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REFUGEES INFLUX AND NATIONAL SECURITY: A CASE STUDY OF KENYA

By

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**A Research Project submitted in partial fulfilment of the Degree of Masters of Arts in
International Studies**

2016

DECLARATION

I declare that this research project is my original work and has not been presented for a degree in any other university.

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This research project has been submitted for examination with my approval as university supervisor

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Sign: Date:

DEDICATION

This work is dedicated to my family; and most importantly to parents for their support and believing in me.

ACKNOWLEDGEMENT

I take this opportunity to give thanks to the Almighty God for seeing me through the completion of this project. I am greatly indebted to my Supervisor for his professional guidance, advice and unlimited patience in reading through my drafts and suggesting workable alternatives, my profound appreciation to you. I would like to thank all those who contribute in one way or another towards the completion of this study.

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LIST OF ABBREVIATIONS

UNHCR - United Nations High Commissioner for Refugees

AG – Attorney General

US – United States

IDPs – Internally displaced Persons

OAU – Organization of African Union

AU – African Union

UN – United Nations

NGO – Non-Governmental Organization

ABSTRACT

The increase in the number of in Kenya has seen many even the national assembly claim that this is to blame for the increased terrorist acts in the country. This research therefore seeks to qualify this statement. The study will be guided by the three objectives formulated which will help to find out if an influx of refugees has led to increased insecurity in Kenya, find out the link between refugees and terror activities as well as how best Kenya can deal with security threats posed by the influx of refugees. The research will further be guided by a conceptual framework on what national security is and threats to it, as well as a conceptual framework on refugees and the security threat they pose to their recipient country, in this case Kenya. The research instrument for data collection will be questionnaires and one on one interviews. The research design to be used in the study will be a qualitative analysis of information got from the ministries of Interior coordination and foreign affairs, as well as information got from refugees in residing in Nairobi and its environs. The findings from this research will be used by policy makers in understanding security threats posed by the influx of refugees in Kenya and how best to deal with the refugees situation without causing a diplomatic spat within the international circles.

CHAPTER ONE

1.0 Introduction

This chapter gives an introduction of the research with the sole purpose of examining whether the influx of refugees is a security threat to Kenya. The chapter entails: the background of the study, Statement of the Research Problem, objectives of the study, justification of the study, literature review, theoretical framework, hypotheses and the research methodology.

1.1 Background to the study

Kenya's Refugee Act came into force in the year 2006, with the aim of implementing the 1951 United Nations Convention concerned with the Status of Refugees, as well as the 1967 Protocol and the 1969 OAU Convention. The country's enactment of the refugee Act followed a period of sustained advocacy from quarters such as the UNHCR and civil society organisations. From the Act refugees are classified into two main groups, which are; statutory refugees and prima facie refugees, and goes ahead to lay out the conditions for the withdrawal and exclusion of refugee status. This brings into focus those refugees who have egged in criminal activities either within the country or outside Kenyan borders, have dual nationality and are able to seek refuge in their second country of origin. This could also include persons coming from places where the conditions for seeking refuge no longer exist¹.

The Refugee Act also established a Department for Refugee Affairs which is responsible for the coordination, administration and management of refugees' related issues. Its functions range from coming up with policies, coordinating international assistance, promoting durable solutions, registration, receiving and processing applications for refugee status, issuing identity

¹Hope, K. R. (2012). The political economy of development in Kenya. New York: Continuum International Pub. Group.

cards and travel documents as well as managing the refugee camps. At the same time, are fugee Affairs Committee that was also established under the guidance of the Act, advises the Commissioner for Refugees. The Act goes further to state that refugees' affairs should include representation from the host community and civil society.

It's also worth noting that the Act also determines the parameters for the Refugee Status Determination process through which applications for refugee status are assessed. After coming into the country, refugees have up to 30 days to report to reception centres put up by the DRA. Refugees' details are consequently documented and are issued with an Asylum Seekers Certificate. The certificate protects the refugees from being treated and arrests as illegal migrants. The asylum seekers are duly cross-examined to ascertain the reason behind their asylum seeking. Granting of refugee status allows the asylum seekers and their families (if present during the RSD process) to remain in Kenya until it is safe for them to return to their country of origin or move to a third country. If the refugees are denied refugee status, they have recourse to an Appeals Board and, if unsuccessful, to the High Court. If by any chance these appeals are rejected asylum seekers have 90 days to leave the country. And if they are granted asylum, refugees receive a Refugee Identification Pass and can apply for a Convention Travel Document. The document enables them to travel outside the country even without a passport. Consequently, refugees considered by the DRA to have a legitimate reason to leave the refugee camps should receive a Movement Pass.

In spite of the high influx of refugees into the country, Kenya has fundamentally pursued an open door policy by among others allowing a free flow of refugees into the country. The policy is characterised by the liberal admission of asylum seekers who are then awarded full socio-economic rights and are only repatriated to their countries when conditions become favourable. This means that a majority of the immigrants are accorded refugee status without undergoing

the scrutiny that they would be get under the UN Convention and Protocol and other international instruments that govern refugees².

This comes especially with the rise of Al-Shabaab insurgency in the Horn of Africa, which has exposed Kenya to security threats from the militia men. As such, with the current security threats, Kenya ought to shift its policy with regards to refugees' freedom of movement and engagement in self-reliance activities. The damaging impact of refugees can be cited as challenging the above policy shift meaning that Kenya should state its intents to call for a review of the current international refugee regime. This would enable protection of refugees in 'safe zones' in their countries of origin.

It is true Kenya can do very little to avert the situation. Non-defilement under international law provides that no asylum seeker should be taken back or expelled to the territory where his/her life or freedom is threatened. This could either be on the basis of his nationality, race, religion, and membership of a particular social group or political opinion. A close examination of the principle exposes the recipient country to insecurity and as noted earlier, the asylum seekers, traditionally conceived and presented as humanitarian issues, are now increasingly viewed as security threats. This requires that measures be put in place to ensure national security is not compromised.

The influx of refugees has the potential to be both negative and positive for the recipient countries. In this regard, refugees could provide what Jacobsen terms as “refugee resources” or otherwise the store of human capital, increased labor and entrepreneurship, all of which could be beneficial to the host country³. Jacobsen notes that these resources could potentially benefit the host nation, as well as the swelling levels of foreign aid and the increase in jobs

²Human Rights Watch (Organization), & Simpson, G. (2009). From horror to hopelessness: Kenya's forgotten Somali refugee crisis. New York, NY: Human Rights Watch

³Ayoob, M, 1995. The Third World Security Predicament: State Making, Regional Conflict, and the International System, Lynne Reiner, London .

provided by relief agencies designed to help refugees; too often however, the attention is on the widespread crime and lawlessness in camps, potential raiding, and military recruitment that is targeted at youths and other vulnerable groups. Besides the challenge of handling the refugees, it can also be demanding to police a sometimes permeable border, not forgetting that the state is the primary actor in coming up with policies for these situations.

Kenya has been accepting refugees since the 1970s, with mass migration witnessed since the 1990s. And given the prolonged nature of the refugee predicament, it has become more and more difficult to keep in place a stringent encampment policy. This instead calls for a strategy of integration designed to benefit the locals and refugees as well. The government of Kenya however did close its borders in 2007 which has over the years only led to asylum seekers seek entry through smugglers, thereby increasing their susceptibility to police harassment, detention and deportation⁴.

Linking refugees to terror related activities are widespread today in many other parts of the globe. In November 2010, news reports pointed out the Yemeni government's decision to increase the difficulty with which refugees from Somalia could seek asylum. Yemeni officials claimed that militants associated with Al-Shabaab were arrested in refugee camps after using refugee routes to enter the country⁵. Regardless of widespread fears that some refugees and displaced persons may be the source of increase in terrorism, with few exceptions refugees and their potential connection to transnational terrorism have scarcely been examined empirically. In its place a large portion of study considers the relationship between refugee influx and higher forms of violence that include civil and interstate wars.

Latest researches show that that refugee influx to a great extent increases the probability and sums of transnational terrorist attacks that occur in the host nation, even when controlling for

⁴Deegan, H. 2009. Africa Today: Culture, Economics, Religion and Security,

⁵Human Rights Watch (Organization), & Simpson, G. (2009). From horror to hopelessness: Kenya's forgotten Somali refugee crisis. New York, NY: Human Rights Watch.

other variables. And given the eminence of refugee flows and populations as well all over the world, the studies suggests that states with a huge number of refugees and the international community at large should take initiatives necessary to address the conditions in refugee camps, as well as the treatment of refugees by host nations in a bid to deter terror activities.

1.2 Problem Statement

The increase in the number of asylum seekers in Kenya has in many ways been blamed for the increase in insecurity in the country with the intensified insecurity in both refugee camps and towns occasioned by the increase of small arms across leaky borders. It's a fact that Kenyan border points have become tremendously insecure a scenario that in many ways has been brought about by mass movement of armed immigrants presumed to sneak in small arms that end up having devastating effects in terms of continued armed and ethnic conflict and crime near the border. Likewise, studies done on security threats arising from the influx in refugees numbers have shown that their influx to some extent is to blame for the spread of both civil war and interstate conflict. However to a far lesser extent studies have not examined how refugee flows could lead to other forms of political violence⁶. With terrorism being such a huge concern to policymakers and to scholars as well, the study will try to analyse whether refugee flows across Kenya's leaky borders has augmented the prospect of terrorist attacks Kenya. To enable this, the research will further examine whether living conditions in refugee camps contribute to their radicalization.

This is the underlying question the study will be seeking to answer; does the influx of refugees pose a threat to Kenya's national security?, Given that Kenya along with its responsibilities as a signatory of the 1951 Refugee Convention, does not fulfil its international obligations at the expense of its national security.

⁶Hutchful, E. (2000). Understanding the African Security Dilemma, Pluto Press, London.

1.3 Objectives

1.3.1 Main objective

The main objective of this study is to find out whether the influx of refugees is a threat to Kenya's national security

1.3.2 Specific objectives

1. To find out whether Kenya's open door policy on refugees is a threat to national security.
2. To examine the association of refugees with terror activities
3. To explore the link between Kenya's national security and the socio-economic differences between refugees and host communities

1.4 Justification

The numerous refugee camps found in or near conflicts areas are in many cases susceptible to the occurrence of armed insecurity, on one hand, exiled persons and host communities and, on the other, humanitarian aid workers. A perfect example is the Dadaab camp in Wajir County which is a host to refugees mainly from Somaliland. This kind of a refugee camp can be targeted by both foreign and domestic security forces and end up being used as 'training grounds' and recruiting areas for non-state actors. Insecurity in Somalia can also be a catalyst to this which may make it challenging for the Kenyan Authorities to differentiate between insurgents and genuine refugees⁷. This is also in consideration that the continued presence of small arms in refugee camps is a sign of sustained threat to national security.

⁷Mbote, P. K., Akech, M., AfriMAP., Open Society Initiative for Eastern Africa, Open Society Foundations., Open Society Foundation, & Open Society Institute. (2011). Kenya : Justice Sector and the Rule of Law: A review by AfriMAP and the Open Society Initiative for Eastern Africa. New York: Open Society Foundations.

Any country can to a great extent increase its susceptibility to civil war by taking in refugee from neighboring nations, more so if these nearby countries experience incidents of internal strife. This is because the state of lawlessness in these countries may spill over and the presence of weapons increases in that state. In Kenya, substantial numbers of weapons that were once in use Somalia, Sudan, and Uganda are being traded back into the refugee camps as well as surrounding areas of Kakuma and the north-east. The Prevalence of social violence in the Northern parts of Kenya has been kept alive by clan warfare as well as disagreements over cattle, and other political interests. An all-inclusive security perspective provides a link between those levels by contending that a nation can equally be threatened from within and from without. This to a great extent suggests that the inflow of refugees may threaten (or perceived as threatening) both the internal and external security of the receiving states and home nations as well⁸. It will therefore be necessary for policy makers to understand security threats posed by the influx of refugees in Kenya and how best to deal with the refugees situation conflicting the requirements of the International Humanitarian Law.

1.5 Literature review

1.5.1 Refugees situation in the world

Recent data by the US Commission for Refugees shows that there are nearly 6 million refugees in the globe. The refugees are considered to have fled their home countries as a result of violence and ravaging famine. The asylum seekers as such have been forced to settle in environments where they are generally unwanted and as such left to fend for themselves. Large-scale refugee immigrations have taken place elsewhere around the globe and have lasted for years with no sight of hope coming to the fore.

⁸Mbote, P. K., Akech, M., AfriMAP., Open Society Initiative for Eastern Africa, Open Society Foundations., Open Society Foundation, & Open Society Institute. (2011). Kenya : Justice Sector and the Rule of Law: A review by AfriMAP and the Open Society Initiative for Eastern Africa. New York: Open Society Foundations.

The wave of refugees across the globe as well as the resurgent refugee crisis have over time developed into major issues in international relations. The situation is complicated by socio – economic, political, and security issues, especially for the recipient nations. The global refugee situation further remains another area of concern with regards to security as articulated by the crisis that is now prevalent in the “age of migration.”⁹ It’s worth noting that the vast majority of the population in the world is either composed of immigrants or the offspring of their immigrant parents. Over the years, refugees’ issues and migration have become inescapable and politically controversial in many nations where the citizens are fearful of having foreigners as their next door neighbors. There exists numerous reasons behind the mass migration of persons ranging from poverty, political conflicts, persecution, civil wars and deprivation. Other causes not well understood by many range from resource scarcity, climate change, environmental degradation as well as man-made and natural disasters. All these have to a great extent contributed to an escalation in numbers of people forcibly displaced around the globe, including refugees.

1.5.2 Refugees’ situation in Africa

Africa in the world is host to the largest number of both internally displaced persons (IDPs) and refugees. This includes persons of concern to the UNHCR. It’s worth noting that an increase in the numbers of both refugees and IDPs have been the two major sources of conflict in the continent.¹⁰ Statistics show that 38 per cent of the globe’s armed conflicts are taking place. In 2006, approximately 50 per cent of all high intensity conflicts in the world occurred in Africa. Civil disorder, wars, ethnic hatred, and violence have brought about the existence of

⁹Milner, J. (2009). *Refugees, the state and the politics of asylum in Africa*. Basingstoke [England: Palgrave Macmillan.

¹⁰Deegan, H. 2009. *Africa Today: Culture, Economics, Religion and Security*,

refugees and IDPs much more than natural disasters, for instance famine, floods, and drought have done.

Countries in the Horn of Africa being, Somalia, Eritrea Chad, Rwanda, Sudan, Ethiopia, Uganda, Central Africa, Guinea, the Democratic Republic of Congo (DRC), Angola, Togo, and Burundi are the main conflicts producing refugees by region and country. The presence of the so-called economic refugees has to a great extent intensified and complicated the problem of refugees in these areas.¹¹ Majority of the immigration systems further tend to split migrants into three main categories, being ordinary migrants, economic migrants and political refugees. It's therefore no doubt some economic migrants masquerade as asylum seekers to gain entry into rich countries¹².

A majority of these economic refugees who are principally illegal migrants do not meet the African Union, and United Nations Conventions on Refugees requirements. This is in consideration of the fact that migration incorporates a host of security issues and challenges owing to the fact that people move both within and across national boundaries. Migration security and insecurity are also to a certain extent linked. This is in views of issues such as a human and narcotics trafficking, and associated international criminality¹³. Refugees can also in various ways be a threat to social stability through problematization of indigenous cultures that leads to forms of xenophobia, demographic and economic changes. Moreover, religious, cultural and ethnic identity can all be sources of conflicts and security related problems in recipient countries¹⁴.

¹¹Human Rights Watch (Organization), & Simpson, G. (2009). From horror to hopelessness: Kenya's forgotten Somali refugee crisis. New York, NY: Human Rights Watch.

¹²Deegan, H. 2009. Africa Today: Culture, Economics, Religion and Security,

¹³Human Rights Watch (Organization), & Simpson, G. (2009). From horror to hopelessness: Kenya's forgotten Somali refugee crisis. New York, NY: Human Rights Watch.

¹⁴United Nations High Commissioner for Refugees. (2000). The state of the world's refugees: 2000. Oxford: Oxford Univ. Press.

1.5.3 The relationship between refugees and insecurity in Kenya

Majority of the existing literature on refugee related issues pays little attention to the security aspects of refugee flows. It could be considered that one of the reasons contributing to this is that refugee flows have in many cases been treated as both humanitarian and political issues. As such, the neglect of refugees' related issues from the viewpoint of their repercussions on security has been at the centre of criticism nowadays directed to proponents of the Realist Theory of International Relations¹⁵. The main problem attributed to this Realist School is that it places too much emphasis on the importance of states and the arrangement of power among them. By this the school neglects other important actors, factors and areas in International Relations¹⁶. The continued negligence of refugee issues, especially from the perspective of its implications on security, complicates the problem of a lack of literature on the subject. Academicians have also been predominantly slow to respond to its importance and the work that has been carried out has for the most part only existed on the periphery rather than in the mainstream of academic enterprise¹⁷.

The issue of insufficient literature on the security characteristic of refugee flows, is also reflected in UN Convention on Refugees (1951); UNHCR annual reports (2008 -2009); Annual Report on Asylum statistics (DHA, 2007a); South African Department of Home Affairs and the OAU Convention on Refugee Problems in Africa (1969). One more reason for the lack of more all-encompassing research on the security implications of refugee influx is the domination of Cold War definitions of national security which tended to stress external and

¹⁵Milner, J. (2009). *Refugees, the state and the politics of asylum in Africa*. Basingstoke [England: Palgrave Macmillan.

¹⁶Mutimer, D. (2008). "Beyond Strategy: Critical Thinking and the New Security Studies", in Snyder, C.A. (ed) *Contemporary Security and Strategy*, Palgrave Macmillan, Hampshire, London

¹⁷Mutimer, D. (2008). "Beyond Strategy: Critical Thinking and the New Security Studies", in Snyder, C.A. (ed) *Contemporary Security and Strategy*, Palgrave Macmillan, Hampshire, London

precisely military threats¹⁸. It is based on the conventional understanding of security and more so the security of the state.¹⁹The efforts by some academicians to re-define threats to national security and security generally from a Third World perspective have over time been recognized and welcomed.

This kind of standpoint is essential when observed against the backdrop of the reality that refugee crisis is to a large extent a Third World problem. Low levels of social organization and of nation and government legitimacy have to a far extent been termed as the source of internal insecurity in the Third World states. The characteristics of Third World national security issues point to the domestic origins of insecurity, rather than external or military threats.

The protection of refugees in Kenya has over time changed from comparatively tolerant and friendly regimes of the 1970s and 1980s to open aggression and opposition to refugees in the post 1990s. With time, the spectacle has come to be viewed as a force of both national and regional insecurity and instability as well. It is as a result of these factors that refugee administrative structures and policies as well are developed to keep both refugees and asylum-seekers out by closing borders, denying entry and asylum as well as sending them back which is at times done forcefully²⁰.

There has been a typical shift in refugee and security studies in many countries, which has enabled policymakers to observe refugees as a security threat, though still charged with the responsibility of treating them as asylum seekers and as people who need both protection and shelter. Questions that arise with regards to this is; How has Kenya been treating refugees; has it attained its international objective of protecting refugees in the wake of

¹⁸United Nations High Commissioner for Refugees. (2000). The state of the world's refugees: 2000. Oxford: Oxford Univ. Press.

¹⁹

Human Rights Watch (Organization), & Simpson, G. (2009). From horror to hopelessness: Kenya's forgotten Somali refugee crisis. New York, NY: Human Rights Watch.

²⁰Hope, K. R. (2012). The political economy of development in Kenya. New York: Continuum International Pub. Group.

terrorism, or it has shifted the blame to the refugees as the sole perpetrators of violence and conflict?

The in-flows of refugee are linked with other trans-boundary movements that include organized crime as well as trafficking and smuggling networks. These kinds of transnational networks whether positive or negative in their effects, can get their way into domestic politics by defining voting patterns. For instance in the Northern part of the country, Somali refugees were the main determinants of electoral outcomes as they were recruited and registered as voters for the incumbents. A noteworthy part of literature on asylum seekers and International Relations, points to the fact that refugees are not only a consequence of insecurity and conflict but may also lead to conflicts and insecurity.

An increasing acknowledgement is that attacks on refugee camps as well as other forms of insecurity occurring in refugee populated areas are likely to undermine political and public support for the establishment of asylum and the values of international protection. The presence of armed elements in camps has been proven to aggravate tension between nations, thereby posing threats to regional stability. This is in addition to the fact that uncontrolled and irregular movements of persons across international borders brings about a challenge to the sovereignty and steadiness of recipient countries. The 'militarised camps' concept further stimulates images of fully fledged involvement of refugee population in armed conflict; which cannot be resolved with the peaceful presence and general normality of the refugee camps in Kenya.

A major issue in the association of refugees and insecurity in Kenya relates to the attacks on foreigners including some refugees which in some views could lead to civil war²¹. Moreover, what is emerging from the literature survey is a lack of adequate and up-to-date analysis on the

²¹Ayoob, M, 1995. *The Third World Security Predicament: State Making, Regional Conflict, and the International System*, Lynne Reiner, London .

security implications of the refugee question. This is to a certain extent is the case with regards the current situation Kenya is facing, which is shielding increasing numbers of illegal migrants and refugees. This study aims to address some of these shortcomings with specific reference to refugees.

1.6 Summary of gaps in literature review

From the above literature review, insufficient literature on the insecurity aspect brought about by an influx of refugee has been done with many researchers dwelling on the general concept of refuges and their migration. This means that the literature review does not fully answer the question on whether controlling the influx of refugees in a country can help in enhancing security. This means that literature on the association of refugees with terror activities has not been covered extensively. As such this research will add to the body of knowledge on how Kenya can deal with security threats posed by the influx of refugees.

1.7 Theoretical Framework

1.7.1 Theory of Third World Insecurity

Conventional theories assume the state is the primary unit of study and the defining concept of security in either external or outwardly directed terms. This involves a focus on the threats that originate from the outside rather than those generated inside the state. Ayoo²² has developed a wider definition of security that goes on to encompass both internal and external dimensions. Ayoo starts with the ordinary definition of national security that is derived from Lipmann and other authors, which according to them a nation is secure when it is able to protect its vital national interests and core national values. ²³A nations' national values do not have to be

²²Ayoo, Mohammed (2002). "Inequality and Theorizing in International Relations: The Case for Subaltern Realism", *International Studies Review*, Vol. 4, No. 3: 27-48.

²³Ayoo, Mohammed (2002). "Inequality and Theorizing in International Relations: The Case for Subaltern Realism", *International Studies Review*, Vol. 4, No. 3: 27-48.

limited to traditional security concerns, for instance the maintenance of territorial integrity and independence, but can go on to encompass concerns regarding the safety and wellbeing of individual citizens in addition to the preservation of cultural values such as democracy and tolerance.

Ayoob highlights two overarching factors that to a great extent are also the drivers of his theory. He notes that third world countries are in their early stages in nation development and have just beginning on the process of state and nation building. It is to be noted that this is a long and ferocious process requiring countries to do away with all internal plaintiffs to authority and to build a common sense of identity and dependability among their populations. This is a process that has taken centuries to complete in the West and third world nations find themselves under immense pressure to accomplish this same process in a few decades. Secondly third world countries have only in the recent past been acknowledged as full members of the international system of judicially sovereign nations with many of them having joined the system of states by the mere fact of achieving independence in the post second world war period. The two factors as such define the central driving forces of the security quandary they face. Therefore as latecomers to the process of state building third world countries are ineffective, weak and vulnerable.

Ayoob further highlights the norms and principles that emanate from the established order. Yet, since these principles have been defined by the developed countries, when applied to third world countries can be destabilizing and aggravate the security predicaments already prevalent²⁴. In modern-day terms both democracy and the human rights agenda and can be principally destructive and obscures their efforts at state building. They also contribute to internal dissatisfaction by augmenting internal groups' dissatisfaction by among others

²⁴Ayoob, Mohammed (2002). "Inequality and Theorizing in International Relations: The Case for Subaltern Realism", *International Studies Review*, Vol. 4, No. 3: 27-48.

fashioning demands that these vulnerable and weak states cannot fulfill. Western concepts of a civilized state behavior, including those concerning human rights, often contradict Third world countries efforts when it comes to state making. This is because they are forced to sanction and frequently use violence against rowdy domestic groups and individual citizens. Because of these in-house weaknesses third world countries are highly vulnerable to external pressures, military, political, technological or economic and from transnational actors, including irredentist groups, multinational corporations, , and supranational movements²⁵.

From the theory of third world insecurity, it is clear that third world countries such as Kenya are faced with a huge predicament when it comes to securing its national interest and peace from both outside and inside forces. From the theory Kenya, a third world nation is a latecomer to the process of state building hence its security systems are weak, ineffective to some extent, and vulnerable considering how easy it has been for militants to smuggle in small arms and weapons. As Kenya slowly integrates in the international community, it has found itself between a rock and a hard place in maintaining its international obligations to host refugees and at the same time dealing with the security threats posed by the same. This theory will therefore among others also guide the study in highlighting why Kenya's National security may be vulnerable to external pressures and more from transnational actors such as refugees.

1.8 Methodology

1.8.1 Research Design

The study adopts a descriptive survey design. This approach seeks to find information describing existing phenomena by asking respondents about their perceptions, attitude,

²⁵Ayoob, Mohammed (2002). "Inequality and Theorizing in International Relations: The Case for Subaltern Realism", *International Studies Review*, Vol. 4, No. 3: 27-48.

behaviour or values.²⁶A descriptive research design is concerned with finding out the; who, what, where, when and how much.²⁷The term survey refers to any study whereby the investigator gathers data from a small part of the population with the sole purpose of scrutinizing the opinions, characteristics, or intentions of that population.²⁸The researcher in this study obtained and described the views of the respondents on whether the influx of refugees is a threat to Kenya's national security. A descriptive design is usually employed in respect of its high degree of representativeness as well as the ease in which the researcher is able to obtain the participants' opinion.²⁹

1.8.2 Target Population

This study was conducted in Nairobi where some refugees are resettled. Several government institutions such as the ministries of Foreign Affairs and interior coordination was be involved in providing relevant information for a successful study. The study also involved a sample of forced migrants especially from Somali and Sudan.

1.8.3 Sampling Technique

The study used Snowball sampling to select 50 respondents. Snowball sampling is a technique aimed at getting research subjects whereby the researcher gets the name of another subject when given by another subject, who in turn gives the name of a third subject, and so on.³⁰ Snowball sampling is applicable within a wider set of methodologies seeking to take advantage of the identified respondents' social networks to provide the researcher with an ever increasing

²⁶Mugenda O.M. &Mugenda A.G. (2003). *Research Methods Quantitative and Qualitative Approaches*. Nairobi: Acts Press.

²⁷Cooper, C. R., & Schindler, P. S. (2008). *Business research methods (10 ed.)*. Boston: McGraw-Hill.

²⁸Polit, D. F., & Beck, C. T. (2004). *Nursing research: Principles and methods (7th ed)*. Philadelphia, PA: Lippincott Williams & Wilkins, pp 234.

²⁹ Ibid, pp 50.

³⁰Vogt, W. P. (1999).*Dictionary of Statistics and Methodology: A Nontechnical Guide for the Social Sciences*, London: Sage.

set of potential contacts.³¹ Snowball sampling as such can be applied for two primary objectives. One, as an ‘informal’ technique to reach targeted population. If the purpose of a given study is principally explorative, descriptive and qualitative, snowball sampling then gives the best results.³²

1.8.4 Data Collection Instruments and Procedure

The study collected primary and secondary data. Primary data was collected using interview guide administered to security officials, UNHCR officials, Refugees and Civil Society officials, to get first-hand information. Personal interviews are guided interviews. The study carried out telephone interviews and face to face interviews depending on the availability of the interviewee. Secondary data was obtained from analysing publications of scholars, journals, Internet websites, government reports published and unpublished materials, newsletters and newspapers.

1.8.5 Data analysis

Data analysis is the method of interpreting data. Data was analysed using content analysis. Qualitative data was used to get detailed information to achieve all the set objectives.

1.9 Scope and Limitations

1.9.1 Scope of the Study

The study is restricted to analysing the impact of the influx of refugees to Kenya’s national security with a view to understanding if Kenya’s continued open door policy to refugees is at the expense of its national security.

³¹Thomson, S. (1997). *Adaptive sampling in behavioural surveys*, NIDA Research Monograph, 296-319

³²Hendricks, V. M., Blanken, P., and Adriaans, N. (1992). *Snowball Sampling: A Pilot Study on Cocaine Use*, Rotterdam: IVO.

1.9.2 Limitations

The limitations of the study are time to collect all valuable information so most of the facts may not be sampled. Language barrier might also bring in difficulty in communication especially where I needed to deal with those refugees who neither understand English and Kiswahili languages.

1.10 Operationalization of Key Terms and Concepts

Amendment - a change or addition to a legal or statutory document

Asylum - security given by any country to persons who have left their country of origin as a political refugee

Cap - place a limit or restriction on something

Diplomatic relations - Conducting of international relations that involves negotiations forming alliances, agreements and treaties,

Habor - give a home or shelter to people

Humanitarian – concerned/seeking to promote human welfare

International community – countries with a shared view with regards to matters specific to of human freedoms

Migrants–Persons living permanently in a foreign nation.

National security–The protection of the state and its citizens against all kind of national crises by the government, along with its parliament

Refoulement – eviction of people who otherwise have the right to be treated as refugees

Refugees – Persons who have flown from their home country either because they have suffered/ feared persecution that could be on account of religion, race, nationality, and political opinion as well

Security - Being free from any threats or danger

Terrorism - Use of both intimidation and violence as well in the pursuit of liberation

Xenophobia -Irrational or intense dislike and fear too of persons from other countries

CHAPTER TWO

KENYA'S OPEN DOOR POLICY ON REFUGEES

2.1 Kenya's Historical and Legal Context on Refugees

Refugees in Kenya up until the late 1980s and early 1990s, enjoyed 'full status' rights, which included "the right to live in urban areas and freely move around the country, the right to acquire a work permit as well as access to opportunities in the educational sector, and also the right to apply for legal local incorporation.³³ The open hospitality can be attributed to the relatively small number of refugees in the country then: roughly 12,000 at the end of the 1980s.

However, the early 1990s saw a remarkable shift in the country both refugee and asylum policies to a more restrictive approach that majored on the restraint and segregation of refugees dwelling in its territory. This was in part due to a global shift in global ideologies at the end of the Cold War. As Western nations lost an ideological inducement to relocate large refugee numbers to their countries, a lot of the weight of hosting refugees rested on first asylum countries.³⁴ Somalis did make up much of the new arrivals in Kenya and were estimated to be about 400,000 by 1992. With this unexpected surge in the numbers of refugee, the government of Kenya found itself overwhelmed, ill-equipped and unable to handle such a large refugee population. As such, the government handed over the sole responsibility of managing the refugee crisis to UNHCR. Having done this, Kenyan authorities withdrew from refugee affairs.³⁵

³³ Campbell, E. (2006). Urban Refugees in Nairobi: Problems of Protection, Mechanisms of Survival, and Possibilities for Integration', *Journal of Refugee Studies* Vol. 19(3): 396-413

³⁴ Hyndman, J. and Nylund, B. (1998). UNHCR and the Status of Prima Facie Refugees in Kenya, *International Journal of Refugee Law* 10(1/2): 21-48

³⁵ Horst, C., (2006) *Transnational Nomads: How Somalis cope with refugee life in the Dadaab camps of Kenya*, Bergen Books: New York, Oxford

Refugees from Somalia coming into Kenya at this time were recognised on a prima facie³⁶ as both Loescher and Milner³⁷ point out: “Due to waning international support for long-staying refugees, local settlement began to be seen by a majority of host African governments as politically and economically impracticable”. It was in this new geo-political climate that the ‘encampment policy’ was envisaged and executed in Kenya, a policy that majors on the seclusion and control of refugees in ‘designated areas’ of the country. Freedom of movement in camps was exceedingly limited under the policy and in order to leave the camps refugees had to be issued with a time limited travel pass by the District Commissioner. Furthermore reasons for travel were only given for medical reasons, attending a course or for training, and proof was needed for the same reason.

Under such limits, thousands of refugees ended up living in semi-desert and cut off regions in the country, known as Kakuma and Dadaab refugee camps, and have fought back to reclaim their land and enjoy their lives while in exile. As Campbell³⁸ states: “If the pre-1991 refugee establishment in Kenya can be characterized as kind and hospitable, with weight on local integration, the post-1991 establishment has been less hospitable, characterized by increasing levels of xenophobia, rejection of basic refugee rights in addition to few prospects for local integration.

³⁶ Hyndman and Nylund define the prima facie refugee regime as ‘...determination of eligibility based on first impressions or in the absence of evidence to the contrary’ (1998:29).

³⁷Loescher, G., and Milner, J. (2005). The Long road home: protracted refugee situations, *Survival* 47(2): p156.

³⁸ Campbell, E., (2005) “Formalizing the informal economy: Somali refugee and migrant trade networks in Nairobi”. *Global Migration Perspectives* No. 47, p.5.

2.2 Understanding Kenyan refugee regime

The refugee situation in Kenya has undergone though significant changes in the last 20 years. Faced with the refugee predicament of the 1990s, there was a major swing away from a beforehand Government-led, open, and laissez-faire approach on refugees. The Government's budding strategy was clear: offer short-term protection, hand over dealing with the refugees to UNHCR, and restrain them in far-off areas of the country.

Kenya is a signatory to the 1951 UN Convention that relates to the Status of Refugees, its 1967 Protocol,³⁹ and also the 1969 Organization of African Unity Convention that governs definite facets of Refugee Problems in Africa.⁴⁰ Up until the year 2006, the country did not have a national legislation for refugees, though Kenya has over the years been recipient of thousands of Somali refugees as prima facie refugees, on a group basis, offering short-term protection in camps.

At the Government's appeal, in the early 1990s the UNHCR swiftly went from supporting a comparatively small number of urban-based refugees to taking care of large camp operations. Originally large sums of donor funding flooded in to cope with the high-profile humanitarian emergency. As such, by 1993, this had helped to steady morbidity and death rates among the refugees, and there was a remarkable fall in new displacement, so that UNHCR confirmed that the emergency was over.⁴¹

The situation changed into a chapter of "care and maintenance" whereby as time progressed obtained the character of a prolonged refugee situation: huge numbers of refugees in long-standing exile with no access to long-lasting explanations to their loss of nationality. As donor fatigue set in, from the late 1990s there were spectacular and persistent shortfalls in refugee

³⁹189 UNTS 150, 28 Jul. 1951 (entry into force: 22 Apr. 1954)

⁴⁰1001 UNTS 45, 10 Sep. 1969 (entry into force: 20 Jun. 1974).

⁴¹J. Milner, *Refugees, the State and the Politics of Asylum in Africa*, Basingstoke, Palgrave Macmillan, 2009.

funding, with UNHCR still having to cope with maintaining humanitarian standards ten years after it declared the end of the emergency.⁴²

Government's then was to try contain the refugees in the Dadaab camps in the North Eastern Province adjacent to Somalia, and to a lesser extent in Kakuma camp located in the north west. In the 1990s many refugees were resettled to these camps from other localities where they had originally settled. The decision to position the main camps in Dadaab is momentous: the North eastern region has a considerable native Somali Kenyan populace and a troubled history of segregation, repression, and aggression under both colonial and independent rule. North eastern benefited from little development intervention and there is still a substantial economic gap between it and the rest of Kenya.

Many refugees in this context, voted to remain in urban areas, with the belief that this would help escape the punitive camp conditions, among them scarce rations, insecurity, heat, and recurrent sickness among children; to gain access to better educational prospects as well as health amenities; to find employment and build a different future for themselves; to keep touch with those relatives living abroad with an eye towards arranging migration to those countries.

There have been some significant modifications in the institutional structure set up over the last five years. Increased government participation in regards to refugee matters commenced with the designing of the Refugees Act. The Act was finally passed into law in the year 2006, after an earlier bill was hindered by the initial Somali refugee catastrophe in the early 1990s. The Refugee Regulations came into force in 2009 whereby the Department of Refugee Affairs was incorporated and put in the Ministry of Immigration and Registration of Persons. The DRA took over the reception and registration of refugees in March 2011 as part of a three year plan to take from the UNHCR the responsibility for chief sections in refugee policy implementation,

⁴²Ibid

The Department of Refugee Affairs up to date also is the chair of an active cross-governmental Refugee Affairs Committee. The DRA in this context engages executives from the ministries of Local Government, Foreign Affairs, Public Health, Internal Security, and the National Registration bureau who are in constant discussions with regards to refugee issues. Major legal and policy frameworks are at the moment undergoing re-development a process which possess both opportunities and risks for refugees. In 2010, two new bills; the Citizenship and Immigration Bill and the Refugees Bill were drafted. The passing of a new Constitution in 2010 had prompted a review of all refugee legislation. Proposals from the refugee bill were on modifications to current law appear to lay emphasis on addressing security concerns by among others requiring immediate registration of all asylum seekers, tightening bureaucratic control of the refugee population, and increasing penalties for non-compliance. This was in addition to expounding offences and penalties that related to documentation fraud.⁴³

Latest policy discussion between UNHCR, the Kenyan Government, and civil society has seemingly also laid emphasis on coming up with the various methods to enhance protection of urban refugees as well as easing their access to work permits. Twenty two several lines of tension however is prevalent between policy actors. This is both in the context of this important institutional changes as well as in the longer term.⁴⁴It is no secret that the DRA is not happy with the levels of support it receives from donors support from both the donors and UNHCR who are reluctant “to be partake in the creation of an externally backed public refugee bureaucracy”, due to unsustainability and corruption fears.⁴⁵

⁴³ Draft Refugee Bill 2011; see also KBC, “Kajwang’ Receives Immigration Bills”, KBC News, 15 Jul. 2011, <http://www.kbc.co.ke/news.asp?nid¼71314> (last visited 6 Sep. 2011).

⁴⁴ Interview with UNHCR Kenya (3); interview with DRA (2); A. Lime, “Improve Refugees’ Lives, Urges Kajwang”, Daily Nation, 20 Jun. 2011, available at: <http://allafrica.com/stories/201106220287.html> (last visited 6 Sep. 2011); S. Konzolo, W. Crompton & S. Cechvala, An Overview of the Refugee Status Determination Processes and Right of Refugees in Kenya, paper presented at the International Association for the Study of Forced Migration Conference, Kampala, 3–6 July 2011 (publicly unavailable)

⁴⁵Lindley, A. (2011). Between A Protracted and a Crisis Situation: Policy Responses to Somali Refugees in Kenya. Refugee Survey Quarterly, pp. 1–36. Available at:

There has been a rise in tension between both the DRA and the UNHCR with regards to the handing over of responsibilities. On one hand, the UNHCR is fretful about protection as well as the setting up of dependable systems. Often by government officials, this caution can also be interpreted, as a reluctance to surrender control which is deep rooted in the self-interests of the organization. The UNHCR has over the years been critiqued a range of civil society actors, refugees and also NGOs for stressing “soft diplomacy” in the wake of concerns with regards to “hard” human rights which border on closure, refoulement, as well as the substantial congestion of the Dadaab camp. This is all in fear of endangering its relationship with the Government. With UNHCR taking the main operational accountabilities of keeping large refugee camps running, it’s ability to hold into account the Kenyan and donor Governments on protection concerns has been generally perceived as having diminished. This is because the UNHCR has over time depended on those same Governments when it comes to access and funding the camps’ operations.⁴⁶

2.3 Influx of refugees

There was a dramatic decrease in the number of prima facie refugee influxes into Kenya between 1993 and 1994.⁴⁷ Some people point to the association with the designation of the preventive zone, leading to the conclusion that UNHCR’s presence has been effective in curtailing migration.⁴⁸ With 2011 however bringing into the fore a situation of even bigger mass arrivals than 1993, the idea of a preventive zone made a comeback.⁴⁹ Growth for political

http://www.humanitarianinnovation.com/uploads/7/3/4/7/7347321/lindley_a.pdf. Retrieved on 18th August 2016.

⁴⁶Ibid, Lindley, p.56.

⁴⁷UNHCR Statistical Population Database, accessed 23 August 2011

⁴⁸ J. Kirby, T. Kleist, G. Frerks, W. Flikkema, & P. O’Keefe, “UNHCR’s Cross-border Operation in Somalia: The Value of Quick Impact Projects for Refugee Resettlement”, *Journal of Refugee Studies*, 10, 1997, 181–198. The 380 projects funded by May 1994 cost USD 7.9 million, each with funding ceilings of USD 50,000 and lasting typically less than 3 months.

⁴⁹ M. Karanja, “MPs Support Plans to Create a Buffer Zone”, *The Daily Nation*, 8 May 2011, available at: [http://www.nation.co.ke/News/politics/MPs support plans to create buffer zone /-/1064/1158730/-/su0dxa/-/index.html](http://www.nation.co.ke/News/politics/MPs%20support%20plans%20to%20create%20buffer%20zone%20/-/1064/1158730/-/su0dxa/-/index.html)

support in Kenya heightened with regards towards the creation of a more secure buffer zone within southern Somalia. The buffer zone is where humanitarian aid could be given under the guidance of the Somalia Transitional Government, in a bid to prevent further disruption in the area in question, take in IDPs, prevent refugees' influx in Kenya, and smoothen repatriation.⁵⁰

Over the years, Kenya has increased military engagement on the Somali border in addition to providing military training to recruited troops from among the refugees. Kenya's support of Jubaland is a major gamble as a measure to mitigate displacement, with the offensive producing considerable numbers of refugees in the early 2011. Territorial control of Jubaland remains inadequate, with the modest parts that are now under control were just recently won from Al-Shabaab, and long-lasting stability would appear look like a far-off prospect. Claims over the potential of Jubaland to overcome prevent displacement as such should be treated with significant caution. This becomes more of more importance especially in the face of apparent efforts by the Kenyan government to stress that people forming part of the recent arrivals are running away from drought, rather than violence. This implicitly undermines their claim to refugee status, and suggests that they may be more suitably assisted inside Somalia.⁵¹

It is imperative to understand that drought-related displacement that happened recently are political instigated: the result of governance failures in Somalia, and thus its citizens continue to be forced into migration as long as this status quo prevails. It is also significant to understand that both persecution and violence are still direct causes of displacements. As such many of those refugees who recently arrived would if given the chance qualify as 1951 Convention refugees. Recent statements by Kenya may mirror the propensity of host countries to instrumentalist the idea of prevention of dislodgment to give policy coverage to initiatives that

⁵⁰ F. Mukinda, "Kenya Wants Some Refugees Moved to a Third Country or Camps Opened in Somalia to Ease Congestion, The Daily Nation , 22 Jul. 2011

⁵¹Government of Kenya (2011). Briefing on the Refugee and Drought Situation; HRW, You Don't Know Whoto Blame.

seek to decrease access to asylum. This is in addition to and to putting the both the financial and political costs of the rejoinder to forced displacement in the countries of origin.⁵²

Disintegrated approaches of safe havens as well as preventive zones would in many ways seem to present particular moral hazards that tend to focus on temporary containment rather than taking care of the displacement root causes.⁵³ The term “causes” however hides a various factors ranging from fundamental structural causes, to adjacent events, and more instantaneous triggers.⁵⁴

Unpretentious attempts to address displacement root causes involve going thorough societal mediations that are beyond the scope of the migration-focused administrations like UNHCR which is the source of the discussion, prompting debate with regards on how to operationalize such approaches. Nevertheless, modern-day displacement from south Somalia can be connected to recent inflexible policies followed by a range of international and domestic actors in relation to Somalia. South Somali politico-military actors have enforced great suffering on civilians in the last five years in their pursuit of State control. Foreign counties pursuits both regional political projects and narrow “counter-terror” agenda have greatly contributed to the current political stalemate. As such, different political approaches will be required to address conflicts which eventually may mitigate displacement in south Somalia.⁵⁵

In respect of what has been said above, it is true that majority of the most recently displaced persons may not have migrated for drought destroying their livelihoods and the absence of emergency assistance *in situ* but they seem to have lost their livelihoods and left the country in

⁵² J. Zapater, The Prevention of Forced Displacement: Inconsistencies of a Concept , New Issues in Refugee Research, Working Paper No. 186, Geneva, UNHCR, Apr. 2010, 16.

⁵³ Hyndman, “Preventive”; S. Castles & N. Van Hear, “Root Causes”, in A. Betts (ed.), Global Migration Governance, Oxford, Oxford University Press, 2011, 287–306.

⁵⁴ N. Van Hear, New Diasporas, London, University College London Press, 1998.

⁵⁵ Lindley, A. (2011). Between A Protracted and a Crisis Situation: Policy Responses to Somali Refugees in Kenya. Refugee Survey Quarterly, pp. 1–36. Available at: http://www.humanitarianinnovation.com/uploads/7/3/4/7/7347321/lindley_a.pdf. Retrieved on 18th August 2016.

a state of political upheaval, they remain reluctant to return home without evidence of peace in their home area. Swift humanitarian aid could help those that want to remain in the short term, despite the catastrophe and avert further drought-related impoverishment and dislocation. This however requires help providers to dialogue with Shabaab as well as other political actors, come up with localised access arrangements, and to work in partnership with other local actors seeking to help the vulnerable. This includes the business community, diaspora groups, elders, and religious leaders as some are even now doing. It also requires donor States as well as domestic political leaders to support this by taking politically-motivated restrictions on humanitarian aid.⁵⁶

These developments demand that all actors engage in renewed discourse with regards to humanitarian principles. It is furthermore imperative to acknowledge such humanitarian action as temporary measures with deeper-going political change needed to make “staying put” maintainable in the medium to long-term. It is significant to stress that many Somalis are highly active in trying to avoid ending up being refugees. Efforts to curtail displacement through the designation of preventive zones within Somalia risk being temporary containment measures. This is because they can play into the non-exit approaches of Somali political actors and the non-entry policies of host nations, both trying to deny people the right to flee threats to their lives and seek international security. Broader-based humanitarian and political strategies are needed to advance conditions in south Somalia as well as address the pressures that people flee from.⁵⁷

⁵⁶Ibid, Lindley, p.14.

⁵⁷UNHCR, Handbook on Voluntary Repatriation: International Protection, Geneva, UNHCR, 1996.

2.4 Rejection at the frontier and expulsion of refugees

Kenya has occasionally threatened forcibly to repatriate refugees on various grounds ranging from a perceived threat to security, immorality, environmental degradation to the cost of protection.⁵⁸ In 1993, Kenya actually asked UNHCR to repatriate all Somali, Ethiopian and Sudanese refugees in the country on the ground that their presence had compromised the security of the country.⁵⁹

The growing resentment within Kenya to ‘imported’ insecurity has led to the current debate about repatriating Somali refugees following the government’s claim that south and central Somalia are now safe and ‘liberated’. The Government of Kenya, UNHCR and the Somali government are currently in the early stages of making preparations for the repatriation of Somali refugees. However, there is deep concern among agencies working on refugee protection that these preparations are being done hastily without due regard for the changing security dynamics within Somalia; from the preliminary surveys done, it appears that most Somali refugees do not want to go back to Somalia for fear of persecution and insecurity.⁶⁰

Somali refugees are not the only caseload of refugees thinking about repatriation. Rwandans who fled their country prior to 1998 are being asked to return to their country of origin following the invocation on 30 June 2013 of the cessation clause whereby the conditions in Rwanda are now deemed conducive for safe return. The Rwandese government recently announced that they were ready to start receiving all refugees and that measures have been put in place to ensure that the returnees are well reintegrated into the communities.⁶¹

⁵⁸Rutinwa, Bonaventure and Kathina, Monica (1996). “Refugees; MPs’ Demands for Repatriation ‘Unacceptable’.” Daily Nation (Kenya). 4 May. p. 4.

⁵⁹Rutinwa, Bonaventure (1996). “Refugee Protection and Security in East Africa.” Refugee Participation Network. Vol. 22, September 1996. pp. 11-14.

⁶⁰Kiama, L and Karanja, R. (2013). Asylum space in Kenya: evolution of refugee protection over 20 years. FMR 25th Anniversary collection. Available at: <http://www.fmreview.org/25th-anniversary/kiama-karanja.html>. Accessed on 31st August 2016.

⁶¹<http://tinyurl.com/Rwanda-gov-2July2013>

This announcement has caused a lot of anxiety among Rwandese refugees, and the Kenyan government's delayed indication of their position on the cessation is not helping the situation. Refugees have asked whether they can benefit from any other alternative legal status such as becoming citizens of Kenya or regularising their stay in Kenya instead of going back to Rwanda. Agencies working with refugees have started lobbying the Kenyan government to allow an alternative legal status for such refugees as provided for under the Citizenship and Immigration legislation in Kenya.

In late December 2012, however, agencies working with refugees received an unprecedented directive from the government requiring all refugees living within urban areas to relocate to the respective refugee camps (those of Somali origin to relocate to Dadaab refugee camp and those of other nationalities to relocate to Kakuma refugee camp). This directive essentially sought to introduce a de facto policy of encampment in Kenya given that the government has never previously officially registered the refugee camps through the Kenya Gazette⁵ nor officially given notice that Kenya would adopt an encampment policy as part of its asylum regime. This directive also was and continues to be a significant threat to UNHCR's urban refugee policy which seeks to expand protection for the increasing numbers of refugees living in urban areas.⁶²

Kenya has been hosting refugees of different nationalities from across the region and is home to one of the biggest refugee camps in the world. Very few African countries can claim to have an asylum regime that has been as flexible and accommodating as that of Kenya, yet in recent years Kenya's asylum regime has undergone substantial changes in both its policy framework and management practice due to changing security dynamics and the changing push factors

⁶²www.refworld.org/docid/4ab8e7f72.htm

that cause displacement within the region. To this end, both the government and humanitarian actors have been forced to find new approaches and practices.⁶³

The now changing refugee space in the country can be said to be characterised by debate on how to balance between refugee protection vis-à-vis management of the security situation in the context of ever-changing security dynamics here in Kenya and the region as well.

Over the past five years the acceptance of forced migrants by the Government of Kenya from neighbouring countries is qualified by its policy of isolating the prima facie refugees and taking them to remote desert camps. Here their access to employment and mobility are restricted.⁶⁴

In order to stem the flow of refugees from Somalia to Kenya, the UNHCR initiated the Cross Border Operation inside Somalia to entice those refugees already in Kenya to get back home. Without the support of then President Daniel Moi, UNHCR was not in a position to protect refugees within Kenya on the same scale. As such, sustained efforts to fund Cross Border Operations ensued. Investing in community rehabilitation was sought in the Southern parts of Somalia in a bid to encourage repatriation back to Somalia, and in the process solve the dilemma. To finance the Cross Border initiative, the UNHCR established the Special Emergency Fund for the Horn of Africa and began a major fund-raising effort among donor countries. The Operation was momentous in that it brought about a 'preventive zone' to deter further asylum seeking on the part of Somalis and to convince Somali refugees in Kenyan to return home. Other conflict zones have embraced the use of such measures in UN protected

⁶³Kiama, L and Karanja, R. (2013).Asylum space in Kenya: evolution of refugee protection over 20 years. FMR 25th Anniversary collection. Available at: <http://www.fmreview.org/25th-anniversary/kiama-karanja.html>. Accessed on 31st August 2016.

⁶⁴Hyndman, J. And Nylund, B. V. (1998).UNHCR and the Status of Prima Facie Refugees in Kenya. International Journal of Refugee Law, 10 (1/2), 22-48.

areas, safe havens, and humanitarian corridors elected as safe spaces for internally displaced persons.⁶⁵

2.5 Repatriation of Somali refugees in Kenya

The Civil War in Somali began in the 1990s leading to thousands of people fleeing to seek refuge in neighbouring countries. Although Kenya had been host to refugees for decades, the number of Somali refugees who sought protection in Kenya began to rise significantly at that time. This led to a number of changes in the Kenyan refugee regime and signalled the beginning of a more restrictive approach towards refugees. Somali refugees were primarily hosted in Dadaab Refugee Camp, which began operation between 1991 and 1992, and is located only 100km from the Somali-Kenyan border in Garissa County, North Eastern Province (NEP), Kenya. In 2011, another large movement of refugees from Somalia occurred due to ongoing violence, drought and famine. As of August 31st, 2014, there were 339,606 registered Somali refugees in Dadaab Refugee Camp⁶⁶ and by December 31st, 2013, there were approximately 32,401 registered Somali refugees in Nairobi and 53,816 Somali refugees in Kakuma Refugee Camp⁶⁷. However, unofficial estimates for urban refugees have been as high as 100,000⁶⁸, with Somali refugees comprising approximately 58% of this number⁶⁹.

⁶⁵Frelick, B (1993). Preventing Refugee Flows: Protection or Peril' in US Committee for Refugees, World Refugee Survey, Washington, D.C

⁶⁶International Organization of Migration & United Nations High Commissioner for Refugees.(2014). Joint return intention survey report 2014. Nairobi, Kenya.

⁶⁷United Nations High Commissioner for Refugees. (2014, January 29). Kenya: Somali refugees. Retrieved from data.unhcr.org/horn-of-africa/download.php?id=1295

⁶⁸ Campbell, E., Crisp, J. & Kiragu, E. (2011). Navigating Nairobi: A review of the implementation of UNHCR's urban refugee policy in Kenya's capital city. Geneva, Switzerland: UNHCR Policy Development and Evaluation Service.

⁶⁹Refugee Consortium of Kenya. (2012). Asylum under threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor. Nairobi, Kenya.

In the case of Somali refugees in Kenya, the three durable solutions have been considered as not viable options for most refugees. Local integration was largely restricted when Kenya adopted a policy of confinement after the large influxes in the early 1990s and resettlement today is a “rare solution to refugee crises”⁷⁰, as it accounts for a very small percentage of the total refugees numbers. UNHCR’s Global Report 2013, only 1,356 refugees were resettled from Dadaab Refugee Camp that year.⁷¹ Moreover, until recently, repatriation was not considered as a possibility for most refugees due to the continued insecurity in Somalia. Consequently, the majority of Somali refugees have remained in a protracted situation, with some refugees living in the camps for more than twenty years. This, however, all changed when the governments of Kenya and Somalia and UNHCR signed a Tripartite Agreement on November 10th, 2013,⁷² even though UNHCR’s ‘essential preconditions’ for repatriation had not been satisfied.

The Tripartite Agreement serves as a legal framework and, hence, provides a means for the repatriation of Somali refugees living in Kenya. The conditions in Somalia, however, are not yet ready for large-scale returns⁷³. Although UNHCR has emphasized on numerous occasions that the returns would be voluntary, this is difficult to ensure in practice. There have been mixed reactions from donors, asylum seekers and the international community as

⁷⁰Bradley, M. (2013). *Refugee repatriation: Justice, responsibility and redress*. Cambridge, UK: Cambridge University Press.

⁷¹United Nations High Commissioner for Refugees. (2014c). *Global report 2013 Kenya*. Geneva, Switzerland: Division of Programme Support Management. Retrieved from <http://www.unhcr.org/539809efb.html>

⁷²United Nations High Commissioner for Refugees (UNHCR). (2013d). *Tripartite agreement between the Government of the Republic of Kenya, the Government of the Federal Republic of Somalia and the United Nations High Commissioner for Refugees governing the voluntary repatriation of Somali refugees living in Kenya*. Retrieved from <http://www.unhcr.org/528102b49.html>

⁷³Heritage Institute for Policy Studies. (2013). *Hasty repatriation: Kenya’s attempt to send Somali refugees home*. Mogadishu, Somalia. Retrieved from http://www.heritageinstitute.org/wp-content/uploads/2013/03/HIPS_Hasty_Repatriation_ENGLISH.pdf

to the viability of promoting this as a durable solution since regions of Somalia remain insecure and under Al-Shabaab control. Moreover, the Federal Government of the Republic of Somalia was only established in 2012. Therefore, future political stability and the government's ability to provide protection, particularly against Al-Shabaab, are questionable. Heritage Institute for Policy Studies in Mogadishu, analyst Anab Nur argues that the government of Somalia does not yet have the capacity to resettle a significant amount of people as it has not been able to effectively relocate the internally displaced persons (IDPs) currently in Somalia⁷⁴

2.5.1 Kenyan Government On refugees

The Kenyan Government has been pressuring the repatriation of Somali refugees. Kenya has already made it clear that Somali refugees are a 'burden' and also a 'security threat' as it aims to account for its actions. This has however, not taken place in a vacuum, with historical factors, having played a role in the country's progressively more restrictive refugee policies in the wake of the signing of Tripartite Agreement.

Refugee policies in Kenya have changed significantly, from a laid-back approach to that of increasing limits and containment. There were relatively few refugees in the country from 1963 to 1989, with only up to 15,000 at any given point⁷⁵. The government of Kenya had an open asylum policy which meant that refugees could move and settle freely within the country, and also with a right to work⁷⁶. Moreover, a national refugee policy or else an

⁷⁴IRIN. (2013, November 13). Briefing: Repatriating Somali refugees from Kenya. IRIN. Retrieved from <http://www.irinnews.org/report/99117/briefing-repatriating-somali-refugees-from-kenya>

⁷⁵Kagwanja, P.M. (2002). Strengthening local relief capacity in Kenya: Challenges and prospects. In M.K Juma & A. Suhrke (Eds.), *Eroding local capacity : International humanitarian action in Africa* (pp. 94-115). Sweden: Nordic Africa Institute.

⁷⁶Freudenthaler, E. (2012). Refugee rights in Kenya between theory and practice. *Vienna Journal of African Studies*, 12(23), 107-133.

established or a legal framework was not in place prior to 2006. An Eligibility Committee, was however in place which included representatives from the Immigration Department, Ministry of Home Affairs, and observers from UNHCR who undertook refugee status determination interviews⁷⁷. An planned change in Kenyan policy with regards to refugees was brought about by a high increase in refugees from neighbouring countries. The fall of the Siad Barre regime and ensuing civil war saw approximately 300,000 Somalis flee to Kenya between 1991 to 1993⁷⁸. The Kenyan government then adopted a general encampment policy with the high number of refugees seeking asylum justifying this approach though other factors were also at play⁷⁹. The government and citizens as well started developing negative outlooks on refugees, leading to increase in xenophobia⁸⁰. The Government further began to retake manage refugees with regards to the Refugee Act of 2006 while leadership of refugee assistance was taken over by international agencies and NGOs. In 2006, the Kenyan government also created a Department of Refugee Affairs although in theory the act implemented the 1951 Refugee Convention, the 1967 Protocol, and the 1969 OAU Convention⁸¹. A more restrictive approach was taken by the government with regards to refugee management than UNHCR had, by among others implementing a relocation directive in December 2012. This all but brought to an end to urban refugee operations ordering refugees to go back to designated camps⁸².

⁷⁷Human Rights Watch. (2002). Hidden in plain view: Refugees living without protection in Nairobi and Kampala. Retrieved from <http://www.hrw.org/reports/2002/11/21/hidden-plain-view>

⁷⁸Kumar, A. (2002). Human rights: Global perspective. New Delhi: Sarup & Sons.

⁷⁹ Milner, J. (2009b). Refugees, the state and the politics of asylum in Africa. UK: Palgrave Macmillan

⁸⁰Loescher, G., & Milner, J. (2005a). The long road home: Protracted refugee situations in Africa. *Survival*, 47(2), 153-174. doi:10.1080/00396330500156636

⁸¹Pavanello, S., Elhawary, E., & Pantullano, S. (2010). Hidden and exposed: Urban refugees in Nairobi, Kenya (HPG Working Paper). London, UK: Humanitarian Policy Group Overseas Development Institute.

⁸²United Nations High Commissioner for Refugees. (2014, January 29). Kenya: Somali refugees. Retrieved from data.unhcr.org/horn-of-africa/download.php?id=1295

Kenya is the most significant proponent of the return of Somali refugees and therefore, greater attention is paid to Kenya's motives for its recent and aggressive pursuit of the repatriation of Somali refugees. This is best understood through outlining the factors behind the increasingly restrictive refugee regime, particularly since the 1990s. These factors include: the burden as host to a significant number of refugees, national security concerns, and relations between the Kenyan government and Somalis in North Eastern Province.

2.6 Factors behind Kenya's restrictive approach.

Refugees are generally seen as a burden to where in their host country and Kenya is no exception here. The government has used the burden to host refugees as a justification to justify its restrictive policies towards them⁸³. Refugees were generally not perceived as a major security threat prior to the large influxes of Somali refugees in the 1990s⁸⁴ and instead were seen as contributing to the economy⁸⁵. The huge increase in refugee numbers in the 1990s, however changed this scenario and Kenya began to view refugees as not its responsibility⁸⁶, precipitating hostility towards them since they were now seen as constraining the country's resources. This was in addition to being considered less skilled and poorer than refugees of the previous decades⁸⁷. Donor support for Somali refugees in Kenya also decreased and also received little attention from actors in the international refugee regime. This was after the 1990s original refugee emergency⁸⁸.

⁸³ Milner, J. (2009b). *Refugees, the state and the politics of asylum in Africa*. UK: Palgrave Macmillan.

⁸⁴ Crisp, J. (2000). A state of insecurity: The political economy of violence in Kenya's refugee camps. *African Affairs*, 99, 601-632.

⁸⁵ Veney, C.R. (2007). *Forced migration in Eastern Africa: Democratization, structural adjustment, and refugees*. New York: Palgrave Macmillan.

⁸⁶ Milner, J. (2009b). *Refugees, the state and the politics of asylum in Africa*. UK: Palgrave Macmillan.

⁸⁷ Kagwanja, P.M. (2002). Strengthening local relief capacity in Kenya: Challenges and prospects. In M.K Juma & A. Suhrke (Eds.), *Eroding local capacity : International humanitarian action in Africa* (pp. 94-115). Sweden: Nordic Africa Institute.

⁸⁸ Milner, J. (2009b). *Refugees, the state and the politics of asylum in Africa*. UK: Palgrave Macmillan.

Kenya's internal crises have over the years also increased the view of refugees as a burden. The 1990s arrivals coincided with the then ensuing ethnic-based conflict in Kenya that led to the displacement of almost half a million persons⁸⁹. Furthermore, the situation of Kenya's economy at the time compounded the situation. The 2007 post-election violence also led to inter-ethnic conflicts that displaced thousands of persons⁹⁰, a good number of whom are still displaced. In September 2009, Kenya also experienced drought leaving millions of citizens reliant on emergency food aid⁹¹. As Burns states "it is therefore complicated for Kenyans to its neighbours it cannot itself."⁹² Subsequently, in crisis times, a negative view of Somali refugees as a liability arises. The negative perception of refugees has over time made refugee policies in Kenya "increasingly fashionable with the voting public"⁹³ and accordingly, the government of Kenya does not receive much opposition from the citizens when implementing restrictive refugees' policies.

Although Kenya sees refugees from Somali as a burden, the continued existence of refugees in Dadaab has inadvertently brought benefits in North Eastern, long considered a poor region. This is because the presence of UNHCR and other NGOs and has led to enhanced infrastructure as well as social services⁹⁴. As such, while hosting huge refugee populations puts pressure on limited resources, the benefits in many cases are bigger than the costs. These include

⁸⁹Kagwanja, P.M. (2002). Strengthening local relief capacity in Kenya: Challenges and prospects. In M.K Juma & A. Suhrke (Eds.), *Eroding local capacity : International humanitarian action in Africa* (pp. 94-115). Sweden: Nordic Africa Institute.

⁹⁰Heritage Institute for Policy Studies. (2013). *Hasty repatriation: Kenya's attempt to send Somali refugees home*. Mogadishu, Somalia. Retrieved from [//www.heritageinstitute.org/wpcontent/uploads/2013/03/HIPS_Hasty_Repatriation_ENGLISH.pdf](http://www.heritageinstitute.org/wpcontent/uploads/2013/03/HIPS_Hasty_Repatriation_ENGLISH.pdf)

⁹¹ Burns, A. (2010). Feeling the pinch: Kenya, Al-Shabaab and East Africa's refugee crisis. *Refugee*, 27(1), 5-15.

⁹² Burns, A. (2010). Feeling the pinch: Kenya, Al-Shabaab and East Africa's refugee crisis. *Refugee*, 27(1), 5-15.

⁹³Loescher, G., & Milner, J. (2005a). The long road home: Protracted refugee situations in Africa. *Survival*, 47(2), 153-174. doi:10.1080/00396330500156636

⁹⁴Pérouse deMontclos, M.A., Kagwanja, P. M. (2000). Refugee camps or cities? The socio-economic dynamics of the Dadaab and Kakuma Camps in Northern Kenya. *Journal of Refugee Studies*, 13(2), 205-222.

improved employment opportunities, social and health services, commerce, and new water sources such as boreholes⁹⁵.

Another factor behind the Kenya's ever more restrictive refugee regime and the current repatriation activities is the view of Somali refugees as a threat to national security. Historical factors according to Milner⁹⁶ have added to this perception. A "conflictual" relationship between the Kenyan Government and North Eastern Province has existed, which has been a considerable number of ethnic-Somalis population⁹⁷. This can be traced back to the times of the 'scramble for Africa' whereby colonial powers drew borders in the process dividing the Somali people into five regions; one such part was the North Eastern Province. Shifta wars then arose between 1963 and 1967, which saw ethnic Somalis began guerrilla warfare to push their separation from Kenya⁹⁸. Although with the signing of an agreement in 1967 brought to an end to the shifta wars, the Kenyan government in the 1980s continued to carry out operations in North Eastern Province in a move aimed at removing any remaining shifta 'elements'. As such, all Somalis were seen as a threat, and on grounds of nation security their subjugation was justified⁹⁹. The result of this was a mistrust of ethnic Somalis and Kenyan Somalis, contributing to Kenya's restrictive strategy towards Somali refugees. The view of Somalis in Kenya as a threat to security heightened following multiple attacks in Kenya by Al-Shabaab in the recent past. The attacks frequented following the move by Kenya to send troops into Somalia in 2011, and served as a turning point in the government's recent restrictive approach.

⁹⁵United Nations High Commissioner for Refugees, EPAU. (2001). Evaluation of the Dadaab firewood project, Kenya. EPAU/2001/08. Geneva, Switzerland: Evaluation and Policy Analysis Unit.

⁹⁶ Milner, J. (2009b). Refugees, the state and the politics of asylum in Africa. UK: Palgrave Macmillan.

⁹⁷ Ibid, Milner, p.18

⁹⁸Ibid, Milner, p.18.

⁹⁹ Ibid, Milner, p.20

Accordingly, refugee registration as well as other refugee operations in urban areas were halted as per the government's directive in December 2012, with refugees expected to relocate to the designated refugee camps¹⁰⁰. Due to these security concerns as well as the unsustainable burden on Kenya, the Government prior to the signing of the Tripartite Agreement justified its calls for Somali refugees to repatriated to 'safe areas' in Somalia¹⁰¹. Widespread linking of Somali refugees to the terrorist group Al-Shabaab by politicians and, at times, the media portrayed Somali refugees as a major security threat. An anti-terrorist security operation, "Operation Usalama Watch", began in March 2014, led to the arrest and detention of Kenyan Somalis, refugees transfer from urban areas to refugee camps, as well as their deportation back to Somalia. According to the Amnesty International¹⁰² it appeared to be "a alleged reason for the blanket targeting of the Somali community." National security concerns were used by the government to justify these actions, affirming that "Kenya's position would rather see it assert its national security in place of honouring humanitarianism as it can no longer do both"¹⁰³. The Government of Kenya recently announced its intention to close down the Dadaab Refugee Camp following an attack by Al-Shabaab at Garissa University that took place in in April 2015¹⁰⁴. The government notes that, failure to do it would force them to relocate refugees themselves¹⁰⁵. This however was not the first time the government has called for the closure of the Dadaab Refugee Camp

¹⁰⁰United Nations High Commissioner for Refugees. (2014, January 29). Kenya: Somali refugees. Retrieved from data.unhcr.org/horn-of-africa/download.php?id=1295

¹⁰¹IRIN. (2012, August 16). Kenya-Somalia: Repatriating Dadaab refugees "unrealistic". IRIN. Retrieved from <http://www.irinnews.org/report/96116/kenya-somalia-repatriating-dadaab-refugees-unrealistic>

¹⁰²Amnesty International. (2014b). Somalis are scapegoats in Kenya's counter-terror crackdown. AFR 52/003/2014. London: UK. Retrieved from <http://www.refworld.org/docid/538d78284.html>

¹⁰³Burns, A. (2010). Feeling the pinch: Kenya, Al-Shabaab and East Africa's refugee crisis. *Refugee*, 27(1), 5-15.

¹⁰⁴United Nations High Commissioner for Refugees. (2015, April 14). UNHCR statement on the future of Kenya's Dadaab Refugee Camps [Briefing notes]. Retrieved from <http://www.unhcr.org/552d0a8a9.html>

¹⁰⁵Allison, S. (2015, April 14). World's largest refugee camp scapegoated in wake of Garissa attack. *The Guardian*. Retrieved from <http://www.theguardian.com/world/2015/apr/14/kenya-garissa-dadaab-scapegoat-al-shabaab>

and for Somali refugees to go back to their motherland. This is it did in 1996 and in 2012 again. And although these were not implemented, UNHCR ended up closing two refugee camps that included Utange Refugee Camp, in Mombasa, in 1996¹⁰⁶. The Kenyan government evidently uses these threats to further negotiate both the containment and repatriation of Somali refugees, in the process furthering its political agenda.

Kenya's strategic importance in the region has seen the government subjected to extra pressures to fight terrorism by the international community¹⁰⁷. This however, does not validate its disregard for refugees' freedoms. The discourse of Somali refugees as a security threat is by far and large the view of Somali refugees as a threat rather than proof based claims that the causes of insecurity boils down to refugees¹⁰⁸. In real sense Somalis have become a scapegoat by politicians with Somali refugees residing in Kenya having little to do with the recent terrorist attacks¹⁰⁹. The truth in this was seen when Justice David Majanja ruled the state had not shown how refugees in urban areas were the primary source of insecurity in response to the Kenyan government's relocation directive in 2012¹¹⁰. Furthermore, Somali refugees as a security threat in Kenya was also a topical issue during the 2013 elections¹¹¹ and frequently employed by politicians to profit their own campaigns¹¹².

¹⁰⁶Kirui, P., & Mwaruvie, J. (2012). The dilemma of hosting refugees: A focus on the insecurity in north-eastern Kenya. *International Journal of Business and Social Science*, 3(8), 161-171. Retrieved from http://ijbssnet.com/journals/Vol_3_No_8_Special_Issue_April_2012/18.pdf

¹⁰⁷Burns, A. (2010). Feeling the pinch: Kenya, Al-Shabaab and East Africa's refugee crisis. *Refugee*, 27(1), 5-15.

¹⁰⁸Milner, J. (2009b). *Refugees, the state and the politics of asylum in Africa*. UK: Palgrave Macmillan.

¹⁰⁹Heritage Institute for Policy Studies. (2013). *Hasty repatriation: Kenya's attempt to send Somali refugees home*. Mogadishu, Somalia. Retrieved from

http://www.heritageinstitute.org/wpcontent/uploads/2013/03/HIPS_Hasty_Repatriation_ENGLISH.pdf

¹¹⁰Ndonga, Simon. (2013, July 26). Court overturns order to register refugees in camps. *Capital News*. Retrieved from <http://www.capitalfm.co.ke/news/2013/07/court-overturns-order-to-register-refugees-in-camps/>

¹¹¹Amnesty International. (2014a). *No place like home: Returns and relocations of Somalia's displaced*. AFR 52/001/2014. London: UK. Retrieved from <http://www.amnesty.ca/sites/default/files/no-place-like-home-2014.pdf>

¹¹²Heritage Institute for Policy Studies. (2013). *Hasty repatriation: Kenya's attempt to send Somali refugees home*. Mogadishu, Somalia. Retrieved from

http://www.heritageinstitute.org/wpcontent/uploads/2013/03/HIPS_Hasty_Repatriation_ENGLISH.pdf

A high-level panel meeting of the High Commissioners Global Initiative on Somali Refugees concluded that the rhetoric of linking refugees to terrorism is in many cases unwarranted¹¹³.

In conclusion, the view by the government of refugees as both a security threat and an economic burden remain the driving forces behind encouraging the repatriation of Somali refugees. Somali refugees are now considered as a menace first even with a lack of evidence, rather than, as individuals in requiring protection. This exemplifies how a host country's pressure for refugee repatriation is due to their own political objectives, even when conditions in the country of origin aren't conducive.

2.7 A shifting approach to dealing with urban refugees

UNHCR's involvement with urban refugees until recently was highly limited. Generally, UNHCR assented to the encampment policy by the Kenyan government. Though UNHCR negotiated some exceptions to the rule, it generally did advise those refugees approaching its Branch Office in Nairobi to first report in Dadaab or Kakuma. Hardly any refugees were given documentation requiring them to legally remain in Nairobi with assistance being minimal and limited to the most vulnerable a small number of the most vulnerable cases, almost invariably on a short-term basis. Due to this inferred agreement with the encampment policy, UNHCR found itself with relatively little knowledge about the refugees' situation in Nairobi and not in a good position to work out protection as well as solutions for them.¹¹⁴

Both UNHCR and the Kenyan government over the last half-decade have taken efforts aimed at improving management of refugees' situation in the country. One, the Refugees Act of 2006

¹¹³United Nations High Commissioner for Refugees. (2013b). The High Commissioners Global Initiative on Somali Refugees (GISR): Report of the high-level panel on Somali refugees. Geneva, Switzerland. Retrieved from <http://www.unhcr.org/533923719.pdf>

¹¹⁴Ibid, Campbell, Crisp, Kiragu, p.5.

did come into law in 2007. This then saw the Department for Refugee Affairs established. Significant developments were made even prior to the 2006 Refugees Act, even though the country did not have national refugee legislation or even a government department dedicated to refugee affairs. The Department for Refugee Affairs has slowly been addressing various matters that concern refugees in Kenya. More recently, the UNHCR has also been building the department's capacity in a bid to better respond Kenya's refugee issues.¹¹⁵ At the same time, UNHCR began changing its strategy towards urban refugees following the launch of the Nairobi Initiative in 2005, aimed at probing the state of affairs of refugees living in Nairobi by first understanding and then responding to their needs.

UNHCR through the Nairobi Initiative has taken a hands-on approach in its dealing with urban-based refugees by among others reaching out to community-based organisation that work in refugee communities. Considerable strides have been made with regards to urban refugees its partnership with NGOs and other stakeholders in Nairobi. The Nairobi Initiative furthermore compliments new urban policy by UNHCR's, introduced in 2009.¹¹⁶

¹¹⁵Ibid, Campbell, Crisp, Kiragu, p.6.

¹¹⁶Ibid, Campbell, Crisp, Kiragu, p.8.

CHAPTER THREE

THE ASSOCIATION OF REFUGEES WITH INSECURITY

3.1 Porous Kenyan Borders

Somali refugees are one of the refugee caseloads have been profoundly affected by the debate.¹¹⁷Due to the continued insecurity incidences in the form of terror attacks in different Kenyan towns, the issue of Kenya hosting refugees from Somali and granting them prima facie status has become a matter of concern to the majority of the Kenyan public. Undocumented persons and external forces find it easy to infiltrate the porous Kenyan borders. The decision by to close the Kenyan border at Liboi in 2007 by the government was thus a security measure against outside forces. It, however, did not deter those seeking asylum from flowing into the country in search of refuge the number continued to increase. Closing the border meant that asylum seekers were no longer thoroughly screened for illegal items such as guns and diseases. Local communities became increasingly worried about disease outbreaks(like measles, diarrhea and cholera outbreaks had been reported in Somali) and attacks from Al-Shabaab insurgents. The situation escalated in 2012 as Al-Shabaab militants who had crossed over the border attacked Kenyan forces and kidnapped humanitarian workers.

According to the UNHCR, there were close to 113,500 new refugees within eight months Dadaab in 2011 the highest influx ever experienced in Kenya due to the drought, famine and

¹¹⁷Kiama, L and Karanja, R. (2013). Asylum space in Kenya: evolution of refugee protection over 20 years. FMR 25th Anniversary collection. Available at: <http://www.fmreview.org/25th-anniversary/kiama-karanja.html>. Accessed on 31st August 2016.

insecurity in Somalia. Consequently, there was an extreme strain on essential resources like shelter, food and other amenities due to the high number leading to hostility between the refugee community and the host community as the North Eastern Province, which is the location of the refugee camp, has scarce resources. Congestion in the camps also saw a rise in the number of insecurity and gender-based violence cases being reported.¹¹⁸ Camp Kambioos was thus established as a combined effort of the government and the UNHCR despite the previous stalemate over the establishment of new camps within Dadaab as the government felt it create new security issues. As a result, congestion was eased when the new camps opened in 2011 but insecurity remained a prevalent issue.

Other urban areas in Kenya such as Nairobi and Mombasa also experience cases of insecurity thorough grenade attacks with Al-Shabaab taking credit claiming relation for the Kenyan military presence in Somalia. Pressure also piled on service providers as the increased number of refugees required assistance on issues ranging from medical attention to legal counseling. Also, the influx of refugees in 2011 highlighted the debate about climate refugees, created the need to discuss this recent phenomenon by the international community and the issues whether there was a need to revise the typical definition of a refugee.

3.2 Security Concerns

The political violence experienced in Somalia in the context of the ‘war on terror’ is another cause for the mass influx of displaced persons in Kenya since 2007. The mix of political violence and acute environmental pressures saw the situation accelerate in 2011 leading to the arrival of close to 142,000 individuals in the first 7½ months of the year 2011.¹¹⁹ The government, therefore, points out the issue of increased new arrivals combined with domestic

¹¹⁸Refugee Consortium of Kenya (RCK) (2012). Asylum Under Threat: Assessing the protection of Somali refugees in Dadaab refugee camps and along the migration corridor. Available at <http://tinyurl.com/RCK-AsylumUnderThreat-2012> Accessed on 31st August 2016.

¹¹⁹UNHCR, East and Horn of Africa.

political and economic tensions in the country as a sign that the international community has not only improve essential support but also enhance their attention to addressing the issues that are causing displacement in Somalia.¹²⁰

The government's primary concern is State security when it comes to making policies relating to refugees. With the Al-Shabaab bombing a World Cup celebration in Uganda, there have been concerns about the group becoming a "Pan-East African entity" mixing with old inclinations to criminalize refugees and the age-old securitization of the NEP.¹²¹

Specific perceived threats include Al-Shabaab recruitment efforts and concerns of religious radicalism in the country, spilling over of the conflict from Somalia, incidents of social unrest within Islamic minorities and the (apparently as yet unproven) fear of possible marriage of complaints among Somali-Kenyans in the NEP.¹²²

Such concerns about security have led to the push for more active government participation in receiving and registering refugees to keep track of any outsider entering Kenya. Another dimension about the growing number of refugees in the nation is the growing food insecurity across the country. The Ministries of Interior and Foreign Affairs deeply involved as refugee concerns are currently a matter of high politics.¹²³

¹²⁰ Government of Kenya, Briefing on the Refugee and Drought Situation in the Country, 21 Jul. 2011, available at: <http://reliefweb.int/node/>; W. Menya, "Raila in Plea to Donors for More Aid as He Releases Maize from Strategic Stocks", The Daily Nation, 22 Jul. 2011, available at: [http://www.nation.co.ke/News/Raila in plea to donors for more aid/-/1056/1205672/-/2p6vrwz/-/index.html](http://www.nation.co.ke/News/Raila%20in%20plea%20to%20donors%20for%20more%20aid/-/1056/1205672/-/2p6vrwz/-/index.html)

¹²¹ E.A. Gimode, "An Anatomy of Violent Crime and Insecurity in Kenya: The Case of Nairobi, 1985 – 1999", Africa Development, 26(1–2), 2001; E. Lochery, Aliens in their Own Land: The Kenyan Government and its Somali Citizens, draft paper, 2011; and C. Onyango-Obbo, "Al Shabaab Grows East Africa Wings as Security Chiefs Warn of New Threat", The East African, 20 Jun. 2011, available at: <http://allafrica.com/stories/201106200539.html> (last visited 6 Sep. 2011).

¹²² M. Bradbury & M. Kleinman, Winning Hearts and Minds? Examining the Relationship between Aid and Security in Kenya, Boston, Feinstein International Famine Center, Tufts University, 2010; UNHCR, Dadaab Camp, Kenya, Briefing Notes – 5 May 2005, Briefing Note, Kenya, 5 May 2011, available at: <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl¼NEWS&id¼427b5a404&page¼news> (last visited 7 Sep. 2011).

¹²³ Lindley, A. (2011). Between A Protracted and a Crisis Situation: Policy Responses to Somali Refugees in Kenya. Refugee Survey Quarterly, pp. 1–36. Available at:

In recent years, the protracted Somali refugee situation in the nation has witnessed significant developments regarding the realism that policy-makers are dealing with, and the restrictions within which they function. Next, they deliberate efforts to avert displacement from happening and to promote return “home-focused” goals. They then look at the “destination-focused” goals of local integration, protection, and resettlement. In doing so, they examine official policy efforts and the efforts of expatriates towards such goals.

3.3 Changing approaches and lessons learned

Combining advocacy and legal intervention is a lesson that refugee protection agencies have learned in the setting of a changing asylum regime. Therefore, the agencies under the Nairobi Urban Refugee Protection Network (URPN)¹²⁴ challenged the directive in court in December 2012 whereby the High Court stopped the government from executing the instructions until the matter was heard fully. By seeking legal intervention, refugee agencies were seen as being brave because previously, they always used collaborative advocacy initiatives instead of legal confrontations with the government when it comes to protection and management of refugees.¹²⁵

Although the High Court issued the orders to provide amnesty for refugees in urban areas, the Department of Refugee Affairs (DRA) has not obeyed the court order to resume operations in full (including registration of refugees). Additionally, the government has issued a Notice of Appeal through the State Law Office signifying their intent to appeal the High Court decision. Of particular concern, however, is that the DRA’s lack of registration of new arrivals increases the risk of arbitrary arrest by police officers due to lack of proper documentation; also such

http://www.humanitarianinnovation.com/uploads/7/3/4/7/7347321/lindley_a.pdf. Retrieved on 18th August 2016.

¹²⁴www.urpn.org/

¹²⁵Kiama, L and Karanja, R. (2013). Asylum space in Kenya: evolution of refugee protection over 20 years. FMR 25th Anniversary collection. Available at: <http://www.fmreview.org/25th-anniversary/kiama-karanja.html>. Accessed on 31st August 2016.

persons cannot access education, health services, among other critical services. Issuing the directive was a clear demonstration that the sanctuary space in Kenya is dwindling and established the government's resolve to implement a strict encampment policy as well as a heavily securitised asylum rule, something that was previously unprecedented in the country.

Lobbying for the Refugees Act, 2006 is another area of advocacy that refugee agencies are involved. Following the promulgation of a new Constitution, the Act is currently under review but refugee agencies fear that gains achieved in the promoting for the Refugees Act of 2006 may be lost in the current discussions as rising insecurity in the country may bias the review process of the Act. Refugee agencies have adopted an advocacy strategy to postpone the review process of the Act presently, as discussions within government circles are biased to securitising the asylum space.

3.4 Host communities

Formulation of refugee policy is also influenced by the negative impact on local communities by hosting refugees. Internal insecurity is the first such effect. Refugees in the Horn of Africa and the Great Lakes Region come from civil war situations bringing their arms with them. Such weaponry is used to commit crimes through, armed robbery or poaching in where many lives are lost.¹²⁶ Also, because of their high numbers, refugees strain the social infrastructure, environment, and other resources severely.¹²⁷ Population pressures in the border regions hosting the refugees are experiencing due to the influx of refugees in such large numbers,

¹²⁶Rutinwa, B. (1996a). Refugee Protection and Security in East Africa."Refugee Participation Network. Vol. 22, September 1996. pp. 11-14.

¹²⁷Rutinwa, B. (1996c). The Tanzanian Government's Response to the Rwandan Emergency. Journal of Refugee Studies. Vol. 9, No. 3. pp. 291-302.

environmental and ecological destruction, havoc to the social services depletion of stocks, instability in the border areas and infrastructure insecurity.¹²⁸

3.5 Xenophobia Attacks

Changing attitudes of local populations towards refugees has constrained refugee policy formation in Africa. Residents were usually compassionate towards refugees in the 1960s various factors. Firstly, most refugees came from Southern Africa, fleeing from apartheid, colonial, and racist regimes. Local populations who were in complete solidarity with their governments and readily accepted them as a way of standing up against colonial and racial domination in Africa.¹²⁹

In fact, these refugees were perceived as freedom fighters and not refugees in the classical sense as they were retreating to mobilize themselves to fight for their worth and dignity of the African race and their right to self-determination. Asylum seekers from Southern Africa in Tanzania were not called wakimbizi (refugees) but wapiganiauhuru (freedom fighters). Local populations therefore perceived refugees in political rather than charitable terms. The justification for granting asylum to today's refugees is absent in the eyes of many local communities as virtually all of them come from independent African countries. Residents had a positive disposition towards refugees in the 1960s and 1970s, due to the domestic political dispensations and the economic situation whereby African economies were expanding and were, therefore, able to take in refugees without affecting government programs for locals. African governments of all political shades established extensive welfare programs, subsidized social services and free education, and health care to their populations. Due to austerity

¹²⁸Rwegasira, J. (1995). Key Note Address delivered by the Honourable Minister of Foreign Affairs and International Cooperation, J. Rwegasira MP, at the International Workshop on the Refugee Crisis in the Great Lakes Region, Arusha, Tanzania. 16-19 August 1995.

¹²⁹Rutinwa, Bonaventure and Kathina, Monica (1996). Refugees; MPs' Demands for Repatriation 'Unacceptable'. Daily Nation (Kenya). 4 May. p. 4.

measures laid by the World Bank and the IMF as a requirement for economic aid and recent economic decline, governments have been to forced abandon welfare programs and to withdraw all free services. Under these conditions, locals do not understand why their governments should give goods and services to the refugees for which they have to pay.

The negative attitude among local populations towards refugees is because of the above factors, and the ecological, economic, and social impact of refugees on host communities noted above. The social and economic portability of substantial quantities of outside nationals when numerous subjects remain impoverished, criminal action with respect to a few, and the nearness of displaced people has brought about little separation between refugees, economic migrants and immigrants, by our citizens breeding bias and intolerance towards foreign nationals, with refugees being the most affected.¹³⁰

¹³⁰Sisulu, L. (1998). Key Note Address delivered by the Honourable Deputy Minister of Home Affairs, L.N. Sisulu, at the International Conference “Refugees in the New South Africa”. Pretoria, 27-29 March 1998.

CHAPTER FOUR

THE RELATIONSHIP BETWEEN THE INFLUX OF REFUGEES AND KENYA'S NATIONAL SECURITY

4.1 Introduction

This chapter discusses the findings of the study on whether the influx of refugees is a threat to Kenya's national security. Specifically, the chapter presents the study findings on whether Kenya's open door policy on refugees is a threat to national security, the association of refugees with terror activities and the link between Kenya's national security and the socio-economic differences between refugees and host communities.

4.2 Kenya's open door policy on refugees is a threat to national security.

The study sought to examine Kenya's open door policy on refugees and whether it is a threat to national security. From the study, it is clear that Kenya's policy on refugees has seen it receive refugees from various countries in the continent. According to the respondents from the study, Kenya provides a safe haven for persons running away from civil and military friction from countries like South Sudan, Somalia, Burundi, Rwanda, Congo and Ethiopia. The following sections discuss the study findings on Kenya's policy on refugees in terms of access to refugee survival status, handling of asylum seekers, exclusion, status of refugees, extraction, their extradition and deportation .

4.2.1 Access to Refugee Status Determination

Kenya holds the principle that rebuff of refugees at border points may count as refoulement which would risk sending asylum seekers back to danger, which is contrary to international, refugee legal requirements. Each and every person has the right to seek asylum and to go

through individual refugee status determination. As such, each claim is usually determined on its own merits, and not with regards to pessimistic and discriminatory suppositions deriving from personal traits of the claimant who has nothing to do with the refugee notion. The refugee explanation, properly put in context, will lead to the exclusion of those accountable for terrorist actions, and may further aid in the recognition and ultimate prosecution of these persons. Under the convention, protection to the non-deserving is not extended.

4.2.2 Treatment of asylum seekers

Kenya shares the belief that detention of refugees should be the exception and not the rule. This is because detention would only be tolerable when circumstances that surround the individual case so validate. This includes where there are valid basis for suspecting the existence of links to terrorism. It does not however always fulfil with due process, which includes being subject to judicial revision in line with domestic legislation. Likewise, refugee status determination measures put in place to deal with suspected terrorists do not always conform to the required standards of due process, which ensures resolutions are made only by those well-informed and experienced to make refugee determination.

According to John Nyangweso:

"The main problem we are experiencing currently is ensuring we identify the refugees at the point of entry in Kenya. He notes that it's exceedingly hard under the Kenyan asylum legislation. As such, if a person arrives and claims political asylum, except we have hard facts that they are hard core terrorists, it becomes hard not to grant them asylum in the process letting them reside in the country."¹³¹

¹³¹John Nyangweso, a security consultant at the Refugee Consortium of Kenya, interview on 12th August 2016.

4.2.3 Exclusion

There has been anxiety that states may be disposed to automatic or unacceptable application of exclusion clauses or criterion to asylum-seekers that is based on ethnic, national, religious or political affiliation, on the supposition that they could be potential terrorists. As such, Kenya's position remains that authentic refugees are the victims of terrorism and harassment, but not perpetrators. This sees real culprits of serious crimes excluded from refugee status by virtue of international refugee instruments terms. Kenya in this case pushes for states to employ such clauses meticulously where fitting. The application of any exclusion clause must, though, be independently weighed up, based on presented evidence, and conform to basic principles of justice and natural justice. The evaluation has to be done within the status determination procedure.

4.2.4 Withdrawal of Refugee Status

Respondents in the study stated that states may to a certain extent be inclined to withdraw the asylum seekers status of individuals in their country, on the basis of ethnic, religious or national origin, and political affiliation as well, on the supposition that they may be terrorists. Kenya's position remains that extraction of refugee status can only follow proof of deceit or misrepresentation with regards to facts key to the refugee decision. As such, the origin of a particular refugee or ethnicity cannot be the basis in themselves either for rebuffing or withdrawing status. Here the facts are what count.

4.2.5 Deportation

Kenya subscribes to the 1951 UN Convention which allows eviction of asylum seekers on grounds of public order or national security, but only in the pursuit of a verdict reached in line with due process of law. Measures to allow the refugee to give evidence in this case to counter the accusations against him should be afforded. Nonetheless, there has been a concern that

Kenya as well as other countries may be inclined to expunge individuals or groups on the basis of national, religious or ethnic origins and political affiliation in addition to conjecture that they may be terrorists.

4.2.6 Extradition

Kenya's position on extradition of asylum seekers is that any banishment should be decided only after the corresponding legal procedures have been concluded, and where it has been evidenced that the expulsion is not being requested as a means to take back a person to a country for reasons which in fact amount to harassment. The main concern in all this has been that Kenya may be inclined to extradite groups or individuals based on religious, national, ethnic or political affiliation, on the supposition that they be terrorists.

4.3 Association of refugees with terror activities

Kenya has approved all efforts, national or multilateral that are directed towards rooting out and fighting international terrorism efficiently. Hence, and although there is reportedly no proof that the suspects of the terror attacks in Kenya were committed by asylum-seekers, the government has been keen in keeping an eye on refugees and refugee camps such as Daadab and Kakuma. In this regard, Kenya's point is to avoid erroneous answers being given to this inherently logical question. Say differently, the concern is to see any supplementary security-based routine safeguards striking a proper balance with the refugee protection doctrines at stake. Kenya has raised security concerns linked to refugee's camps which has led the declaration to close Daadab refugee camp.

According to Mr Khalid:

“Given the current situation in Somalia, with the asylum seekers population so huge, fleeing a war-torn region, with sufficient proof that a group of Somali refugees is much

more likely to contain Islamic radicals creating an entirely unsecure, dangerous, and untenable state of affairs for Kenyans.”¹³²

The main question for what has become a refugee catastrophe in Kenya is what happens next, as thousands of exiled persons move to a country dealing with its own economic problems. This is because they may never find what they're looking for, and locals may not be contented with their being there. All the while, the skirmishes from which the refugees are fleeing show no signs of concluding.

It's a volatile mix that could breed violence. There exists seething anti-immigrant and nationalist sentiments in Kenya that could boil over as more and more arrivals continue to flow in. Security officials are also fearful that some among the migrants may have bad motives. Authorities in Kenya are as such already setting up de facto internment camps in attempts to document the huge flow of persons into the country. Its worth noting that some of those coming in are genuine asylum seekers fleeing violence, and possibly had to give up or obliterate their identification papers if they had any hope of leaving the borders of their country. Others are traditional economic migrants who are taking advantage of the exodus to see to it that they attain their long-held hopes of making it to Kenya as asylum seekers.

But Kenya may not offer the answers these refugees are looking for, which may spark a sense of disenchantment that could eventually become dangerous.

According to AlexAbuga:

"They very well may be radicalized because it will not be the paradise they thought it would be. The refugees think that once in Kenya, everything will be okay. They face years and years of hard life and poverty. They get adequate from Kenya, but they will

¹³²Mr. Khalid, a humanitarian worker with an NGO

still struggle. What this means is in two, or five years' time, we may have some real problems within these communities, as persons within these communities who pose real threats to us."¹³³

Another respondent, Mr Zack argued that:

"These people, (the local communities), they told me they will come. There are no walls stopping them. They say that if they find the doors closed, they will come in through the windows. They say they will come over and over again until they feel that we are indeed serious about combating and ousting the terrorists. If the asylum seekers are treated as a temporary humanitarian problem rather than as a long-term assimilation challenge, then we are likely to see this problem deteriorate. Radicals will be among those who provide the social support, religious and educational support for the refugees creating a predicament where none existed."¹³⁴

The asylum seekers need an all-inclusive and long-term package that includes political privileges, educational maintenance, and economic support as well as immediate humanitarian support, particularly if they are brought in large numbers. If they cannot be integrated into the local society, then they risk propagating, or even exacerbating, the tensions between non-Muslim and Muslim societies in Kenya.

The actual security risks were at first low, but the probable ones are substantial in wake of terrorist groups like Alshabaab. Provision of policing, service, and local governance in general need to be there for the long haul. The worst thing Kenya could do would be to invite in hundreds of thousands of asylum seekers in a fit of sympathy and then lose interest or become

¹³³Alex Abuga, a security consultant at the Refugee Consortium of Kenya.

¹³⁴Mr Zack, a resident in Garrisa, Northern Kenya.

unfriendly, starving them of help and vilifying them politically, creating a self-fulfilling prophecy.

In spite of the links between refugees and terror activities, Kenya remains apprehensive over refugees and insecurity. The main concern is twofold: that bona fide refugees may be victimized due to public prejudice and unduly restrictive legislative or administrative measures, and that cautiously built refugee safeguard standards may be done away with. Any discussion on security safeguards should start from the supposition that refugees are themselves running away from persecution and hostility, including terrorist acts, and are not the perpetrators.

The second starting point is that the international refugee mechanisms do not provide a safe haven to terrorists and do not defend them from criminal prosecution. On the contrary, international mechanisms render the identification of persons engaged in terrorist activities possible and necessary, forecast their removal from refugee status and do not protect them against either expulsion or criminal prosecution, including to their country of origin. It is regrettable that there seems to be an increasing tendency towards the criminalisation of refugees. While there are some persons in both categories who may be associated with grave crime, this does not mean that the bulk should be doomed by association with the few.

Refugees increasingly have a difficult time in a number of townships around the country, either overcoming presumptions about the validity of their claims or accessing procedures which stem from their ethnicity, or their mode of arrival. Just because refugees may have arrived illegally, this does not vitiate the base of their claim. Because they have a certain religious or ethnic background, which may be shared by those who have committed serious crimes, does not mean they, themselves, are also to be expelled.

4.4 Socio-economic differences between refugees and host communities and Kenya's National Security

The respondents argued that socio-economic differences between refugees and host communities breed conflict and compromises Kenya's national security. Beyond that immediate problem facing refugees lies the ever increasing ultra-nationalism in parts of the country where even elected persons adopting anti-immigrant rhetoric are gaining support. Pius Arthurs cited images showing mostly male refugees as evidence that:

"Persons fleeing their country leaving their families back home, do not do so to flee persecution. It is clearly for economic purposes. We educate our fellow citizens about the dangers of migration."¹³⁵

Such sentiments and the likelihood for fear mongering make refugees an even well poised for recruitment by organizations like the Islamic State groups, who perceive any crisis as an opportunity to debase any sense of unity between Kenyan communities. Even the perception of an attack committed by migrants would stoke fears and stimulate doubt between Kenyan nationals and those hoping to call the country their home.

Mr. Jonathan Walters argued that:

"It only takes a few persons who perpetrated a large-scale act of violence, and what that does then is put a stain on all the asylum seekers. Then, everyone becomes a suspect. Furthermore, there's a potential here for something I don't think local politicians have thought through."¹³⁶

Mr. Jonathan Walters also argued that:

¹³⁵Pius Arthurs, a consultant at the Kenya consortium of refugees.

¹³⁶Jonathan Walters from the Norwegian Council in Kenya.

"There is likely to be more financial problems for Kenyans and people are quite anxious with the situation as it is, even before the immigrants arrive. The last thing anyone wants is that kind of polarization eating into the fabric of society, since it can develop animipetus of its own."

He continues to say

"These refugees are going to continue flowing in whether we want them or not," as such Kenya must act. It is now, and we must stop looking for excuses about terrorists."

From the above responses from Jonathan Walters, it is Kenya's moral and legal duty, to receive the refugees as best it can. But terrorism is not the only issue people have about refugees. Many are also concerned that the refugees will become an economic burden. Some respondents stated that "refugees will take away our jobs as well as social benefits." For others, negative attitudes towards the Muslims community are tied to the belief that Muslims are not ready to participate in the building of the larger society. In all the respondents polled, the dominant view is that Muslims want to be distinctive from the rest of society rather than assume the nation's traditions and lifestyle.

While most people think the recent increase of asylum seekers could lead to more terrorism, there are littler fears that Muslims already living in Kenya might sympathize with the extremists. However, the portion of respondents believing that most or a majority of the Muslims in the country support groups like ISIS and Alshabaab is small. The refugee catastrophe has brought into sharp relief deep-rooted ideology divides over the views of the minority and diversity. On nearly all of the questions analysed in this study, people on the ideological right express more concerns about refugees, more negative attitudes toward minorities and less enthusiasm for a diverse society.

Supporters of far-right political parties are of a much more negative attitude toward asylum seekers and Muslims and are much more cynical about the benefits of a diverse society. There are fears, for instance, that the increase in refugees numbers will lead to more terrorism and in the process harm the economy are considerably more widespread among the respondents. Ideology is not the only dividing line in Kenyan thoughts on refugees, however. On many questions, education and age as well also matter, with the older generation and the less educated persons expressing more pessimistic views about refugees and minorities.

Along with worries about asylum seekers and minorities, the study finds mixed observations regarding the overall value of cultural diversity. When asked whether having an escalating number of persons of many different, ethnic backgrounds and nationalities in their country makes their community a worse place to live, a better place or does not make much difference either way, over half of the respondents said growing diversity makes things worse.

4.4.1 Feelings towards Kenya

On the surface, it is not irrational to assume that a Somali asylum seeker living in Kenya for the last 10 years or more feels an attachment towards Kenya and lays claim to some sort of being a part of the country. After all, the Somali asylum seekers community has lived, given birth and died on Kenyan soil. Digging a little deeper, however one begins to see the waves that cause many Somali asylum seekers to look not the country but to the Somali community that they live in and their country of origin Somalia as the place they belong.

Opinions differ about the main components of national identity, but Kenyan citizens clearly concur that language is primary. There is also a strong cultural element to national identity. The respondents believe sharing national traditions and customs is important.

Some of the respondents interviewed expressed that they felt that they belonged to their motherland Somalia and that they had little or no sense of a belonging to Kenya. Interviewees

emphasised the belief that their sense of belonging to Somalia could never be substituted by a sense of belonging to another country in spite of the length of time they had or would spend outside Somalia. In Kenya, their world revolved around Eastleigh and other Somalis in the community. As such, little integration with Kenyans was observed, even among the younger generation who had grown up here: for instance one 27 year old male interviewee Dede¹³⁷ said that he only lived and socialised with fellow Somalis.

There was a strong conviction among the Somali asylum seekers interviewed that the local population in Nairobi and Kenya, in general, perceived them as ‘the other’, “the refugee”. Many talked about a sense of marginalization and prejudice against them. This view had aided in the development of a socially distinct and detached group or community. As the term indicates, being identified as ‘the other’ is tantamount to not belonging to a particular group, society or community. If this is what is perceived and felt among the Somalis in Eastleigh, then it’s no wonder that their sense of belonging has sturdily remained with Somalia and not Kenya. Various testimonies, including those of younger interviewees, pointed towards these views. As Fatiya explained in her interview: “¹³⁸I cannot call Kenya my home even if I was born and raised here. I am still treated like a stranger, as a refugee, and the security forces continually ask me for my identification. This is an indication that Kenya is not my home.”

However, it is also imperative to acknowledge that it is a two-way correlation and one party’s behaviour has an effect on the other’s behaviour and understanding of the circumstances. In Eastleigh, the host community’s view of the Somali as ‘the other’ has without doubts affected the way Somalis feel towards their host community, leading them to reinforce and their cultural identity while in Kenya. This has the effect of the further ‘othering’ of the Somali on the part of the local community because their original conviction that Somalis are different and alien

¹³⁷DedeMandera resident Northern Kenya

¹³⁸Fatiya, a resident in Garrissa, Northern Kenya

has now been strengthened by the actions of the Somali, which actually had only been reinforced due to the local community's initial discernment.

It is a simple statement that gives massive weight to an argument that can be used universally: if one is treated as 'the other' and continually reminded that they are different, one's sense of belonging to the local community will be tested, a refugee needs to feel welcomed in order to develop a connection to their host community.

As stated above, many testimonies described the view of not belonging to Kenyan community. For instance, when asked if after 18 years of living in Kenya he felt like he belonged 29 year old Mohammed ¹³⁹expressed the following: "No, I am not a Kenyan, and i cannot feel that it is home. I am in no way a part of this nation because I am not a citizen neither am i a resident. We (Somali asylum seekers) only remain as refugees and no one looks after us here. Even if we wanted to feel as Kenyans in heart, we couldn't be because we still viewed as different."

Life in Kenya for the average Somali asylum seekers has brought about many challenges in itself. Somalis in Eastleigh survive in difficult environments and the lack of ability for most, including the youth, to access jobs as well as education is an unfortunate truth. Although Eastleigh flourishes with businesses that range from shopping malls to big restaurants, many of the Somali refugees still struggle to bargain a meaningful shelter for themselves.

Their sense of segregation seems to have further grown in the aftermath of the kidnappings in Kenya by the Al Shabaab in September and October 2011, in addition to the grenade attacks in the capital city Nairobi in late October 2011 that was also reportedly linked to Al Shabaab. In the wake of these terror attacks, Nairobi increased its security in communal places and residents called upon to be more vigilant. Inadvertently, much of the focus turned to Eastleigh.

¹³⁹Mohammed a resident in Eastleigh, Nairobi Kenya

This saw many Somalis end up with the belief that Kenya's new focus on Somalia, Al Shabaab, and its possible existence in Kenya was another cause for Somalis to be branded and discriminated against. In this time of increased security, random arrests and police harassments were greater than before on the streets of Eastleigh as the authorities declared that they were attempting to 'flush out' Al Shabaab operatives who were purportedly present in Eastleigh.

From the persistent police operations in Eastleigh, majority of residents in Eastleigh were scared of being besieged by the police. There was a real sense of fear and perplexity in the environs and it only served to remind some that they were undeniably aliens in Kenya. As a result of the lack of employment opportunities and educational support for Somali asylum seekers in Eastleigh and Kenya in general, many lives have in actual sense been put on hold since arriving here. The majority of respondents stated that they did not take pleasure in their lives in Kenya because there was an overall lack of opportunities expressing their dissatisfaction by saying that they had wasted many of their most productive as a result.

It should be distinguished, however, that in spite of the teething problems faced by many asylum seekers in Eastleigh, many held the belief that they were better off in the capital than in the camps. Ali¹⁴⁰ was one of the first refugees interviewed for the study. Ali explains of how he was young when he arrived and believed that the problems in his homeland Somalia would be temporal. He was reflective when recounting his life: "I still feel like an asylum seeker in Kenya. I cannot act like a real Kenyan citizen because I am a refugee who leaves in a refugee camp. I am daily locked up in a refugee camp. Here, i have problems, thinking of what I would be doing in Somalia. I remain without employment and feel like a nobody. More often tomes I think fell like I could have done something with my life back in my motherland."

¹⁴⁰Ali Eastleigh resident ManderaNorthen Kenya

He had arrived in Kenya in 1993 at the age of 27. Now at 50 he said that he often looks back on the many years that should have been the most productive, which he believes have been wearied down in refugee camps. Ali is a resident of Kakuma refugee camp and was in Nairobi for a visit. He explained that when he arrived in Kenya in 1993, he never imagined that he would still be here 23 years later.

These words were repeated in many of the interviews conducted in Eastleigh. Majority of them described, just as Ali had, that they could not feel as Kenyans or even any attachment to the country since they still only refugees. Many felt they did not have any right to lay claim to Kenya regardless of having lived in the country for the many years. Instead, they showed feelings of isolation, marginalisation and prejudice. When talking about their lives and their sense of belonging in Kenya, a majority of them said they were “living in limbo” and were a regular target of police harassment. They said, a sense of belonging to a community can only be promoted in surroundings where one is made to feel that they have the right to belong.

As a result, those asylum seekers interviewed said that they only felt a sense of belonging to the Somali community. As one Somali elder explained in an interview: “Somalis are naturally social and they keep looking out for each other to after moving to new places. He says they do this in order to come together and talk about Somali-specific problems and things taking place back in their motherland.

4.4.2 Conflicts between the host community and refugee population

For similar purposes as within the host society’s findings are conflict incidents divided between those of the community and personal levels. The majority of the refugee respondents said they have experienced or knew about quarrels between host and refugees. Conflict situations between hosts and refugees are recurrent and mostly occur within the camp according to the respondents.

Conflicts included huge numbers of participants from the both the refugees and the host community as mentioned by the respondents. A number of the respondents noted that a huge conflict between the host community and Sudanese refugees back in the year 2004 resulted in many people from both communities getting killed. The conflicts are described to include among others large numbers of hosts and refugees facing up with each other using weapons, firearms and other means of violence. According to one respondent hosts used to come in large numbers into the camps with guns break doors to refugee homes, shoot the males, rape the females and steal all the food and money they found. Both UNHCR (2005) and various humanitarian news reports confirm the conflict situations between hosts and refugees during the early years of 2000. IRIN humanitarian news and analysis (2003) have also been on record reporting on the escalating conflicts between hosts and refugees in 2003. According to estimations 30,000 Sudanese asylum seekers had to be displaced from their homes in the camp due to conflicts with Turkana hosts.

Several of the respondents identify food issues as a common source behind these community conflicts. The respondents further insinuate that the hosts always have the wrong perception have the belief that that refugees are wealthy with food and money; they come at night to take it by force the respondents note. On the other hand the refugees respond by mobilizing for revenge. In such circumstances conflicts escalate to include large number of members from both communities. Two of the respondents John and Edward¹⁴¹ argue that large conflicts were more frequent in the early days of the camp when the majority of refugees were of Sudanese origin. They further note that the Turkana hosts and Sudanese refugees generally conflicted with lots of conflicts both in the camp and villages in the host community according to the respondents.

¹⁴¹John and Edward, Residents Garrissa Northern Kenya

John and Edward¹⁴² further note that minor disputes between hosts and asylum seekers can easily escalate into community conflicts. They highlight an incident in an Ethiopian restaurant in the camp that soared into a community conflict. “After a Turkana man refused to pay for a meal he had eaten some Ethiopians gathered and beat him. Several Turkana`s came back to take revenge and it escalated into a community conflict where one Turkana got killed by an Ethiopian refugee”. According to the respondents, such conflict situations are common.

4.5.2.1 Individual conflicts

Individual conflicts between host and refugees were reported by the majority of respondents. Even though not all respondents have been directly been subjects to such conflicts they affirm the fact that individual conflicts between refugees and hosts are frequent. The nature of these conflicts range from rape, robberies, assaults, violent attacks using guns or other weapons and killings.

These individual conflicts are mostly reported to occur within the refugee camp according to the respondents. The main areas of conflict are at refugees’ home, food distribution centres, water collection points and at markets inside the camp. The most reported situation are that the hosts may be working or doing other businesses in the camp at daytime, return at night and break into refugee homes and try to take food and other items as well by force. In such times, robberies through the use of weapons are witnessed; assault, rape and even killings. Much of the conflicts often commence at water collection points in the camp A common situation is that hosts try and use water taps located in the camp, but are denied by the refugees as the water facilities inside the camp are reserved for them. Likewise refugees are refused by hosts to collect firewood outside the camp and clashes may start from such issues. Refugees are

¹⁴²John and Edward, Residents Garrissa Northern Kenya

sometimes “forced” to move outside the camp to collect firewood when they are not given enough according to the respondents.

The night is undoubtedly the most critical time for clashes between hosts and refugees to take place according to the respondents. Two female respondents explain that they fear to sleep at night, they only sleep during the day for the reason that they fear for their children’s safety and assaults from the host community.

The UNHCR has confirmed increasing reports on robberies inside the camp and individual clashes between hosts and refugees in recent years. A 2008 report state that repatriation of many refugees for South Sudan left the camp environs under-populated leading to an increase in criminal activities from perpetrated by the host community by hiding in these areasto organize robberies and other transgressions targeting refugees¹⁴³.

One of the families interviewed had recently been victimized by these frequent clashes between hosts and refugees and shared their story:

A young boy of only 13 years old was killed by a gunshot outside his home. The boy was coming from watching a football match at a friend’s house close to his home. The brother to the maimed boy said they heard several gunshots outside their home at around 12 pm. The brother though did not dare to get outside at first fearing for his life since armed robberies had become widespread in the community. After a short while he went out to look for his younger brother only to find him dead, shoot with an AK-47 rifle. The same community two days later got threatened by three Turkana men armed with similar weapons. The family and neighbours as well affirmed that the killings and robberies are widespread in the camp. They residents fear for the night since it is the

¹⁴³UNHCR. 2008. STRENGTHENING PROTECTION CAPACITY PROJECT: PROJECT PROPOSALS: Strengthening Refugee Protection, Assistance and Support to Host Communities in Kenya. (Online).<http://www.unhcr.org/cgi>

opportune time for attacks perpetrated by the host community. The family of the young boy who was shot articulate their frustration over insecurity in the camp where related incidents are frequent. (Interview in Eastleigh, 14.08.2016).

The Kenyan media has also been on spot through its widespread reportage on these issues in recent times. The Standard Digital (2012) reported that a male refugee of Somali origin refugee was shot and killed in Kakuma refugee camp on August the 6th2012. The unpleasant incident happened involved four men armed with AK-47 rifles and suspected to be from the host community raided the home of the victim. From are refugees' perspective conflicts including assault, robberies, rape, fighting and killings between hosts and refugees are widespread and a huge issue of concern for persons living in the camp. The certainty of frequent conflicts with people from the host community was said to be affecting the lives of many living both in and outside the camps. Instances of insecurity, fearing to sleep and moving from one point to another were expressed by several of the respondents. The night time is especially a fearful time for many. Even though curfews are out in place at times prohibiting hosts presence camps after 6 pm, it is after this time that most attacks and conflicts are witnessed according to the respondents. The considerable size of the camp and its structure with no clear borders makes it complicated to control movements inside the large camp area. Insecurity inside the camp is also stressed as a concern by many of the respondents.

A number of the respondents were also apprehensive over the handling of crimes reported to the local security forces. The refugee respondents argued that the local police majority of whom are of the Turkana origin always favour their kinsmen over refugees. Arguments fronted in this regard are that local security officers are from the same tribe as the host community and therefore favouritism towards the local communities is experienced to the disadvantage refugees when it comes to solving disputes. Some of the respondents assert that reporting

criminal acts to the local security officers can even be dangerous as the police can pass the information to the perpetrators.

4.4.4 Collaborations between the host community and refugee population

Around half of the respondents (11) say they have not had any form of collaboration or constructive relations with the locals. Several of the respondents further state that it can be risky to connect with their Turkana hosts. One respondent Denzel ¹⁴⁴stressed that “*we fear them so we cannot cooperate with each other with them*”, while another claimed that “*if they have food and are not starved then there are no problems*”.

The other half of respondents said they have experienced some sort of relationship with the locals. Most of these relationships are usually on an individual level, for instance, employing hosts to on their plots and trade at markets based within the camp. Some of the respondents also cite NGO and school initiatives such as intercommunity work and peace building gatherings as areas where asylum seekers and locals cooperate and create constructive rapport. The respondents also assert that the rapport between the communities has improved. Persons from the two communities have started to learn each other’s culture and languages which has in the process eased communication and understanding of each other hence improving the rapport.

4.4.5 Impacts by refugee camps on host communities

Continuous assessment throughout the study have found that the main actors in refugee matters that should be included in this study are the Lutheran World Federation and the United Nations High Commission for Refugees. The peace building officer at the UNHCR offices Amaya ¹⁴⁵describes the rapport between the two communities as complicated. The

¹⁴⁴Denzel. Refugee Kakuma Northern Kenya

¹⁴⁵ Amaya, Peace building officer at UNHCR offices

relationship is characterized by recurrent disputes and day by day complaints from both parts. Refugees on one side complain about robberies and assaults perpetrated by the host community. On the other hand, the hosts complain that the refugees always blame them in order to get resettlement away from Kakuma. According to the peace building officer both groups in general accuse each other of crimes. It is not always easy to identify which accusations are true or false he notes.

Incidents he notes can start from matters such as inter-marriage disputes or complaints by refugees that their hosts attack and rob their homes during the night. The asylum seekers also claim that when they report criminal activities to the security officers, the information finds its way back to the hosts who have perpetrated the crimes. As such the refugees live in fear that the hosts can come back for take revenge and attack the refugees who reported them.

Humphrey¹⁴⁶The peace building officer at the Lutheran World Federation highlights that there is an increasing need for more attention and focus towards the relationship matter.

Human as well as financial constraints surrounding the UNHCR Peace Building Unit make it hard to handle issues that relate to the host community.

Turkana Project officer Michieka¹⁴⁷ points out that the rapport between hosts and refugees is and has been challenging, while the Peace Building officer on the other hand portrays the relationship as “good at this moment”. Representatives at the Lutheran Foundation explain that the rapport has bettered since there was more hostility among the communities in the past. Presently there are more isolated clashes occurrence rather than large community conflicts. Michieka¹⁴⁸ points the marketplaces in the camp as common areas where quarrels between hosts and refugees start. He explains: Women and children from the host community

¹⁴⁶ Humphrey, Peace building officer at the Lutheran World Federation

¹⁴⁷ Michieka, Turkana Project officer

¹⁴⁸ Michieka, Turkana Project officer

come to the camp to sell firewood or any other merchandise to refugees. The project officer further states that circumstances in which refugees decline paying hosts can easily soar into a conflict when the hosts return to their village to mobilize retaliation. Homicides of both hosts and refugees can result from such conflicts.

Although interactions between refugees and their hosts have become more widespread there still remains countless cracks in the relationship. According to the peace building officer, lack of support to the host community is the central source of conflict in the relationship. Individuals from the host community feel inequitably treated by the humanitarian agencies in Kakuma and channel their frustration towards the refugees. Even though the situation for the locals has improved there is still a considerable gap in resource access which makes it challenging to create peace between the communities. Overall the conflict situations have condensed, but locals still feel that their requests have not been addressed.

4.5 How to promote coexistence rather than conflict

4.5.1 United Nations High Commissioner of Refugees

Amaya¹⁴⁹, the peace building officer state that there is a need for more consideration and focus towards enhancing the rapport between the refugee community and locals in order to promote better coexistence. Peace building conventions that involve community leaders drawn from the two communities needs to take place more regularly. Several challenges however persist in these peace building meetings. One of them is the language barrier. To get persons from the host community to participate in the peace building meetings is also hard. The locals claim that when they participate in these meetings they are wasting important time that they could use to generate income. As such, the locals feel that they should be compensated for their

¹⁴⁹ Amaya, UNHCR peace building officer

participation. At the same time, financial and human resources are a great challenge for addressing all these huge issues with the locals according to the officer.

4.5.2 Lutheran World Federation

The representatives from the Lutheran World Federation led by Humphrey¹⁵⁰ agree that improving the required mechanisms to promote peace are imperative. Continued initiatives and activities to bring both the communities together are crucial for advancing better coexistence. Sharing of social amenities between locals and refugees such as mixed schools is highlighted by the Turkana Project Officer, Michieka¹⁵¹. Joint round-table meetings for discussing problems and looking for solutions together is highlighted as important for improving the relationship and avoiding conflicts according to the peace building officer. The officer further states that peace gatherings need to be held frequently and go ahead to involve participants from NGOs and the government as well. The government only participates in larger meetings conducted 4 times a year. This is far too rare in the officer's opinion. This is in consideration of challenges of new refugee arrivals which need to be handled adequately. The LWF Chief Security Officer Laban¹⁵² points out that although there are many challenges in terms of the rapport there have also been mild improvements. The change in security structure in 2005 that combined incentive staff (refugees) and local security officers has had a positive impact on camps security and improved cooperation. Minor incidents are now handled by the peace units (LWF and UNHCR) while larger issues are directed to the local police. Its also worth noting that the 2010 disarming campaign confiscated lots of weapons in the camp. Laban further adds that there has been advancement in reporting of criminal incidents rather than leaving them to be resolved by communities confronting each other.

¹⁵⁰Humphrey, Peace building officer at the Lutheran World Federation

¹⁵¹Michieka, Turkana Project officer

¹⁵²Laaban, Lutheran Foundation Chief Security Officer

Michieka¹⁵³ further highlights that increased peace awareness is needed to promote coexistence between the locals and refugees. Government involvement together with the residents, both the hosts and refugees and NGOs should foster peace and serenity together. The balance of humanitarian support is a great challenge according to him. There is still no clean water or food security for the locals. This is a challenge for enhancing coexistence when one community is helped with basic needs while their neighbour community struggles to live.

¹⁵³Michieka, Turkana Project officer

CHAPTER FIVE

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

This chapter presents summary, conclusions and recommendations. The chapter is presented in accordance with the study objective which was to determine whether the influx of refugees is a threat to Kenya's national security. Specifically, the study examined on whether Kenya's open door policy on refugees is a threat to national security, the association of refugees with terror activities and the link between Kenya's national security and the socio-economic differences between refugees and host communities.

5.1 Summary

5.1.1 Kenya's open door policy on refugees is a threat to national security

The study established that Kenya's policy on refugees has seen the country receive refugees from various countries in Africa. It's clear from the respondents that Kenya provides a safe haven for persons running from civil and military strife from countries like Somalia, Burundi, South Sudan, Congo, Rwanda and Ethiopia. The study findings indicated that Kenya support the principle that rejection of refugees at the entry point or at the border may amount to refoulement. This is because by rejecting them, Kenya would be risking sending the refugees back to danger, which is in contrast to international, refugee legal responsibility. Kenya believes that each and every person has the right to seek asylum and to go through individual refugee status determination. As such each claim must be determined on its own merits, and not against negative and prejudiced assumptions stemming from personal attributes of the claimant that has nothing to do with the notion of being a refugee.

With regard to the link between Kenya's open door policy on refugees and to national security, the study findings revealed that Kenya holds the position that sincere refugees are merely the victims of terrorism and oppression, not its perpetrators. Meanwhile, persons responsible for grave crimes are exempted from refugee status by the virtue of the conditions set for international refugee instruments. Kenya encourages countries to make use of those clauses thoroughly where applicable. The application of any exemption clause must, though, be assessed individually, on the basis of available evidence, and is in line with basic standards of natural justice and fairness. Nonetheless, the refugee status determination processes in place supposed to deal with terrorists suspects has not born much fruit in making sure that they conform to minimum standards of due process and that resolutions are decided by those qualified and knowledgeable to make refugee determination.

5.1.2 Association of refugees with terrorism activities

The study was able to establish that Kenya has in many cases raised security concerns that are linked to refugee's camps which has contributed to the decision by the country to close Daadab refugee camp. For Kenya, the refugee situation is an emotive one that could lead to eruption of violence if not well handled. As new arrivals continue to flow in, there exists simmering anti-immigrant and nationalist sentiments that could explode. Kenyan security agencies are also in fear that some among the migrants may have ill motives. The actual security risks were at first low, but the potential ones have been considered in the wake of the arising of terrorist groups like Alshabaab.

The chief concern for Kenya when it comes to refugees and insecurity is that bona fide refugees may be victimized stemming from public prejudice as well as unjustifiably restrictive judicial or administrative procedures. Candid conversations on security safeguards should ideally commence from the notion that asylum seekers are themselves running away from oppression and violence that includes terrorist acts, whereas they are not the perpetrators of such acts.

Nonetheless, Kenya is in support of all efforts, both multilateral or national directed towards rooting out and efficiently battling international terrorism.

5.1.3 Socio-economic differences between host communities and refugees and Kenya's National Security

From the study, it was clear that socio-economic differences between host communities and refugees are the breeding point for conflicts in the process compromising Kenya's national security. Involvement with terror activities is not the only concern Kenyans have about refugees. Many more are in fear that the refugees will be an economic burden. According to a number of respondents, Kenyans feel that refugees will take away their jobs and social benefits. For others, negative feelings towards the Muslim community based on a belief that Muslims are not ready to participate and become part of the broader society. The dominant view is that Muslims want to be different from the rest of community rather than adopt the way of life and customs in the country. Nonetheless, while the majority of persons continue to believe that recent increase in the number of asylum seekers could increase the chances of terror activities taking place, there is less alarm that those Muslims already residing in Kenya may sympathize with the terrorists.

Opinions about the main components of national identity vary, but Kenyan citizens undoubtedly are in agreement that language is essential. There is also a strong cultural constituent to national identity.

Some of the respondents interviewed articulated that they felt a belonging to Somalia than Kenya and that they had little or no sense of belonging to Kenya. Several Somali refugees believed that Kenya's renewed focus on Somalia to fight the Al Shabaab, was another reason for them to be discriminated against. With heightened security, random arrests and police harassments was high on the streets of Eastleigh with security officials declaring that they were flushing out' Al Shabaab operatives allegedly residing in Eastleigh.

Some of the respondents identified food disputes as a major source of conflicts among the community. Individual conflicts between asylum seekers and hosts were reported by the majority of interviewees. The nature of the conflicts ranged from assaults, robberies, violent attacks using guns or other weapons, rape and killings between the hosts and refugees. The main areas where conflict occurs are at food distribution centres, refugees' home, and at markets inside the camp.

5.2 Conclusion

The study concludes that Kenya's open door policy on refugees has led to an infiltration of refugees in the process contributing to an increase in insecurity and more so terrorism in the country. Although disapproval of terrorist activities by the international community has been undivided and unequivocal, their efforts to control this menace have been tarnished by approach differences and competing concerns. Terrorism is still one of the main threats against which the international community, above all countries states, must strive to protect their citizens. The international community not only has the right but also the duty to do so. Countries on the other hand however must also take it upon themselves to ensure that counter-terrorism measures do not end up being an all-embracing concept, anymore than sovereignty, used to impede or excuse recognised humanitarian standards and violations of human rights.

With regards Kenya's open door policy, the study concludes that Kenya must endeavour to give each and every refugee a purpose to value their own rights and as well respect the rights those of others. At the same time, Kenya must continually reiterate the importance of the rule of law that certain terrorism acts, for instance, the Garissa College attack and the Westgate Mall attack are wicked that no refugee policy can bear approval of the persons involved. Kenya's security measures on the other hand must also be firmly grounded in law and avoid viewing whole communities as suspects thereby subjecting them to harassment due to terror

acts perpetrated by a handful of their members. Nor must Kenya permit the fight against terrorism become an excuse for the suppression of genuine opposition. The right to national sovereignty cannot justify fundamental freedoms of people or violations of human rights.

5.3 Recommendations

The study recommends that Kenya's foremost response to the association of refugees and terrorism should squarely focus on migrants' identification as well as keeping tabs on where they travel to. If, for instance, it were possible for border agents to fingerprint each refugee entering at the entry point, log them into the system, then they could be able to tell if least that person has any criminal history.

5.3.1 Host community development

The study sees it as essential for the Government of Kenya to come up with strategies for host community development. By promoting development among the locals, the government could improve their livelihoods in addition to enhancing their affiliation with the refugee population. Such measures could also help improve the welfare of refugees by decreasing the common tensions between host and refugees. Specifically, the food and water security issue is important for the locals. If locals are better equipped to sustain their lives, it is prospective that they will be less dependent on going to camps seeking for food for instance. Providing more access to water and promote sustainable livelihoods could be one approach. It's imperative to balance the bridge between development and humanitarian aid. Promoting sustainable ways of livelihood provision could help create a more sustainable mechanism in the long-term.

The dilemma however would be balancing between involving locals in hosting refugees and limit the dependency on the camp. When or if the camp does close it is imperative that the locals are not only dependent on the camp for survival. Nonetheless, it is clear that the locals look forward to benefiting more from being hosts and being involved. This could be

through increasing employment of locals in Non-governmental organizations, especially in the unskilled labour sector. Provision of hands-on education for the locals to be better equipped for jobs in Non-governmental organizations could increase their employment chances.

5.3.2 Improve the social relationship between hosts and refugees

Social tensions between locals and refugees are witnessed regularly in refugee camps for several reasons highlighted in this study. Initiatives reported in this study to bring the communities together as one and encourage coexistence remain imperative. Peace building initiatives as well as peace education seminars conducted by both the UNHCR and the Lutheran World Federation should continue, and should be expanded to bring more players on board and try to become even more efficient. Mixed schools bring both the locals and refugees together should continue since it creates a good rapport and interactions between the two. Marketplaces and when local work for refugees have been said to be areas where conflicts start and also where mutual benefits are experienced. As such it's imperative to improve this area to benefit both groups.

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APPENDIX I: INTERVIEW GUIDE

Section A: Kenya's Open Door Policy

1. Briefly discuss the following areas in Kenya's open door policy and national security
 - a) Screening of refugees for security threat
 - b) Post conflict reconciliation
 - c) Legal actions against law enforcement agencies, especially the police, who collaborate with refugees in trafficking arms
 - d) Regulation of border entries to prevent illegal and criminal immigrants
 - e) Kenya's obligation to host refugees regardless of the insecurity that they pose
 - f) Measures against errant refugees
 - g) Monitoring daily activities of the refugees
 - h) Catering for the interests of both refugees and host communities
 - i) In which other ways does Kenya's open door policy on refugees contribute to national security?

Section B: The Association of Refugees with Terror Activities

Discuss the following statements regarding the association of refugees with terror activities

1. The recruitment of refugees into terror organizations through extreme religious doctrines
2. The involvement of refugees in smuggling arms which are used in terror activities
The use of refugee camps to provide hideouts for terrorists
3. The living conditions in the refugee camps and involvement in terrorism
4. Kenya involvement in peace keeping missions and incursion in countries such as Somalia and its contribution to refugees' involvement in crime and terrorism
5. In which other ways are refugees associated with terror activities?

Section C: Socio-Economic Differences between Refugees and Host Communities

1. How do refugees integrate into the host community and does it lead to conflicts
2. Do host communities view refugees as a threat to their economic wellbeing leading to conflicts?
3. Does the economic gap between refugees and host communities leave them at loggerheads with each other
4. Does the scramble for available resources between refugees and host communities lead to conflicts?
5. Does the financial backing of refugees by the international community make them envied by host communities?
6. Are refugees side-lined by the local government when it comes to access of services and social amenities?
7. In which other ways do the differences in social economic status between refugees and host communities lead to insecurity

Section D: Recommendation

1. Recommend how best Kenya can deal with security threats posed by the influx of refugees