total (%)		100.0%		100.0%	
No	Non-refoulment principle	9.7%	0.0%	6.1%	0.0%
	Security officer appraisal	9.7%	13.3%	12.2%	8.3%
	Professionalism	3.2%	13.3%	10.2%	0.0%
	Community participation	22.6%	20.0%	22.4%	16.7%
	Training	22.6%	23.3%	20.4%	33.3%
	Refugee law	9.7%	10.0%	12.2%	0.0%
	Fairness & non-discrimination	22.6%	20.0%	16.3%	41.7%
Attribute percentage (%)		50.8%	49.2%	80.3%	19.7%
Total (%)		100.0%		100.0%	

In *Table 9*, majority of the respondents who had experienced profiling reported freedom of movement was unprotected at 51.4% while 94.0% said right to non-refoulment was protected. Among those who had not experienced profiling, the majority reported that freedom of movement was protected at 50.8% while 80.3% said right to non-refoulment was protected. Moreover, majority of those who experienced profiling and reported that the right to freedom of movement was protected identified training as the most important government measure that can be taken to ensure security and rights of asylum seekers compared to 35.3% who identified training as equally important but reported the right to non-refoulment was not protected. Majority of those who did not experience profiling and reported protection of the right to freedom of movement equally identified training of security officers as the most important measure that government can take at 22.6% compared to 33.3% who reported the right to non-refoulment was violated but identified training as the most important government measure to promote security and rights of asylum seekers in Eastleigh sub county.

4.3 Analysis of whether profiling influences the right of freedom of movement of asylum seekers

Table 10: Chi-Square analysis for the association between confounding variables, profiling and human rights

Confounding variable	Profiling			Freedom of movement			Right to non-refoulment		
	Degrees of Freedom (DF)	Chi-Square Statistic (χ^2)	P-value	Degrees of Freedom (DF)	Chi-Square Statistic (χ^2)	P-value	Degrees of Freedom (DF)	Chi-Square Statistic (χ^2)	P-value
Gender	1	2.0954	0.148	1	1.7445	0.187	1	0.405*	0.063
Age	3	4.0011	0.261	3	11.04*	0.012	3	0.940*	0.016
Religion	1	0.2160	0.642	1	1.1418	0.285	1	0.9811	0.322
Marital status	3	5.5720	0.134	3	3.9651	0.265	3	1.8551	0.603
Family residence	1	0.018*	0.004	1	1.5911	0.207	1	0.1819	0.670
Family income	5	6.1787	0.289	5	1.3820	0.926	5	5.3107	0.379
Family members	4	0.5592	0.967	4	3.9448	0.414	4	4.5261	0.339

Note: * and ** mean significant at 5% and 1% levels of significance respectively

Table 10 presents the Chi-Square results on the association between the confounding variables, profiling of asylum seekers, and human rights. Family residence, age, and gender had statistically significant association with profiling, freedom of movement and right to non-refoulment at the 5% and 10% levels of significance ($\chi^2=0.018, p=0.004$), ($\chi^2=11.04, p=0.012$), ($\chi^2=0.940, p=0.016$), and ($\chi^2=0.405, p=0.063$) respectively. The other confounding variables had no significant association with profiling and human rights as categorized into freedom of movement and right to non-refoulment.

Table 11: Chi-Square analysis on the association between profiling and right to freedom of movement

Profiling	Right to freedom of movement		
	<i>Degrees of Freedom (DF)</i>	<i>Chi-Square Statistic (χ^2)</i>	<i>P-value</i>
	1	0.0998**	0.052

Note: ** means statistically significant at the 10% level of significance

In Table 11, the results of the Chi-Square analysis on the association between profiling and right to freedom of movement indicate that profiling does influence freedom of movement of asylum seekers at 10% level of significance ($\chi^2=0.0998, p=0.052$).

Table 12: Chi-Square analysis on the association between freedom of movement and right to non-refoulment

Right to non-refoulment	Right to freedom of movement		
	<i>Degrees of Freedom (DF)</i>	<i>Chi-Square Statistic (χ^2)</i>	<i>P-value</i>
	1	3.4626**	0.063

Note: ** mean significant at 10% level of significance

In Table 12, the Chi-square results on the association between right to non-refoulment and right to freedom of movement indicate there is a significant association between the two variables ($\chi^2=03.4626, p=0.063$) at the 10% level of significance.

Table 13: Regression analysis on the effect of profiling on right of freedom of movement

Freedom of movement	β	<i>SE β</i>	<i>t-statistic</i>	<i>P-Value</i>	<i>95% CI</i>
Constant	1.4918	.06422	3.24	.000	[1.3656, 1.6180]
Profiling	.0223**	.0707	6.31	.073	[-.1169, .1614]
R^2	0.0003				
Observations	345				

Note: ** means statistically significant at the 10% level of significance

Table 13 presents regression analysis results on the effect of profiling on right of freedom of movement among asylum seekers in Eastleigh Sub-county. There were 345 observations that were used in carrying out the analysis. The R^2 was .0003 indicating that the proportion of variation in freedom of movement that is explained by profiling was .03%. The results indicate profiling has a statistically significant effect on the right of freedom of movement among asylum seekers at the 10% level of significance ($\beta=.0223$, $t=6.31$, $p=.073$). Particularly, asylum seekers experiencing profiling were found to be 2.23% more likely to have their freedom of movement affected compared to those who are not profiled.

4.4 Analysis of whether profiling affects the right to non-refoulment of Somali asylum seekers in Eastleigh sub county.

Table 14: Chi-Square analysis on the association between profiling and right to non-refoulment

Profiling	Right of non-refoulment		
	<i>Degrees of Freedom (DF)</i>	<i>Chi-Square Statistic (χ^2)</i>	<i>P-value</i>
1		12.2166*	0.000

Note: * means statistically significant at the 5% level of significance

In Table 14, the results of the Chi-Square analysis on the association between profiling and right to non-refoulment indicate that profiling does influence the right of non-refoulment among asylum seekers at 5% level of significance ($\chi^2=12.2166$, $p=0.000$).

Table 15: Regression analysis on the effect of profiling on right to non-refoulment

Right to non-refoulment	β	<i>SE β</i>	<i>t-statistic</i>	<i>P-Value</i>	<i>95% CI</i>
Constant	.8033	.03499	22.95	.000	[.7344,.8721]
Profiling	.1369*	.0386	3.55	.000	[.0609, .2127]
R^2	.0354				
Observations	345				

Note: * means statistically significant at the 5% level of significance

Table 15 presents regression analysis results on the effect of profiling on right to non-refoulment among asylum seekers in Eastleigh Sub-county. There were 345 observations that were used in carrying out the analysis. The R^2 was .0354 indicating that the proportion of variation in right to non-refoulment that is explained by profiling was 13.69%. The results indicate profiling has a statistically significant effect on the right to non-refoulment among asylum seekers at the 5% level of significance ($\beta=.1369$ $t=3.55$, $p=.0000$). Particularly, asylum seekers experiencing profiling were found to be 13.69% more likely to have their right to non-refoulment affected compared to those who are not profiled.

4.5 Analysis of whether measures taken by the state can protect human rights during profiling maintaining national security

Table 16: Chi-Square analysis on the association between government measures and human rights

Government measures	Human rights		
	<i>Degrees of Freedom</i>	<i>Chi-Square Statistic</i>	<i>P-value</i>
	<i>(DF)</i>	<i>(χ^2)</i>	
	6	42.1322**	0.070

Note: ** means statistically significant at the 10% level of significance

In Table 16, the results of the Chi-Square analysis on the association between measures taken by government and protection of human rights indicate that government measures do influence protection of human rights among asylum seekers at 10% level of significance ($\chi^2=42.1322$, $p=0.070$).

Table 17: Regression analysis on the effect of government measures on human rights

Right to non-refoulement	β	$SE \beta$	<i>t</i> -statistic	<i>P</i> -Value	95% <i>CI</i>
Constant	.4444	.0967	4.60	0.000	[-.2543, .6346]
Government measures					
Security officer appraisal	.1156	.1394	0.83	0.408	[-.1587, .3898]
Professionalism	.0069	.1313	0.05	0.958	[-.2652, .25129]
Community participation	.0556	.1108	0.50	0.617	[-.1624, .2736]
Training	.0333	.1102	0.30	0.763	[-.1835, .2502]
Refugee law	.1732**	.1295	4.34	0.082	[-.0815, .4279]
Fairness & Non-discrimination	.0065	.1196	0.05	0.956	[-.2287, .2417]
R^2	0.0106				
Observations	345				

Note: Principle of non-refoulment is used as a reference, and ** means significant at the 1%

Table 17 presents regression analysis results on the effect of specific government measures on human rights of asylum seekers in Eastleigh Sub County. There were 345 observations that were used in carrying out the analysis. The R^2 was .0106 indicating that the proportion of variation in human rights that is explained by government measures was 1.06%. The results indicate that refugee law had statistically significant effect on human rights at 10% level of significance ($\beta=.1732$ $t=4.34$, $p=.082$). Particularly, refugee law improved the probability of protecting refugee human rights by 17.42%. The other government measures had no significant effect of human rights, but had positive contribution towards protection of refugee human rights. Specifically, appraisal of security officers improved protection of refugee human rights by 11.56%, while professionalism, community participation in security issues, training and fairness and non-discrimination improved by the probability of protecting refugee human rights by 0.69%, 5.56%, 3.33%, and 0.65% respectively.

CHAPTER FIVE:

DISCUSSION, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

From the study information was collected, analyzed and conclusions made. The purpose of the study was to evaluate how profiling influences the right of freedom of movement of Somali asylum seekers in Eastleigh Sub-county and to investigate how profiling affects the right to non-refoulment of Somali asylum seekers in Eastleigh sub county and to explore measures the state can take to protect human rights during profiling while maintaining national security.

5.2 Summary of the Findings

5.2.1 Profiling and the Rights of Asylum Seekers

Chi-square test between profiling on age and family residence depict significant impact on asylum seekers rights. The study established that asylum seekers are affected by profiling operation in their residential areas, asylum seekers particularly those of Somali origin are subjected to violence and abuse of their rights while trying to achieve safety, and subsequently are treated with hostility and discrimination when they began the rebuilding of their lives in Kenya. The study also noted that layers of additional security screening measures have severely restricted asylum admissions to Kenya.

Chi-square test between profiling on gender and age depict significant impact on asylum seekers right to non-refoulment. In Table 11, the results of the Chi-Square analysis on the association between profiling and right to freedom of movement indicate that profiling does influence freedom of movement of asylum seekers at 10% level of significance ($\chi^2=0.0998, p=0.052$). In Table 12, regression analysis results indicate profiling has a statistically significant effect on the right of freedom of movement among asylum seekers at the 10% level of significance ($\beta=.0223, t=6.31, p=.073$). Particularly, asylum seekers experiencing profiling were found to be 2.23% more likely to have their freedom of movement affected compared to those who are not profiled. In Table 13, the results of the Chi-Square analysis on the association between profiling and right to non-refoulment indicate that profiling does influence the right of non-refoulment among asylum seekers at 5 % level of significance ($\chi^2=12.2166, p=0.000$). In Table 14 the regression results indicate profiling has a statistically significant effect on the right to non-refoulment among asylum

seekers at the 5% level of significance ($\beta=.1369$ $t=3.55$, $p=.0000$). Particularly, asylum seekers experiencing profiling were found to be 13.69% more likely to have their right to non-refoulement affected compared to those who are not profiled. In Table 15, the results of the Chi-Square analysis on the association between measures taken by government and protection of human rights indicate that government measures do influence protection of human rights among asylum seekers at 10% level of significance ($\chi^2=42.1322$, $p=0.070$). In Table 16, the regression analysis results indicate that refugee law had statistically significant effect on human rights at 10% level of significance ($\beta=.1732$ $t=4.34$, $p=.082$). Particularly, refugee law improved the probability of protecting refugee human rights by 17.42%. The other government measures had no significant effect of human rights, but had positive contribution towards protection of refugee human rights. Specifically, appraisal of security officers improved protection of refugee human rights by 11.56%, while professionalism, community participation in security issues, training and fairness and non-discrimination improved by the probability of protecting refugee human rights by 0.69%, 5.56%, 3.33%, and 0.65% respectively.

Further the study noted that instead of providing protection, Kenyan government is pushing Somali people back to extremely dangerous situations; however these cases go unreported. According to Amnesty international, the Kenyan government regularly in its obligation under Refugee Act to disrespects immigration laws concerning how refugees should be treated. The may be as a result of non-adherence to the statutory framework and lack of transparency amongst participants, for example a recent case of how Kenya discriminated refugees from Somali claiming their participation in Al-Shabaab attacks with no prior grounds and as a result punishing them and detaining them. Although there is peaceful co-existence between asylum seekers and Kenyans, asylum seekers especially those of Somali origin are subjected to violence by security forces during operations to flush out the terrorists within the country, there is a tendency to close doors to asylum seekers in Kenya, refugee rights were violated during and after the process of applying for asylum in Kenya and that Somali asylum seekers are branded terrorists in Kenya .The findings are in support of the research findings by Hathaway (2002) asylum access which seeks to fight for the rights of refugees both of which are structured and ones practiced claiming that their rights are not addressed by the UNHCR or other groups in support of refugees.

The study noted that asylum seekers refugees were not the key perpetrators of conflicts in their host country due to factors such as inflation and unemployment for Kenyans and that Kenyan government lacks clear formulated policies that are favorable to asylum seekers during profiling. The findings agree with those findings by Human and People's Rights (ACHPR81).

5.2.2 Measures Taken By the Government to Protect the Rights Of Asylum Seekers

The study established that the government of Kenya has not taken adequate measures to safeguard asylum seekers in the course of profiling operations. Suggestion were made that state should add the refugee law to the curriculum at the police training college, the Kenyan law provides for the protection and respect for the fundamental individual rights of Asylum seekers, community members should be involved in security operations to ensure that the police officers do not handle asylum seekers forcefully. Information on security operations in Kenya is made public and that the state should appraise security officers regularly to avoid infringement of asylum seekers rights. The findings are in support of the research findings by Wren, (2007).

The study noted that Kenyan government has failed to ensure protection of migrants and security operations in Kenya are not conducted in a professional manner. Kenyan police force are not well trained on how to handle asylum seekers during security operations, and there is unfair and discriminatory security operations targeting asylum seekers in Kenya.

5.3 Conclusions

Based on the study findings, this study concludes that profiling has elevated in respect to the targeted group. The increased unpredictable climate in which some people thought to suit the Islamist terrorists or illegal immigrants (particularly Somalis) are subjected to indiscriminate profiling as a result of increased anxieties of security in Kenya, thus contravening asylum protection rights (Refugees Act 2006). Further this study concludes that Profiling changes the power relationships between the profilers and the profiled. Kenyan government has now focused on jailing asylum seekers as a way of restricting them from entering the country.

Somali ethnic groups suffer non-refoulment in Kenya, this deters them from enjoying human dignity and rights. The Kenyan government does not ensure that migrants who are part of removal proceedings who are in fear of being tortured when they return to their home nations are provided with counsel, they fully are aware of their rights or given a fair trial. The study concludes that

asylum seekers are not the key perpetrators of conflict in their host country, asylum seekers haven't contributed or rather are not the key reasons for low inflation and unemployment in Kenya and that Kenyan government lacks clear formulated policies that are favorable to asylum seekers during profiling. The study did not link any asylum seekers to terrorism.

5.4 Recommendations

Kenyan government being a signatory to 1951 convention needs to adhere to this piece of legislation because it offers remedy to profiling challenges, ensuring security of asylum seekers as far as human rights are concerned.

To balance refugee protection and public safety, Kenyan government must carefully listen to those seeking asylum, Kenyan government must place individuals above categorical exclusions to ensure that asylum is only granted to only people who need it most.

The government should gather as much information, and assist in the improvement of procedures of operation as well as questionnaires. They should seek expertise advice and combine efforts with other organisations which are concerned with the human rights.

Kenyan government should involve major stakeholders to obtain expertise and direction on who to enquire or get information to determine an individual's profile.

5.5 Recommendations for Further Research

The purpose of the research was to determine effects of profiling of Somali asylum seekers on their human rights, against the backdrop of Kenya's security concerns. Similar study should investigate the security issues caused by urban refugees in the Kenya, there is also need to determine whether Kenya government policies are guided by principles of International law in its relations to asylum seekers and to assess whether asylum seekers are involved in terrorism.

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APPENDICES

Appendix I: Questionnaire for asylum seekers

Code number:.....

Section I: Demographics

1. Kindly state your gender?

Male () Female ()

2. Kindly state your age bracket?

() 21-30 years () 31-40 years () 41-50 years () Above 55 years ()

3. Kindly indicate your religion?

Christians () Muslims () Hinduism () Buddhism ()

Others

4. What is your marital status?

Married () Single () Divorced () Widowed ()

Other.....

5. Do you have family in Kenya? Yes () no ()

6. How many family members are in your family?

Less than 3 children () 3-5 children () 6-8 children () 9-11 children () More than 11 children ()

7. What is your monthly income?

Section II: profiling and the rights of asylum seekers

1. Were you affected by profiling operation in your area?(IV)

Yes () No ()

2. Which human rights issues have you experienced or observed during security operations in your area? (DV)

3. For How many days did you experience this violation?.....day (s)

4. Did you report the violation to any person or organization? Yes () No ()
5. If yes, which one?
6. Please indicate your level of agreement with the following statements relating to security and rights of refugees. Scale 1= Strongly disagree, 2= Disagree, 3=Neutral, 4=Agree,5=Strongly Agree

Statement		1	2	3	4	5
Asylum seekers are perpetrators of conflict in their host country						
Asylum seekers have led to loss of jobs, rampant inflation, and lower wages for Kenyan workers						
Asylum seekers are subjected to violence by security forces during operations to flush out the terrorists within the country						
The Kenyan government has formulated policies that are favorable to asylum seekers during profiling						
There is peaceful co-existence between asylum seekers and Kenyans						
There is a tendency to close doors to asylum seekers in Kenya						
My rights were violated during and after the process of applying for asylum in Kenya						
Somali asylum seekers are branded terrorists in Kenya						

Section III: Measures taken by the government

1. Do you think the government of Kenya has taken any measures to protect the rights of asylum seekers during profiling operations? Yes () No ()
2. How do you think the government can protect asylum seekers during profiling?

3. Please indicate your level of agreement with the following statements relating to rights of asylum seekers and measures taken to protect them. Scale 1= Strongly Disagree, 2= Disagree, 3=Neutral, 4=Agree,5=Strongly Agree

Statement	1	2	3	4	5
The Kenyan government respects the principle of non-refoulment and does not forcefully return asylum seekers to their countries					
The Kenyan law provides for the protection and respect for the fundamental individual rights of Asylum seekers					
The state should appraise security officers regularly to avoid infringement of asylum seekers rights					
The security operations in Kenya are conducted in a professional manner					
Community members should be involved in security operations to ensure that the police officers do not handle asylum seekers forcefully					
Kenyan police force is trained on how to handle asylum seekers during security operations					
The state should add the refugee law to the curriculum at the police training colleges					
Information on security operations in Kenya is made public in Kenya					
There is fair and non-discriminatory security operations in Kenya					

Appendix III: Consent Explanation

THE INFLUENCE OF PROFILING BY SECURITY AGENTS ON THE RIGHTS OF SOMALI ASYLUM SEEKERS IN EASTLEIGH SUB-COUNTY IN KENYA

Dear respondent,

My name is Mark Nzano, a student at the University of Nairobi undertaking a Masters programme in Human Rights. I am doing research on the influence of profiling by security agents on the rights of Somali asylum seekers in Eastleigh Sub County.

Purpose: The researcher is interested in investigating the effects of profiling on the human rights of Somali asylum seekers residing in Eastleigh Sub County.

Procedure: Kindly answer all questions without consulting others. Every answer is acceptable and your honesty is of great value to the researcher. Your participation is completely voluntary and you have the right of withdrawal from participation at any level of filling the questionnaire.

Confidentiality: Do not write any personal identification on the questionnaire. The responses you give will remain confidential and anonymous. All respondents' forms are coded and your response will not be used as an identification factor. The data given even if published will not be used to identify you in any way and hence anonymity is assured.

Researcher: Mark Nzano (Tel. 0721991736)

Masters of Human Rights Student

Department of Philosophy

University of Nairobi.

Supervisor: Dr. Jack Mwimali

University of Nairobi.

Appendix IV Consent Certificate

I do understand that there are no risks that comes with being a participant in this research. I voluntarily give my consent to participate in this study.

Respondent Signature..... Date.....

Researcher Signature..... Date.....

Appendix V: Informed consent

Participants will be informed of the purpose of the study and guaranteed that the study will be used for the sole intention of obtaining knowledge and that they shall not be victimized in any manner. The participants will sign consent forms attached to the questionnaires.

Appendix VI: Research Approval

An application to conduct the research was made to the National Commission for Science, Research and Technology, and the below approval was obtained.

 **NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY & INNOVATION**

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APPLICATION STATUS

Show 10 entries

#	Title	Names	Processing Status	Report Status
1.	INFLUENCE OF PROFILING BY SECURITY AGENTS ON THE RIGHTS OF SOMALI ASYLUM SEEKERS IN EASTLEIGH SUB-COUNTY IN KENYA	MARK MWANGOKO NZANO	Permit has been issued...	[Upload Report]

Showing 1 to 1 of 1 entries

First Previous 1 Next Last

