

a **MANAGING REFUGEES IN KENYA: DEVELOPMENT ASSISTANCE AND  
CONFLICT MANAGEMENT** ?

BY  
**ONUONG'A YOBESH MOGIRE**

**DATE ACCEPTED FOR CONSIDERATION**

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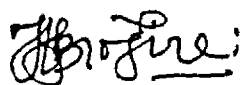
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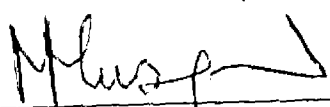


ONUONG'A YOBESH MOGIRE

1/2/2005

DATE

This dissertation has been submitted for examination with my approval as University supervisor.



DR. MAKUMI MWAGIRU

1 February 2005

DATE

ONE APPROVAL PROCEDURE

**DEDICATION**

To my children: Joel, Rachael, Barnsley, Mark and Andrew.

**IN MEMORY OF:**

Joel Makori Mogire (1967-1994); a brother whose tragic demise in the Mtongwe ferry disaster in April 27<sup>th</sup> 1994 still linger in our memory.

ALL APPLICABLE COLLECTIONS

## TABLE OF CONTENTS

	Page
Declaration.....	(ii)
Dedication.....	(iii)
Table of contents.....	(iv)
Acknowledgement.....	(vi)
Abstract.....	(vii)
List of abbreviations.....	(viii)

### Chapter One

#### **Background to the Refugee Management in Kenya: Development Assistance and Conflict Management**

Introduction.....	1
The problem.....	6
Objectives.....	8
Hypothesis.....	9
Justification.....	9
Literature Review.....	12
Theoretical Framework.....	21
Methodology and Data Collection.....	25
Chapter Outline.....	26

### Chapter Two

#### **Management of Refugees in Kenya and Development Assistance**

Introduction.....	27
Domestication of Refugee Law in Kenya.....	30
Refugees and Development Constraints.....	34
Refugees as a Security concern and Foreign Policy Issue.....	37
Provision of Refugee Emergency Relief and Capacity Building.....	40
Linking Refugee Aid to Development Assistance.....	44
Refugees and the Environment.....	51

### Chapter Three

#### **Refugees in Kenya and Conflict Management in the Horn of Africa Region**

Introduction.....	54
Causes of Refugee Outflows in the Horn of Africa Region.....	55
The Somali Conflict.....	56
The Sudan Conflict.....	59
The Refugee Problem as a Foreign Policy Issue.....	63
Sovereignty and Violation of Human Rights.....	65
Addressing the Political Causes of Conflict.....	67
Security Arrangement in Sudan during the interim period.....	68
Wealth sharing in Sudan during the pre-interim and interim period...	71
Somali National Reconciliation Conference in Kenya.....	77

When Refugees Return Home ..... 81

**Chapter Four**

**Refugee Management in Kenya: Development Assistance and Conflict Management: A Critical Analysis**

Introduction..... 85  
Humanitarian Relief and Long-term Development Assistance..... 86  
Humanitarian Intervention in Sovereign States and Internationalization  
Of Internal Conflicts..... 90  
Addressing Political Causes of Refugee Outflows..... 95  
Secularism of State Affairs..... 102  
Confidence-building in Regional Bodies and Proactive measures in  
Managing Human Crises..... 104

**Chapter Five**

Summary..... 107  
Conclusion..... 109  
Bibliography..... 113

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## **Abstract**

In a world society of complex interdependence the Refugee problem need to be addressed as an international relations issue that affect state security, foreign policy choices, development plans and environmental concerns. When human rights are securitized state representatives claim a special right to use unconventional means to protect state interests thus depriving citizens basic rights. Security is what takes politics beyond the rules of the game. Failure to provide for the needs of citizens challenges the legitimacy and sovereignty of refugee producing countries that are locked in dysfunctional conflicts.

This dissertation examines the effectiveness of giving refugees living in Kenya humanitarian relief that take stock of long term development assistance for capacity building that will enable them attain self-reliance while in exile and when they return home. The long-term development assistance strategy aims at stabilizing the socio-economic structures of the host country to stem negative responses to the institution of asylum embracing sustainable development.

Refugees are a vote of no confidence to their government for failing to provide security to its citizens. Addressing their political causes to enable a dignified return of refugees and enhance regional stability necessary for development can solve the Somalia and Sudan conflicts. It is hoped that the people of Somalia and Sudan will give the concluded peace agreements a chance. This dissertation concludes that conflicts are caused by elite conspiracy in subjective allocation of national resources and the unwillingness to share power that is often countered by self-determination struggles to share territory. The international community has an obligation to oppose crimes against humanity, share the refugee burden and resolve conflicts through consultative consensus building procedures so as to reach negotiated settlement, management or resolution of conflicts that invite all parties to post-conflict reconstruction.

Only then, we people of the world, would have solved the refugee problem and future generations from dysfunctional conflicts.

## List of Abbreviations

AU	African Union
CBO	Cross Border Operations
CCM	Chama cha Mapinduzi (Ruling party in Tanzania)
DRC	Democratic Republic of Congo
ECOWAS	Economic Community of West African States
GOS	Government of Sudan
GOSS	Government of South Sudan
GTZ	Deutsche Gessellschaft Fur Technische (German Aid Agency)
ICARAI&II	International Conference on the Assistance to Refugees in Africa
IDPS	Internally Displaced Persons
IGAD	Inter Governmental Authority on Development
JDB	Joint Defense Board
JEM	Justice and Equality Movement
NEC	National Eligibility Committee
NGO	Non Governmental Organization
OAU	Organization of African Unity
SADC	South African States Development Cooperation
SPLM/A	Sudan Peoples Liberation Movement/Army
TNG	Transitional National Government (Somali)
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNITAF	United Task Force
UNOSOM	United Nations Operation in Somalia
WFP	World Food Programme
WHO	World Health Organization
WWI&II	World War



## CHAPTER ONE

### BACKGROUND TO THE REFUGEE PROBLEM, DEVELOPMENT ASSISTANCE AND CONFLICT MANAGEMENT

#### Introduction

The refugee problem is largely a man made crisis that reflects a dysfunctional conflict<sup>1</sup> in the refugee sending country that has created gross deprivation, fear and persecution to necessitate human flight. From the Treaty of Westphalia in 1648, absolute sovereignty evolved creating the territorial state that enjoys exclusive acts making international politics anarchic<sup>2</sup> because each state had equal status and could not be controlled by other states. The secular state, created by the treaty, was charged with the responsibility of providing security, peace and order within its territorial borders overriding other institutions such as the family, community, religious organizations, racial affiliations or external interference. Thus, individuals or groups whose interests conflict with those of the state and its agents are forced to take refuge in another country or shut up and live in conflict. This is a realist way of dealing with matters of the state in its quest for power and survival in the anarchic international society. State power and absolutism has led to two bloody world wars, 1914-1918 and 1939-1945 and a Cold War from 1949-1989, all producing great human suffering and displacement. However, the state is no longer the only actor in international relations and territorial boundaries have become increasingly permeable<sup>3</sup>.

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<sup>1</sup> See M. Mwagiru et al, Understanding Conflict and its Management Nairobi, Centre for Conflict Research, 1998 p. 4

<sup>2</sup> See H.J Morgenthau, Politics Among Nations: The Struggle for Power and Peace, 6<sup>th</sup> Edition Revised by K.N Thompson, New Delhi, Kalyani Publishers, 1995 pp 3 – 17.

<sup>3</sup> See Nugent Paul and A. I. Asiwaju, African Boundaries: Barriers, Conduits and Opportunities, Pinter London, 1987 p. 68

Sovereignty and power politics were challenged heavily in the twentieth century by emerging global issues that needed concerted efforts to manage them and internal turmoil that compelled external intervention. The First World War challenged realism for its failure to prevent war leading to the 'League Covenant' which states did not really support accusing it of excess utopianism<sup>4</sup>. To critics of absolute sovereignty the Wilsonian idealism was a visionary theory just as Mitrany's functionalism<sup>5</sup>, which the world has paid dearly to uphold after WWII and the Cold War that ruined common meaningful development in worthless contests. The world wars produced refugees and states started refugee management efforts, agreements and conventions to cater for them as from 1922, 1924, 1926, 1928, 1933, 1935, 1939, 1946, that culminated in the 1951 Refugee convention<sup>6</sup> and the 1967 Protocol Relating to the Status of the Refugees.

Within the state, sovereignty is challenged by internal conflicts that demand it to establish and apply an effective system of conflict prevention, management and resolution. The other challenge is to provide protection and assistance to those affected by conflict. When the government is party to the conflict it may not provide protection and assistance to the needy and help in the search for peace. Such a government may even resist outside involvement in the conflict justifying itself by invoking article 2 (7)<sup>7</sup> of the UN Charter that defend national sovereignty while avoiding carefully the ending clause of chapter seven which sanctions UN intervention if a state's behaviour and is considered to be a threat to international peace.

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<sup>4</sup> See E. H. Carr, *The Twenty years' Crisis – 1919-1939*. Macmillan, 1991 2<sup>nd</sup> Edition.

<sup>5</sup> David Mitrany, *A Working Peace System* (4<sup>th</sup> Ed. London: National Peace Council 1946) pp 14-35.

<sup>6</sup> See Article 37 of *The Refugee Bill 2003*, Relating to previous conventions, *Kenya Gazette supplement Bills, 2003* p. 872

<sup>7</sup> Article 2 (7) of the UN Charter states that intervention in internal matters of any state except for actions with respect to threats to the peace, breaches of the peace, and acts of aggression as shown specified in chapter seven of the UN charter.

After 1945 democratic values developed a great deal with internal and international institutions that demand accountability in human rights and humanitarian standards. The end of the Cold War challenged sovereignty further, by exposing governments whose domestic performance negated human rights to international scrutiny.<sup>8</sup> Of late sovereignty is being reconciled with responsibility such that international intervention in internal matters is seen as a means to instilling responsibility in governments. While commending the Haitian intervention to restore an elected government, Reisman<sup>9</sup> argues, "in modern international law, what counts is the sovereignty of the people and not the metaphysical abstraction called the state".

Conflicts, wars, military coups, persecution and human rights violations lead to displacement; internal and external, which are a major concern in internal and international relations. Since the end of the Cold War, the number of internally displaced people has twice exceeded the number of refugees.<sup>10</sup> The increase in internally displaced persons as refugee numbers decrease is due to increased restrictions<sup>11</sup> by governments on the rights of asylum and potential refugees joining the ranks of internally displaced persons as they fear for their lives due to natural<sup>12</sup> or man-made disasters. Whereas refugees enjoy international protection and assistance, internally displaced persons fall within the jurisdiction of sovereign states that they could be running from.

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<sup>8</sup> Wright, Stephen, *African Foreign Policies* (Westview Press, Colorado 1999) pp 1-4.

<sup>9</sup> W.M Reisman, "Haiti and the Validity of International Action" (American society of international law, 89 No. 1, January 1995) p 83.

<sup>10</sup> F. Deng, Changing Concepts of Displacement and Sovereignty in (eds) Kevin M. Cahill's Preventive Diplomacy: Stopping Wars Before They Start, (New York: Routledge, 2000)p 123.

<sup>11</sup> See the American response to Chilean refugees during the Nixon Ford Administration discussed in Gil Loescher and John Scanlan, Refugees and America's Half Open Door, 1945 to present (New York, Free Press, 1986) pp 95-101.

<sup>12</sup> As in the 2002 Nyiragongo volcanic eruption in the Democratic Republic of Congo.

Displacement is not the disease but a symptom of a deeply rooted epidemic where humanitarian assistance is easing the pain and only as a first step towards diagnosing the disease and attacking its root cause. Addressing the causes of displacement requires going beyond the mere facts of conflicts, disputes, human rights violations and communal violence, to appreciate deep rooted causes reflected in nation building, crises of identity historical denial of democratic liberties, fundamental human rights, deprivations of property and severe underdevelopment.<sup>13</sup> Consequently, humanitarian tragedies emerge leading to massive displacements whose remedies include responses to emergency needs of the situation and a search for lasting solutions. The corresponding responses would be prevention (by early warning and early response), protection and assistance, secure return or permanent settlement in another area, rehabilitation, reintegration and sustainable development. These actions must aim at balancing sovereignty, responsibility and international accountability. Mrs. Sadako Ogata, a former United Nations High Commissioner for Refugees once made it clear that:

“Whether we speak of refugees or of internally displaced persons, it is clear that there will be no end to their plight until the international community has found ways to deal effectively with the root causes of forced displacement, so as to prevent or alleviate conditions before people flee”.<sup>14</sup>

The UNHCR has adopted a proactive and preventive approach rather than reactive responses when the damage is already done. It now focuses on both refugee producing countries and countries of asylum. The UNHCR needs to deal with refugees,

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<sup>13</sup> F. Deng, *changing concepts of Displacement and Sovereignty* op cit p 122.

<sup>14</sup> Statement by Mrs. Sadako Ogata the former UNHCR to the World Conference on Human Rights (Vienna, June 15, 1993) 3 quoted in (eds) K.M Cahills Preventive Diplomacy: Stopping Wars Before They Start (New York, Routledge, 2000).

returnees and those at risk of being uprooted.<sup>15</sup> It is compelling to argue that internally displaced persons should be considered and treated like refugees who have not crossed international borders, were it not for legal factors of non intervention in internal affairs of other states and accepted institutional terms of operation, because they are at a greater risk of mistreatment and deprivation.

The challenge to the refugee problem is to prevent refugee flows, not by building barriers or border controls but by defending the right of people to remain in peace in their own homes and their own countries.<sup>16</sup> Whenever the government or any controlling authority tends to see its citizens as enemies or part of the enemy with whom they are at war, reflecting a national identity crisis there arises a vacuum on the morality and legal responsibility associated with state sovereignty. It is to fill this vacuum that the international community is often called upon to step in and provide the needed protection and assistance. Where human lives are at stake, and large-scale loss of life is imminent, it is crucial that the response of the UN should take priority over long-drawn out debates concerning state sovereignty. The UN, and indeed the Security Council should never surrender using even armed intervention to protect life on behalf of the international community.<sup>17</sup>

While the UN is proud of a silver jubilee without a major war, internal wars over resources, liberty and discontent in most third world countries have left many people homeless, internally displaced or forced into exile to save their lives. Most third world

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<sup>15</sup> UNHCR, The State of World's Refugees: In Search for Solutions, (London: Oxford University Press 1995) pp. 8-10.

<sup>16</sup> Statement by former UNHCR Mr. Sadaka Ogata on the occasion of accepting the Human Rights Award from the International Human Rights Law group, Washington DC.2000.

<sup>17</sup> Anan, Kofi, We the Peoples: The Role of the United Nations in the 21<sup>st</sup> century (UN Dept. of Public information, New York 2000) p. 48.

countries gained independence after WWII and have not stabilized economically and politically. The increased number of refugees from these countries outstretches the capacities of host countries to accommodate them in terms of amenities and ecological balance. Refugees present a big burden in the provision of services, which most governments have failed to give their citizens.

Traditionally, the United Nations agencies and the donor community respond differently to refugee crises. While the UNHCR put up quick, temporary and short-term humanitarian relief to the needy refugees, the UNDP and other agencies go in for slower, long-term development projects. There is a need to link refugee aid reactions to sustainable development assistance to help stabilize impoverished economies as that of Kenya to manage the ever-increasing number of refugees.

This study is basically centred on Somali and Sudanese refugees living in Kenya. Kenya has for decades handled refugees from its neighbours in the Horn of Africa region and the Great Lakes region, who have eventually drained its capacity to handle them<sup>18</sup>. Kenya is technically drawn into the internal conflicts internationalized by refugees and mediation efforts and must seek ways of easing the burden while addressing the real causes of the refugee inflows in an effort to reach a lasting solution.

### **The Problem**

Refugee movements result from dysfunctional conflicts that witness the violation of universal human rights enshrined in the 1948 Universal Declaration of Human Rights (UDHR) and the UN Charter. Kenya is party to the 1951 Convention Relating to the

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<sup>18</sup> See C.O.C Amate in, Inside the OAU: Pan-Africanism Practice. London: Macmillan Publishers 1986 pp. 459-463

Status of Refugees and its 1967 Protocol<sup>19</sup> and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and is bound to offer refugees protection without discrimination and in accordance to universal standards, principles and prevailing regimes.

Kenya hosts refugees in its urban centers and designate refugee camps. The fall of the Somali and Ethiopia regimes in 1991 led to a refugee influx to Kenya and other neighbouring countries. There are 213,050 refugees<sup>20</sup> in Kenya, living mainly in two camps: Daadab in Garissa district and Kakuma in Turkana District. In January 2001 Kenya received Tanzanian refugees from the islands who were hosted in Shimoni before they were relocated to Daadab. In June 2001 Ethiopian refugees fled to Kenya. Except for Zanzibarian refugees, the Somalis, the Sudanese and Ethiopians are likely to stay in Kenya due to protracted conflicts at home.

The refugee camps are located in semi arid areas with a hot dry climate, without surface water and attractive natural resources to enhance UNHCR efforts towards building self-sufficiency. This situation makes refugees permanent dependents or UNHCR relief aid and a constant drain on Kenya's resources.

The refugee burden has also heightened insecurity in the camps and urban areas in Kenya<sup>21</sup> due to banditry occasioned by the proliferation of arms across the porous<sup>22</sup> borders. Since integration is not possible and repatriation is remote essential services as education, vocational training and income generating activities are necessary.

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<sup>19</sup> UNHCR, Convention and Protocol, Relating to the Status of Refugees (Public Information Section, 1996).

<sup>20</sup> UNHCR 2002, Global Appeal pp131-133.

<sup>21</sup> UNHCR Refugee Emergency Relief No. 91 December 1992.

<sup>22</sup> Nugent argues that, though defined in treaties and delimited on maps, borders in Africa are not clearly demarcated on the ground since about 45% of the boundaries follow rivers, watersheds and roads: Nugent Paul and A.I Asiwaju, African Boundaries Barriers, conduits and opportunities (London: Pinter 1987) p. 68.

This study is concerned itself with efforts that link refugee aid to development assistance to Kenya so as to ease the refugee burden on Kenya's impoverished infrastructure and social amenities. While Kenya assists refugees, it should not be at the expense of denying its citizens the same services or incapacitating itself in handling future situations.

The study also focuses on preventive actions that may challenge state sovereignty but tame humanitarian disasters through early warning and early response staged by UN, regional and sub regional bodies, governments and NGOs. Conflicts need to be resolved bravely or else they ruin civilizations built for years. Mankind must put an end to war or war will put an end to mankind. Therefore, existing conflicts need surgery to bring to the open their real cause and address it.

When refugees cross territorial borders in large numbers, they can destabilize countries of asylum and influence great changes as seen in the bringing down of the Berlin wall symbolically ending the Cold War.

### **Objectives of the Study**

This study has the following objectives.

- i) To determine the refugee burden on Kenya's social economic stability.
- ii) To examine regional conflict management initiatives that address political causes of conflicts in the Horn of Africa Region.
- iii) To investigate efforts that link refugee aid to development assistance in Kenya.



## Hypotheses

- i) Helping refugees to help themselves eases the strain on host countries and the UNHCR.
- ii) The refugee problem signifies deep-seated conflicts in the Horn of Africa region.
- iii) No single country can afford to host large numbers of refugees without compromising the needs of its citizens or turning out to be a source of refugee outflows.

## Justification of the Study.

The study of managing the refugee problem beyond humanitarian aid to development assistance and conflict resolution can be justified at two levels; that is, its relevance to policy formulation and the academic value it carries. Conflicts are inevitable and are not necessarily dysfunctional. They are necessary as they pre-suppose a relationship and may initiate new interaction between previously unrelated antagonists. Conflicts expose disequilibrium in society and deprivations for which solutions must be sought. Man needs to learn to live with conflict or have the alternative forced upon him – living in conflict.

The developing world generates more refugees due to social, political and economic instability that are a fertile ground for wars and discontent to thrive. There have been protracted conflicts in the Horn of Africa and the Great Lakes region that have forced people to flee their homes fearing for their lives. Kenya is located in a volatile complex conflict region and may receive more refugees in future if lasting solutions are not sought.

The refugee influx in Kakuma and Daadab camps in Kenya are not only a threat to security<sup>23</sup> but also to the environment. The scattered scrubs are the only source of timber and wood fuel needed for the construction of tents and domestic lighting respectively. There is a need for a swift move to attend to environmental concerns and of necessity integrate its management to other refugee activities as income generating, capacity building and intensified tree planting. Desertification is a threat in tropical Africa<sup>24</sup>.

Since refugees from unstable countries like Sudan and Somalia are unlikely candidates for voluntary repatriation and countries of asylum are unable to integrate them,<sup>25</sup> there is a need for self reliance projects, vocational training, education opportunities and addressing political causes of the conflicts to ensure safety for returnees. Although the international refugee regime is working it suffers from serious limitations as countries increase border restrictions.<sup>26</sup>

There is a growing feeling that states in conflict see refugees as part of the enemy and may follow them into exile to suppress them. The host countries must be prepared to be drawn into a conflict whose symptoms are refugee inflows. In 1980 there was a food crisis<sup>27</sup> in Kenya partly caused by Ugandan refugees since Tanzania had closed its border with Uganda, as it was party to the conflict.

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<sup>23</sup> Kenya closed its border with Somalia for the third time since 1991, Daily Nation, (Nairobi, July 29 2001) pp. 1-2.

<sup>24</sup> Napoleon, T. Vergara, 'Agroforestry: Sustainable Land use for Fragile Ecosystem in the Humid Tropics' in (ed) Gholz, L. Henry (1987). Agroforestry: Realities, possibilities and Potentials, Dordrecht, Martinus Nijhoff Publishers. Pp 330.

<sup>25</sup> Gorman, Robert, Coping with Africa's Refugee Burden: A Time For Solutions, (Dordrecht, UNITAR Martinus Nijhouff Publishers, 1978) p. 16.

<sup>26</sup> G. Loescher, Beyond Charity, International Cooperation and the Global Refugee Crisis (New York, Oxford University Press, 1993) pp. 129 – 130.

<sup>27</sup> Republic of Kenya, Economic Survey – Central Bureau of Statistics, Ministry of Planning and Development, (Nairobi, 1981) p. 46.

This study links humanitarian aid to development assistance in third world countries that host refugees and are likely to deplete national resources needed by citizens. This study addresses the plight of host countries that has been overlooked when reacting to refugee emergencies.

The study also attempts to link the long existence of refugee camps and the large numbers of refugees to environmental degradation. Refugees deplete a country's infrastructure and there is a need to make them environment friendly through self-reliant activities that lessen dependence. There is a wrong assumption that the poor can do little on their own behalf and require both handouts and expert direction<sup>28</sup> from governments if they are to improve their lot. Government action must be oriented less to doing things for the poor and more to encouraging and facilitating their efforts to do more for themselves.

Refugee outflows are meant to signal an incompatible situation at home that need surgical measures to heal the crisis before it spills over to neighbouring states. It is refugees (not governments) who can really tell their horrors at home and the underlying causes for taking refuge elsewhere. If similar conditions exist in the country of asylum refugees will spark a systematic problem.

It is important to re-affirm Nyerere's words that refugees are only victims of forces beyond their control and it can happen to anybody.<sup>29</sup> He was addressing African leaders in the 1979 Arusha Conference on the Problem of Refugees. So both academicians and policy makers need to steer towards eliminating the causes of refugee outflows.

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<sup>28</sup> D.C Korten et al in (ed) Francis F.Korten, *Bureaucracy of the poor – closing the Gap*, Kumarian Press, Connecticut, 1983 p. 40.

<sup>29</sup> See C.O.C Amate, *Inside the OAU – Pan- Africanism in Practice*, London: Macmillan 1986, p. 475.

## Literature Review

The literature review in this study is of two categories: One relating to linking humanitarian aid to development assistance and the other will capture writings that address political causes of refugee outflows.

Refugee outflows reflect a conflict in the home country over incompatible values. Gurr,<sup>30</sup> argues that rebellion is not merely due to anti-lawful behaviour for some reason of personal interest or personal deviance from the accepted norms. It is due to the perception of relative deprivation. Therefore, there needs to be some consistent distributive justice of national resources. In needs theory, development implies the full development of the individual and his identify group, the absence of what Galtung<sup>31</sup> has called 'structural violence'. Such structural disparities are potential causes of conflict awaiting eruption. Dysfunctional conflicts create refugees whose plight the UNHCR and the international community address forgetting the host countries.

### Linking Refugee Aid to Development Assistance

Gorman<sup>32</sup> is of the opinion that the search for appropriate solution to refugee situations must aim to benefit refugees and their hosts. Certainly, once emergency relief needs are met, refugee efforts at self-reliance should be promoted, so that they do not become permanent wards of international charity or a continual drain on the host country's resources. Because conflicts can be inspired by refugee inflows there is a need to absorb them to less demanding positions. Many countries in Africa that were formerly food sufficient import large amounts of food occasioned by refugee inflows, bad

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<sup>30</sup> Gurr, Ted Robert, Why Men Rebel (Princeton, Princeton University Press, 1970) p.20.

<sup>31</sup> J. Galtung, "A Structural Theory of Aggression" Journal of Peace Research Vol. 1 No. 2 (1964) pp. 95-119.

<sup>32</sup> Robert F. Gorman, Coping with Africa's Refugee Burden: A Time for Solutions (Dordrecht, Martinus Nijhoff Publishers, 1987) pp. 8-9.

agricultural policies and drought. And while responding to the immediate relief needs of drought stricken countries, the international community should not overlook the long term needs for infrastructural assistance to the refugee hosting areas.

However, from the late 1970s the study of refugees in development has expanded. Chambers,<sup>33</sup> Christensen<sup>34</sup> and Keeley<sup>35</sup> show a development in the relationship between refugee settlement and self-reliance activities in countries of asylum. This depicts a growing awareness that large refugee populations impact a host country's development.

The idea of linking refugee aid to development assistance gained currency among scholars, UNHCR and governments in 1980s on development implications of handling large-scale refugee flows. Gorman,<sup>36</sup> raises two fundamental questions: how development assistance can be channeled in ways that will not be counterproductive to host country development; and how development assistance can be targeted in ways that will alleviate refugee related burdens on host country infrastructure? This study finds the questions integrative on the plight of the host country.

Amate<sup>37</sup> records that the May 1979 Pan African Conference on the Situation of Refugees in Africa convened in Arusha, Tanzania contributed to the thinking on refugee related development aid by introducing the concept of 'burden sharing'<sup>38</sup>. The OAU Council of Ministers endorsed its recommendations in July 1979 and by the UN General Assembly resolution 34/61 in November the same year. The Arusha Conference made

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<sup>33</sup> Charles Chambers, 'Rural Refugees in Africa: What The Eye Does Not See' *Disasters* 3 (1979) pp. 381 - 392.

<sup>34</sup> Hanne Christensen, *Survival Strategies for and by Camp Refugees*, UN Research Institute for Social Development Report No. 82 and 83 Geneva (1982).

<sup>35</sup> Charles B. Keely, *Global Refugee Policy: The Case for a Development Oriented Strategy* (Washington DC, 1981) pp. 20-26.

<sup>36</sup> Gorman F. Robert, *Coping with Africa's Refugee Burden: A Time for Solutions* op. cit p. 9

<sup>37</sup> C.O.C Amante, *Inside the OAU, Pan- Africanism in Practice*, (London, Macmillan, 1982) p. 470.

<sup>38</sup> UNHCR, *Report on the Conference on the Situation of Refugees in Africa*, (Arusha: Tanzania, 1979).

clear what countries with impoverished economies go through in handling spontaneously settled refugees. African states in the late 1970s felt that the international community had not given the refugee situation in Africa the attention and emphasis it deserved. In July 1979 the UN meeting on refugees and displaced persons in South East Asia resulted in a General Assembly resolution of November 1980: 35/42, which led to convening an International Conference on the Assistance to Refugees in Africa – ICARA. ICARA I was convened in the wake of the exploding refugee population in Africa in the late 1970s. Although ICARA Africans who saw little development assistance considered me a failure, the conference was a success to donors and it set a realization of refugee self-reliance concept and development oriented programmes.<sup>39</sup>

Gil Loescher<sup>40</sup> concludes that in the 1990s traditional solutions to refugee problems seemed no longer adequate and the search for more effective alternative approaches has become pertinent and pressing. After the Cold War refugees no longer serve political ideological interests but they have internationalized internal wars. The internal wars are fought not only by military means but also by preventing international aid from reaching people living in conflict areas making humanitarian relief an assistance to war perpetrators. Asylum seeking is essentially a symptom of chronic political and economic problems that cannot be dealt with by stricter eligibility requirements or stronger immigration control but by comprehensive international approach towards greater protection and addressing the underlying causes of refugee movements. After the Cold War the refugee problem must increasingly be addressed in the context of a broad-

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<sup>39</sup> Javier Perez de Cuellar, 'Un Secretary General's statement to the meeting of Donor countries concerning 1984 conference on refugees in Africa' economic commission for Africa, information service press release No. 2725 (25 February 1983).

<sup>40</sup> Gill Loescher, Beyond Charity: International Cooperation and the Global Refugee Crisis (New York, Oxford University Press, 1993) pp. 77 – 81.

ranging transnational diplomatic and political strategy. Modern refugee problems defy quick solutions.

Holborn,<sup>41</sup> provides traditional institutional reactive responses to refugee aid on humanitarian grounds. Her work dwells on trends and the principles of *non-refoulement* that fall short of the plight of the host country.

Kibreab,<sup>42</sup> while discussing causes of the large number of refugees in Africa, notes that the refugee problem affects the refugees, the country of asylum, the country of origin and the international community. He links the refugee problem to issues of development where resources meant for economic growth programmes are diverted to humanitarian work. Refugees internationalize conflicts causing political, economic, environmental and security problems through proliferation<sup>43</sup> of small arms.

Doombos et al<sup>44</sup> classify the Horn of Africa states as being a spectacular failure in many fields including economic development. The countries inherited disparities in material and social resources between regions, ethnic groups and social classes. The state played a dominant role in the production and distribution of resources during the pseudo-Marxist military regimes making access to state power an imperative struggle for human welfare. The state became the object of conflict and the means with which the conflict was waged. This led to the collapse of the centre at Somalia and Ethiopia and the state structure decentralizing into anarchy. Sudan headed there. When economic development

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<sup>41</sup> L. Holborn, *Refugees; A Problem of our Times* vol. 1 (New Jersey: The Scarecrow Press Inc 1975).

<sup>42</sup> G. Kibreab, *African Refugees: Reflection on the African Refugee Problem* (New Jersey African World Press, 1982).

<sup>43</sup> Joao Honwana and Guy Lamb (1998) *Small Arms Proliferation and Drug Trafficking In Southern Africa – A Conceptual Paper* Centre for Conflict Resolution University of Capetown, South Africa pp 1-4.

<sup>44</sup> See Doombos Martin et al, *Beyond Conflict in the Horn, Prospects for Peace, Recovery and Development in Ethiopia, Somalia and the Sudan*, London: James Currey. 1992 p.12.

tends to shrink in a region riddled with conflict and drought; citizens are invariably made refugees.

### **Literature on Political Causes of Refugee Outflows**

Refugee movements reflect deeply seated political and economic problems that need concerted efforts to resolve them. Unresolved political and economic problems provide the impetus for prolonged conflicts. Ethnic massacres against the minority Tutsi group in 1962 made thousands to flee Rwanda. The conflict lingered on for decades until 1990 when the Rwandans launched a major assault from Uganda to take up power in Kigali.

Deng<sup>45</sup> et al are wary of spillover effects from internal conflicts in Africa that always threaten neighbouring states. Given sovereignty and permeable borders, instability from one conflict is often transmitted to neighbouring states, particularly because similar conditions prevail in the region. Mwangi<sup>46</sup> describes such related conflict zone to be having a systemic problem whose solutions can only be found by addressing an entire region's conflict especially by identifying the subtle shifting epicentre of the problem. Countries where no local protection for human rights for victims of conflicts exists, people will seek safe havens elsewhere.

Loescher<sup>47</sup> asserts that it is time to move beyond humanitarian aid to broaden the scope of approach to the refugee problem. Given that the refugee problem is inescapable and is here to stay international cooperation geared towards resolving the humanitarian

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<sup>45</sup> Francis M. Deng et al, Sovereignty as Responsibility Conflict Management in Africa, Washington DC, The Brookings Institution, 1996. p 120.

<sup>46</sup> M. Mwangi, Conflict: Theory, Processes and Institutions of Management (Nairobi, Watermark Publication 2000) pp. 60-67.

<sup>47</sup> See Gil Loescher Beyond Charity, International Co-operation and the Global Refugee Crisis. op cit pp 204 – 205.



and political problems of refugees through proactive diplomatic intervention by the United Nations and regional organizations is in the long-term interest of all governments in the conflict zone.

Loescher,<sup>48</sup> records that during the Nansen era (as UNHCR before 1951) when states were consolidating themselves, refugees were seen as an irritation in interstate relations and European governments established an international framework for regulating the plight of stateless people. During the Cold War era, ideological rivalry and geopolitical considerations provided a basis for self-interest of western governments to fund and assist the emerging international refugee regime in an effort to gain international acclaim. The end of the Cold War has ushered in a new 'World Order'. Although there are no permanent or quick solutions to conflicts, the international community cannot walk away from the problem of displaced persons. The international community is repulsing the use of the term 'sovereignty' to shield dictators from outside intervention. Intervention threatens the license of violent men and lawless governments, to abuse their citizens. The end of ideological war has lifted a sheltering umbrella that protected such dictatorial regimes that now attract international public opinion when they violate human rights.

Sovereignty is still a central feature in international political and legal systems but the UN has to intervene in internal conflicts, which are likely to destabilize peace and order in a region. Sovereignty does not mean, however, irresponsible behavior of states to

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<sup>48</sup> Ibid p 180.

citizens without consequence. In fact, the state has a primary goal of ensuring security for its citizens and thus rests its legitimacy. Thus Chipman<sup>49</sup> writes;

“States that abandon their principal goal of the protection of citizens, in the interest of the state, chip away at the legitimacy that insulates them from external intervention.”

Clark<sup>50</sup> advocates for effective early warning mechanisms and early responses to correct causes of forced migration in an effort to deter and mediate incipient crises before they spread to demand costly intervention. To Cohen<sup>51</sup>, every threatening situation should be brought to the attention of the international community without hesitation. However, early warning systems are always impeded by politics and decision-making procedures in government and relief agencies where information is routinely ignored as in former Yugoslavia and Somalia. There needs to be sufficient political will to strengthen preventive diplomacy.

Butros Ghali<sup>52</sup> argues in favour of the greater use of UN Security Council in human rights and refugee emergencies by establishing a peace enforcement unit drawn from standing national armies to be available to the UN on a forty-eight hours notice. However the third world countries fear the misuse of such sanctioned intervention by powerful states to perpetuate self-interests and wield their international influence. The Security Council is equally reluctant to empower the Secretary General to engage in effective preventive diplomacy besides financial constraints. However, the UN has an

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<sup>49</sup> John Chipman, “The Future of Strategic Studies; Beyond even Grand strategy” survival 34 (Spring 1992) pp 117-118.

<sup>50</sup> Lance, Clark, *Early Warning on Refugee Flows* (Washington DC, Refugee policy Group, 1989)

<sup>51</sup> Robert Cohen, Introducing Refugee issues into the Human rights Agenda (Washington DC Refugee Policy Group 1990)

<sup>52</sup> Charles Keely, Filling a Critical Gap in the Refugee Protection Regime: The internally Displaced” World Refugee Survey 1991 (Washington DC US Committee of Refugee Survey 1991) pp 22-27

indispensable position in international politics as it has a reputation for impartiality and skills of mediation and peacekeeping than any source can offer. It is the only body that can harness resources to respond and legitimately override state sovereignty when it demands. The UN is doing a lot only that some of its agencies lack clear mandates and co-ordination in related areas.

Charles Keely<sup>53</sup> advocates for full support for the UN Department of Humanitarian Affairs to give the international community access to intervene on behalf of refugees and internally displaced persons. Practical examples include: corridors of tranquility for relaying relief convoys, humanitarian cease-fire, zones of peace and safe havens used by the UN and NGOs in Angola, Ethiopia, Iraq, Sri Lanka, Sudan and ex-Yugoslavia.

Mwagiru<sup>54</sup> and Gil<sup>55</sup> converge on the establishment and strengthening of regional conflict resolution mechanisms. Regional organizations can be used to modify refugee producing situations and deal with systemic instabilities since they understand better the ethnic and minority conflicts and disputes in a region. Governments might be readier to cooperate with neighbouring states or regional organizations that have a stake in their conflicts than tolerate direct UN intervention. Neighbours have an interest in resolving the refugee problems in addressing the causes of refugee outflows.

Shawcross<sup>56</sup> is worried as to how victims of displacement can be fed without providing aid to their tormentors. While humanitarian aid is a response aimed at saving

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<sup>53</sup> Charles Keely, in (ed) K. Cahills; *Preventive Diplomacy, Stopping Wars Before they Start*, New York Rontledge, 2000.

<sup>54</sup> Mwagiru, M, *Conflict: Theory, Process and Institutions of Management*, Nairobi, Watermark. op cit p64.

<sup>55</sup> Gil Loescher, *Beyond Charity, International Cooperation and the Global Refugee Crisis* (New York, Oxford University Press, 1998) p. 11.

<sup>56</sup> W. Shawcross, *The quality of Mercy: Cambodia, Holocaust and Modern Conscience* (New York, Simon and Schuster 1984)

life, it needs to discriminate the architects and instigators of conflicts living in exile who benefit from it or may control relief aid enabling them to continue a conflict for a longer period. This is the case of the Khmer Rouge who used Cambodian refugees to attract relief aid. Dextexhe<sup>57</sup> argues that when humanitarian aid becomes the only response to refugee crisis there is no distinction between categories of victims, for example Tutsis suffering as a result of genocide or Hutu genocidiers forced to become refugees and have been struck by cholera. Good will and humanitarian aid is not enough without political action and efforts to achieve justice quickly enough before the criminals rehabilitate themselves politically to decide future actions for refugees. The international community's neutrality is wrong when harm is done and this relegates the UN to indifference. Only the threat of punishment for crimes against humanity can deter racist ideologies and puritanic politics that threaten to exclude others.

Minear<sup>58</sup> confirms that belligerents are more and more willing to use humanitarian access, life-saving assistance and even civilians themselves as weapons in their military struggles. This is in agreement with Singo's<sup>59</sup> observation that refugees may influence subversive activities as those of Ugandans in Tanzania during Idi Amin rule that fought with Tanzanian troops to overthrow him in 1979. Rwandan refugees who helped Museveni to power were also helped to take power in Kigali.

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<sup>57</sup> Alain Dextexhe, Neutrality or impartiality in (eds) Kevin M. Cahill's Preventive Diplomacy, Stopping Wars Before They Start (New York, Routledge, New York) p 112

<sup>58</sup> L. Minear and T Weiss, Humanitarian politics (Washington DC, Foreign Policy Association, 1994)

<sup>59</sup> S.M Singo, Refugee and Interstate Conflicts in Eastern Africa, 1960-1995, MA Dissertation, Department of Government University of Nairobi, 1998 p10.

## Assessment of the Literature

The literature reviewed has given a broad picture of the refugee problem as a global concern that emanate from inter state wars that care little of human dignity. There is literature that reflects the growing concern of linking refugee emergency relief to long term development assistance of countries that host refugees, largely an idea of the 1970s championed by Pan-Africanists and Asian counterparts who were left out in the 1951 definition of refugees as products of events in Europe.

There is sufficient literature on conflict management that addresses political causes of conflict that spark refugee outflows. This literature radiates around the legitimacy of the state and its agents to abuse human rights of its citizens.

This dissertation also looks at the economic impact of refugees on a growing economy and degenerating ecosystem as that of Kenya. This dissertation integrates economic development assistance to refugees, host countries, sending states and addressing political causes of conflict in the Somali and Sudanese conflict.

## Theoretical Framework

Every field of study develops and uses theories for analysis and easy comprehension of phenomena in that field. By dealing in depth with phenomena, perceptions and judgments, theory provides a simplified and more comprehensible approximation of reality or a segment of a larger reality. The most powerful<sup>60</sup> theories are thought to have descriptive, explanatory and predictive values. Theorizing about international politics has been marked with controversies throughout the twentieth

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<sup>60</sup> A Leroy Bennett, International Organizations, Principles and Issues, (Englewood cliffs, prentice Hall, 5<sup>th</sup> ed 1991) PP

century. There lacked agreement on theories, mode of studying international relations and the determinants of real power.

This study adopts the Pluralist approach that cherishes the Interdependence and World Society paradigms that provide a critique of power politics. The theories do not perceive the states as billiard balls that interact within a specific arena in accordance with established regulations but as an interrelated and a superimposed cob-web of complex interrelationships<sup>61</sup> that often overlap or obscure one another. The relationships need to be mutual and bent to fulfill human needs and varying interests in any conflict situation. By stressing human needs of identity groups and not the element of power sets a paradigmatic shift from realism. This shift leaves out the state (at least for a while) as the primary unit of analysis in international relations to invest in other actors. The theories stress that state boundaries are not dividing lines between domestic and international politics. This study hinges on the idea that refugees are a transnational issue that spills over territorial borders. Refugee outflows affect policies and decisions of both the country of origin and the country of asylum. Refugee operations are guided by regimes, conventions and protocols meant to traverse state boundaries.

Refugee problems have become complex and they need concerted efforts to give them relief aid and address the deeply seated causes that make people flee their homes. No single country can afford to host overwhelming numbers of refugees without compromising the needs of its citizens.

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<sup>61</sup> C. R. Mitchell, *World Society as cobweb: Stats, Actors and systemic processes* in Banks, M. (ed) *Conflict in world society: A new Perspective in International Relations* Brighton: Wheatsheaf 1984

The World Society and Human Needs theory is a shift<sup>62</sup> from the unit of explanation of the international society, the state, to perceptual dimensions of behaviour. The power model fails to explain why powerful states prove to be impotent giants that create problems for smaller states. World society locates real power in identity groups that may be cohesive than states. Human needs such as food, shelter, clothing, security, development identity and recognition cannot be negotiated with whatever social system failure to provide for the human needs will always be met with violence or conflict thus denying the social system legitimacy. Most international conflicts are caused by the quest to satisfy human needs through the rigid state.

To understand the nature of international conflict, a pluralist global view has to be adopted and not an interstate view. Only few conflicts can be described as interstate. Conflicts of international concern do have domestic components while domestic conflicts easily get internationalized in their refugee spillovers or resolution mechanisms. Therefore the separation of domestic politics from international politics, which is a feature of traditional international relations studies has been misleading and has led to false notions of the nature of conflicts. Refugees internationalize an internal conflict as it draws the host country into the conflict utilizing its resources and adjusting its foreign policy choices.

Traditional means of settlement may be appropriate in conflicts of interest (or disputes that can be settled for some time) but less effective in handling conflicts involving human needs and values. Conflict resolution need tactics to uncover

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<sup>62</sup> J. W. Burton, World Society and Human needs in (eds) Margot Light and A.J.R. Grooms, International Relations, A Handbook of current Theory, (London, printer publisher 1985) PP 50

underlying interests or needs that remain beneath the surface<sup>63</sup> in demonstrations, wars and anxieties attached to community groups.

For individuals to achieve their needs, there must be some measure of physical security for consistence in response and some capability to control the environment for pursuit of these purposes. And while conflicts and tactics can be negotiated, the search for needs cannot be suppressed. Men will do anything and everything to achieve development, identity, security etc and suppression may not last long. Ethnicity is resurrecting and it is threatening both capitalism and socialism. The foundation of human freedom and dignity hinges on the building of a civil society, decentralization and diffusion of political authority so as to satisfy the needs of the individual even at the destruction of society.

The world society seeks to discover what the nature of conflicts is and the means by which it can be avoided. Conflict cannot be avoided by the exercise of power by authorities or compartmentalizing it as domestic or international since they all spring from failure to provide for human needs. The legitimacy of authorities is the focus to provide for human needs not in powers of coercion and defense. After decades of violence the military option in the Horn of Africa region has to be discarded. IGAD member states need to put their houses in order (with the help of others) otherwise regional body will reflect what members are and fail in their targets. Co-operating<sup>64</sup> countries must always search for a material basis of exchange rather than competing in producing similar commodities hence ends up celebrating when problems of drought,

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<sup>63</sup> Mark J. Hoffman, Normative Approach, in (eds) Margot light and A.J. Groom's International Relations, A Handbook of Current Theory, (London printer publishers, 1985) p 33

<sup>64</sup> Mazzeo, Domenico (ed) African Regional Organizations, London Cambridge University Press 1984 p. 225-245



conflict or famine strike one competitor. Unfortunately, climatic, conflict and environmental adversaries do not recognize territorial borders, as they are largely interdependent. When conditions for survival worsen in one country its neighbours must prepare to receive refugees and provide for their urgent human needs.

This study builds on the strong conviction that refugee movements are a massive search for human needs that are lacking at home or are being threatened<sup>65</sup>. The satisfaction of human needs or lack of it is a precondition for human interaction. This thought make refugees a common problem to all human beings since anybody can be turned a refugee by either natural or man made situations. It follows then, that no territorial shackle should be strong enough to hold the international community from intervening to end human suffering or help those in distress. This study values individual<sup>66</sup> in conflict that need to be empowered so as to fend for themselves and enjoy their human rights in international relations as purposeful actors<sup>67</sup>. Refugees are not lesser beings.

### **Methodology**

This study made use of both primary and secondary data.

#### **Primary Data:**

Primary data include interviews at UNHCR, UNDP and NGOS, interviews with political attaches in the embassies of Somalia, Sudan and Kenya's. The National Refugee Secretariat (NRS) at the ministry of Home Affairs, Heritage and sports and African Union section at the ministry of Foreign Affairs.

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<sup>65</sup> See Len Doyal and Ian Gough, A Theory of Human Need, London, Macmillan Press, 1991 p. 50.

<sup>66</sup> J. David Singer. The Level of Analysis, Problems in International Relations in (eds) Klaus Knorr and Sidney Verba, The International System (Princeton, N.J Princeton University Press, 1961) pp77-92.

<sup>67</sup> J. Galtung, Peace by Peaceful Means: Peace and Conflict: Development and Civilization, London: Sage Publications 1996 pp 4-14.

### **Secondary Data:**

These are published and unpublished print material as books, periodicals, newspapers, reports, documents, encyclopedias and other writings.

### **1.9 Chapter Outline**

Chapter One of this project is the proposal. Chapter two deals with the management of refugees in Kenya and development assistance. Chapter three focuses on refugees and conflict management in the Horn of Africa Region. Chapter four gives a critical analysis on development assistance and conflict management especially addressing political causes of conflict. Chapter five is the conclusion.

## **CHAPTER TWO**

### **MANAGEMENT OF REFUGEES IN KENYA AND DEVELOPMENT ASSISTANCE**

#### **Introduction**

Chapter one offers a background to the refugee problem and international responses to end human suffering. It discusses the Kenya refugee problem, justification of the study, objectives, hypotheses, literature on development assistance and conflict management and the theoretical framework for the study. This chapter is concerned with development assistance given to refugees and the host country that could be burdened with the presence of large numbers of refugees. The chapter brings out other actors apart from the state that assist the UNHCR in giving refugees assistance. The chapter will show the need to link humanitarian relief aid to long-term development assistance to refugees and their hosts.

#### **The Refugee situation in Kenya**

The Refugee population in the world is estimated at 20 million<sup>1</sup> where Asia accounts for 8.8 million, Africa 4.2million, Europe 5 millions, North America and South America 2 million. Kenya hosts about 221,000 registered refugees<sup>2</sup> from the Horn of Africa region and the Great Lakes region as shown in the table 1.

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<sup>1</sup> UNHCR, Refugees by Numbers, 2002, Geneva p 310.

<sup>2</sup> UNHCR, Global Appeal, 2002

Table 1

**Refugees in Kenya**

Country of origin	Somalia	Sudan	Ethiopia	Uganda	Rwanda, Burundi D.R. Congo	Total
No. Registered Refugees	135,000	73,000	8,000	5,000	5,000	221,000

Source: UNHCR Global appeal, 2002

Following the fall of the Siad Barre regime and the outbreak of civil war in Somalia in 1991, Somalia refugees fled into Northern Kenya in large numbers, necessitating the establishment of the Daadab refugee camps at Haqadera and Dagahaley that host 136,504 refugees<sup>3</sup> of whom 97.4 per cent are of Somali origin. The Kakuma Refugee camp in Turkana District of North West Kenya, 95 km south of the Sudanese border was established in 1992 after the arrival of 12,000 "Lost Boys of Sudan" who together with their caretakers had undertaken a dangerous five year odyssey fleeing the civil war in Sudan to Ethiopia they went back to an unsecure Sudan before getting to Kenya in 1992. Kakuma has 84,337 refugees<sup>4</sup> consolidated from closed camps in Walda, Thika, camps in Mombassa and Nairobi. Kakuma has four sites, Kakuma I, II and III and the new Somali Bantu site. The majority of refugees in Kakuma are from Sudan about 68.7 per cent.

The refugee problem is international in nature and scope although it emanates from civil wars, internal strife and ethnic conflicts. Refugees are one of the world's most vulnerable people who are forced to leave their homes and their possessions (both material and honorific) to flee for their dear life. Refugees are faced with diminishing

<sup>3</sup> UNHCR, Brief on the Refugees Assistance Programme, Daadab 2003 p1.

goodwill as governments tighten their immigration<sup>5</sup> rules even to genuine asylum seekers in the European Union. A growing concern today is that policies intended to deter economic migrants from using the asylum channel could, without counter balancing measures, be equally effective in deflecting refugees with genuine need for international protection. Such huge populations that wait clearance as international borders can be a real humanitarian catastrophe if combatants or genocidiers was pursuing them.

Refugees in Africa and Asia, move from one developing country to the other. The refugee burden in the developing countries is worsened by economic recovery problems they are facing; transformation in economic and political institutions, reduction of direct foreign investment, excruciating debt burden and debt servicing, deteriorating term of trade, collapse of commodity pricing, globalisation and a harsh climate. Although hospitality to fellow human beings is still strong in Africa and Asia, hosting large numbers of refugees often burden, straining a poor country's infrastructure, environment thus distorting local economic and social conditions<sup>6</sup>. Refugees may cause tension in traditional and social structures as they seek safety among closely related groups across national frontiers.

Despite the economic limitations and security issues relating to refugees, Kenya has continued to provide refugees with first asylum and social services like education, health, transport, security, water and infrastructural development in refugee camps. Kenya has been drawn into internal conflicts of the countries in an effort to search for solutions to ensure a safe return of refugees and regional instability. Internal conflicts

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<sup>4</sup> UNHCR, Brief on the Refugees Assistance Programme, Kakuma 2003. p2.

<sup>5</sup> Harmondsworth, The State of World Refugees 1993: The challenge of protection UNHCR, Penguin 1993

<sup>6</sup> Gil Loescher, Beyond Charity, International Cooperation and the Global Refugee crisis, New York: Oxford University Press 1993

Sudan, Somalia, Uganda, Ethiopia, DR Congo, and Rwanda and Burundi are thus internalised by refugee outflows and mediation initiatives and Kenya has participated actively.

### **Domestication of Refugee Law in Kenya**

Kenya is party to the 1951 Convention Relating To The Status of Refugees and its 1967 Protocol, since May 16<sup>th</sup> 1966 and November 13<sup>th</sup> 1981 respectively<sup>7</sup>. Kenya is also party to the OAU 1969 Convention Governing the Specific Aspects of the Refugee Problems in Africa signed on September 10<sup>th</sup> 1969. Kenya has not legislated a refugee law, which denies refugees living in Kenya employment opportunities. Persons seeking asylum in Kenya meet the National Eligibility Committee (NEC) for intervening and are left to the UNHCR to provide them with relief means. Kenya fulfills the principle of *non-refoulement* to refugees<sup>8</sup>.

In 2003, Kenya drafted. 'The Refugee Bill 2003'<sup>9</sup>, which is yet to be legislated. The bill is expected to offer professionals among refugees living in Kenya an opportunity to exploit their talents as well as relocate refugee camps to fertile grounds near water sources to enable them cultivate foods and thus lessen their dependence on the UNHCR. The Refugee Bill 2003 provides for the recognition, protection and management of refugees in Kenya in accordance to the provisions of the 28<sup>th</sup> July 1951 Convention

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<sup>7</sup> UNHCR, Country Profile, Kenya 1999.

<sup>8</sup> Universal Declaration of Human Rights, University of Minnesota, Peace and Resource Centre, [www.umn.edu](http://www.umn.edu).

<sup>9</sup> Republic of Kenya, The Refugee Bill 2003, Kenya Gazettee Supplement No. 80 (Bills No. 23)

Relating to the Status of Refugees and the 1969 O.A.U convention Governing Specific Aspects of Refugee Problems in Africa<sup>10</sup>.

The Refugee Bill 2003 aims at establishing a Refugee Status Determination Committee<sup>11</sup>, led by a Commissioner for Refugees, to oversee refugee issues replacing the National Refugee Secretariat, a department in the ministry of Home Affairs. The committee draws its members from ministries of Foreign Affairs, Local Government, Justice and Constitutional Affairs, Office of the President, Immigration Department, The Police and National Security Intelligence Services. The Bill provides a criterion for disqualifying persons from being considered refugees setting the conditions under which asylum seekers can apply for recognition as refugees while residing in Kenya. The Refugee Bill establishes a Refugee Appeal Board<sup>12</sup> to perform the quasi-judicial function of determining appeals arising from the decisions of the Commissioner for Refugees. Any person aggrieved by the decision of the Appeal Board may within twenty-one days appeal to the high court on a point of law.

The Refugee Bill provides for a camp manager<sup>13</sup> who will receive and register all refugees and manage designated refugee camps in an environmentally and hygienically sound manner co-ordinating security and protection to vulnerable groups especially women and children.

The sluggish move to have the refugee law legislated in Kenya, unlike Tanzania, defeats logic given the large number of refugees in Kenya for the last three decades. It compels a submission that most legislators in Kenya (even those from refugee inhabited

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<sup>10</sup> See The Refugee Bill 2003, Op. Cit p. 31

<sup>11</sup> Ibid p. 835

<sup>12</sup> Ibid p. 838-840

<sup>13</sup> Ibid p. 845

areas) are not sensitized on the refugee issues or it could be in the legislators' interests that the refugee fate hung in the balance. This portrays Kenya as not being a good human rights protector.

During the Cold War Kenya's foreign policy choices preferred non-interference in internal affairs of other African states. Given Kenya's geographical location in a region flanked by socialist states (Tanzania, Obote's Uganda, Numeiry's Sudan, Ethiopia and Barre's Somalia) Kenya felt threatened and giving refugees full status was to encourage socialist dissidence in its borders. But, that did not stop people in distress from taking refuge in Kenya. During Cold War most countries served ideological goals of the block they belonged to than practical responses to peace and order that was their major claim. Although many countries have agreed to accept refugees on a temporary basis during the early phases of a crisis, only 17 states worldwide now participate in official resettlement programmes and accept quotas of refugees on an annual basis<sup>14</sup>.

On the other hand, Tanzania's responses to the refugee problems is criticized in that it sometimes contradicts its refugee policy that earn the country 'The Nansen Medal' in 1983 for totally integrating refugees<sup>15</sup>. It is observed that behind Tanzania's good refugee policies forced expatriation took place but was obscured by the overall acts of generosity<sup>16</sup>. Tanzania' refugee policy is seen as resulting from the commitment of the CCM party and Nyerere to liberation struggle as a frontline state. But, the Tanzania Refugee Policy of 1996 is stern than international conventions that are based on fundamental principles of human rights. Tanzania must have aimed at controlling

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<sup>14</sup> See M. Mwangi, The International Management of Internal Conflict in Africa. The Ugandan Mediation 1985, a PhD Dissertation, Rutherford College, University of Kent at Canterbury, 1994, p. 260

<sup>15</sup> UNHCR, Refugees by Numbers 2002, p. 13

<sup>16</sup> Office of the High Commissioner for Refugees, General Information, Paper, January 1985 p. 14-57.



refugee movements within its borders. Nowhere else in Tanzania laws do such strict measures feature and this move denies refugees employment opportunities<sup>17</sup>.

The 1969 OAU Convention<sup>18</sup> Governing the Specific Aspects of Refugee Problems in Africa defines a refugee as any person, who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in any part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality. Countries of the world and the UNHCR seeks to give refugees a safe and secure home being since it is the first human right a refugee loses and which every refugees has the right to seek and enjoy in other countries of asylum<sup>19</sup>. Other human rights include freedom of movement, speech, protection against discrimination, freedom of worship, right to have property and family, equal opportunity to basic education, health care, food, shelter, security and participation in political activities of ones country.

Refugees living in Kenya are a product of gross violations of human rights by institutions thought to be custodians of such rights. The state and its agents has the responsibility to distribute national resources and ensure that justice prevails in its operation. But the test of time has shown that states in conflict fail to grant security to all its citizens and satisfy increasing human needs. The states of Somalia and Sudan have

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<sup>17</sup> Patricia Daley (1992). 'The Politics of the Refugee Crisis in Tanzania in (eds) Horace Campbell and Howard Stein's Tanzania and the IMF, the Dynamic of Liberalization, Westview Press pp. 125.

<sup>18</sup> The Organization of African Unity, Convention Governing the Specific Aspects of the Refugee Problems in Africa. OAU Doc. CM/267/Rev I, 10 September 1969.

<sup>19</sup> See Article 14 - Universal Declaration of Human Rights.

fallen prey to a class of elites who seek power at the expense of masses living in exile or internally displaced. The community of states<sup>20</sup> should assume collective responsibility of those fleeing persecution and offer them protection. Other non-state actors have favourably assisted refugees challenging the state to re-define its responsibility and sovereignty.

### **Refugees and Development Constraints**

Kenya hosts a large number of refugees from countries of the Horn of Africa, region that are experiencing conflicts that threaten to destabilize the entire area disrupting development priorities. The refugees have found protection in Kenya, a country with a relatively weak economy characterized by high levels of unemployment, debt burden and dependence on foreign aid. In the 1992/93 financial year<sup>21</sup>, the capital expenditure of Kenya rose from a low K\$454 million in 1991/92, to K\$830 million in support of food imports to feed refugees at the wake of Structural Adjustment Programmes (SAPs). This was at a time when Kenya had a foreign exchange crunch resulting from suspension of disbursement by IMF, World Bank and bilateral donors. When faced with difficult choices, governments often revert to domestic borrowing causing a 'clouding out effect' between the government and the private sector thus slowing down investment. Domestic borrowing tend to loan the government more because it pays higher interest rates leaving private investors who actually create wealth.

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<sup>20</sup> UN Resolution A/45, Adopted on 12 February 1946

<sup>21</sup> Republic of Kenya, Economic Survey 1993, Central Bureau of Statistics, Office of the Vice President and Ministry of Planning and National Development. P.4

Development plans of both the refugee receiving country and the country of origin suffer a blow given that refugees are of various levels of skill and intellect. In most conflicts that cause refugee outflows political goals often override economic considerations. It takes long to realize the economic sabotage<sup>21</sup> caused by bad political decisions. While refugees may secure jobs, get paid and enjoy national facilities few of them can invest in the country of asylum. It is also feared that refugees come with different labour relations practiced at home and may wreck trade unions or create industrial tension<sup>22</sup> for being too ready to offer cheap labour for survival. Refugees may further emerge as a real threat to employers if they happen to come from a relatively developed economy than that of the country of asylum. Insensitive to human suffering as it is, economics consider the swelling numbers of refugees into the work force as agents of lowering labour costs and standards of living in the receiving country while the refugee outflows improves the wages of those who remained at home. At this point political and economic values tend to clash.

Refugee camps and settlement schemes are often set in ecologically fragile regions. The arid and semi arid regions in Kenya are at the verge of desertification as they suffer indiscriminate deforestation as refugees search for wood fuel and timber for constructing make shift tents. If timely measures are not put in place such environmental depletion will drift to more transnational ecological disasters that will need extensive irrigation schemes and time to heal. Environmental degradation can be a major cause of

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<sup>21</sup> Mordechai, E Kreinin (1975) *International Economics, A policy of Approval*, Second Edition, Harcourt Brace Javanovich inc, New York pp 407-408.

<sup>22</sup> K.O. Laurence, 1994, *A Question of Labour, Indented Immigration into Trinidad and British Guiana 1917-1975* Ian Randle Publishers, Kingston Jamaica p433.

political conflicts with population displacement as a consequence<sup>23</sup>. The insecurity and the conflicts result from people moving to other areas where they put strains on the available resources.

Fearing the effects of refugees in development programmes, the industrialized western economies forced African states to pursue a policy of integrating<sup>24</sup> refugees with the general population in concert with their own restrictive immigration<sup>25</sup> policies threaten the future of asylum<sup>26</sup>. Though African solutions to African problems is a sound policy, burden sharing to include aid for development to countries receiving refugees in large numbers is a move that will make governments liberalize their border restriction<sup>27</sup>. As Nyerere once put it, there can be few refugee situations in Africa that have not been accelerated by the political religious, commercial or military activities of wealthy nations.

A high number of refugees in a developing country, surviving in a hostile climate, can threaten its food security. In 1980, Kenya had to spend more of its budgetary allocations in purchasing foodstuffs especially cereals to stem a food crisis aggravated by the presence of Ugandan refugees<sup>28</sup> fleeing war and persecution at home. The volume of food imports in Kenya rose by 57.6 per cent in 1980 compared to a decline of 19.2 per cent in 1979. This situation arose from increased imports of maize and wheat in 1980.

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<sup>23</sup> Homer Dixon T. F., 1992, "On the Threshold: Environmental Changes as a Cause of Acute Conflict", International Security vol. 16 no. 2 pp. 76-116

<sup>24</sup> Patricia Daley (1992) 'The Politics of the Refugee Crisis in Tanzania in Horace Campbell and Howard Steins (ed) *Tanzania and IMF, The Dynamics of Liberation*, Westview Press p. 127.

<sup>25</sup> J. R. Oneal (1990) *The Theory of Collective Action and Burden sharing in NATO*, "International Organization 44 (3) pp. 379-402.

<sup>26</sup> G. Noll (2000) 'Negotiating Asylum,' The Hague, Nijhoff pp. 4-43

<sup>27</sup> G. Noll (1997) 'Prisoners Dilemma in fortress Europe: on the Prospects for Equitable Burden Sharing in the European Union', German Yearbook of International Law 40 pp. 405-437.

<sup>28</sup> See Republic Kenya, *Economic Survey*, Central Bureau of Statistics, Ministry of Planning and Economic Development, Nairobi 1981 p. 46

The volume of imported animal and vegetable fats increased by 48.5 per cent. The value of imports of unspecified consumer goods which had declined by 28.4 per cent in 1979 rose by 45.1 per cent in 1980 increasing in value of K\$ 39.6 million in 1979 to K\$57.5 million in 1980<sup>29</sup>. It is not a coincidence that in 1992 when Kenya received refugees from Somalia, Ethiopia and Sudan imports rose by 12 per cent with a major feature of government expenditure being extended support to the National Cereals and Produce Board (NCPB) to purchase cereals<sup>30</sup>. While Uganda suffered a great major 'brain drain' as professionals left the country for safe place of work, Kenya, Tanzania, Zaire, Zambia and the industrialized west gained. Kenya had to revoke employment opportunities given to Uganda refugees, who were competing with citizens, to push them back home in 1988 after order had resumed in Uganda.

### **Refugees as a Security Concern and Foreign Policy Issue**

Refugees are often seen as a security risk that needs to be dealt with utter care. Refugee in Kenya are handled largely by the UNHCR and the National Refugee secretariat at the ministry of Home Affairs with the help of the immigration department, police, provincial administration agents in refugee inhabited areas, mobile courts, Ministry of Health and other sections of departments related to refugees' basic needs. The government is subordinated to the UNHCR office in Nairobi yet the organizations budgeted allocations are made courtesy of the government of Kenya. The UNHCR does not allow the ministry of Home Affairs to verify its Kshs. 1 billion

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<sup>29</sup> Ibid p.47

<sup>30</sup> See Republic of Kenya, Economic Survey 1993, op.cit p. 5

expenditure nor physically count refugees<sup>31</sup>. Then the government becomes a mere rubber stamp to operations of an international organization, a loophole for corruption, exaggeration of figures and reluctance to see refugees return home.

The security situation around the refugee camps in Kenya at Kakuma and Daadab has been a major concern for years given the permeable borders and the subsequent proliferation of arms from neighbouring countries engaged in armed conflict. There have been reports of bloody clashes in Kakuma and Daadab camps. Banditry has been a major source of worry to relief workers in Kenya and women who travel long distances in search of firewood and timber for construction<sup>32</sup>. Such a lawless behaviour is expected in a people who are energetic and are away from home. The UNHCR liaises with security and law officers to enhance overall security to asylum seekers, refugees and relief workers. Refugees often clash with nationals living around the camps as they gravitate towards water resources and are involved in rape cases.

Kenya has closed its border with Somalia four times since the breakup of the republic in 1991 citing insecurity as a reason occasioned by proliferation of arms across the unguarded border<sup>33</sup>. Although Daadab is about 120kms away from the Kenya-Somalia border arms have found their way into Kenyan cities. Although refugees are not expected to carry weapons, a man who has been fighting and has fears of being attacked on his way across the desert will carry one if there are no serious arms' checks. The government of Kenya has thrice burnt firearms openly, the last done by the then vice

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<sup>31</sup> National Refugees Secretariat, Ministry of Home Affairs and National Heritage, regretting its position.

<sup>32</sup> See UNCHR – Refugees Emergency Relief No. 91 Dc. 1992 on Refugee Chaos and Lawlessness that Plague Emergency Relief p. 27-29.

<sup>33</sup> See UNHCR, Brief on the Refugee Assistance Programme, Daadab 2003 p. 6

president Wamalwa Kijana, on 15<sup>th</sup> March 2003. It is estimated that there are about half a million Somalis who are not registered as refugees who are busy trading in Kenyan towns and cities since 1991. There have been closures of flights to Somalia and Eldoret Airport on security grounds.

Refugee matters though dealt with at the Ministry of Home Affairs is largely a foreign policy issue. The more involved the ministry of Foreign Affairs is in conflicts that produce refugees the greater solutions that are sought for the refugee's plight. While Ugandans remained a major refugee group in Kenya in the 1970s and 1980s Kenya's relations with Uganda remained warm. Kenya being a capitalist economy preferred keeping its major trade partner while upholding the principle of non-interference<sup>34</sup> in internal affairs<sup>35</sup> of Uganda. Such status quo stance came under heavy criticism from Tanzania whose then President Nyerere expected Kenya to act firmly against the brutal regime of Idi Amin that abused the human rights<sup>36</sup> of its people. Kenya's relations with Tanzania soured leading to the border closure just as relations between Uganda and Tanzania did leading to invasion and counter-invasions that overthrew Amin<sup>37</sup>. The removal of Idi Amin did not end the conflict in Uganda nor the influx of refugees into Kenya. In 1985 Kenya had had a Foreign Policy shift that offered to mediate the Uganda conflict that did not ease with the second rule of Milton Obote. Kenya got involved in Uganda's internal conflict thus internationalizing it.

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<sup>34</sup> See Article 2(7) of UN Charter.

<sup>35</sup> OAU Charter, Article 3(2)

<sup>36</sup> See Caroline Thomas, New States, Sovereignty and Intervention, Adlershort England, Gower Publishers, 1985 p. 5

<sup>37</sup> Ibid

Equally, Kenya has participated actively in mediation exercises in the Great Lakes region and the Horn of Africa region as an heterogeneous mediator, coming from conflict area but with different culture and language from that of the people of Sudan and Somalia with a view of creating an enabling environment conducive to conflict management and conflict resolution. Due to the large number of refugees living in Kenya, and their effect in regional stability, Kenya cannot afford to be indifferent to the conflicts any longer. And any involvement in the affairs of other states, such as a mediation role demand specific foreign policy choices. Uniquely, regional and sub-regional mediators in a conflict who are expected to work for harmony in a region for the common good end up competing and do complicate a conflict deliberately to achieve vested selfish interests<sup>38</sup>. Refugees are a security concern that internationalizes conflicts demanding foreign policy choices and diplomatic measures when dealing with them. Given that Kenya is party to various refugee instruments is a diplomatic aspect. Kenya in its search for conflict resolution, commits its experts in studying the causes of refugee outflows and analyzing the response to help identify measures that can influence consultative resolution.

### **Provision of Refugee Emergency Relief and Capacity Building**

Kenya hosts over 220,000 registered refugees in its major refugee camps at Daadab (136,504) and Kakuma (84,337) largely from Somalia, Sudan, Ethiopia, Uganda, Rwanda, Burundi, Democratic Republic of Congo, Eritrea and Angola<sup>39</sup>. The Kakuma and Daadab camps are located in an arid climatic area with sparse semi-desert vegetation and without surface water. Refugees depend entirely on relief while the economy of the

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<sup>38</sup> The Issue of competing mediation initiatives is dealt with in chapter 3.



local inhabitants depended entirely on livestock. To prevent cattle rustling local inhabitants making security difficult to ensure the management of refugees risky own light firearms. The Kenya Government's policy of keeping refugees in camps has made refugees' chances of attaining self-sufficiency by engaging in trade, employment and agricultural activities very limited. Therefore, the UNHCR through its implementing partners (IPS) and operational partners provide for refugees' needs. The UNHCR has a scheme of 'cross-border operations that distribute assistance through quick impact project that open up to all people in distress resulting from displacement'<sup>40</sup>.

Social workers in refugee camps conduct regular visits to attend to the needs of vulnerable groups: the elderly, single headed families, unaccompanied minors, the handicapped, disabled, victims of rape and torture. The UNHCR assists refugees to resettle in third countries (of asylum) especially those that have urgent protection cases of assault or persecution in camps, the medically at-risk, women at risk including rape victims and family re-unification. Third country resettlement refugees are dispatched through Langata transit camp in Nairobi. Refugees need guidance, counselling and encouragement since taking refuge can be traumatic and heart breaking. There are three levels of emotional unrest<sup>41</sup>: pre-flight threats and fears, caused by torture, loss of kin and property; during flight, resulting from fears of being captured, actual encounters with enemy troops, wild animals, and bandits, and in exile, resulting from all manner of cruelties from hosts and militia men, hunger, diseases and other deprivations of a normal life. All these emotional, economic and political shocks reinforce the need for a peaceful

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<sup>39</sup> UNHCR Brief on Refugee Protection and Assistance Programme in Kakuma and Daadah, April 2003 p. 2

<sup>40</sup> UNHCR, Cross Border Operations Information Bulletin June 1993, Nairobi. P. 5

future, development and psychosocial support to refugees during re-integration. Areas of intervention include guidance, counselling, and children's continuity of education, economic development and community building activities.

Education is given priority as soon as refugees settle down. The refugee children and local children mix in schools in camps and outside with an aim of making them friendly to one another. The education syllabus aims at incorporating the curriculum of refugees' home countries and that of Kenya. In co-operation with UNESCO, the UNHCR provides teaching guides for refugee teachers and textbooks used in countries of origin. This is aimed at equipping refugees with standard education both in exile and when they return home. In Kakuma there is 82 per cent enrolment of school age children; pre-schools 5,647 (2129 girls), primary school 20,413 (6,150 girls while in secondary school, 2,430) (253 girls). Daadab camp has a 56 per cent enrolment where only 20,527 children attend schools. In both camps there is a serious shortage of classrooms, textbooks, desks and teachers making learning difficult<sup>42</sup>.

Feeding programmes in refugee camps have enhanced the dependence syndrome among refugees. However, malnutrition has been reduced greatly by the introduction of blended foods in the general ration mainly made of wholegrain cereals. Under the UNCHR, CARE international handles food distribution in Daabad while the Lutheran World Federation (LWF) distributes relief food in Kakuma. The food relief is provided by Word Food Program (WFP) and distributed through two systems: camp refugees

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<sup>41</sup> Farewell Nancy, Onward Through Strength: Coping and Psychological Support Among Refugee Youth Returning to Eritrea from Sudan in Journal of Refugee Studies Vol. No. 1 March 2001 Oxford University Press P. 196

receive food at family level through ration cards, while refugees at border sites receive relief shares through community or clan representative or elders.

Refugee camps have hospitals; clinic and health posts that provide preventive and curative care to all refugees and locals in these regions. Doctors, nurses and traditional birth attendants (many of them refugees) cater for patients, mother and child care, family planning, under five health and Expanded Programme of Immunization (EPI). Mortality rates have been minimized to one per a thousand persons per day from twelve in the early stages of influx. The most common medical problems in the camps are acute respiratory infections diarrhoea and malaria. Children and pregnant women are the most affected. Precautionary measures and environmental management to manage sanitation are emphasized<sup>43</sup>.

There is sufficient supply of clean water to refugees that also benefit the local population and their livestock. Refugee camps that have been closed due to repatriation or re-location have working water system for locals. Water activities and latrine building are given priority by UNICEF. Boreholes are sunk for refugees and the local community to stem scramble for water.

Partners in implementing UNHCR refugees programme in Kenya<sup>44</sup> include the National Refugee Secretariat of Kenya (NRS) established in 1992 and NGOs some of which also bring in their own funding. These NGOs include African Refugee Education Programme (AREP), Jesuit Refugee Service (JRS), Baptist Mission of Kenya, and Canadian Baptist. Overseas Mission, CARE, Christofel Blinden Mission, Deutsche

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<sup>42</sup> UNHCR, Refugee Protection and Assistance Programmes in Kakuma and Daadab, Office Brief Kit, April 2003 p.6

<sup>43</sup> Ibid p.7

Gessellschaft Fur Technische (GTZ), International Rescue Committee (IRC), International Relief and Rehabilitation Services (IRRES), Kenya Catholic Secretariat (KCS), Lutheran World Federation (LWF), Mandera Educational Development Society, National Council of Churches of Kenya (NCCCK), Medicines Sans Frontiers (MSF France, Belgium and Netherlands). Pharmacies Sans Frontiers (PSF) Radda Bomen, YMCA (Managing Langata Transit Camp to third country of asylum) and other UN bodies as WFP, UNICEF and WHO. Apart from benefits that the local population around refugee camps receive as water, quality education facilities, medical supplies and improved infrastructure; as a country Kenya does not enjoy an express link of refugee aid to development programmes. The International Monetary Fund and World Bank have loan facilities to all countries that need development aid or budgetary support should their be express refugee related aid host countries may end up using refugees as pawns to attract aid thus disrupting peace.

### **Linking refugee aid to development assistance**

Refugees, having been uprooted suddenly from their homes finds themselves in a foreign land faced with the challenge of getting basic human needs and protection. It is in the attempt to make refugees live to see the next day that the international community provides for refugee needs through the UNHCR, country of asylum and other partners. Refugees often desire to return home<sup>45</sup> once conditions seem conducive but will always hesitate when they fear renewal of hostilities thus prolonging their stay. When a large

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<sup>44</sup> About Education, Food, Health, Water and NGOs working in Kenya see UNHCR Working with Refugees to Build Peace, information bulletin, May – July 1999 p. 30

<sup>45</sup> Tim Allen and Hubert Morskin (ed) When Refugees Go Home, Africa World Press Inc. Trenton, New Jersey 1994 p. 1

number of refugees remain in a country whose economy is weak and the refugees are restricted in camps that are often located in less productive areas, refugees become a big burden to the UNHCR and tend to overstretch the resources of the host country<sup>46</sup>. In the 1980s the international conference on Assistance to Refugees in Africa (ICARA I & II) warned of the dangers of refugees becoming an unbearable burden in growing economies or becoming internally displaced in forced to return home by deteriorating economic conditions in exile or hostility from local nationals. In 1981 the United Nations High Commissioner for Refugees <sup>47</sup> the spirit to stretch the UNHCR assistance to long-term development efforts that will benefit both refugees and nationals living around refugee camps.

Though the protection of refugees is the work of UNHCR, the country of asylum spends a good share of its resources on refugees thus denying its citizen certain services. The presence of refugees in a country will see government officials spend their time on refugee related work. Refugees often share natural resources (like water, forests and land) with the local population. A country's roads, ports, and railway are expected to accommodate additional tear and wear from use in the transportation of refugee assistance, and local health, education, immigration, security and judicial resources face expended roles. It is for these considerations that refugees' emergency assistance needs to be sensitive to development needs for both refugees and local population through income generating activities. Neither refugee assistance, that ignores development nor development assistance that overlooks refugee related burden in a country hosting large

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<sup>46</sup> Robert F. Gorman (1987) Coping with Africa's Refugee Burden: A time for solutions, Martinus Nijhoff Publishers, Dordrecht p. 1-3

<sup>47</sup> Tim Allen and Hubert Morsink (ed) When Refugees Go Home, Africa World Press Inc. Trenton, New Jersey 1994 p. 2

numbers could be realistic and effective<sup>48</sup>. Although refugee aid and development assistance principle has existed for years, actual implementation has remained slow<sup>49</sup>.

The call for strategies linking refugee relief with local development has been impeded by lack of donor support, weak coordination between refugee and development bureaucracies and increasing numbers of refugees. Refugee migrations bring both costs and benefits to host countries. Generally refugees impose a burden on local infrastructure, environment and resources, but they also provide cheap labour, expand consumer markets and justify foreign aid<sup>50</sup>. Between 1993 and 1998 Tanzania received 1.3 million refugees from D.R.C. Rwanda and Burundi that outweighed Tanzanians<sup>51</sup> in the western districts by five to one (5:1). The refugees brought possibilities and challenges to western Tanzania: a huge demand for local crops sending prices up. When the refugees sold their rations, the price for beans and maize<sup>52</sup> dropped sharply. With the increased pressure Tanzania transformed its attitudes in conjunction with economic reforms and liberalization which show a steady decline in its receptivity of refugees though previously known for generosity as shown in Table 2.

Table 2

Tanzania refugee influx 1993 – 2001

Year	No.of Refugees	change from Previous year	Principal Source Countries
1993	257,800		Burundi Mozambique Rwanda Zaire
1994	479,500	+85	Burundi Mozambique Rwanda Zaire

<sup>48</sup> See Gil Loescher *Beyond Charity, International Cooperation and Global Refugee Crisis* op.cit p. 173.

<sup>49</sup> W. R. Symser (1987) *Refugees Extended Exile*, the Washington Papers, Praeger, New York, p. 40

<sup>50</sup> See T. F. Betts, 1981 Documentary note: Rural Refugees in Africa, *International Migration Review* 15 p. 213-218

<sup>51</sup> See Beth E. Whitaker, *Refugees in Western Tanzania*, in *Journal of Refugee Studies*, volume 15 No. 4 December 2002 Oxford University Press p. 341

<sup>52</sup> *Ibid* p.344

1995	752,000	+56	Burundi Mozambique Rwanda Zaire
1996	703,300	-6	Burundi Mozambique Rwanda Zaire
1997	335,000	-52	Burundi, Rwanda Zaire
1998	295,000	-11	Burundi D.R. Congo
1999	290,000	-1	Burundi Rwanda DRC
2000	413,000	+42	Burundi Rwanda DRC Somalia
2001	543,000	+31	Burundi Rwanda DRC Somalia

Source: World Refugee Survey Statistics 1993-2001 p 112.

Tanzania's shift from a refugee policy oriented to permanent solutions to restrict provision of relief in camps prior to repatriation was a by product of economic liberalization and a response to the difficulties of hosting the growing influx of refugees emanating from proliferating conflicts in the lake region in the 1990s<sup>53</sup>. In December 1996 Benjamin Mkapa's government issued an ultimatum to the half million Rwandan refugees to return home by the end of the month in contravention<sup>54</sup> of international refugee law. House to house 'round ups', confinement and refoulement of Burundi refugees by the Tanzania army took place in 1997, 1999 and 2001 affecting even some Burundi's who were settlers from the 1960s awaiting Tanzanian citizenship<sup>55</sup>. Regrettably 122 Burundi refugees forcibly repatriated by Tanzania in January 1997 were killed by the Burundi military<sup>55</sup>.

While armed conflicts and the dire need for humanitarian emergencies fill headlines in the mass media attracting quick international responses, underlying many of these tragic events in the silent crisis of underdevelopment<sup>56</sup> chronic poverty, mounting

<sup>53</sup> See Journal of Refugee Studies Vol. 16 No. 2 June 2003 pp. 161-162

<sup>54</sup> Ibid p162.

<sup>55</sup> Ibid p 162.

<sup>55</sup> UNHCR Press Release 15 January 1997 www.unhcr.ch

<sup>56</sup> UNCHR, 1995, The State of World's Refugees, in Search of Solutions, Oxford University Press, New York. p136.

population pressures on scarce resources, unemployment and widespread environmental destruction. Underdevelopment alone does not create refugees, but poverty, inequality and competition for scarce resources can play an important role in creating conditions in which mass population displacements occur. Development problems therefore hinder the search for solutions to the refugee problem. Equally, refugees cannot settle down and embark on self-reliance programmes in countries where the infrastructure has collapsed and commodity prices are spiraling up.

Indeed, the sudden arrival of a large number of refugees can aggravate economic difficulties if the receiving country is not economically stable. The Islamic Republic of Iran deemed the most generous recipient of Afghan and Iraqi refugees with limited international and NGO presence has been overstretched by the 4.5 million refugees it hosts promoting the Teheran government to signal for help<sup>57</sup>. Neither can refugees be expected to go home, and reintegrate in their own society if the conditions there are just as bad as when they left. A revamped economy at home will always pull back reluctant refugees who fear poverty at home. There is a need, therefore, to address economic difficulties in countries of asylum and at home before refugees return.

Refugees, given an opportunity, can work to help themselves and therefore ease the burden on the host country and the UNHCR. In 1984 a former West German Programme of helping refugees to help themselves created wealth for the country as Cambodian refugees integrated with local German while retaining their cultural and religious identity. In 1980<sup>58</sup>, Ugandan refugees arriving in southern Sudan brought new crops and agricultural techniques and ready labour which in two years transformed the region to a

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<sup>57</sup> See Loescher G. and Athur C. Helton, *Iraq Refugee Crisis*, [www.opendemocracy.com](http://www.opendemocracy.com) March 20, 2003.

<sup>58</sup> UNCHR, *Refugees – Distress and Rescue at Sea*, Geneva 1984 p. 23



food exporting region<sup>59</sup>. Equally, Nepal is proud of a 30 years lucrative carpet manufacturing industry, a humble skill brought in by Tibetan refugees<sup>60</sup>. Whereas Second World War refugees were concentrated in today's industrialized countries that were beneficiaries of economic initiatives like the Marshal Plan as well as IMF and World Bank reconstruction funds; developing countries have to battle it out with high oil prices, rising interest rates, low private investment, debt burdens and increased conditionalities in development assistance budgets<sup>61</sup>. The structural adjustment programmes (SAPS) thought to help the spiral decline of social conditions have worsened the state of affairs. Refugees in Africa are an impediment to development as countries of asylum struggle to cope with global recession. It is true that a majority of refugees in the world come from developing countries. However, refugee problems cannot be explained in crudely economic terms; other variables also count such ethnic composition, constitutional arrangements, political leadership, cultural characteristics, foreign policy choices, geopolitics location and topography, determining the size, composition and direction of refugee movements.

Efforts to manage the refugee problem have not taken adequate account of the relationship between underdevelopment and displacement. Much attention has gone to immediate and tangible causes of refugee outflows as violation of human rights and armed conflicts such that the efforts have become synonymous with activities such as human rights monitoring, peace keeping, institution building and conflict resolution. While they remain important though, the deeper economic and social roots of the refugee

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<sup>59</sup> See Gil Loescher, Beyond Charity, International Cooperation and Global Refugee Crisis op.cit p. 173

<sup>60</sup> Ibid p. 173

<sup>61</sup> J. Mendiluce, War and Disaster in the Former Yugoslavia: the Limits of Humanitarian Action: World Refugee Survey 1994, USA Committee for Refugees, Washington D.C p. 14.

problem cannot be treated in isolation from the political and social economic causes that give rise to them. Although risky, investment projects are viable strategy for sustainable human development<sup>62</sup>. The wealthy nations will have to be convinced that distress anywhere on earth poses a threat to their own interests and an affront to their esteemed values. Developing countries also have a duty to demonstrate commitment to good governance, respect for human rights and sound financial management to qualify for development assistance.

On the other hand relief aid can be used abusively to benefit the architects and instigators of conflicts living with refugees and thus enable them prolong the conflict. This is in the case of Khmer Rouge who used Cambodian refugees to attract relief<sup>63</sup>. It has come to pass that belligerents use humanitarian access, life saving assistance and even civilians as weapons of military struggles<sup>64</sup>. Refugee camps can become centres for subversive activities if they are not controlled. This is true to Ugandan refugees in Tanzania and Rwandanese refugees in Uganda who returned home as a military force<sup>65</sup>.

Humanitarian emergencies in the post Cold War era caused largely by internal conflicts need a multi-dimensional strategy to bring together the entire UN system, regional organizations, NGO and governments to defuse, deter and mediate incipient crises before they escalate to demand trans sovereign intervention. There is a need for 'Early warning systems' that will utilize early information<sup>66</sup>. Establishing an effective

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<sup>62</sup> L. Minear and T. Weiss, Mercy Under Fire, and the Global Humanitarian Community, Westview Press, Boulder 1995 p. 5

<sup>63</sup> W. Shawcross, The Quality of mercy: Cambodia Holocaust and Modern Conscience, Simon Schuster Press 1994, New York p. 140

<sup>64</sup> L. Minear and T. Weiss, Humanitarian Politics Washington DC, Foreign Policy Association 1994 p. 28

<sup>65</sup> S. M. Singo, Refugees and Interstate Conflicts in East Africa, 1960 to 1995, M. A. Dissertation Department of Government, University of Nairobi, 1998 p. 36.

<sup>66</sup> Michael J. O'Neill, (2000) 'Developing Preventive Journalism' in Cahill M. Kevin (ed) Preventive Diplomacy, Stopping Wars Before They Start, New York p. 67 to 79

monitoring body within the UN and regional bodies would alert the UN Secretary General, the UN Emergency Relief Coordinator and the Security Council of potential conflicts, likely to produce refugee outflows. The willingness to react to early warning information is a challenge to all humanity since bitter lessons of slow response have been learnt in Rwanda, Somalia and the former Yugoslavia.

Although there is a case for linking refugee aid to development assistance, capacity building and that refugees are a strain in Kenya's economy; and that the refugee problem is a security concern, it is not reason enough to challenge the institution of asylum. Security concerns can be sorted out and every country is under obligation to afford refugees asylum and other human rights as its nationals.

### **Refugees and the Environment**

The relationship between refugees and the environment has long been overlooked although large-scale refugee flights cause ecological destruction<sup>67</sup>. Environmental conservation is an essential part of any sustainable development. Reforestation and tree planting are a cornerstone of UNHCR's efforts in refugee camps. Other activities range from simple gardening techniques, the introduction of energy saving stoves and supporting local game wardens. Environmental projects are often implemented after urgent matters of relieve have been attended, but ignoring them can be highly political and spill over into protection, food insecurity and health fields. The Refugee High Commissioner, Ruud Lubbers, recently re-emphasized his predecessor Sadako Ogata's message that if environmental problems are ignored, the institution of asylum could be

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<sup>67</sup> See UNHCR, Refugees and the Environment, the Critical Time, Volume 2 No. 127 2003, Quoting Sadako Ogata the then Refugee High Commission p. 2.

jeopardized<sup>68</sup>. However, there is a debate whether people fleeing floods, famine and other environmental disasters needing assistance and permission to live elsewhere can be included in the category of refugees fleeing persecution. In any case the push effect is beyond their control.

Kenya's refugee camps have gone green<sup>69</sup> as a response to curbing deforestation occasioned by refugee fuel wood needs and tent building timber. The German aid agency (GTZ) has helped refugees plant 400 hectares of green belt in Daadab, while educating them and locals on the value of environment conservation and tree planting. Trees are windbreakers, shade in the hot desert and provide building materials after three to four years<sup>70</sup>. The introduction of solar cookers in part of GTZ's efforts to minimize and even reverse environmental degradation. Firewood is really scarce and refugees can use the cooker instead of going out to collect firewood risking rape or selling some of their rations to buy it . It is important for UNHCR to plant trees to replenish resources depleted by refugees. Both the firewood project and planting seedlings have improved relations between the local community and refugees. GTZ is adding greenery to refugee camps by encouraging households to grow multi-tiered gardens using recycled burlap bags, old tin tans, stones and waste water. These vertical gardens can grow several levels of vegetables that provide valuable micronutrients. Kakuma has 3 tree nurseries and 9.6 hectares of green belt<sup>71</sup>. About 40 per cent of refugee households use energy saving devices sponsored by the Rescue II project. There are four sessions annually for training environment trainers, atleast 2 per camp and environmental textbooks for every student.

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<sup>68</sup> Ibid p. 2

<sup>69</sup> UNHCR, Green Projects Bear Fruits for Kenya Refugee Camp, Relief web <http://www.reliefweb.int>2003

<sup>70</sup> Ibid

<sup>71</sup> UNCHR, Brief Kit on The Refugee Protection and Assistance Programme in Kakuma Camp, 2003p. 18

Although the UNHCR was not designed to tackle root causes of refugee flights but to alleviate their consequences by offering victims a degree of international legal protection and humanitarian assistance in the effort to help them begin their lives a new, it needs to change its focus to conflict management and resolution. Protection can contribute to an overall solution but increased numbers of refugees and varying circumstances for each situation have made it clear that humanitarian work alone cannot act as a substitute for political action in avoiding or solving future crisis<sup>72</sup>.

Chapter three looks into the need to search for solutions to the refugee problem, by addressing political causes of conflicts that result in refugee movements.

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<sup>72</sup> The Thrust of Political Solutions to conflict situations that produce refugees make the basis for Chapter Three discussions.

## CHAPTER THREE

### REFUGEES IN KENYA AND CONFLICT MANAGEMENT IN THE HORN OF AFRICA REGION

#### Introduction

Chapter Two discuss development assistance to refugees living in Kenya (Kakuma and Daadab camps) and their hosts while highlighting the security dangers posed by the unregistered refugees trading in Kenyan cities and towns. Though Kenya has published the Refugee Bill 2003, the government continues to apply the Immigration Act and Aliens Act as guidelines in managing refugees. Dealing with refugees at the ministry of Home Affairs, Provincial Administration and the Police Department, the government assumes that refugees are a domestic issue not a foreign policy concern that needs to involve all the diplomatic apparatus of the state. This chapter deals with conflict management in the horn of Africa region, by addressing political causes of conflict, in an effort to enable refugees return home peacefully.

The failure of balance of power in two devastating world wars taught states to have interest in the territorial integrity of other states no matter how distant they are as a means to prevent dysfunctional conflicts<sup>1</sup>. The refugee outflows have internationalized the internal conflicts of Somalia and Sudan drawing the attention of the Regional and Sub-regional bodies as IGAD. As a mediator Kenya has an interest in the peaceful settlement of the conflicts. Since peace is indivisible, countries desiring to control their destiny need to act pre-emptively to keep peace<sup>2</sup>. Most leaders look to the international

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<sup>1</sup> See Joel Larus, From Collective Security to preventive Diplomacy, New York: John Wiley Publishers 1965 pp 1- 5

<sup>2</sup> On changing third world countries attitude to the UN since decolonization, see Brian Uguhart, Decolonization and world peace. Texas Austin University Press, 1989 p. 57

community for development assistance to cope with economic difficulties but reject calls that compel them to follow democratic governance. In Africa, sub-regional organizations as ECOWAS, SADC, and IGAD are involved in conflict resolution sometimes in tandem with the United Nations. However, this does not rule out the role of UN and developed countries in conflict resolution in the Horn of Africa region. The Horn of Africa is one region that has had super power influence during Cold War and its conflicts are still far from being resolved.

### **Causes of Refugee Outflows in the Horn of Africa Region**

Refugee outflows are a symptom of dysfunctional conflicts. Conflicts in the Horn of Africa have arisen from structural violence in economic and political structures that lead to reduction of peace. Such conditions spell negative peace because despite the absence of war or violence, gross deprivation and violations of human rights imply an existence of latent structural violence<sup>3</sup>. Such violence can be ended by changing conflict behaviours, removing structural contradictions and injustices and by changing both cultural and religious attitudes<sup>4</sup>.

Post Cold War third world conflicts that have led to refugee outflows are of six categories<sup>5</sup>. There is the category of colony-colonizer conflict that spreads into the past and the future when the colony sorts it out with the metropole that has interest in the colony; as seen between Algeria and France in the 1990s. The second category is that of pre-colonial foes who are fighting for dominance or freedom as between Ethiopia and

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<sup>3</sup> J. Galtung, Peace by Peaceful Means: Peace and Conflict: Development and Civilization, Sage publications, 1996 p. 4-14

<sup>4</sup> See H. Miall, O. Ramsbotham and T. Woodhouses, contemporary conflict resolution: The Prevention, Management and Transformation of Deadly Conflict, London Polity Press 1995,

<sup>5</sup> W. Scott Thompson, Where History Continues: Conflict Resolution in the Third World in Sheryl J. Brown and Kimber M. Schraub's (ed) Resolving Third World Conflict, Challenges for a New Era, Institute of Peace Press, Washington DC, pp. 1-3

Eritrea. Third is intrastate ethnic conflicts that were hidden from the international community's observation during Cold War as the Somalia interclan wars and that of Hutus and Tutsis in Rwanda and Burundi. The fourth category identifies interstate ethnic conflicts, where communities across national frontiers sympathize with kinsmen in agony; for example, Tamils found in India and Sri Lanka, Kurds found in Iraq and Turkey, Somalis in Somalia, Kenya, Ethiopia and Djibouti, Tutsis and Hutus in Rwanda, DRC and Burundi. There are ideological and religious conflicts that thrive where Islamic, Christian, Hindu and Sikh fanatics live together, for example in Sudan, Israel and Palestine, India and Pakistan. The sixth category is of power projection conflicts where aggressive stances to ideological opponents fought it out in third world countries for example in Zaire, Angola, Ethiopia, Vietnam, Somalia and Afghanistan.

### **The Somalia Conflict**

The Somalia conflict that sent refugees to Kenya, Djibouti, Ethiopia, Tanzania and Yemen is rooted in the country's political environment<sup>6</sup> that was characterized by a militarized state, aggression on citizens, elite and small group conspiracy, economic sabotage, nationalist expansionism and irredentism, systematic inadequacy and the general cycles of irresponsible politics. The Somalia conflict can be traced back to the 1970s where clans struggled for power tearing the country apart with sporadic wars that culminated in the overthrow of Said Barre in 1991. During the Cold War the Said Barre regime controlled internal security of the country with the help of USA and USSR at

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<sup>6</sup> See Theodore A. Coulombis and James H. Wolfe, Introduction to International Relations, Power and Justice, 3<sup>rd</sup> Edition, New Delhi: Printice Hall of India 1996 p. 196-209.



different times. The result was a highly militarized<sup>7</sup> country receiving both soviet and US military aid. Between 1982 and 1989 the US, for instance provided the regime with US\$550 million worth of weapons and military assistance<sup>8</sup>.

Despite its long rule and super powers' support, the Said Barre regime failed to give Somalia an economic development direction a thing that brought great underdevelopment leading to state collapse. The unpredictable swing between scientific socialism and capitalism made Somalia's macro economic policies erratic thus confusing both investors and the domestic market<sup>9</sup>. As the super powers withdrew, Somalia deteriorated to armed confrontation between the government and various clan-based forces compelling president Said Barre to declare a state of emergency in December 1990<sup>10</sup>. In 1991 Barre fled Mogadishu to the South leaving a power vacuum<sup>11</sup> as the opposition did not have a pre-agreed plan of succession. The clan lords had to fight it out amongst themselves.

As confusion set in, Somaliland declared itself a republic on Said Barre's defeat and flight from Mogadishu. The United Somalia Congress (USC) faction complicated a difficult situation by hastily and unilaterally installing a rich but comparatively unknown hotelier, Ali Mahdi as interim president claiming full control over the whole country, when in fact, he was not in proper control of Mogadishu itself<sup>12</sup>. Ali Mahdi was rejected by the Somalia National Movement (SNM) and Bragadier-General Farah Aideed. The

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<sup>7</sup> See J. G. Gross, Towards a Taxonomy of failed states in the new world order: Delaying Somalia, Liberia, Rwanda and Haiti: Third World Quarterly 17 (3): p. 460

<sup>8</sup> Ibid p.461

<sup>9</sup> J. A. Mubarak, 1992, The Hidden Hand Behind the Resilience of the Stateless Economy of Somalia: Development 25 (12): p. 2037.

<sup>10</sup> United Nations, UN and Somalia 1992-1996, New York UN Dept. of Public Information 1996 p. 11

<sup>11</sup> Ibid p 13.

<sup>12</sup> See Juma Mohamed Ghalib, The Cost of Dictatorship, The Somalia Experience, New York, Lilian Barber Press, 1995 pp. 213-220.

formation of the Mahdi government in Mogadishu angered the people of Somaliland who felt disregarded after their ten years struggle to remove Barre. Somaliland never contemplated separation until May 1991 in what it called 'restoration of the sovereignty' of the former British colony under president Mohamed Ibrahim Egal. Puntland also went its way under Colonel Abdullahi Yusuf as president but it remains a federal region of Somalia<sup>13</sup>. The civil wars, hunger and hunger related diseases killed more than 300,000 people in Somalia<sup>14</sup>.

The fall of Said Bare regime and the disintegration of the state can be summed up as the climax of a chain of problems that suffocated<sup>15</sup> Somalia ranging from erroneous colonial legacies, a highly centralized state in a pastoral culture, militarization of politics, underdevelopment, harsh climatic conditions, lack of power sharing among fiefdoms and the end of Cold War politics that shielded dictators from internal and international scrutiny. At the peak of such deprivation there followed the rape of women at Hamar and Bravani along the coast, many executions, destruction of property and agricultural land, looting and livestock rustling, destruction of water supplies and homes, coupled with starvation, Somali people were displaced and destined to become refugees in Kenya, Ethiopia and Yemen<sup>16</sup>. Peace in Somalia requires these conditions to be reversed.

The UN attempted peace initiative in 1993, the United Nations operation in Somalia (UNOSOM) I and II, to establish a central authority for Somalia but failed and pulled out in 1995. Then followed Egyptian and Ethiopian mediation efforts that were duped partisan and were meant to further the conflict. In 2000, Djibouti led 'Arta Peace

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<sup>13</sup> See Patrick Gilkes, Briefing: Somalia, *Journal of Africa Affairs*, 1999 pp. 571-577.

<sup>14</sup> Sahnoum, M., *Somalia: The Missed Opportunities*, Washington D. C., US Institute of Peace, 1994, p. 15

<sup>15</sup> See M. Bradbury, *The Somalia Conflict: Prospects for Peace*, Oxford, Oxfam Print Unit 1994 p. 15

<sup>16</sup> *Ibid* p 16.

Initiative' installed a Transition National Government (T.N.G) under President Abdi Qassim Salat Hassan. In January 2002, the 9<sup>th</sup> summit of IGAD heads of state and government held in Khartoum, mandated Kenya to host and chair the Somali National Reconciliation Conference to be jointly co-ordinated with Djibouti and Ethiopia, which commenced in Eldoret, Kenya on 15<sup>th</sup> October 2002 as the 14<sup>th</sup> attempt to bring peace and reconciliation<sup>17</sup>. The Eldoret peace talks developed a problem on the number of delegates and with Mwangale's leadership forcing a change of venue to Mbagathi Nairobi and Bethuel Kiplagat taking over leadership. After several meetings and consultative negotiations Somalia leaders elected Colonel Abdullahi Yusuf as its first president in 13 years. The president took oath on 13<sup>th</sup> October in Nairobi and Somalia was immediately regranted its voting rights at the United Nations. Although the president is not popular in the southern Somalia and in the self-declared republic of Somaliland, Somalis are confident he will create a central government and relocate from Nairobi to Mogadishu.<sup>18</sup>

### **The Sudan Conflict**

The Sudanese refugees in Kenya are a product of racial hatred, decades of underdevelopment and a series of devastating wars over the control of the fertile land in the south and oil between southerners and the government of Sudan. The ills that have translated into hatred and war in Sudan can be traced to the 8<sup>th</sup> century. Arabs came to the land of blacks – Bilad el Sudan, the home of the Dinka and Nuer warrior tribes who lived along the River Nile, took them into slavery and sold others to Zanzibar and America<sup>19</sup>.

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<sup>17</sup> IGAD, Brief on the Somali National Reconciliation Conference Nairobi, Kenya, 10<sup>th</sup> March 2004.

<sup>18</sup> Afrol News.com, Somali 14 October.

<sup>19</sup> See Peter Woodward, Sudan, 1898-1989, The Unstable State, Boulder, Lynne Rienner Publishers 1990 pp 5-15.

During colonial times the Arabs and Africans lived in peace, but at independence Britain gave power to Arab elites in 1956 setting the scene for one of Africa's greatest internal wars. From 1930, colonialists secretly introduced a southern policy meant to isolate the south culturally and linguistically from the north<sup>20</sup>. At independence northern politicians took full advantage of their majority in the legislature and executive institutions branding southern protests illegitimate and treasonous<sup>21</sup>. They did not perceive those protests as statements by people distressed by a political transformation from which they were excluded. The situation provided a clear case of one ethnic group imposing its values and symbols as the country's ethnic-nationalism rather than embracing an inclusive territorial nationalism that was to encompass the Sudan's diverse peoples<sup>22</sup>.

The Arab leaders at Khartoum set to develop the arid north ignoring the Christian south inhabited by blacks. The government of Sudan dominated by Arabs is accused of assassinating governor Joseph Garang in 1962 fueling a guerrilla war in the Federal South that sent refugees to Uganda, Ethiopia and Kenya until their return in 1972 following Ethiopia led peace talks<sup>23</sup>. In 1978 oil was discovered by Chevron at Bentiu in South Sudan intensifying the Sudan conflict exacerbating war in 1980 between Sudan Peoples' Liberation Movement/Army (SPLM/A) and the government of Sudan while attracting external oil merchants into the conflict. In September 1983, the Numeiry regime unilaterally introduced '*Sharia laws*' in Sudan intensifying the north-south

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<sup>20</sup> Ibid p 13.

<sup>21</sup> Mosely Ann Lesch, The Sudan, Contested National Identities, Indianapolis, Indiana University Press, 1987, p.36-37

<sup>22</sup> Ibid p 36.

<sup>23</sup> Ibid p 38.

crisis<sup>24</sup>. The south, remains underdeveloped and remote from the outside world such that barter trade<sup>25</sup> is still in practice.

Sudan has had two civil wars that dispersed<sup>26</sup> people variously. The internal displacements in Sudan and interruptions in the distribution of relief aid are a military strategy and not a by-product of the civil war<sup>27</sup>. At the beginning of 2000, the internal conflict in Sudan had contributed in generating over 500,000 refugees<sup>28</sup> in neighbouring countries: Uganda (170,000), Ethiopia (70,000), DRC (68,000), Kenya (64,000) and Central African Republic (35,000). Apart from war fatalism Sudanese refugees are a product of drought and famine which, though natural disasters, were aggravated by the government policy of repression of afflicted populations and refusal by the international humanitarian community to enforce the fundamental right to food<sup>29</sup>. Drought is natural but political violence during the period make matters worse. The Sudan famine is partly a crime and not entirely a natural disaster, which demand politicians and military generals to be held responsible. Government and SPLA forces have in the past targeted the civilian population, blocked and manipulated humanitarian relief operations resulting to countless deaths and massive displacement<sup>30</sup>. Another cause of displacement in Sudan is environmental degradation<sup>31</sup> that fuels conflicts between displaced people and their hosts

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<sup>24</sup> Peter Woodward, Sudan, 1898-1989, The unstable State, op.cit 1990.

<sup>25</sup> The East African, Blood Oil: The Real Story behind war in Sudan, July 28 – August 3, 2003 p. 8-9.

<sup>26</sup> See Elnur, Ibrahim, Displaced and Refugee Studies in the Sudan: Present trends and future prospects, Research Paper, Sommeville College Oxford University Press 1994.

<sup>27</sup> Mayotte, Judy, "Civil War in Sudan: The Paradox of Human Rights and National Sovereignty, Journal of International Affairs Vol. 47, 1994 pp 410.

<sup>28</sup> UNHCR, 2000 country updates Africa Fact Sheet, May 2000.

<sup>29</sup> See Devereux, Stephen, Famine in the Twentieth Century, IDS Working Paper 105, Institute of Development Studies, University of Sussex, 2000.

<sup>30</sup> See Sorenson, John Disaster and Development in the Horn of Africa, London: Macmillan Press 1995 p.1-30. Also see Hassan Ahmed Abdel, 'The Process of Famine: Causes and Consequences in Sudan: Development and Change' vol. 19 No. 2 1998

<sup>31</sup> Kibreab, Gaim, People on the Edge in the Horn: Displacement Land Use and the Environment in the Gedaref Region, Sudan, Oxford: James Currey 1996 p. 19-20.

as more strain is put on scarce resources<sup>32</sup>. Finding themselves between a rock and a hard place, a great deal of Sudanese people left their homes escaping war between government forces and SPLA as they were targets or human shields. When the state is party to a conflict it fails to ensure protection and provision of human needs. Apart from struggles to equitably share national wealth, the SPLM/A want the Islamic north to observe secularism. IGAD peace mediation on Sudan has moved a great deal from Machakos protocol, the Nakuru draft, Nanyuki talks to the Naivasha Agreements on security arrangements<sup>33</sup> and wealth sharing<sup>34</sup> that will be a major concern of this chapter.

The Horn of Africa has been one of the world's poorest and most politically unstable regions. This political economic distress has been caused by regional and extra regional international politics ranging from scramble for its control by European powers for imperial influence to Cold War competition<sup>35</sup>. The end of the Cold War saw the emancipation of Eritrea from Ethiopian control. The liberation of Eritrea is thought to break the vicious cycle where Ethiopian regimes backed Sudanese rebels since Sudan also supported Eritrean irredentists<sup>36</sup>. Eritrea's liberation seems to have energized the southern Sudanese struggle to secede as a moral foundation of peace as espoused in the UN charter as a homogenous people who have a right to self-determination<sup>37</sup>. The SPLM/A do not see why the Khartoum government could support a small Eritrea to

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<sup>32</sup> See Homer T. F. Dixon, "On the threshold: Environmental changes as causes of Acute Conflict" *International Security* Vol. 16 No. 2 1992 p. 76-116

<sup>33</sup> IGAD Agreement on Wealth Sharing During the Pre-Interim and Interim period, Naivasha, Kenya: Wednesday January 7<sup>th</sup> 2004.

<sup>34</sup> IGAD, Agreement on Wealth Sharing During the Pre-Interim and Interim period, Naivasha, Kenya: Wednesday January 7<sup>th</sup> 2004.

<sup>35</sup> Discussed in John Harbeson, *The International Politics of Identity in the Horn of Africa* in (ed) Donald Rothchild and John Harbeson's Africa in World Politics, Boulder, Westview Press 1991 pg. 119

<sup>36</sup> See A. Ruiz A. Hiram, *The Sudan: Cradle of Displacement* in (ed) Robert Cohen and Francis Deng's The Forsaken People: Case Studies of Internally Displaced, Washington DC, Brookings Institution Press 1998 p. 160

<sup>37</sup> See Yonah Alexander and Robert A. Friedlander (ed) Self-determination: National, Regional and Global Dimension, Boulder, Westview Press 1980 p. xi-xiii.

secede but fail to set free a people who are religiously and racially diverse from the Arab North.

The Horn of Africa has inchoate territorial boundaries which cut ethnic communities astride separating them administratively but who often sympathize with their kin and kith once in conflict. Though defined in treaties and delimited on maps, borders in Africa are not clearly demarcated on the ground<sup>38</sup> since a number of the boundaries follow rivers, watersheds and seasonal roads, a reason why they are always contested. There have existed endless conflicts in the horn of Africa region. In 1962 there was the Sudan civil war, 1963-1964 Somalia-Ethiopia war over their border, 1967-1968 Kenya-Somalia bandit war, 1978 Somalia invasion in Ethiopia, 1983 Sudan government – SPLA war, Ethiopia-Eritrea war, the fall of regimes in Ethiopia and Somalia in 1991 and clashes over resources coupled with famine in the region. Refugee outflows and loss of life have been consequences in all these conflicts. The Horn of Africa region is a conflict zone shackled in a systemic problem whose solutions can only be found by addressing an entire region's conflict system. All those searching for lasting peace in the Horn of Africa need to adopt a systemic approach that will identify the subtle shifting epicentre of the problem.

### **The Refugee Problem as a Foreign Policy issue**

Though a humanitarian response, hosting a large number of refugees manifests itself as a foreign policy concern to both the receiving and the sending states. Kenya being party to the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol and the 1969 OAU Convention Governing the Specific Aspects of Refugee problems in

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<sup>38</sup> Nugent Paul and A. I. Asiwaju, African Boundaries, Barriers, Conduits and opportunities, London: Pinter Press 1987 p. 68

Africa is faced with a hard task of hosting Sudan and Somali refugees that dictate particular diplomatic relations with the refugee generating states. The government of Kenya coordinates with UN agencies, intergovernmental organizations and NGOs in relaying relief aid offering protection, providing health and education facilities. After easing the refugee emergency situation the host government needs to search for diplomatic solutions to the refugee problem including persuading the home government to institute policy shifts that will ensure peace and tranquility. So as to enable refugees return home, Kenya and international community have to solve the Sudan and Somalia conflict decisively. As a host to refugees, Kenya is faced with a security problem aggravated by proliferation of small arms from conflict areas and ensuring that refugees do not take part in insurrection activities<sup>39</sup> that may attract military attacks.

The idea of non interference in the internal affairs of other states is no longer tenable. States are forced not only to intervene in humanitarian emergencies but also to act pre-emptively to stem an impending disaster. Once a problem has occurred states need to move swiftly and proactively to lessen its effects in the region.

Kenya has drafted a Refugee Bill 2003 in response to the increased number of refugees in the country. Kenya has been drawn into conflicts into Somalia and Sudan by way of refugee inflows and the IGAD peace talks that Kenya chairs. The Conflict management efforts are basically a foreign policy issue as it relates to the political and economic deprivations of those in refuge. Refugees are not only a group at risk of systematic decimation, they could be running away from economic hardships or interstate

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<sup>39</sup> See Stolhl, R. and D. Smith, Small Arms in failed States: A deadly combination, International security conference, New York, 1999 p. 10



war. Only diplomatic options are capable of bringing mutual peace without states losing face<sup>40</sup> in the negotiations since they jealously guard their sovereignty.

### **Sovereignty and Violation of Human Rights**

The Westphalia treaty of 1648 gave the state absolute sovereignty over other institution within its borders. The state was charged with the responsibility of providing security, peace, order and ascertaining the well being of its constituents. Lack of security, peace, justice and good standards of living force people to leave their homes in search of the same. State sovereignty carries with it certain responsibilities that demand government accountability to its constituents and ultimately to the international community without which the government won't be counted legitimate<sup>41</sup>. The state has the responsibility of having an effective system for conflict prevention, management and resolution besides providing assistance and protection to all those affected by conflicts related to violation of fundamental human rights or deprivation of basic human needs.

In the Somalia and Sudan conflict, the state though the centerpiece of the international system was party to the conflict and may not fulfill its roles. The government and its agents barred the international community from filling in the gap to provide protection and assistance to the needy and help in the search for an end to the adverse conflict. The state has a responsibility to respect the rule of law and develop democratic institutions<sup>42</sup>.

The absence of justice led to humanitarian tragedies and the collapse of the state in the case of Somalia leading to decades of a bloody civil war. The consequence of a

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<sup>40</sup> See Saadia Touval and I. William Zartman (ed) International Mediation in Theory and Practice, Conflict Management Studies SAIS, London: Westview Press 1985 p. 9

<sup>41</sup> See John Chipman, The Future of Strategic Studies: Beyond Even Grand Strategy, Survival 34 (Spring 1992) p. 117.

<sup>42</sup> *ibid* p.118

failed state was mass deaths, refugee outflows, regional instability and international intervention. The international community needed to intervene in the conflicts at the early stages to lessen its human misery. Human rights are a universal requirement that need pre-emptive intervention by states and international organizations to bring relief to human emergencies. The principle of non-interference in domestic affairs of states should not be a protective barrier behind which human rights could be violated with impunity<sup>43</sup> in the name of keeping order and national security. To Africans intervention should be understood given that in domestic disputes relatives and elders intercede without being invited.

Conflicts in the third world countries, are generated by traumatic experiences of state formation and nation building and repressive policies pursued by sectarian governments that still follow defective colonial strategies of 'divide and rule', centralized authority and dependency on state system in the allocation and control of resources and political power. The outcome is nothing but conflict of interest and values.

Sovereignty does not mean irresponsible behaviour of states to citizens without consequence. State legitimacy hinge on providing citizens with basic needs, security and intellectual space. Failing to provide protection chips away the legitimacy of the state that insulates it from external intervention<sup>44</sup>. Of necessity the international community is opposed to the use of the term sovereignty to shield dictators from outside intervention. Outside intervention actually threatens the license<sup>45</sup> of violent men and lawless

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<sup>43</sup> John Chipman, The Future of Strategic studies: Beyond Even grand strategy, Survival 34 Spring 1992 p. 117

<sup>44</sup> Gil Loescher, Beyond Charity, International Cooperation and the Global Refugee Crisis, New York, : Oxford University Press 1993, p. 183

<sup>45</sup> Gil Loescher, Beyond Charity, International Cooperation and the Global Refugee Crisis, New York, Oxford University Press 1993, p. 183

governments to abuse their constituents and not the state. The world stood ashamed for watching people suffer calculated decimation in Rwanda, Somalia and Yugoslavia.

### **Addressing the Political Causes of Mass Displacement**

International responses to refugee movements have largely been motivated by the political self interest of states and humanitarian interests. In the Nansen era (as the first High Commissioner for Refugees) refugees were seen as a hindrance to the functions of European states and a body, UNHCR, was established to regulate the movement of stateless people. Refugees as every other human being need a safe settlement so as to achieve and enjoy peaceful life.

The states of Somalia and Sudan have languished in virtual anarchy due to retrogressive politics and greed. One ethnic or political group exerts its dominance over a large group against a historical background of hatred and scramble for resources. So as to prevent dysfunctional conflict that cause refugee outflows the causes of conflict must be understood. While there are no overall permanent solutions to the refugee problem and conflicts that cause them, governments and international organizations cannot walk away from the problem as it entails a risk of spilling over to create further regional instability<sup>46</sup>.

The IGAD peace talks in Kenya designated to bring peace in Somalia and Sudan have addressed political causes of the conflicts as a viable way of getting down to finding a resolution. One cannot understand peace without knowing war. And indeed any civil war is likely to develop into an international crisis when the conflict has ideological, religious, racial or other links to outside parties or nations as refugees<sup>47</sup>. The Somalia and Sudan conflicts are such delicate.

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<sup>46</sup> Ibid P. 182

<sup>47</sup> Geoffrey Blainey, The Causes of War, London: Macmillan Press 1973 p. 245-248

The Sudan conflict is described to be complex since it has a racial, religious, security and sharing of national resources (power, land, oil revenue) in an arena of eternal hatred. However, the IGAD peace talks led by major General Lazaro K. Sumbeiywo (Rtd) between the Government of Sudan (GOS) and the Sudan People's Liberation Movement/Army (SPLM/A) have passed through two distinct phases of pre-negotiation and negotiation and are looking forward to the implementation phase of the negotiated outcome<sup>48</sup>. The problem solving workshop suitable for managing deep seated and protracted conflicts has helped lessen mutual suspicion bringing out deep seated feelings and values by walking the parties together to their past, accepting responsibility for the harm they have caused each other over the years, regret their losses, but design future interactions<sup>49</sup>. The IGAD Sudan peace talks in Kenya have literary moved from Machakos protocol, the Nakuru draft that was rejected by both SPLM/A and the Government of Sudan, Nanyuki talks to the Naivasha Agreement that overrides previous arrangements. The Naivasha agreement has two crucial issues: Security Arrangements during the six years interim period and Wealth Sharing.

### **Security Arrangements During the Interim Period**

The Government of Sudan (GOS) and the Sudan People's Liberation Movement/Army (SPLM/A) conducting peace negotiations in Naivasha Kenya<sup>50</sup> from September 2<sup>nd</sup>, 2003 to September 25<sup>th</sup> 2003 under the auspices of the IGAD peace process committed themselves to a negotiated, peaceful and comprehensive resolution of

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<sup>48</sup> See L. Susskind and R. Bubbitt, overcoming the obstacle to effective mediation of international disputes in (ed) J. Bercovited and J. R. Rubin's Mediation in International Relations New York: Martinus Press 1992 p. 31-51.

<sup>49</sup> See M. Mwangi, "Participatory Conflict Management: Problem Solving Workshops (PSN)" in Mwangi, M., et al, Understanding conflict and its management, Nairobi: Watermark Printers Limited 1998 p. 52-54

<sup>50</sup> IGAD, agreement on security Arrangements during the Interim Period in Sudan, Naivasha, Kenya, September 25<sup>th</sup> 2003.

the Sudan conflict with the unity of Sudan as set forth in the Machakos Protocol of July 20<sup>th</sup> 2002. The parties agreed on security arrangements in the context of a united Sudan and should the result of the referendum on self-determination confirm unity to have a joint armed forces composed of SPLA and Sudanese Armed Forces (SAF). But the two forces shall remain separate during the interim period. The parties agreed on proportional downsizing of both forces after completion of comprehensive ceasefire. The National Armed Forces (NAF) shall have no internal law and order mandate except in constitutionally specified emergencies.

The parties agreed to an internationally monitored ceasefire<sup>51</sup> which will be followed by redeployment of armed forces away from the south/north border of January 1<sup>st</sup> 1956. There shall be joint/integrated units consisting equal numbers from Sudan Armed Forces (SAF) and Sudan People's Liberation Army (SPLA) which will constitute a nucleus of a post referendum army of Sudan, should the result of the referendum confirm unity, otherwise they would be dissolved and the component parts integrated into their respective forces. The joint/integrated units are to have a new character based on a common doctrine to symbolize national unity, sovereignty, defend the country and to be involved in the construction of the country. The size and deployment of the joint/integrated units throughout the interim period shall be as follows:

Southern Sudan	24,000
Nuba mountains	6,000
Southern Blue Nile	6,000
Khartoum	3,000

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<sup>51</sup> Ibid p. 3

The SPLA forces are to be moved from Eastern Sudan to south of the north/south border of January 1<sup>st</sup>, 1956 within one year from the beginning of the interim period. The parties agreed to establish a Joint Defense Board (JDB) under the presidency and the chiefs of staff of the two forces to command, control and coordinate the two forces through consensus and to be chaired alternatively by the respective chiefs of staff. No armed group allied to either party shall be allowed to operate outside the two forces, while other officers will join the army, police, prisons, wildlife and others be integrated into the civil service and civil society institutions<sup>52</sup>.

While the security arrangement sounds superb, it banks much of its strength on the results of the self-determination referendum. The keeping of the SAF and SPLA forces separate during the interim period may curb military spying but may fuel the long sustained mutual suspicion. The people of Sudan have to deal with landmines which are a cause of death and injury<sup>53</sup> in Africa where Sudan has about 2 million landmines as Mozambique, Somalia 1.5 million, Ethiopia/Eritrea 1 million while Angola has as many landmines as people, 9 million.

As the SPLM/A and the government of Sudan agree to a ceasefire, the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM) are involved in a hot offensive in Darfur, western Sudan accusing Khartoum of arming Arab militias the *Janjaweed*, to loot and burn African villages in what UN officials in Geneva call systematic ethnic cleansing forcing hundreds of thousands to flee into Chad<sup>54</sup>. Analysts have sighted infighting in the SLM/A's leadership between prominent figures in the armed and political wings. Meanwhile African union talks were proceeding in Addis

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<sup>52</sup> Ibid p.6

<sup>53</sup> Philips Medical systems, *Africa Health* vol. 17 No. 1 November 1994 p.3

<sup>54</sup> Sunday Standard, Sudan rebels to attend peace talks in Ethiopia, April 18, 2004 p. 25

Ababa to arrange a monitoring commission to observe a shaky truce between the government and the two groups which came into effect on April 11<sup>th</sup> 2004. UN officials were denied entry into Darfur to investigate the genocide they describe as the world's worst humanitarian disaster.

For the ceasefire agreements to be respected, all parties to the conflict and their asymmetrical interests<sup>55</sup> must be identified and be represented by high-ranking members in negotiations to ensure compliance. The all inclusive approach is intended to make all parties own the peace process because they are capable of sabotaging it or may ignore its outcome since they have to be involved in post-conflict reconstruction<sup>56</sup>.

### **Wealth Sharing During the Pre-interim and Interim Period**

Negotiations between government of Sudan and Sudan People's Liberation Movement/Army under auspices of the IGAD peace process, from December 6<sup>th</sup> 2003 to January 7<sup>th</sup> 2004, took up the decision of wealth sharing in pursuit of a comprehensive agreement, that will ensure a just and durable peace in the Sudan<sup>57</sup>. The parties recognized that all parts and all peoples of Sudan are entitled to development without discrimination on gender, race, religion, political affiliation, ethnicity, language or region. It came out that southern Sudan need reconstruction/construction and building of civil administration after conflict. The Nuba mountains, southern blue Nile, Abyei and other war affected areas needed rehabilitation to be brought up to the same average level of socio-economic and public service standards as the northern states. While this will take

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<sup>55</sup> See C. R. Mitchell, *Classifying conflicts: Asymmetry and Resolution* in Zartman I. Williams (ed) *Resolving Regional Conflicts: International Perspectives*, Newbury Parks Sage Publications 1991 p. 23-40.

<sup>56</sup> M. Mwangi, *Conflict: Theory, processes and institution of management* op.cit p. 49

<sup>57</sup> IGAD, *Agreement on wealth sharing during the pre-interim and interim period*, Sudan peace in Kenya, Naivasha January 7<sup>th</sup> 2004 p. 1-4

time to be achieved, two special reconstruction funds are to be established to cater for that.

Revenue sharing should reflect a commitment to devolution of power and decentralization of decision making in regard to development, service delivery and governance following the principle of sustainable development. The national government is to help south Sudan do what it has lost for decades and not withhold any allocation due to a state/region or government of Southern Sudan.

The government of Sudan and SPLM/A are to resolve ownership of land and subterranean natural resources through representative and independent national land commission and a south Sudan land commission appointed by the presidency to arbitrate claims, institute land reforms and advise government organs on how to coordinate policies on national projects<sup>58</sup>. The land commissions will operate on customary laws and practices, local heritage and international trends and practices. The national land commission is to study and record land use practices in areas where natural resources exploitation occur.

On oil resources the guiding principles for management and development of the petroleum sector during the interim period will be sustainable utilization of oil as a non-renewable natural resource consistent with the national interest and the public good, interest of the affected states/regions and that of local population as well as abiding by national environmental policies, biodiversity conservation guidelines and cultural heritage protection principles<sup>59</sup>. There is a deliberate move to give an enabling policy environment for the flow of foreign direct investments by reducing risks and uncertainties

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<sup>58</sup> Ibid p. 6-8

<sup>59</sup> Ibid p. 9-13



regarding the outcome of the self-determination referendum and a stable macro-economic environment that emphasize stability of the petroleum sector where both the government and local communities benefit. An independent National Petroleum Commission (NPC) is to be formed with representatives from the government of Sudan, and government of south Sudan and oil producing state/region. The NPC will be co-chaired by the president of the republic and the president of the government of south Sudan. The NPC will formulate policies and guidelines in the development and management of the petroleum sector and monitor and assess implementation of those policies to the best interest of the people of Sudan.

On the existing oil exploitation contracts SPLM is to appoint a limited number of representatives to have access to all of them and sign confidentiality agreements. The contracts shall not be subject to renegotiation but remedial measures to be put in place to heal fundamental social and environmental problems relating to oil contracts. The sharing of wealth from the extraction of natural resources should balance the needs for national development and reconstruction of southern Sudan. Two per cent (2%) of oil revenue shall be allocated to the oil producing states/regions in proportion to output in the state/regions. There shall be established an oil revenue stabilization account. After the payment of the oil revenue stabilization account and 2 per cent of the revenue to the producing state/region, fifty per cent (50%) of the net oil revenue derived from oil producing wells in southern Sudan shall be allocated to the government of South Sudan (GOSS) and the remaining fifty per cent (50%) will be allocated to the national

government and states in northern Sudan<sup>60</sup>. A Future Generation Fund (FGF) is to be established once national production reaches 2 million barrels per day.

About non-oil revenue, both the national government and region/state government shall collect taxes at different levels. The national government is to share national taxes with government of south Sudan as additional resources. A Fiscal and Financial Allocation and Monitoring Commission (FFAMC) is to be constituted to ensure transparency and fairness in the allocation of national taxes. There shall be no legal impediment to interstate commerce and government liabilities will be met by those who incur them. There shall be equitable division of government assets and compliance to accepted accounting standards and auditing. Audit chambers are to be set to execute audit standards. Appointments to the audit chamber shall be made by the presidency and confirmed by the national assembly. All levels of government shall hold all income and revenue received by it in public accounts and subject to public scrutiny and accountability<sup>61</sup>. The national government shall assist to finance the transition. A Joint National Transition Team (JNTT) to be formed to undertake the role of preparing budget estimates, develop fund raising strategies, organize and prepare relevant documents for the donor conference

The Naivasha agreement took stock of a monetary policy, banking and currency. The Islamic banking system to operate in North Sudan and conventional banking system shall operate in South Sudan. Bank of Southern Sudan (Boss) is to be established as a branch of Central Bank of Sudan (CBOS). A financing window in the central bank of

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<sup>60</sup> Ibid p. 17

<sup>61</sup> Ibid p.19

Sudan to serve the Islamic north under a deputy governor and a window under deputy governor to serve southern Sudan conventional banking needs<sup>62</sup>. The currency of Sudan is to reflect the cultural diversity of Sudan. Meanwhile the circulating currency in Southern Sudan shall be recognized.

It is the observation of this dissertation that the agreement and its wealth-sharing scheme seem quite generous, democratic and representative from a government that has been quite mean to its people. The many committees and commissions, funds, sustainable development and environmental concerns are a good gesture if they will not be overlap. The banking system depicts that spirit of skepticism and religious difference. The state is, however an important economic actor that manifest distinctive allocational and distributional functions<sup>63</sup> of human needs through its national goals and working policies. The democratic state tend to do better than military dictatorships in the provision of human needs as its survival depend on majority votes, interest groups and public opinion since the electorate choose leadership that is identified with certain goals and priorities<sup>64</sup>. A military rule may have a positive impact on provision of basic human needs if the regime is sustained long enough to overcome the negative effect of an active military whose expenditure on weaponry and suppressive activities are high<sup>65</sup>. This is the reason why any self-determination struggle needs to adhere to emerging notions of freedom<sup>66</sup> from any oppression, rejection of dictatorial rule from leaders of whichever race or ethnic group and rejection of subjective allocation and distribution of national resources. The

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<sup>62</sup> *ibid* p.20-23

<sup>63</sup> See Bruce E. Moon, The Political Economy of Basic Human Needs, New York: Cornell University Press 1991 p. 131

<sup>64</sup> *ibid* p. 136

<sup>65</sup> *ibid* p. 176

<sup>66</sup> See Mwagiru, M. Reclaiming the future: Pan-Africanism, the OAU and Foreign policy of Africa, Nairobi. USIU occasional papers on international relations No. 1 1999 p. 18-22

eventual drive is to create a free, peaceful and abundant welfare world society<sup>67</sup> where the use of force will be replaced with functional interdependence geared towards satisfying individual's human needs and upholding human dignity. It is for that respect for individuals and minorities<sup>68</sup> in state affairs that Sudanese refugees complain<sup>69</sup> that they are not aware of what is being negotiated and what has to be settled. Sidelining refugees in conflict resolution make them suspicious to any agreement reached and will return home with the feeling of fleeing again. The UN and regional bodies need to establish independent monitoring bodies to effectively gather information and analyze it to provide an early response to potential refugee producing conflicts<sup>70</sup>. The people of Sudan need to understand religion as an influential force in world events that play a dual role in politics. It has been the source of humanitarian concern and pacifism on one hand while its extreme arm has been at the centre of bloody wars as between 1618 to 1648<sup>71</sup>. While missionaries had good intentions they often promoted and legitimized the political, economic and cultural subjugation of local people by outsiders. Religion sometimes serve to define and sharpen ethnic and national differences like the sunni and Shi'ite sects of Islam that played a role in the war between Iran and Iraq<sup>72</sup>.

At last the people of Sudan and the international community witnessed the signing of the peace pact on January 9<sup>th</sup> 2005 in Nairobi promising to bring an end to the 21 years

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<sup>67</sup> See M. Mwangi, A Critical comparison of the Analytical Frameworks of International relations and international Law, M. A. dissertation in international conflict analysis, Rutherford college university of Kent at Canterbury 1991, p. 89-91.

<sup>68</sup> Gurr, Ted Robert, Early warning systems: From Surveillance to Assessment to action, in (ed) Kevin M. Cahill's, Preventive Diplomacy Stopping Wars Before They Start, New York; Routledge 2000 p. 243-262.

<sup>69</sup> Irin UN OCHA online Homepage, Refugees in Kenya sidelined by Peace Process, July, 2003.

<sup>70</sup> Ramacharan, B. G International Law and Practice of Early warning and Preventive Diplomacy: The Emerging Global Watch, Dordrecht, Martinus Nijhoff, 1991 p. 120

<sup>71</sup> See John T. Rourke, International Politics on the World Stage, 4<sup>th</sup> Edition, Connecticut: The Dushkin Publishing Group 1993 p. 194

<sup>72</sup> *Ibid* p. 195

of armed conflict.<sup>73</sup> The world waits to see the full implementation of the agreement and the benefits to reach all the peoples of Sudan.

### **Somalia National Reconciliation Conference in Kenya**

The IGAD led Somali National Reconciliation conference commenced in Eldoret, Kenya on 15<sup>th</sup> October 2002, as the 14<sup>th</sup> attempt to bring peace and reconciliation to help the country have a central government after thirteen (13) years since the collapse of the Said Barree regime in 1991 following inter clan feuds. The reconciliation conference is chaired by the host, Kenya and is jointly co-ordinated with Djibouti and Ethiopia. Participants to the conference<sup>74</sup> are: the Transitional National Government (TNG), the Somali Restoration and Reconciliation Council (SRRC), the Group of Eight (G8) political Alliance Society Organization (CSO) and the newly formed National Salvation Council (NSC).

IGAD as an international mediator applied mediation strategies<sup>75</sup> of communication facilitation, formulation and manipulation thus structuring the Somali National Reconciliation Conference into three phases: pre-negotiation, negotiation and implementation<sup>76</sup>. Phase one entailed finalization of the list of delegates to attend the conference and selection of conference site culminating in the signing of the declaration of cessation of hostilities signed on 27<sup>th</sup> October, 2002 in Eldoret, Kenya and the establishment of six Reconciliation committees. The second phase (negotiation)

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<sup>73</sup> Daily Nation, Peace at Last in Sudan, Monday January 10<sup>th</sup> 2005 pp 1-5

<sup>74</sup> IGAD, Brief on the Somali National Reconciliation Conference, Nairobi, Kenya, March 10<sup>th</sup> 2004 p. 2

<sup>75</sup> See Saadia Touval and I. William Zartman (ed) International Mediation in Theory and Practice, Conflict Management Studies, SAIS Papers, Boulder: Westview Press, 1985 pp. 11-12. Also see Jacob Bercovitch and Jeffrey Robin, Mediation in International Relations, multiple Approaches to conflict management, London: Macmillan Press 1992 pp. 16-18.

<sup>76</sup> See L. Susskind and R. Bubbitt, overcoming the obstacle to effective mediation of international disputes op.cit pp. 31-51

deliberated on the six reconciliation reports on issues to do with the 'Arta charter'; land, reconstruction, disarmament, regional and international relations and conflict prevention. The reconciliation reports were adopted at the plenary and will form part of the policy documents for the transitional federal government once established. The third phase (implementation) entailed power sharing and the formation of an inclusive broad based government of the Somali republic. Power is to be shared along the clan based formula agreed upon by the Somalis in Arta, Djibouti.

The Transitional Federal Charter was adopted on 15<sup>th</sup> September 2003, though some key factions leaders had to withdraw from the talks intermittently, citing credibility and deliberation and adoption process. The withdrawal by these leaders created an impasse and the conference had to be delayed to allow their return, thus attaining inclusivity. The participants of phase three, the traditional leaders, were to select members of parliament by distributing seats in the clan amongst the various sub-clans. The members of parliament, once selected, elected a speaker and two deputy speakers who supervised the election of the president. The president subsequently appointed the premier and his deputies as per the provisions of the charter and requested the prime minister to form a government. The Transitional Federal Charter provides for the formulation of a two hundred and seventy five (275) size parliament for which twelve 12% shall be women<sup>77</sup>.

Given the threats of leaders withdrawing from participating in the conference, IGAD chose the informal interactive problem solving workshop for Somali leaders to have a ten (10) days retreat with the objective of deepening dialogue and reconciliation

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<sup>77</sup> IGAD, Brief on the Somali National Reconciliation conference, Nairobi op.cit p.2

among them. The retreat was also aimed at ironing out outstanding differences that created an impasse to the conference. In a retreat setting with the absence of any recording of discussions<sup>78</sup>, conflictants are encouraged to talk to each other rather than to their constituencies or to third parties. They listen to each other not in order to discover the weaknesses in the other's argument, but in order to penetrate the other's perspective. To appreciate the constraints under which the other party operates is difficult in a conflict relationship, since the parties thinking tends to be dominated by their own constraints. But an analytical understanding of the constraints along with the fundamental concerns that informs the others perspective is essential for inventing solutions<sup>79</sup> that are feasible and satisfactory to both sides. The consultative meeting (retreat) sanctioned by IGAD Ministerial Facilitation Committee of 28<sup>th</sup> October 2003, was officially launched by president Yoweri Kaguta Museveni, chairman of the IGAD Assembly of Heads of state and Government on January 9<sup>th</sup> 2004. The launch was graced with the attendance of H.E. Mwai Kibaki, president of Republic of Kenya and chairman of the IGAD facilitation committee on the Somali peace process.

Following the consultations, that stressed confidentiality, pacifism and the use of consensus method of problem solving<sup>80</sup>, the Somali leaders agreed on declaration of the harmonization of various issues proposed by the Somali delegates at the consultative meetings (retreat) from 9<sup>th</sup> – 29<sup>th</sup> January 2004. The declaration removed the conference impasse and was marked by a historic signing ceremony witnessed by President Mwai Kibaki of Kenya at State House Nairobi on the 29<sup>th</sup> January 2004. The declaration was

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<sup>78</sup> See Herbert, C. Kelman, informal mediation by the Scholar/practioner in (ed) Bercovitch, J. and J. Rubin's Mediation in International Relations, 1992 op.cit p. 75

<sup>79</sup> Ibid

<sup>80</sup> See Paul A. Hare Group Decisions by Consensus: Reaching Unity in the Society of Friends, Sociological inquiry No. 43 1973 pp. 75-84

consequently endorsed at an extraordinary session of the plenary of KCCT, Mbagathi convened on 23<sup>rd</sup> February 2004. Similarly the transitional national Government endorsed the declaration at Mogadishu and has since ratified it. Political grouping namely G8, Political Alliance, Civil Society Organization (CSO) and national salvation council have endorsed the declaration. However, some Somali Restoration and Reconciliation Council (SRRC) leaders disowned the text claiming that what was signed was not what they had agreed on. They particularly challenged the selection mode of members of parliament<sup>81</sup>.

The IGAD Somali peace process has realized commendable achievements with the election of colonel Abdullahi Yusuf as Somali president living in Kenya, but it faces challenges<sup>82</sup> which include building and maintaining trust amongst parties that have complicated the reconciliation process coupled with violation of the declaration on cessation of hostilities which lack an effective monitoring mechanism. The other challenge is the ambitious principle of unity and territorial integrity of the Somalia Republic, which recognizes Somalia as one is a hard reality where two regions (Puntland and Somaliland) had unilaterally declared independence. Demobilization, disarmament and reintegration in a country flooded with arms and militias is yet another setback. However, the Somali National Conference provides a great hope for peace and the people of Somalia need to remain encouraged to embark on the process of reconciliation, forgiveness and healing. The international community and atleast IGAD member states should not run away from the Somali problem when their efforts are about to bear fruits.

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<sup>81</sup> IGAD, Brief on Somali National Reconciliation Conference op.cit p. 6

<sup>82</sup> Ibid p.6



After political causes of conflict in Sudan and Somalia are addressed and resolved refugees living in Kenya and elsewhere will be confident to return home.

### **When Refugees Return Home**

Refugees have a human right to return home in safety and dignity. Refugees often yearn to return home but the UNHCR hesitates a lot urging for conditions favorable for safe return to be created by eliminating causes of flight. If rushed, returnees face the danger of becoming internally displaced persons (IDPS), uprooted within their own country and end up swelling rural-urban migration<sup>83</sup>. There are two situations that influence early repatriation; when refugees become a security risk in asylum and where a host country<sup>84</sup> whose economy is drained by refugees and therefore chose to push for repatriation even when conditions at home have not improved<sup>85</sup>. Such a policy does endanger refugees and the UNHCR and host countries could be abrogating their duty of protecting refugees. Conversely, the UNHCR mandate to protect returnees is counter productive as countries of asylum would repatriate refugees on grounds that the international community was guaranteeing safety in their home land. Returning to an unstable homeland can be as traumatizing as fleeing into exile.

In 1987 UNHCR and UNDP signed guidelines for their co-operation to cater for refugee's assistance, both urgent and long-term development programmes. Past repatriation programmes served the interest of those promoting the exercise rather than

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<sup>83</sup> See Tim Allen and Hubert Morsink (ed) when Refugees go Home, London: Africa world press, 1994 p. 1-13

<sup>84</sup> As demonstrated in chapter two on Tanzania's changing attitude to refugees

<sup>85</sup> G. Coles, Solutions to the problem of Refugees and protection of Refugees, a Background paper, International Institute of Humanitarian law and the UNHCR, Geneva 1989 p. 162

returnees<sup>86</sup>. Studies on repatriation centre on the process of returning and the funding with little (if any) investigation of the experiences of the returnees themselves and the respect for human rights at home. After many years of a life of dependence in asylum returnees are left to fend for themselves and are often dispersed widely. Mere repatriation is not an end to the refugee's problem when issues as self-reliance and self-determination have not been addressed. The Israel-Palestinian refugees demanded a creation of separate religious states for Christians and Muslims and the issue is still burning since 1945. Each refugee crisis needs a case-by-case solution.

Returnees often find that life at home has changed a lot, while second and third generation refugees born in exile are likely to find "home" a strange or even threatening place. Most contemporary 'voluntary repatriations' occur where there has been no change in the regime or the conditions that originally caused flight<sup>87</sup>. In essence such unsafe return is often a push response due to deterioration of conditions in the country of asylum, not a pull effect resulting from improvement in conditions at home. When refugees suffer double refusal by both country of asylum and home government they prefer dying at home; as the Sudanese refugees attacked by the Ethiopian '*Oromo Liberation Front*' in 1991 returned home though war was still on in Sudan and they died in their hundreds<sup>88</sup>. After decades of war, refugees return to participate in elections. Self-determination becomes a major attraction as distribution of national resources is hoped to be equitable. Lack of equity often leads to conflict.

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<sup>86</sup> J. Crips, *The Politics of Repatriation, Ethiopia Refugees in Djibouti*, *Review of Africa Political Economy* 1984 vol. 30 pp. 73-82

<sup>87</sup> Barry N. Stein et al (eds) *Repatriation During Conflict in Africa and Asia*, Centre for the Study of Society in Crisis, Dallas 1992, pp. 11-58

<sup>88</sup> D. Keen, *Refugees: Rationing the Right to Life*, Zed Books London 1992, p. 31

Returnees need to be self-reliant as they go home. They need to re-adjust and a warm welcome from the indigenous people is a blessing. But, tension is likely from the new occupants of the abandoned homes and land. The government must intervene to arbitrate the disputes judiciously, lest it will be seen to be partisan. Land and ethnicity is crucial in Africa where poverty levels are very high and alternative reliable industrial work is minimal. Returnees coming to a poor economy like Somali will miss the privileges they enjoyed from UNHCR, NGOs and their hosts as health services, education, water, electricity and other luxuries. Minorities and women can be once again made vulnerable to marginalisation at home. To avoid returnees and refugees being used as pawns the UN has to protect them from their own governments or breakdown of civil society. Safe zones must be created here.

Education levels acquired in exile can be higher or lower compared to that of kinsmen who remained behind fighting or those who took refuge in a different country. An example is Southern Sudanese who were denied education in 1960s and upon return in 1972 the educated returnees were of high demand in government offices<sup>89</sup>. Refugee education may include vocational and professional training, which give them advantage over others. Education in exile may be radically of a different curriculum or in different language media even different script thus dashing away employment opportunities. In Africa neighbouring countries differ a lot in many aspects.

Refugees returning home have cultures and practices of host countries. Marriage and religion may complicate social and cultural readjustments on return. Marrying a refugee or a host can be traumatizing when one party does not want to move. Children in

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<sup>89</sup> John R. Rogge, *Repatriation of Refugees in (eds) Tim Allen and Hubert Morsink's When Refugees Go Home*, Africa World Press, London 1994, p. 42

such a marriage will have to be forfeited when separation is ultimate. Those practicing prostitution and theft in refuge can be stigmatized at home and forced to go to urban areas to continue plying their survival tactics. Settlements at home also matter; those settled in schemes are advantaged over those settled spontaneously where social amenities may be hard to come by. Emotional counselling of refugees is necessary for those who seem to have lost self-esteem, kin, self-confidence, property, virtues and those who got inapplicable training in exile.

In the aftermath of massacres, the collection, identification of remains and dignified burial help delineate human rights abuses and improve psychosocial health of returnees<sup>90</sup>. Burial promotes repatriation by asking and answering basic questions as to how survivors would be treated once settled, what rights they would receive and how they are culturally tied to the land. Land is a major conflict issue world over from time immemorial.

Refugees are largely a product of human activities and all humanity must rise to confront the refugee problem at home and abroad. A Safe return is as important as development assistance. Repatriation that neglects to deal with human rights conditions in refugee producing countries will never ascertain the safety of returnees. Successful returning also depends on resolving the residual problems of long standing internal and regional conflicts.

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<sup>90</sup> Geiger, H. J. and Cook Deegan, R. M. The Role of Physicians in Conflicts and Humanitarian Crises: Case studies from field missions of Physicians for Human Rights 1988-1993. Journal of the American medical Association 270: pp. 616-620

## CHAPTER FOUR

### MANAGING REFUGEES IN KENYA: LINKING REFUGEE AID TO DEVELOPMENT ASSISTANCE AND CONFLICT MANAGEMENT. A CRITICAL ANALYSIS.

#### Introduction

The proceeding chapters (2 and 3) deal with development constraints occasioned by refugees in countries of asylum with the view of linking emergency aid to development assistance; and efforts to address political causes of refugee flights and how Kenya is coping with the large number of refugees over time. This chapter analyses points of convergence between the welfare of refugees, development assistance and conflict management. This chapter will reflect on the objectives and hypotheses set in Chapter One as it justifies the cause of world society theory; that states are not the only actors in international relations. The idea of sovereignty is being attached to responsible acts over citizens.

The refugee problem is not hopeless. A refugee is a human being who is forced to cut his roots; flee from home, loosing a lot, sometimes out of blind fear because his life was in danger, on other occasions because he simply could not breathe intellectually. Refugees' decision to move has been described as 'voting'<sup>1</sup> with their feet' thus unanimously rejecting the capacity and legitimacy of their government to offer them peace, security and hope.

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<sup>1</sup> P. Tabori, *The Anatomy of Exile: A Semantic and Historical Study*, London, Harrap 1972, quoted in the *Journal of Refugee Studies* Vol. 14 No. 1 March 2001 Oxford University Press.

In 1951 Refugee Convention gives legal status to individuals running away from well-founded persecution and having crossed international borders. Such that those who have good reasons but have not crossed the territorial dividing lines miss help and protection and that those running away from natural disasters need not leave their homes. Such challenges demand a new definition as well as increased humanitarian generosity to pursue the very cause of helping those in distress. Basic human needs are not necessarily in a short supply. The world is in an era of cooperation<sup>2</sup> such that no single country, organization or individual can succeed in his set objectives interacting with others. With globalization, improving technology in communication and integration patterns the world is ever shrinking and human atrocities cannot be tolerated. Fundamental human rights have become universal and violent men are now facing justice for crimes committed several kilometers away.

This study has demonstrated that the refugee problem is an international humanitarian concern that must be shared by regional states and the entire international community. Refugees are products of dysfunctional conflicts whose causes are rooted in political and economic deprivations. Refugees living in Kenya are no exception and their plight needs attention both at emergency level and long-term development on capacity building in preparation for a safe return home when the conflicts are objectively resolved.

### **Humanitarian Relief and Long-Term Development Assistance**

Refugees spend restless days of need and want such that no sooner they found asylum than they are emergently attended, fed, treated and given hope. Certainly, once emergency relief is provided, refugee self reliance efforts should be promoted, so that

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<sup>2</sup> Kofi Annan, UN Secretary General, Giving Closing Remark at Earth's Summit, Johannesburg South Africa.

they do not become permanent wards of international charity<sup>3</sup> or a continued drain on host country's resources. Large numbers of refugees in a weak economy can inspire conflict and this position force host countries to absorb manageable numbers only. Countries in Africa that were formerly food sufficient need enormous food imports due to refugee inflows. The international community's response to humanitarian emergencies is fairly quick and comprehensive despite shortages in funding, staff and transportation in areas of undulating terrain. But the direct gain in development assistance to countries of asylum that are no better than countries of origin seem overlooked. The infrastructure of the host country may suffer a lot.

In the Kosovo refugee crisis Macedonia was being persuaded to admit a massive influx of refugees running from NATO led campaign at home. Eventually a 'burden sharing scheme'<sup>4</sup> involving transfer of refugees to other countries was reached. The burden-sharing scheme was feared to compromise the principle of unconditional asylum and would accelerate restrictive policies towards refugees. While there is a legal requirement for unconditional obligations for first asylum and a moral political case for encouraging countries accept burden sharing in refugee situations; the Kosovo emergency further merit in suggesting a risk of regional instability where a vulnerable state is faced with mass influx of refugees that may export their conflict. Kenya does not need to face similar circumstances to learn to close its porous border.

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<sup>3</sup> Robert F. Gorman, Coping with Africa's Refugee Burden: A time for solutions (Dordrecht, Martinus Nijhoff Publishers 1987) pp. 8-9.

<sup>4</sup> Michael Barutciski and Astri Suhrke, Lesson from the Kosovo Refugee Crisis: Innovations in Protection and Burden sharing in Journal of Refugee studies Vol. 14 March 2001 pp. 95-127.

Development assistance does not focus on countries of asylum only, it also reaches out to engulf countries of origin and the refugees themselves. A poor economy riddled with debt burden, breakdown in infrastructure networks, low investments and corruption make a fertile ground for extremist regimes that will not tolerate equitability in the utilization of national resources. The development assistance to such a country will enlarge its capacity to receive the extra burden of long forgotten returnees. A growing economy will have a 'pull effect' to refugees just as a deteriorating economy will push refugees out. The empowerment of refugees through education, vocational training and capacity building to face the odds of life in exile and at home will remain a priority. Most 'voluntary repatriations' occur where there has been no change in regime or the conditions that originally caused flight, thus endangering returnees with a high chance of fleeing again<sup>5</sup>. While waiting to see change the international community and humanitarian organizations need to equip host countries with long-term sustainable development programmes.

The educational programmes and vocational training programmes in refugee camps often follow the local syllabus, script and language of instruction which may be very different from that of the country of origin. For example, Somalia refugees in Kenya will have good command in English language than their counterparts left in Somalia.

Humanitarian aid may be used to perpetuate a conflict. A lot of care is needed to discriminate the architects and instigators of conflicts from victims of circumstance. There are reports of continued attacks on humanitarian personnel and vehicles in an effort

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<sup>5</sup> Barry N. Stein et al (eds) 1992 Repatriation During Conflict in Africa and Asia, Dallas, centre for the study of societies in crisis, pp. 11-58.



to control relief by undeserving militiamen. Refugee camps have been militarized<sup>6</sup> making it risky for refugees and relief workers. Examples of militarized refugee camps include Rwandan refugee camp in DR Congo, South Africa's refugee camps (in 1970s) controlled by the ANC military wing constantly attacked by *Apartheid* regime raids, Cambodians controlled by Khmer Rouge where refugee camps were army bases, in West Africa refugees were a focus for militia recruitment, Kosovo the same and recently Israel attacked refugees in Jenin. UNHCR is subordinated to governments of host countries and the government is to provide military forces of the country in ensuring security from external attack.

While helping refugees meet their domestic fuel requirements and build make shift tents trees are cleared leading to environmental degradation in refugee-inhabited areas. This situation is an institutional one occasioned by misguided programmes which have unintended environmental consequences<sup>7</sup>. Such policies predispose refugees to adopt ravenous or unsustainable land use practices and destructive domestic fuel sources. The design, planning and implementation of programmes contribute towards the deprivation and powerlessness of refugees through allocations of insufficient land (normally arid) and temporary ownership. The World Food Programme (WFP) has designed an environment Programme to support sustainable natural resources management to alleviate degradation and combat desertification in areas it supplies with food<sup>8</sup>. This will be done through reforestation and watershed management activities, fuel wood production and better soil conservation techniques. People will have to reduce

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<sup>6</sup> On militarized Refugee Camps, see UNHCR, The State and the World's Refugees, Fifty Years of Humanitarian Action, Oxford 2000 pp. 206.

<sup>7</sup> Gaim Kibreab, People of the Edge in the Horn: Displacement, Land Use and the Environment in the Gedaref, Region, Oxford: James Curvey Lawrenceville: N.J Red Sea Press 1996 pp. 25.

<sup>8</sup> WFP Annual Report 1999.

cooking times in a day, use-fuel-efficient stoves and emphasize the milling of grains and cereal. Policies that increase kerosene prices are clear declarations of war on forests. Cooking fuel is crucial in refugee camps all over the world: for example an Angolan citizen desperate to cook the WFP relief food harvest<sup>9</sup> sticks used to mark the sites of landmines for firewood. There needs to be regional environmental cooperation with the dual purpose of conserving biodiversity and building political confidence.

### **Humanitarian Intervention in Sovereign States and Internationalization of Internal Conflicts**

The participation of many international and local NGOs in providing for refugees, internally displaced persons and needy local residents while the state remained indifferent enhance the world society thought: that the state is no longer the only actor in international relations and territorial borders are not dividing lines between domestic and international politics.

Article 2 (7) of the UN Charter and article 3 (2) of the OAU Charter are irrelevant in conflict management in the post Cold War era where third party involvement in internal conflict internationalizes it. Causes of international conflicts on the other hand have internal sources<sup>10</sup>. The distinction between internal and international politics (and conflicts in this case) is a philosophy of indifference that awaits shocks from spillover effects of a conflict. Non – interference of internal matters of other states where internal conflicts are clearly eminent or have broken out is a sure way of fence sitting and watching human tragedies. The international community and especially immediate neighbours to a country in conflict need to act pre-emptively or quickly to stem regional

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<sup>9</sup> Ibid.

<sup>10</sup> J.W Burton, *Global Conflict: The Domestic Sources of International Crises* (Brington: Wheatsheat Books, 1984).

stability and on humanitarian impulse against brutality and natural disasters that make people flee.

The Tanzania's intervention<sup>11</sup> in Uganda in 1978-79, which led to the fall of the Idi Amin regime, set precedence for future interventions. Though having been invaded by Ugandan troops and was retaliating, Tanzania liberated Uganda from a ruthless military dictatorship that had gross violation of fundamental human rights. The regime had terrorized citizens into exile, tortured and murdered many, nationalized private business expelling Asian business community ruining both the economy and abusing human rights in Uganda. But, the world stood watching as Cold War politics played to his part. Justifying his intervention, Nyerere took OAU to task for its silence when people suffered, a thing that could have drawn continent-wide protest if a white man did the same. Blackness was not a license to kill Africans. To Nyerere, Tanzania had a moral right to retaliate its invasion on self-defense, punish Amin and react to a humanitarian crisis<sup>12</sup>.

Absolute sovereignty can be dangerous to citizens and neighbours if adhered to strictly. In the history of mankind military capability is often translated into political dominance in a region leading to expansionist policies. Although the principle of non-intervention is vital for an orderly functioning of a state and the international system, occasions do arise when justice take precedence over order<sup>13</sup>. Order (or power politics) has failed to deal adequately with injustices in the international system within a state. Had countries in the horn of Africa region intervened in the Somalia conflict before 1991

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<sup>11</sup> Caroline Thomas, New States, Sovereignty and Intervention, Aldershot England, Gower Publishing Company Ltd, 1985 p. 90.

<sup>12</sup> Ibid p. 120

<sup>13</sup> Ibid p 122

utilizing the Djibouti early warning, thousands of lives could have been saved and many others could have not fled Somalia. Power politics and the wait and see tactics ruined a state. Over a decade Somalis have not known peace.

After World War II, newly independent countries embraced United Nations' principle of self-determination and equal sovereignty that set them free of colonial rule. But the countries are allergic to any liberation movement that may lead to secession of any of its inherited territory even when it was the only solution to protracted armed conflict. Conflicts such as that of Sudan, Israel-Palestine, India and its loose federal states of Jammu-Kashmir and Assam and that of Sri-Lanka versus Tamils direly need to secede for citizens to achieve prosperity. They have witnessed war for over forty years to date. This study is questioning why former colonies no longer embrace freedom movements. The colonial territorial boundaries though judged artificial and arbitrary are heavily guarded at the expense of providing basic needs and security to people. If the state is meant to avail and distribute resources equitably while ensuring conformity to law and order, what is wrong in reshaping itself into autonomous manageable units as its people demand? A country that is welfare minded will hardly have dissension. Each individual will be proud of it. What is the matter if Sudan becomes two countries as former U.S.S.R did and try to reorganize itself? It can be argued that the Northern Province will miss agricultural produce and oil. But it is not worth the fight that drains the oil proceeds into buying explosives to kill the people the government of Sudan had sworn to protect at independence in 1956.

Many traditional principles guiding the maintenance of order in the international political system are no longer functional in the turbulently changing environment and universal requirements<sup>14</sup>. The dysfunctional principle of non-intervention was developed in the European state system to protect their colonial territories abroad. Such autonomous states no longer exist in the shrinking global village. The world is interested with functional links of great complexity and interdependence<sup>15</sup>; that at many times do not consult the central authority in their transactions. Though much has changed since 1648 Westphalia Treaty that ended the 30 years of war giving the state full control over the church and other institutions within its borders, no changes have taken place in the non-intervention norm even when the church has crept to the top of many countries. Changes are a necessity so as to equip the state in dealing with modern internal conflicts and internationalized conflicts. Refugees are cross border spillovers of a conflict. The non-intervention principle has never had a complete congruence with reality.

Developing countries that are largely involved in internal conflicts were in essence born into an international political system whose rules had long been established on a different background. Their understanding, actions and attitudes to international norms need to be reviewed against existing reality and equitable share of human common heritage. While political intervention (or a comment on such matters as good governance) cannot be tolerated, economic intervention is a welcome move. As the boundary between politics and economics continue to blurr, developing countries must realize that political

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<sup>14</sup> Caroline Thomas, New States, Sovereignty and Intervention, Aldershot England, Gower Publishing Company Ltd, 1985 pp. 22.

<sup>15</sup> R. Keohane and Joseph S. Nye, Power and Interdependence: World Politics in Transition, Boston Little Brown 1977 pp. 23.

independence without economic independence is meaningless<sup>16</sup>. There is an economic dimension of sovereignty. A government whose citizens are refugees in UNHCR camps and are being given what the country denied them has little claim of being sovereign and legitimate. Those funding the desperate refugees need to have a say in deciding the destiny of the salvaged fellow human beings. It is not possible to apply a rigid non-intervention principle to domestic economic affairs without subjecting a country to hunger, poverty and social decay, as Zimbabwe is trying to in rejecting food relief when her stores are wide empty? The state is intertwined in transactions with non-state actors, international organizations like IMF, UNHCR, World Bank, commercial lenders, donor countries and individuals. Worst of all, modern warfare has acquired weapons of mass destruction which have no respect for legal boundaries as they can be fired from miles away. Sovereignty should reside in the people not in the figurehead at the top of a state. And people must learn to reject despotic leaders<sup>17</sup>.

The internal conflicts in Sudan and Somalia have been internationalized by refugees running away from war and have found refuge in Kenya, Djibouti, Uganda, Tanzania, Yemen, Ethiopia, Egypt, Libya, Eritrea and other third countries of third resettlement as USA and in the European union. These conflicts are no longer the monopoly of the people of Sudan and Somalia. Besides efforts to mitigate<sup>18</sup> the conflicts have drawn mediators from all over the world and regionally. Resolutions<sup>19</sup> to be reached will be of benefit to countries in the region as well as the larger international community

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<sup>16</sup> J.H. Hertz, *The Territorial State Revisited, Reflections on the Future of the Nation State*, in J.N. Rosenau's *International Politics and Foreign Policy*, New York Free Press pp. 76-89.

<sup>17</sup> See Chapter 3 on Sovereignty and Violation of Human Rights.

<sup>18</sup> Internationalization of conflicts by mediation is discussed in chapter three.

<sup>19</sup> I. William Zartman, *Ripe for Resolution, Conflict and Intervention in Africa*, New York: Oxford University Press. 1985 p 17.

which is interested in peace and harmony. The refugees of Somalia and Sudan are only a section of growing global refugee movements. As long as man lives there will be conflict of interest and conflicts that get out of proportions will always produce refugees and internally displaced persons. Both sorts of displacement need joint international efforts to rehabilitate victims as well as to research for lasting solutions. No amount of threat and no nature of man-made abstractions (as state or sovereignty) should relegate fellow human beings to bystanders when atrocities are committed to men and women of planet earth. We are one people many homesteads.

### **Addressing Political Causes of Refugee Outflows**

Every storm, however vigorous, has an eye, and where a thorn enters the body is the very point through which it must be retrieved<sup>20</sup>. Refugees are victims of circumstances beyond their control that result from dysfunctional conflicts. Conflicts can be functional and sometimes a desirable condition for inter-party relations achieved through negotiations<sup>21</sup>. Most conflicts that produce refugees are largely political and therefore can only be resolved through political means. International and regional efforts towards resolving the Sudanese and Somalia conflicts have faltered not due to lack of humanitarian relief or due to shortage of technocrat input but mainly due to lack of political will to implement jointly adopted resolutions. Behind the political impasse, development opportunities evade a country, while death, suffering and depression continue to soar precipitating into mass flights. One outdated and flawed paradigm in international relations, the 'non-interference clause' has given cruel men cover. Courtesy of this hollow philosophy, Africa and the world watched with shocking indifference as

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<sup>20</sup> The Two Analogies are from Swahili Proverbs of Encouragement.

<sup>21</sup> I. W. Zartman, *Inter-African Negotiations* in (eds) John W. Harbenson and Donald Rothchild's *Africa in World of Politics* – Boulder, Westview Press 1991 p. 268.

the Somalia nation disintegrated, generations were wiped off in ethnic genocide in Rwanda and Yugoslavia, Liberia, and Sierra Leon. The way out is sharpening citizens to question bad politics and vote out bad leaders.

Chapter Three argue that conflicts (which produce human suffering and fleeing) are products of structural violence in politico-economic set ups, perpetuated by the benefiting elites<sup>22</sup>, which often lead to a reduction of the enjoyment of peace for the masses. Such conditions spell negative peace because despite the absence of violence and war the living conditions such as poverty, and violation of human rights, imply the existence of latent structural violence<sup>23</sup>. Such unfavourable situations can be ended through getting down to their political impetus and change conflict behaviour, remove structural contradictions and injustices and also change cultural attitudes of a people living together<sup>24</sup>. This chapter asserts that elites in politics, business, military and the ruling group can exploit ethnicity, culture, religion and unfounded animosity to maximize their gain<sup>25</sup>. Addressing political causes of conflict help to study examine, analyze, synthesize and evaluate the merit of each institutiop in public life that has or is likely to produce negative peace. It is of no use to continue expecting peace and justice in a country that does not respect the rule of law and the sanctity of human rights. Politics that is built around ethnicity corrupt practices, military supremacy, authoritarianism and lack of accountability to constituents and the international community is a fertile ground for human tragedies. It is until the structure of such political set up is altered that it can be

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<sup>22</sup> Karl W. Deutsche, The Analysis of International Relations, New Delhi: Prentice Hall 1989 p. 67.

<sup>23</sup> Galtung, J., Peace by Peaceful Means: Peace and Conflict: Development and Civilization, London: Sage Publications 1996 pp. 4-14.

<sup>24</sup> H. Miall, O. Ramsbottham and T. Woodhouse, Contemporary Conflict Resolution: The Prevention, Management and Transformation of Dead Conflict, London Polity Press 1995 p. 5.

<sup>25</sup> Rothchild Interethnic Conflict and Policy Analysis in Africa No. 9 Ethnic and Racial Studies pp 66-86.



entrusted with returnees. No matter how well economically endowed a country is and culturally homogenous, if it rests on a dormant structural intolerance condition it is bound to experience chaos. It is a matter of time.

While this dissertation is optimistic of peaceful co-existence of the Sudan people during the interim period and after the self-determination referendum and a unified orderly Somalia after years of turmoil, caution is necessary to limit exaggerated expectations. The success of resolved conflicts depends on the post conflict peace that is often complex given the multidimensional conflict issues that political groups embrace<sup>26</sup>. This is the test of every post-conflict government. People can accept but not necessarily enjoy poor living conditions because with time they will realize that they can receive more of their needs from society and government<sup>27</sup>. Once the demands are met, expectations will rise again fueled by a realization that there exists relative deprivation, as others appear to be getting more<sup>28</sup>. If the government fails to satisfy these needs coercive thoughts are hatched to try and force government performance or reduce expectations on the part of citizens<sup>29</sup>.

Ordinary citizens need to learn that state choices in policy reflect elites' perceptions of interests which may take several shapes and which do not necessarily reflect the affective or cognitive views in the larger society<sup>30</sup>. Practices and interests of a state that are accepted in one period become downgraded or even illegitimate in a later

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<sup>26</sup> See Vayrynen, R. 1991 To settle or to Transform? Perspectives on the Resolution of National and International Conflicts in Vayrynen R. (ed) New Directions in Conflict Theory: Conflict and Conflict Transformation, London: Sage Publications p.8

<sup>27</sup> See Mwangi, M. The International Management of Internal Conflict in Africa: The Ugandan Mediation, 1985, Phd Dissertation Rutherford College University of Kent at Canterbury, p. 233

<sup>28</sup> Allan Issak (1987), An Introduction to Politics, Michigan: Harper Collins Publishers. pp. 295-296

<sup>29</sup> Ted R. Gurr, Why Men Rebel Princeton: N. J. Princeton University Press 1970 pp. 46-56

<sup>30</sup> James Davies, Towards a Theory of Revolution, American Sociological Review 27 1962 p 5-19

period because of normative evolution or leadership change. But human needs remain the same today and tomorrow, at home or in exile.

### **Post Conflict Reconciliation**

Addressing political causes of displacement help to ascertain the real underlying causes of flight. Refugees may be running away from extreme minority discrimination or tactful demobilization to reduce political influence. It could be that those in power are executing an historical act of revenge because not all leaders are democratic and remorseful while in office. Peace building needs to look beyond the present conflict into a time of change of leadership and subsequent revenge so as to embark on effective post conflict reconciliation. Modern refugees are made of former office bearers of governments that perpetuated injustice and thrived in terror. Addressing actual causes of flight as told by refugees make refugees part of the solution thus making informed decisions during repatriation. It is politicians at home who will ensure that returnees have a safe and dignified return and are harmoniously re-integrated.

The ideas of addressing political causes of displacement bring together the government agents, mediators and refugees to deliberate on the central issues of dissidence. If the demand was secession the leaders are reminded that there could be no permanent settlement until liberation is effected. If the refugees were products of Nation-state or state-nation building parties are reminded that sovereignty rests on people and it is only a privilege to transparent and responsible leaders of state<sup>31</sup>. Leaders choose to continue their policies through war and its until such power politics tactics are changed that people can breathe intellectually at home and oppose puritanical imaginations.

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<sup>31</sup> John Chipman, The Future of Strategic Studies, Beyond even Grand Strategy, Washington DC Survival 34 Spring 1992 p. 117.

Tracing perpetrators of war and their friends in the supply of arms is a transparent post conflict lead to punishing all those not interested in peace and reconciliation<sup>32</sup>. The truth must be found, then forgiveness or punishment. Refugees who were combatants should never be allowed to dictate post conflict events for others; they are to face the law as combatants. The UN and Regional organizations are therefore called upon to override state sovereignty to save mankind from the scourge of war<sup>33</sup> and want.

As noted in chapter three, refugees yearn to return home one day. East or west home is home. No amount of comfort in exile will exclusively replace the will to go back home if peace had resumed. Taking refuge remains a last resort after days or years of fear. It is important to exhaust all reasons of fleeing and make countries of origin safe not only for those returning after voluntary repatriation but also those settled permanently in third countries. What if the newfound homes become a volcano of racism, fascism or religious and racial cleansing as Hitler's Nazi Germany in 1930s to 1940s? What if resettlement made refugees join minority ethnic groups and offsets some sacred ethnic hegemony or political status quo? The strict immigration requirement pursued by the European Union is aimed at restricting entry and reducing the social and economic rights of asylum seekers during the determination process<sup>34</sup>. European Union Immigration controls have been portrayed as a pre-requisite for 'good race relations'. Behind legal rules governing asylum rests frozen significant political conflicts. Statelessness is permanent disenfranchisement of immigrants thus forfeiting a fundamental political right.

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<sup>32</sup> Alain Dextezhe, *Neutrality or Impartiality*, in (ed) Kevin M. Cahill's Preventive Diplomacy, Stopping Wars Before They Start, New York Routledge 2000 p. 112.

<sup>33</sup> See the Preamble of the UN Charter Written with Fresh Memories of the Horrors of World War II.

<sup>34</sup> Noll, Greyor, Negotiating Asylum: The European Union Aquis, Extraterritorial Protection and the Common Market Deflection, The Hague: Kluge Law International 2000 p. 560.

Addressing political causes of refugee outflows help in the search for all the players in a conflict. Neighbouring countries, confusing mediation initiatives or extra-regional countries, instigate some conflicts. Once such a finding is authenticated it becomes easy to do away with those sources of conflict. It is only high international politics that can solve such sabotage. On the other hand this search isolates selfish economically motivated conflicts championed to be in the interest of the state. There are people who benefit from chaos and lack of accountability and who have little or no interest in stopping a conflict and much interest in prolonging it. High in the list are international arms merchants, and protagonists who are only identified with and by conflict<sup>35</sup>. The control and exploitation of natural resources as minerals, oil and timber have made and sustained conflict in Sudan, Angola, Liberia, DR Congo and Sierra Leone. Other causes include competition for scarce land and water resources as for Somalia and central African republics.

In this struggle, government agents are party to the struggle for resources that they are charged with the responsibility to protect and distribute equitably. Real political causes can only be solved politically (by diplomatic efforts, political freedom, pluralism, fixed tenure of office and election dates, secularism, protection of minority rights and confidence building) without reverting to war and intimidation. Political inquiries into a conflict will signal a way forward, whether to use peace-keeping forces to separate protagonists<sup>36</sup> and monitor their conduct, for implementing comprehensive settlements or

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<sup>35</sup> I. William Zartman op cit.

<sup>36</sup> Kofi Annan, The Cause of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa, Report of the Secretary General to the UN Security Council, Department of Public Information 16 April 1998.

resolutions reached or as a preventive deployment as a pro-active response to an eminent conflict.

While the UN Charter has faith in fundamental human rights as being equal everywhere, many countries have not implemented the 1948 Human Rights Declaration ignoring its good intentions<sup>37</sup>. The covenant is made of two groups of rights: Civil and political; economic, social and cultural rights. Most developing countries champion the economic, social and cultural rights at the expense of civil and political rights while the developed countries champion the political rights. Each group has a point but the point is made of only half the picture. No amount of peace and development can compensate for loss of individual liberty just as the absence of development is itself a violation of human rights. The international community must speak out against all sorts of violations of all kinds of human rights. Where conflicts have been resolved or have diminished in intensity, the UNHCR has a comparative advantage to offer durable solutions of repatriation<sup>38</sup> by linking humanitarian assistance to longer term development which can greatly contribute to the averting of armed conflict. This is because the return of large numbers of refugees and internally displaced persons to post conflict situations can act as a destabilizing factor, particularly when such returns take place rapidly, in large numbers and under duress<sup>39</sup>

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<sup>37</sup> Kurt Waldheim, *In the Eye of The Storm* (The Memoirs of Kurt Waldheim) London Weidenfeld and Nicolson 1985 p. 134.

<sup>38</sup> Kofi A. Annan (2003) Prevention of Armed Conflict, Report of the Secretary General, United Nations p. 64

<sup>39</sup> Ibid p.64

Conflict research looks beyond territorial borders of a country in conflict to find out if similar conditions exist in the region. This is a systemic<sup>40</sup> approach of solving conflicts which hinges on the believe that it is until the entire zone is rid of conflict, any breakdown of harmony in one part will send isostatic spillover waves of terror and unrest to other parts. It is only political experts who are well armed to deal with international politics. Then it will be of little avail to try resolving a big problem in pieces without a focus of its entire size. The Horn of Africa region is a conflict zone riddled with religious fundamentalism, clan chauvinism, secessionist movements, and proliferation of arms, anarchy, and scramble over scarce resources and unquenchable ambitions to control political power. Peace and development hung in the air of compromising for a cause and tolerance.

### Secularism of State Affairs

The Sudan conflict brings into picture the dimension of religion in state affairs. There is cause to believe that the government of Sudan has been taken hostage by Islamic fundamentalism when it has adamantly rejected the idea of separating religion and state in its constitution<sup>41</sup>. The worst blow to democracy was the unilateral decision of the Khartoum government to introduce Islamic '*Sharia laws*' in a country whose majority profess Christianity. The Sudan conflict like other developing countries with multiple religious beliefs has perfected itself as a parody of Israel-Palestine claims of holy shrines in a single city-Jerusalem. This study find 'civil religion' to be a converging point for

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<sup>40</sup> M. Mwagiru, Conflict: Theory, Processes and Institutions of Management (Nairobi, Watermark Publication 2000) pp. 60-67.

<sup>41</sup> World Council of Churches (WCC) Statement on the Situation in Sudan, Central Committee, Postdam Germany 29 February 2001.

fanatics of opposing religions or sects in one religion. Peace loving neighbours in a country must transcend religious ecclesiastics and embrace socio-political moral order<sup>42</sup>.

When each group (sect) turn to fundamentalism or fanaticism it hardens the other party and widen the difference. Religions are capable of planting hatred between brothers professing different faiths or widen chasms among sects of a single religion. This is terribly wrong when God is believed to be one.

When leaders of a political state surrender their moral obligations of secular discipline in matters of state and provision of human needs, such leaders cling to unproven beliefs and attitudes that are hard to neutralize when managing a conflict associated with religious differences. While the common Sudan people may have lived with the two religions in the past without question, leaders are utilizing it heavily. The Catholic Church is conspicuously fueling the difference claiming its faithful are being persecuted at the alter of the state. It is compelling to admit that the Westphalia treaty has come of age to be revisited to hold back not the church this time but the mosque. Other actors in deciding allocation of political and economic resources challenge the state. To be guided by faith and not law is to throw away ration and embrace notion

Religious fanaticism brings into picture the words of Karl Marx, that religion was the opium of the masses. The masses can be manipulated by shrewd politicians to fight and die for a culture, religion or history while forfeiting real human needs as basic human rights, food, shelter, proper clothing, education, security and a right to have a family which are hard to come by during such an armed conflict through religion. Fanatics are misguided to believe that equitable distribution of national resources grew out of the

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<sup>42</sup> Melvin A. Friedlander, Conviction and Credence, US Policy Making in the Middle East, London: Lynne Rienner Publishers 1991 pp. 71-73.

barrel (of the gun) and emotional attachment to religion. The First World War was fought faithfully to defend an abstraction called Nation State. Unfortunately despite the volume of forced displacement occurring in Islamic regions, most support for refugees appears to originate from external non-Muslim sources<sup>43</sup>. This is in contradiction with Islamic principles and the extent of material wealth available. "National interests" suddenly override the emotions that send people to war resulting to refugee outflows. Only civil religion can stem blind elite greed dressed in 'holy war'.

### **Confidence Building in Regional Bodies and Proactive Measures in Managing Human Crises.**

Apart from deliberate acts of aggression international and internal conflicts may result from suspicions, misunderstandings, misinterpretations of the behaviour of states. It is for this reason 'confidence-building measure' has to be practiced. Confidence like suspicion must come from the mind resulting from patterned consistent acts of commitment and trust before an entire region sheds off the fear of being shortchanged. Confidence building measures are needed in the Horn of Africa region that is known to harbour mutual suspicion and vengeance mappings. Confidence building measures have contributed greatly to strengthening stability and security in Europe<sup>44</sup> that saw large cuts in arms and has facilitated the settlement of internal conflict in Central America. Confidence building measures translate general principles of international law regulating

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<sup>43</sup> Saecher A.F, Muzaffar, Practical Ideas? A Proposal for Revitalizing the Rights of Forced Migrants in Islam, in *Journal of Refugee Studies* Vol. 14 March 2001, Oxford University Press.

<sup>44</sup> J. Goldblat, *Agreements for Arms Control: a Critical Survey*, London Taylor and Francis 1982 p. 387.



interstate relations into positive action and provide credibility for affirmations of peaceful regional and extra-regional obligations<sup>45</sup>.

Regional confidence building measure caters for threats to national security, which normally arise from conditions within a given particular region<sup>46</sup>. Outsiders cannot impose such measures. They need to be negotiated freely and agreed upon. Channels of communication among political decision makers in a region need to be open and regions must coordinate their respective arrangements yet remain distinct.

Though confidence-building measures alone cannot guarantee security of states and prevent armed aggression, they reduce uncertainties and anxieties surrounding the possibility of a surprise attack. Together with collective limitations in the purchase and use of arms, confidence building measures help reduce the risk of war while increasing the likelihood of peace. The same can be said about conflicting groups in one country.

A conflict solving forum like IGAD depend on the articulation of issues and clear perception of intentions and expected outcomes. Parties in conflict often choose certain strategies that largely depend on the choices of actions the other party is expected to take, which also depend on the other party's expectations<sup>47</sup>. Mediators need to see such an interdependence of actions and expectations to chart a way forward that is based on fundamental well being of all others than chance and a game of skill. Though interests and values may seem divergent choices of action they depend on mutual expectation. It is this mutual expectation that confidence-building measures need to capitalize on. The third party actor in a conflict can contribute to bringing about the ripe moment (for

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<sup>45</sup> Westling H. Arther, Transfrontier Reserves for Peace and Nature: A Contribution to Human Security, Nairobi, UNEP 1993 p. 8.

<sup>46</sup> Larrabee F.S and D. Stobbe (eds) Confidence Building Measures in Europe, New York, Institute for East-West Security Studies, Monograph No. 1 1983 p. 221.

<sup>47</sup> Thomas C. Schelling, The Strategy of Conflict, Harvard University, Massachusetts 1980 p.86.

mediation) in a conflict by shaping perceptions of the warring parties<sup>48</sup>. IGAD can force its way in the flaring talks on Sudan by assisting one party confidently while utilizing its problem solving ability to put forward a satisfactory compromise solution.

Regional bodies and indeed the UN need to adopt proactive measures in solving a conflict so as to stem human atrocities and flights. The indifference with which the world stood watching the Rwanda genocide and Yugoslavia, Angola war, the Somalia Republic disintegrating need not be repeated. Non-intervention is over and regional bodies must be the first to react then beckon the rest of the world.

There is growing need for regional bodies and NGOs to sharpen citizens to question bad policies and vote out bad leaders who maim and murder their own people with impunity in the name security and order. Proactive measures to utilize the Djibouti calls in 1991 could have brought peace between various Somalia clans cheaply if the dictatorial regime of Siad Baree was denied support than today. To have it done, regional bodies need to have early warning and early response mechanisms<sup>49</sup> that are on the watch out of impending crises and nip them at the bud.

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<sup>48</sup> Stedman, Stephen John, Peacemaking in Civil War, International in Zimbabwe 1974 – 1980, Boulder: Lynee Rienner Publishers 1991 pp. 235-236.

<sup>49</sup> Gurr, Ted Robert, Early-Warning System From Surveillance to Assessment to Action in (ed) Kevin M. Cahill's Preventive Diplomacy, Stopping Wars Before They Start, New York Routledge 2000 p 243-262.

## CHAPTER FIVE

### Summary and Conclusions

#### 5.0 Summary

The crux of this dissertation has been an endeavour to search for a dignified stay of refugees in the country of asylum and a comprehensive search for real causes of conflicts manifested in mass displacement with the view to eliminate them if returnees were to be re-integrated safely and be assured of dignified citizenship. The study centres its approach on two premises: While refugees were an international burden to be shared, their welfare in exile depend on the prosperity and stability of the country of asylum and country of origin such that humanitarian aid without development assistance to both countries, refugees and returnees was short-lived and could produce a dependence syndrome among refugees forever. Secondly, it is believed strongly that addressing political causes of refugee outflows was in the interest of reaching lasting solutions to dysfunctional conflicts that produce refugees. Refugees are seen as symptoms of incompatible conflicts of values and interests. There could be no end to flights if conditions in a state were showing structural violence.

In chapter two this dissertation endeavoured to show cause for linking humanitarian aid to development assistance. This could be a 'burden sharing' strategy that will induce countries of first asylum continue honouring the principle of '*non refoulement*'. Most conflicts are occurring in developing countries that are not economically and politically stable and refugee influxes will compromise a country's obligations to its citizens or disturb regional stability. Development assistance to refugees and returnees in capacity building is to make refugees self-reliant and form part of the

solution to their economic problem. Refugees and returnees are survivors of harsh conditions and training who can be productive than local residents. They can boost an economy greatly if utilized positively. Refugees living in Kenya at Kakuma and Daabab lack a land policy and legal status to get involved in constructive development. The refugee camps have been converted into permanent wards of international charity. Very few groups engage in hand craft business and social work. Instead the illegal (un-registered) immigrants in towns are busy trading.

Addressing political causes of conflict put the state at the spotlight and is tested if it is fulfilling its tasks lawfully and in a just a manner. The state is charged with the duty to provide security, freedom, basic needs and intellectual space for all its citizens. Failure to be responsive to people's problems and being partisan to conflict situations denies a government the cherished sovereignty and legitimacy. It is bad politics that perpetrate ethnicity, corrupt tendencies, nepotism, abuse of human rights, fascism, misrule militarization of the state and genocide. Political power controls economic resources and the distribution that can spark conflict if it was not equitable. While economic intervention is allowed governments do not tolerate even the mention of political intervention to help end human suffering. It is article 2 (7) of UN Charter and article 3 (2) of OAU which form the chorus of a song against intervention if it is tried. But this is now in the past. Borders are no longer impermeable nor do they divide the domestic and international environment of politics. This thesis sums that, until loopholes of deprivation and violence are sealed, violent leaders overthrown and judged, solutions to flights will be in vain. Though criticized as being arbitrary linear cuts, colonial borders afford people somewhere to flee and sovereignty of the host state fortifies the asylum sanctuary.

Regional and sub-regional bodies as IGAD bodies have been identified to be better placed to solving regional conflicts as they have a stake in its success. They have to develop both early warning and early action mechanisms to nip conflicts at the bud as well as developing confidence – building measures in order to reduce the overlapping peace initiatives and trust one another. They should be ready to take the lead as other communities of the world join later. The regional bodies must apply dual diplomacy in conflict management and search for an entire conflict system's solution. By dealing with the Sudan conflict and the Somalia one IGAD shows sensitivity to a systemic approach to conflicts in the Horn of Africa region.

### **5.1 Conclusion**

The refugee problem in Kenya is likely to ease its grip given the successful election of the Somali president in 2004 and the signing of the Sudan peace in 2005. As long as economic hardship prevails in the Horn of Africa resulting from drought, zero development, debt burden and debt servicing and proliferation of arms, voluntary repatriation will not be a priority to Somalia refugees. There is hope that the demands of secession will be dropped given the power and wealth sharing arrangement. The viable option is to help Kenya stabilize economically to help refugees (in this time of restrictive immigration controls worldwide) and strengthen political solutions are sought in the two countries and the entire Horn of Africa conflict system. While generosity to refugees is adhering to international human rights and an important foreign policy instrument in post Cold War era to advance international stability; no country can host large numbers of refugees in a region without the risk of being a refugee producing country with the ruin of its economy and political protestations against resettlement or waging a war of

regime, and to help restore order to its refugee-producing borders. As a result, it is a *collateral* analysis.

The fact that states are not responsible for their own actions as a rational actor in a competitive strategy is crucial. It is used to explain the need for change. A realistic approach to human needs will give way to realistic policies that may help handle the *fraying* world in the 1990s. Learning is incremental and occurs in areas where certain approaches work better than others, where good ideas give way to better ideas. Societies need to take advantage of crises to create new regimes at crucial moments that institutionalize learning. It is the view of this dissertation that large states are instrumental in providing for human needs of their citizens given their enormous human and capital resources. Human rights in religion in France do not guarantee peace and the people of Sudan need to learn from the Somalia example that elites (political and economic) do control government policies with passionate greed. It is important therefore, for citizens to trust institutions that are checked than blindly falling into the trap of negative ethnicity and religious fundamentalism. It is a paradox that when the European Union is integrating its member states, developing countries are making victims on the highways.

The African Union has created an African state, a Peace Keeping Force, meant to intervene in internal conflicts proactively. Though it may not succeed, seen it is an attempt to strengthen regional conflict management strategies and confirmation that conflicts do spill over to other states and cannot be overlooked. The African force may prevent the *fraying* over the continent but the point remains that Africa is moving towards a state of an end that the nation state is a membership type state to a supra state institution called the African Union. In Sudan, the fact is that the African Union is doing

need weapons of mass destruction, meaning that arms kill citizens who are supposed to be protected. While peacekeeping forces are a big sacrifice in terms of personnel and capital, financial contribution to a Regional Refugee Fund to support special projects for the reception, integration and repatriation of refugees and internally displaced persons will be in the same spirit. This is a burden sharing scheme that has three ways of addressing unequal distribution of protection to refugees that one region is faced with. First there needs to be harmonization of refugees and asylum legislation (sharing policy and relief aid), secondly redistribution of resources (sharing money and relief aid) and thirdly re-allocation of refugees (sharing people) although refugees will have preferences.

Looking at the first months of the arrival of refugees, costs may outweigh benefits scaring hosts whose hospitality is governed by state calculations of availability of resources. But after a couple of years refugees in a stable economy could have contributed to their host society greatly through tax. Thus short-term costs can turn into long-term benefits if self-sufficiency projects were set well.

International organizations have a duty to prevent war because it is brutal, futile and an unreasonable endeavour. But those endeared to preventing war must clearly understand the root causes underlying wars. Only then can one recognize the symptoms of an approaching conflict and head it off through diplomacy, dispute resolution procedures such as peacekeeping or an international court of justice decision. Conflicts that have produced refugees in the Horn of Africa region are caused by uneven distribution of state power and resources, relative equality between alliances each side calculating it can win a war, power transitions that are faulty, externalization of internal

conflicts, ethnocentrism and aggressive tendencies. Lessons learnt that leaders also take refuge should deter bad politics.

The need to help refugees attain formal education and vocational training as well as awareness of environmental concerns and health-care is a preparation for post conflict resettlement. Solving conflicts and letting ignorant people into countryside can be equally hazardous. Good knowledge is a resource in this time of globalization and information technology revolution. Countries need to adhere to the 1997 Ottawa Convention on the prohibition of the use, stocking, stockpiling, production and transfer of anti personnel landmines where 40 countries including the U.S.A, China, Russia, India and Somalia are not signatories.

Further research is needed in this area of refugees.



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**EAST AFRICANA COLLECTION**