



UNIVERSITY OF NAIROBI

DEPARTMENT OF DIPLOMACY AND INTERNATIONAL STUDIES

**THE ROLE OF THE AFRICAN UNION (AU) IN REFUGEE HUMANITARIAN
ASSISTANCE: A CASE STUDY OF KENYA**

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R51/40393/2021

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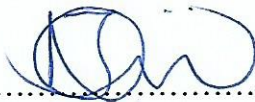
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**A RESEARCH PROJECT SUBMITTED IN PARTIAL FULFILMENT FOR THE
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NOVEMBER 2023

DECLARATION

I, Joan Njeri Mochama hereby declare that this research project is my original work and has not been presented for a degree in any other University.

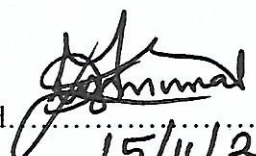
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DEDICATION

This Thesis is dedicated to refugees and other displaced persons in Kenya. May this work play a role, whether directly or indirectly, in ensuring that you receive better humanitarian assistance. Additionally, I dedicate this thesis to my parents, the Late Dr. Albert Mochama Obiri and Mrs. Miriam Wairimu Mochama who have been a source of inspiration throughout my life.

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I truly appreciate the unwavering support and guidance offered by my supervisor, Dr. Martin Odhiambo Ouma. Your availability, knowledge and profound wisdom played a significant role in the successful completion of this research. My heartfelt gratitude goes to the Department of Diplomacy and International Studies at the University of Nairobi for spearheading my journey towards a Masters in Diplomacy. I acknowledge and appreciate Nelly, Brian, Aaron and Joy. Your encouragement was pivotal in achieving this milestone. Most importantly, I am grateful to God for continued blessings upon my life including enabling me to pursue my Master's degree.

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LIST OF ABBREVIATIONS AND ACRONYMS

ASF	:	African Standby Force
AU	:	African Union
AUCIL	:	African Union Commission on International Law
AUC's HARDP:		African Union Commission's Department of Humanitarian Affairs, Refugees, and Displaced Persons
AMISOM	:	African Union Mission in Somalia
AUC	:	African Union Commission
BPEAR	:	Bureau for the Placement and Education of African Refugees
CAR	:	Central African Republic
CHS	:	Core Humanitarian Standard
DSA	:	Department of Social Affairs
ECOWAS	:	Economic Community of West African States
EU	:	European Union
GCR	:	Global Compact on Refugees
GRF	:	Global Refugee Forum
IGAD	:	Intergovernmental Authority on Development
IDPs	:	Internally Displaced Persons
OCHA	:	Office for the Coordination of Humanitarian Affairs
OAU	:	Organization of African Unity
PSC	:	Peace and Security Council
RSF	:	Rapid Support Forces
SOPs	:	Standard Operating Procedures
SAF	:	Sudanese Armed Forces
UN	:	United Nations
UNHCR	:	United Nations High Commissioner for Refugees
WFP	:	World Food Programme

ABSTRACT

Refugees are among the most vulnerable persons in our society as they face a lot of uncertainty following displacement from their home countries. In this regard, they should be prioritized in protection and assistance interventions by humanitarian actors including the host governments. This study investigates the role of the African Union (AU) in rendering humanitarian assistance to refugees with a focus on the Kenyan jurisdiction. It encompasses a comprehensive exploration of the AU's legal, moral and political mandate, institutional frameworks, and specific initiatives aimed at humanitarian assistance in Africa. The study explores the complexities of the AU's involvement in Kenya, analyzing its interventions, coordination efforts, and collaborative strategies with local and international bodies to ensure effective humanitarian assistance. The study critically assesses a range of internal and external barriers that the AU faces in providing aid to refugees in Kenya. It adopted a qualitative case study design, gathering data through interviews and analyzing both primary and secondary sources. The respondents included government officials, aid workers, donors, host communities, and refugees. Purposive sampling was used and the data analysis involved thematic analysis of transcribed interviews and secondary data. The theory of Cosmopolitanism was employed in the research. The findings of the study include the fact that instances of political instability in Kenya significantly disrupt aid delivery, while the government's securitization-focused approach impedes comprehensive assistance. Limited funding presents a substantial obstacle in meeting escalating humanitarian needs, with humanitarian actors demonstrating a lack of awareness and application of the Core Humanitarian Standard (CHS). Corruption, environmental stressors, and the absence of a sustainable response reflect the array of additional obstacles faced by the AU. The study recommends that the AU should strengthen diplomatic ties with Kenya, develop comprehensive contingency plans, implement capacity-building initiatives and promote the Core Humanitarian Standard. Additionally, the AU should diversify funding sources, form alliances with development organizations, and push for a larger budget allocation from the national government for refugee assistance programs. In addition, the study recommends monitoring, reporting, and whistleblower protection for the prevention of mismanagement of funds and corruption. Furthermore, resilient infrastructure and conservation initiatives by the AU in collaboration with the government of Kenya are necessary to address environmental challenges.

CHAPTER ONE

1.1. Introduction

Kenya has been grappling with a humanitarian crisis for decades as it is host to large numbers of refugees from countries within the East African Community. In response to the crisis, various humanitarian actors such as the African Union (AU) have assisted in the delivery of humanitarian assistance in Kenya. While the AU has been involved in the refugee response in Kenya, there is a need to examine its role more closely to determine its effectiveness. This thesis will focus on the role of the AU in humanitarian assistance, specifically in the context of refugee response in Kenya. It will seek to identify the challenges the AU has encountered in providing assistance and propose recommendations to address these challenges.

This chapter document includes the background to the study, statement of the problem, objectives, research question, significance of the study, scope of the study, limitations, and the theoretical framework in logical order. The chapter also includes a detailed analysis of past research studies based on the thematic areas and specific objectives of this study. Additionally, this chapter includes the research methodology, which outlines the procedures and strategies that the researcher intends to use to identify, select, process, and analyze study data.

1.2 Background

The matter of refugees and forced displacement remains a complex issue on a global scale. Refugees originate from various countries and regions around the world, with the largest numbers coming from Syria, Afghanistan, Myanmar, Venezuela and South Sudan.¹

¹ United Nations High Commissioner for Refugees, "Global Trends: Forced Displacement in 2021," accessed April 23, 2023, <https://www.unhcr.org/globaltrends2021/>.

The reasons for displacement vary depending on the region and country but often include conflict, persecution, and human rights abuses. “A refugee is defined as follows in the Convention Relating to the Status of Refugees (1951 Refugee Convention): A person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”²

The Protocol Relating to the Status of Refugees eliminated the necessity outlined in the Convention for refugees to establish a link with events predating 1 January 1951. Article 1A (2) of the protocol makes it clear that persecution can be carried out by non-state actors, such as individuals or groups and recognizes that persecution can target a group of people rather than just an individual.

The situation in Syria is characterized by a protracted conflict that broke out in 2011 that has led to a significant number of refugees. “There have been allegations of war crimes and human rights abuses committed by both the government and armed opposition groups against civilians, including the use of chemical weapons, indiscriminate bombings, and mass killings. This has resulted in a substantial number of Syrians being displaced both within the country and to other nations.”³ In Venezuela, “a combination of political and economic instability has caused significant numbers of people to flee in search of safety and stability. In Afghanistan, ongoing conflict and insecurity led to large-scale displacement.”⁴

² United Nations, "Convention Relating to the Status of Refugees (1951 Refugee Convention)," Office of the United Nations High Commissioner for Refugees.

³ Ibid

⁴ International Organization for Migration (IOM), "IOM Afghanistan - Humanitarian Situation and Response Dashboard," April 30, 2021, <https://displacement.iom.int/afghanistan-dashboard>.

In some cases, “people are forced to flee their homes and seek refuge in other countries due to natural disasters such as floods, hurricanes, droughts, and earthquakes. Climate change can increase the frequency and severity of natural disasters, as well as cause environmental degradation, leading to adverse effects on communities and their livelihoods.”⁵ Consequently, people may be compelled to move both within and across borders in search of safety and stability.⁶

“With the projected adverse effects of climate change, there is a likelihood of increased displacement and humanitarian crises.”⁷ In recent decades, humanitarian actors such as the AU and the Refugee Agency of the UN have been involved in discussions on the need to broaden the legal definition of a ‘refugee’ to cover individuals forced to flee their countries owing to factors related to the environmental, including the impacts of climate change. One instance was in 2019 when the UNHCR co-organized the Global Refugee Forum (GRF), which brought together governments, non-government organizations as well as other stakeholders to discuss ways to strengthen the international response to refugee situations, including those associated with climate change and other issues related to the environmental.⁸

Humanitarian assistance not only entails saving individuals post a crisis or disaster. “During and after the crisis, it entails easing distress and maintaining human dignity.”⁹

According to the UNHCR, a significant proportion of the over twenty-six million (26,000,000) refugees and asylum seekers worldwide, are located in Africa.¹⁰ Many of these situations are

⁵ Intergovernmental Panel on Climate Change (IPCC), *Global Warming of 1.5°C*, <https://www.ipcc.ch/sr15/>

⁶ Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2021*, <https://www.internal-displacement.org/global-report/grid2021/>.

⁷ World Bank, *Groundswell: Preparing for Internal Climate Migration*.

⁸ UNHCR, "Global Refugee Forum," <https://www.unhcr.org/global-refugee-forum.html>.

⁹ Good Humanitarian Donorship, *Principles and Good Practice of Humanitarian Donorship* (Stockholm: Good Humanitarian Donorship, 2003).

¹⁰ UNHCR, "Refugee Populations by Country or Territory of Asylum," mid-year 2021 update, accessed April 20, 2023, <https://www.unhcr.org/refugee-statistics/>.

protracted, with refugees living in exile for years or even decades, and facing significant protection challenges including violence, prejudice, and a lack of access to essential services.¹¹

There are numerous challenges facing humanitarian assistance for refugee response in Africa. These challenges include political instability, insecurity, limited resources, and inability to obtain fundamental services for instance, education and healthcare. Additionally, there are often cultural and linguistic barriers that can make it difficult for aid workers to communicate effectively with refugees and provide appropriate support.¹² Furthermore, the scale and complexity of refugee crises in Africa can overwhelm existing infrastructure and resources, making it difficult to provide timely and effective assistance.¹³ Finally, donor fatigue and competing priorities can limit the funding available for refugee response efforts, leading to gaps in service provision and unmet needs among refugee populations.¹⁴

In addition, humanitarian actors face significant funding gaps in Africa, with many programs and services facing severe shortages of resources.¹⁵ By restricting access to services and raising the danger of infections, the global pandemic of COVID-19 made the situation much worse.¹⁶

Despite these challenges, there have been notable achievements in refugee response and humanitarian assistance in Africa. For instance, in various African nations, host communities have played a significant role in providing support to refugees, such as offering them shelter, food, and other essential needs. This has helped to alleviate some of the pressure on international organizations and has provided refugees with a sense of community and acceptance. In Uganda for instance, host communities have been lauded for their generous and welcoming attitude toward

¹¹ UNHCR, "Global Trends: Forced Displacement in 2020," UNHCR, June 18, 2021, <https://www.unhcr.org/globaltrends2020/>.

¹² H. awil-Souri, "Global humanitarianism and media culture," in *Journalism and PR: News Media and Public Relations in the Digital Age*, eds. S. Cottle, C. Forde, L. Hird, & J. Street (Routledge, 2017), 315-326.

¹³ Elizabeth Ferris, *The Politics of Protection: The Limits of Humanitarian Action* (Brookings Institution Press, 2016).

¹⁴ A. Betts and P. Collier, *Refuge: Transforming a Broken Refugee System* (Oxford University Press, 2017).

¹⁵ Global Humanitarian Assistance, *Financing the Response to Forced Displacement* (Development Initiatives, 2021).

¹⁶ UNHCR, *COVID-19 Supplementary Appeal: Global* (United Nations High Commissioner for Refugees, 2020).

refugees from neighboring countries, providing them with land to cultivate, access to education and healthcare, and other forms of support.

Other notable achievements include in the context of regional cooperation and collaboration. Humanitarian assistance is a critical component of the global response to crises and disasters, and “intergovernmental and regional organizations including the United Nations (UN), African Union (AU) and the European Union (EU) are crucial in coordinating and supporting these efforts. Multilateral Diplomacy is essential in resource mobilization, actors’ coordination, and efficient provision of assistance to the refugee population and the host country by extension.”¹⁷ According to the United Nations, multilateral diplomacy is defined as, "A process of consultation and decision-making among states, usually in the context of international organizations, where common interests are identified, norms agreed upon, and collective action undertaken for the achievement of shared objectives."¹⁸ In this regard, humanitarian aid is crucial to ensuring that refugees' most fundamental needs, such as food, shelter, and medical treatment, are addressed.

For example, the United Nations Refugee Agency, United Nations High Commissioner for Refugees (UNHCR) is responsible for leading efforts to protect and assist refugees and other displaced individuals across the world, including in various African nations. To guarantee that refugees' needs are met, and their rights are upheld, the UNHCR works closely with governments, other UN agencies, and non-governmental entities. The Office for the Coordination of Humanitarian Affairs (OCHA) coordinates the entirety of the UN system's humanitarian response activities. In Africa, the OCHA is instrumental in organizing the response to refugee situations, and it does so by deploying humanitarian coordinators to countries impacted by displacement crises.

¹⁷ T. J. Biersteker, "Multilateralism," *Oxford Research Encyclopedia of International Studies* (2017), doi: 10.1093/acrefore/9780190846626.013.59.

¹⁸ United Nations, "Multilateral diplomacy," (2018).

“Since rebels ousted the government of the Central African Republic (CAR) in 2012,”¹⁹ there has been unrest and violence in the country. “Many individuals have been compelled to leave their homes and seek sanctuary in other locations within the country or in neighboring countries because of the crisis.”²⁰ Hundreds of thousands of individuals who have been compelled to escape their homes because of violence and security issues in the nation have been receiving protection from the UNHCR. At the same time, the OCHA has been coordinating the efforts of humanitarian organizations working in CAR, ensuring that aid is delivered effectively and efficiently to those who need it most.²¹

The AU has established various mechanisms and partnerships to support humanitarian efforts and “has played an important role in responding to crises such as the outbreak of the Ebola virus in West Africa.”²² In addition, “the AU established the Department of Humanitarian Affairs, Refugees, and Displaced Persons within the African Union Commission, as well as the Peace and Security Council of the African Union.”²³

Another noteworthy accomplishment in in refugee response in Africa is the identification and deliberate care of the vulnerable among the displaced population. “There is an increasing awareness of the importance of safeguarding marginalized groups, including women, children, and persons with disabilities, in refugee contexts. Aid groups have been focusing on delivering targeted aid and specialized services to these vulnerable groups to guarantee their protection and wellbeing.”²⁴ An instance of this is the UNHCR's partnership with the Women's Refugee

¹⁹ BBC News, "Central African Republic profile - Timeline".

²⁰ UNHCR, "Central African Republic Situation," <https://www.unhcr.org/central-african-republic-situation.html>.

²¹ "Central African Republic: Humanitarian Dashboard (January - December 2020)," *ReliefWeb*.

²² Jessica Hatcher and Nick Westcott, "The African Union and Humanitarian Action: From Principles to Practice," *Journal of Humanitarian Affairs* 1, no. 1 (2019): 45-59.

²³ Erin Mooney, "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern," *Refugee Survey Quarterly* 24, no. 3 (January 1, 2005): 9–26, <https://doi.org/10.1093/rsq/hdi049>.

²⁴ Gaim Kibreab, "The Continuing Refugee Crisis in Africa: Challenges and Prospects," *International Journal of Refugee Law* 21, no. 4 (2009): 608-636.

Commission to improve gender-based violence prevention and response in refugee camps.²⁵ UNHCR has also worked with the Ugandan government and local NGOs to provide education and healthcare services to children with disabilities living in refugee settlements.

The need to address the root causes of displacement, particularly conflict and human rights violations, has recently been receiving greater recognition and interest. This has led to a growing focus on prevention and peacebuilding efforts, as well as on addressing the structural and systemic drivers of displacement. Overall, while there are significant challenges facing refugee response and humanitarian assistance in Africa, there are also opportunities for progress and collaboration, particularly in the context of regional and international cooperation.

Considering the complexity of forced displacement as well as the numerous obstacles to efficient refugee response, it is important to understand and re-emphasize the critical role of multilateral diplomacy in the delivery of humanitarian aid.

During the refugee crisis and response in Kenya, the African Union has assumed a proactive role by offering humanitarian relief. With the objective of enhancing refugees' ability to support themselves and their integration into the host communities, the AU has supported the implementation of Kenya's Comprehensive Refugee Response Framework.²⁶

Additionally, the AU has been involved initiatives related to security and peace with an emphasis on tackling main reasons of violence and displacement in Kenya. The organization has also advocated for better protection and assistance for refugees, developed policies and guidelines, and mobilized resources for the refugee response in Kenya. Despite these efforts, there are

²⁵ Elizabeth Ferris, "The African Refugee Experience: Challenges for the International System," *Journal of Refugee Studies* 24, no. 3 (2011): 656-675.

²⁶ P. M. Kamungi, "Comprehensive Refugee Response Framework (CRRF) in Kenya: Opportunities and Challenges," *International Journal of Humanities, Arts and Social Sciences* 6, no. 2 (2020): 107-120.

persistent challenges in coordination, capacity building, and accountability that demand attention in order to ensure the effectiveness of humanitarian relief in the region.

Undoubtedly, one of the most important issues of our day is the humanitarian situation facing refugees in Kenya. Kenya has been a haven for refugees from neighboring countries seeking sanctuary from persecution, conflict, and poverty. Refugees have fled from active and possible forms of harm including, infringement of their fundamental human rights, gender-based violence, as well as tensions based on ethnicity or religion as well as environmental catastrophes such as droughts and floods.

“Kenya ratified the 1967 Protocol to the 1951 Convention Relating to the Status of Refugees, creating a legal obligation under international law to protect refugees.”²⁷ Kenya has also implemented domestic legislation, “such as the Refugees Act of 2006 that provides a legal framework for the oversight and protection of refugees within its borders.”²⁸

In reference to the data collected by the UNHCR, “as of December 2022, the number of refugees in Kenya was 504,485. The largest portion of refugees in Kenya as of the said date was from Somalia, making up 55.5% of the total. The second largest group is from South Sudan, constituting 30.4%, followed by Congolese and Ethiopians at 6.5% and 4.3% respectively.”²⁹ Dadaab and Kakuma refugee camps in Kenya are the hosts of these large numbers of refugees. The two camps are in fact some of the largest globally.

The provision of humanitarian assistance to refugees, whether in Kenya is a complex and multifaceted challenge. Several actors, including host communities, governmental bodies, international bodies, and donors, must collaborate.

²⁷ United Nations High Commissioner for Refugees (UNHCR), "1951 Convention relating to the Status of Refugees," retrieved from <https://www.unhcr.org/1951-refugee-convention.html>.

²⁸ The Republic of Kenya, *The Refugees Act (2006)*, retrieved from <http://www.refworld.org/docid/4aa762242.html>, <http://www.refworld.org/docid/4aa762242.html>

²⁹ UNHCR, "Refugees and Asylum-seekers in Kenya," (2022), retrieved from <https://data.unhcr.org/en/country/ken>.

Kenya encounters considerable difficulties with regard to offering refugees adequate safety and relief. Unfortunately, being a developing country, it has limited resources and infrastructure thus the sheer scale of the refugee crisis is overwhelming. The situation is dire in the sense that, Kenya is unable to meet the necessities of refugees.

Additionally, Kenya is faced with political and security issues that prevent its efficient and effective refugee response. The Kenyan government has implemented a number of restrictive measures, including the closure of refugee camps, due to political and security concerns. Besides all these inadequacies and challenges, Kenya has experienced internal displacement of persons due to conflict and environmental catastrophes, including the drought in 2011.

This study will investigate the African Union's role in meeting the humanitarian needs of refugees in Kenya. In the context of forced displacement in Kenya, it will evaluate the effectiveness and durability of the humanitarian assistance provided by the AU. The research methodology will employ qualitative research methods including interviews and document analysis. Further, the study will draw on relevant theories and frameworks related to humanitarian assistance, including the Cosmopolitanism theory.

The findings of this study will provide insights into the challenges highlight opportunities available and provide recommendations that will prove useful to not only the refugee population and Kenya, the host country but to local and international policymakers, humanitarian practitioners, and scholars. This study will also provide recommendations for sustainable refugee response.

1.3 Statement of the Research Problem

The provision of humanitarian assistance to refugees is a complex issue involving numerous actors, extensive logistics, resources and coordination. While the African Union (AU) has been involved in the provision of support and resources for the refugee response in Kenya, the extent of

its role remains unclear, and its effectiveness has been curtailed by a variety of factors. This thesis aims to bridge the knowledge gap by examining the AU's involvement in humanitarian assistance, within the context of refugee response in Kenya. This thesis investigated the AU's policies and interventions and assessed its impact on the refugee response in Kenya. The aim was to provide recommendations to solve the challenges faced by the regional body in refugee response in Kenya.

The human nature of refugees forces them to be dependent on humanitarian assistance for both short-term and long-term survival. Therefore, this study highlights the importance of understanding and providing sustainable means of survival. The long-term assistance includes the provision of education, employment opportunities, and the ability to participate in the local economy through the support of the AU.

1.4 Research Questions

- i. What is the mandate of the AU in providing refugee humanitarian assistance in Africa?
- ii. What role does the AU play in providing effective refugee humanitarian assistance in Kenya?
- iii. What are the challenges faced by the AU in providing effective humanitarian assistance in the refugee response in Kenya?

1.5 Objectives of the Research

- i. To investigate the mandate of the AU in providing humanitarian assistance in Africa.
- ii. To analyze the role of the AU in providing effective refugee humanitarian assistance in Kenya.
- iii. To examine the challenges faced by the AU in providing effective refugee humanitarian assistance in Kenya.

1.6 Literature Review

This literature review investigates the nature and scope of the AU's mandate in providing refugee humanitarian assistance in Africa. In addition, the literature review examines the role of the AU in providing effective refugee humanitarian assistance and analyzes key challenges it faces in the process. Finally, this section identifies knowledge gaps that are consistent with the objectives of the study.

1.6.1 The Mandate of the AU in providing Refugee Humanitarian Assistance in Africa

According to Thomas Weiss, delivering humanitarian relief and protecting individuals in need is essential for various moral, legal, and political reasons. Weiss argues that there is a moral expectation by the society to provide humanitarian assistance and that negligence of the same is deemed violation of fundamental human rights. He argues that "Humanitarianism is not only about compassion and the alleviation of suffering; it is also about justice and the protection of human dignity".³⁰ This aligns with the cosmopolitan perspective that emphasizes the universality of human rights and the responsibility to protect those in need.

According to Weiss, the legal imperative is provided under international humanitarian laws. Therefore, states and other actors should adhere to the same or be considered in violation of the laws. Additionally, Weiss notes that addressing humanitarian needs can have significant political implications, both in terms of the legitimacy of the governments and organizations that provide assistance and in terms of the stability and security of the regions affected by crises.³¹

³⁰ T. G. Weiss, "Governing Humanitarianism: The Contemporary Challenges of Multilateral Diplomacy," in *Global Health Diplomacy: Concepts, Issues, Actors, Instruments, Fora and Cases*, ed. S. MacLean (Springer International Publishing, 2018), 170.

³¹ Ibid

In this case, the AU's role in refugee humanitarian assistance not only stems from individuals' interests and its obligation under its Constitutive Act, but also moral, legal, and political considerations.

Marina Sharpe argued that cooperation and coordination of actors smoothens resource mobilization, improves expertise and promotes political support in addressing humanitarian challenges at a larger scale. "The provision of humanitarian aid involves both the global community and regional bodies such as the AU. Unfortunately, these actors have significant obstacles in this aspect as well."³²

The AU's Constitutive Act does not expressly state the mandate of the regional organization to provide refugee humanitarian assistance. However, the AU's engagement in refugee humanitarian assistance is derived from its broader mandate to "promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments, as outlined in Article 3 (h) of its charter."³³ The 1951 Refugee Convention is included in these human rights accords.

In Chapter 2 of the Research Handbook on International Refugee Law, Wood highlighted that the AU has over the years established several agencies and mechanisms to ensure appropriate action is taken in refugee humanitarian assistance in Africa. "Such actions included the formulation and implementation of the first-ever regional agreement with the sole objective to protect refugees, "The Convention Governing the Specific Aspects of Refugee Problems in Africa" commonly known as the 1969 Refugee Convention. Africa's main foundation for governing

³² Marina Sharpe, "Organization of African Unity and African Union Engagement with Refugee Protection: 1963-2011," *African Journal of International and Comparative Law* 58 (2013): Available at SSRN: <https://ssrn.com/abstract=2855918>.

³³ African Union, *Constitutive Act of the African Union* (2000).

humanitarian assistance to refugees on the continent is this convention, the 1969 Refugee Convention.”³⁴

The AU’s executive institution known as the AU Commission (AUC), has the mandate to develop continental frameworks and standards on disaster management, population, migration, refugee and displaced persons.³⁵ “The African Union Commission's Department of Humanitarian Affairs, Refugees, and Displaced Persons (AUC's HARDP) is the division within the body in charge of handling humanitarian issues, refugees, and displaced individuals.”³⁶ The department's mandate involves refugee humanitarian assistance.³⁷ Its duties include aiding refugees, those displaced in various crises, and anyone impacted by humanitarian situations. “In order to ensure that policies and activities are consistent throughout nations and regional economic communities, this is done through collaboration with other ministries and relevant agencies. While actively seeking long-term solutions to the problems posed by refugees and displaced populations, the department is also involved in assisting with the repatriation and resettlement of displaced individuals.”³⁸

The Subcommittee on Refugees, Returnees, and Internally Displaced Persons is a part of the Permanent Representatives Committee, which is in charge of coordinating the duties for the Executive Council. This Subcommittee acts as a decision-making body with the authority to carry out autonomous actions or refer issues to the Executive Council. By shaping, conceiving,

³⁴ African Union, *OAU Convention Governing the Specific Aspects of Refugee Problems in Africa*, https://au.int/sites/default/files/treaties/36400-treaty-0005_-_oau_convention_governing_the_specific_aspects_of_refugee_problems_in_africa_e.pdf.

³⁵ G. Urso and A. Hakami, *Regional Migration Governance in Africa: AU and RECs* (EUR 29325 EN), Publications Office of the European Union, Luxembourg, 2018, doi:10.2760/338319.JRC112055.

³⁶ P. Tigere and R. Amukhobu, "The African Union’s Institutional Framework for Responding to Forced Displacement in Africa," *Conflict Trends* 48 (2005).

³⁷ African Union, "About the Department of Political Affairs, Peace and Security".

³⁸ African Union, "Humanitarian Affairs Division”.

streamlining, and regulating policies pertaining to refugees, returnees, and internally displaced people, it plays a crucial role in supporting the AU's deliberative bodies.

Ashara and Obuah examined the responsibilities of the Sub-Committee in depth in their study, which was published in the journal "International Relations Security and Economic Studies". This committee plays a key role in directing AU responses to humanitarian crises, offering policy guidance, developing AU action plans, conducting on-the-ground needs assessments, extending financial support (when possible) to countries hosting refugees, and raising awareness of the difficulties faced by Africans who have been forcibly displaced both within member states and internationally.³⁹ The Sub-committee's duties include carrying out on-site inspection missions to assess conformity to the 1969 Refugee Convention. Its mandate comprises cooperating with regional organizations, NGOs, and UN-affiliated humanitarian agencies while maintaining communication with Member States via the AUC.

In 2014, a humanitarian assessment mission was carried out in the Republic of Madagascar by the Humanitarian Affairs Division of the Department of Political Affairs "in collaboration with the PRC Sub-Committee on Refugees, Returnees, and Internally Displaced Persons in Africa. With the assistance of this mission, the PRC Sub-Committee was able to support the government of Madagascar by providing practical solutions to deal with the effects of cyclones, flooding, and unexpected rainfall."⁴⁰

In Sharpe's Research Paper No. 226 (2011), the African Union Humanitarian Action Policy was noted as having been enacted. The AU's plan for handling crises throughout the African

³⁹ D. U. Ashara and E. E. Obuah, "Africa's Humanitarian Crisis: An African Union's Diplomatic Management," *Journal of International Relations Security and Economic Studies (JIRSES)* 2, no. 3 (2023): 22-37, <http://journals.rcmss.com/index.php/jirses>.

⁴⁰ ReliefWeb, "PRC Sub-Committee on Refugees, Returnees, and IDPs in Africa and Department of Political Affairs hold 11th Consultative Meeting".

continent is laid out in this strategic paper. This policy serves as a comprehensive framework, encompassing various facets, including the facilitation of assistance to refugees and IDPs.⁴¹

In 2018, the AU formally adopted the African Union Migration Policy Framework. This framework is designed to advocate for the facilitation of secure, well-organized, and lawful migration. Furthermore, it places emphasis on the safeguarding and providing assistance to the forcibly displaced who are in need of international protection.⁴²

The African Standby Force, the African Union Mission in Somalia (AMISOM), and the African Union Commission on Human and Peoples' Rights are among the mechanisms the AU has set up. These systems give the protection of refugees and the promotion of peace and stability across the African continent a solid foundation.

Founded in 2006, the African Union Regional Consultative Process on Migration was instituted with the purpose of assembling envoys from African nations for the collaborative discussion and synchronization of migration-related policies. This encompasses a comprehensive discourse on matters such as the safeguarding of refugees and individuals seeking asylum.

Established in 2015, “the African Union Emergency Trust Fund for Africa was initiated to extend swift reactions to crises emerging within the African continent. This fund plays a pivotal role in addressing a spectrum of urgent issues, including the displacement of refugees and IDPs. One instance of the fund's activation was during the refugee crisis in South Sudan, where it provided crucial financial support to facilitate immediate humanitarian responses.”⁴³

⁴¹ Marina Sharpe, "Engaging with Refugee Protection? The Organization of African Unity and African Union since 1963," *New Issues in Refugee Research*, Research Paper No. 226 (2011).

⁴² Marina Sharpe, "Organization of African Unity and African Union Engagement with Refugee Protection: 1963–2011," *African Journal of International and Comparative Law* 21, no. 1 (2013): 50–94, DOI: 10.3366/ajicl.2013.0052.

⁴³ "Security, Reconstruction and Peace: Responsibility for Africa – Making Migration Safer and Improving Prospects for the People," European migration policy aims to support migrants and refugees and to combat human trafficking, <https://www.giz.de/en/workingwithgiz/65584.html>.

Salvatore Nicolosi and Solomon Momoh analyzed the engagement and contributions of these regional entities in addressing refugee challenges. In their study titled “International Solidarity and the Global Compact on Refugees: What Role for the African Union and the European Union?”, these two researchers extensively examined how the AU and EU can contribute to enhancing worldwide initiatives aimed at aiding refugees.

Notably, “Weiss notes that addressing humanitarian needs can have significant political implications, both in terms of the legitimacy of the governments and organizations that provide assistance and in terms of the stability and security of the regions affected by crises.”⁴⁴ “This political dimension can be viewed through the lens of securitization, where governments and organizations frame refugee issues as threats to national security, often prioritizing security measures over humanitarian assistance.”⁴⁵ The AU's role in the refugee humanitarian assistance, therefore, needs to navigate the balance between security concerns and cosmopolitan principles of human rights and dignity.

1.6.2 The Role of the AU in providing effective Refugee Humanitarian Assistance in Kenya

In “Organization of African Unity and African Union Engagement with Refugee Protection: 1963-2011”, Sharpe noted that the establishment of the AU was significantly influenced by considerations related to conflict mitigation and economic development. However, in recent times, the organization's primary emphasis has shifted toward security matters. Embedded within its strategic objectives, humanitarian concerns hold substantial significance, leading to the gradual integration of refugee protection within the AU's broader humanitarian framework.⁴⁶

⁴⁴ Weiss, Thomas George. *Military-civilian interactions: humanitarian crises and the responsibility to protect*. Rowman & Littlefield, 2005.

⁴⁵ Watson, Scott D. *The securitization of humanitarian migration: Digging moats and sinking boats*. Routledge, 2009.

⁴⁶ Marina Sharpe, "Organization of African Unity and African Union Engagement with Refugee Protection: 1963–2011," *African Journal of International and Comparative Law* 21, no. 1 (2013): 50–94, DOI: 10.3366/ajicl.2013.0052.

Sarkin, J. emphasized that “the AU plays a significant role in providing effective refugee assistance in Kenya through advocacy.”⁴⁷ Considering its authority and wide-reaching audience, the organization advocates for refugees to enable them receive adequate assistance. Refugees from a number of nations, including “South Sudan, Ethiopia, Eritrea, the Democratic Republic of the Congo, Rwanda, Burundi, Uganda, and Somalia have found refuge in Kenya. The Dadaab refugee camp, for instance, has been a home to Somali refugees for more than two decades.”⁴⁸ Concerned about the deteriorating humanitarian situation in the camp, the Kenyan authorities called for the voluntary return of Somali refugees.

As previously noted, the Kenyan government's approach to refugees has been influenced by security concerns, reflecting securitization.⁴⁹ However, the AU, with its broader mandate rooted in cosmopolitan principles of human rights and regional cooperation, advocates for the protection and assistance of refugees.

Security concerns brought about by Al-Shabaab, a terrorist group that had been using the camp for illicit activities motivated this course of action. The Commissioner addressed the plight of Somali refugees in the Dadaab camp, as recorded in “the Report of the Sub-Committee on Refugees, Returnees, and Internally Displaced Persons in Africa for the Twenty-Eighth Ordinary Session of the AU Executive Council. The Commissioner urged the Kenyan government to uphold the non-refoulement principles while taking into consideration the nation's genuine security concerns.”⁵⁰ “Kenyan authorities have been driven by security concerns sparked by organizations

⁴⁷ J. Sarkin, "The Role of the United Nations, the African Union and Africa's Sub-Regional Organizations in Dealing with Africa's Human Rights Problems: Connecting Humanitarian Intervention and the Responsibility to Protect," *Journal of African Law* 53, no. 1 (2009): 1–33, <http://www.jstor.org/stable/40646824>.

⁴⁸ UNHCR, "Figures at a Glance," retrieved from <https://www.unhcr.org/ke/figures-at-a-glance> (n.d.).

⁴⁹ Gitonga, Dorcas Nyaguthii. "Securitization of Somali refugees: case study of Kenya." Master's thesis, Norwegian University of Life Sciences, Ås, 2018.

⁵⁰ Sub-Committee on Refugees, Returnees and Internally Displaced Persons in Africa, "Report of Sub-Committee on Refugees, Returnees and Internally Displaced Persons in Africa," Twenty-Eighth Ordinary Session of the Executive Council, Addis Ababa, Ethiopia, EX.CL/928(XXVIII)vi, January 23–28, 2016, African Union, <http://www.au.int/en/documents/202312/report-sub-committee-refugees-returnees-and-internally-displaced-persons-africa>.

such as Al-Shabaab to prioritize securitization, which includes border fortifications and deterrent measures.”⁵¹ Meanwhile, the African Union emphasizes the significance of guaranteeing the rights, protection, and support of refugees in Kenya in line with cosmopolitan ideals.

Colin Yeo makes reference to “the aim of the Global Compact on Refugees, which is to share the responsibility of delivering humanitarian aid to refugees among the host countries.”⁵²

Within the AU, there is an advisory body titled the Coordinating Committee on Assistance and Protection for Refugees, Returnees, and Internally Displaced Persons. It originated under the umbrella of the Bureau for the Placement and Education of African Refugees (BPEAR), and subsequently evolved into the CCAR. According to its 2006 Rules of Procedure, the Committee's paramount duties as an AU body include advocacy on issues pertaining to the support of forcibly displaced persons in connection to their humanitarian requirements.

In ‘Refugee Law’, Colin Yeo noted that “the AU's regional framework on human rights which includes the 1969 Refugee Convention and the African Union Humanitarian Action Policy influence and provide guidance on refugee protection, assistance, and integration. These frameworks influence how countries such as Kenya approach refugee-related policies.”⁵³

In a report by the International Rescue Committee, it was noted that the AU has engaged in empowering young Somali refugees in Kenya, through skills training, vocational programs, and community engagement. These efforts align with broader objectives of enhancing refugee well-being and integration within the host society, underscoring the AU's contribution to supporting refugee assistance endeavors in Kenya.⁵⁴

⁵¹ Kimathi, Leah. "The Securitization of Humanitarian Aid: A Case Study of the Dadaab Refugee Camp in Kenya." *Refugees and Forced Migration in the Horn and Eastern Africa: Trends, Challenges and Opportunities* (2019): 65-80.

⁵² C. Yeo, *Refugee Law* (2022), p. 25.

⁵³ *Ibid.* p43

⁵⁴ IRC, *Dreams Deterred: Opportunities to Promote Self-Reliance for Somali Refugee Youth in Kenya*, ReliefWeb, 2018.

According to the “Report of the Chairperson of the Commission on the Situation in Somalia”, the AU plays a significant role in refugee humanitarian assistance through protection. The AU contributes to the protection of refugees in Kenya against matters such as those related to sexual and gender-based violence through training initiatives at the reception and transit centers.⁵⁵ “The 2012 Draft African Union Strategy for Enhancing Border Management in Africa emphasizes the significance of capacity building and training of personnel. It demands that all border management staff receive continuous, high-quality training based on a well-designed curriculum with practical training components.”⁵⁶

1.6.3 Challenges faced by the AU in providing effective Humanitarian Assistance in the refugee response in Kenya

Humanitarian actors have faced a number of challenges in providing effective humanitarian assistance to refugees in Kenya. As stated earlier, these challenges include political instability, limited funding, and logistical challenges are major barriers to the provision of assistance.

The provision of humanitarian aid to the needy populations by actors such as the AU and the UN is affected by the political situation in Kenya. For instance, “there was an interruption in the delivery of food supplies and other humanitarian relief to the about seven million (7,000,000) refugees and other displaced persons in the region during the 2007 post-election unrest. As a result of the political and ethnic violence, the UN World Food Programme (WFP) and other humanitarian organizations were unable to render direct assistance that many of them had been relying on.”⁵⁷

⁵⁵ African Union Commission, "Report of the Chairperson of the Commission on the Situation in Somalia during Peace and Security Council 379th Meeting".

⁵⁶ "African Union Border Program May 2012 Addis Ababa, Ethiopia Draft African Union Strategy for Enhancing Border Management in Africa."

⁵⁷ UN Africa Renewal, "East Africa Feels Blows of Kenyan Crisis," *Africa Renewal Magazine*, 2008, <https://www.un.org/africarenewal/magazine/april-2008/east-africa-feels-blows-kenyan-crisis>.

Kenya has experienced a substantial influx of refugees in recent years, resulting into the government's inability to provide assistance. The Kenyan government plays a critical role in determining the response to refugees in the country. However, scholars have noted that the government's approach has been largely focused on securitization and deterrence, rather than protection and assistance.

Saha and Thapa argue that Kenya's strategy for responding to refugees has been impacted by its security concerns, which has led to an emphasis on containment and deterrent tactics instead of tackling the fundamental reasons for migration. They observe that although Kenya has introduced certain initiatives aimed at offering aid and safeguarding refugees, its predominant approach has focused on fortifying its borders and enacting measures intended to dissuade refugees from seeking entry into the country.⁵⁸ This has resulted in a restrictive legal framework that limits refugees' rights and access to basic services, including healthcare and education.

Furthermore, coordination among different actors has been difficult due to competing interests, power imbalances, and a lack of trust. As expressly stated by Fiddian-Qasmiyeh and Daley, "In some cases, states may prioritize their national interests over their humanitarian obligations, creating tensions and challenges for collective responses".⁵⁹

Reinsberg and Michaelowa conducted a research paper that focuses on the East African refugee crisis, with a particular emphasis on the situation in Kenya. This research paper delves into the East African refugee crisis, including the situation in Kenya. It discusses the coordination

⁵⁸ R. Saha and M. Thapa, "Refugee crisis in East Africa: The case of Kenya," *International Journal of Social Sciences and Humanities Research* 5, no. 3 (2017): 107-116.

⁵⁹ E. Fiddian-Qasmiyeh and P. Daley, "Conceptualizing the local and international in contemporary crises," in *The Oxford Handbook of Refugee and Forced Migration Studies*, ed. E. Fiddian-Qasmiyeh, G. Loescher, K. Long, and N. Sigona (Oxford University Press), 137-152.

challenges in the regional response, emphasizing how these coordination failures can create tension between different actors and hinder effective refugee protection and assistance.⁶⁰

With the growing scope and severity of humanitarian emergencies, effective multilateral diplomacy is now more important than ever. The significance of the AU is more notable no more than before.

In her book "Humanitarian Intervention and the AU-Ecowas Partnership: Bridging the Gap between Humanitarian Intervention and Responsibility to Protect," Liesbeth Brouwer, examines "the hurdles in the implementation of humanitarian intervention in Africa particularly through the partnership between the AU and the Economic Community of West African States (ECOWAS).⁶¹ Brouwer explores the potential of this partnership to address conflicts and humanitarian crises on the continent. She also notes the hurdles the institutions confront in effectively providing humanitarian assistance in Africa." Poor or lack of coordination, inadequate resources, moral and legal dilemmas, along with a lack of political will, are a few of these difficulties.⁶²

It is notable that local actors frequently have little influence on decision-making and how resources are allocated which keeps these communities marginalized. According to Kibicho and Murunga, "Local actors are often viewed as passive recipients of aid rather than active agents of change, leading to a marginalization of their perspectives and contributions in humanitarian programming".⁶³

Hugo Sharp, in his book "The Politics of Protection: The Limits of Humanitarian Action," explores the limits of humanitarian action in protecting civilians in conflict situations. He also

⁶⁰ B. Reinsberg and K. Michaelowa, "International Refugee Protection and the Global Refugee Regime: Coordination Failures and Moral Dilemmas in the East African Refugee Crisis" (2019).

⁶¹ L. A. L. Brouwer, *Humanitarian intervention and the AU-ECOWAS partnership: Bridging the gap between humanitarian intervention and responsibility to protect* (United Kingdom: Cambridge, Intersentia, 2016), 5-15.

⁶² Ibid.

⁶³ W. Kibicho and G. Murunga, "Strengthening community-based humanitarian response in Kenya: The role of local actors," *Disasters* 41, no. S1 (2017): S42-S57.

analyzes the political and ethical dilemmas faced by humanitarian actors, particularly in contexts where there is little political will to deal with the underlying reasons of violence. Sharp argues that humanitarian action can only do so much to address the symptoms of conflict and that effective protection of civilians requires broader political and diplomatic efforts. His work highlights the need for effective multilateral diplomacy to solve humanitarian crises and do so by advance long-term solutions.⁶⁴

Theoretical frameworks like securitization and cosmopolitanism can help in understanding the inherent tensions and challenges faced by the AU in its refugee humanitarian assistance efforts in Kenya. “By recognizing and addressing these theoretical underpinnings, the AU can work toward more balanced and effective assistance to refugees, ensuring the protection of human rights while considering security concerns.”⁶⁵

1.6.4 Knowledge Gaps

It is evident that there are challenges facing the AU, such as inadequate funding, political interference, and bureaucratic inefficiencies. The review highlights the importance of partnerships, evaluation, and best practices in enhancing the effectiveness and efficiency of humanitarian assistance. Nevertheless, there are gaps in existing knowledge. Firstly, it is notable that very few scholars have assessed the mandate of the AU in providing humanitarian assistance in Africa.

Another knowledge gap is the lack of enough research on the effectiveness of the AU in providing refugee humanitarian assistance in Kenya. There is a need for more research on the specific needs and priorities of different refugee and host community groups, and on how best to

⁶⁴ H. Sharp, *The politics of protection: The limits of humanitarian action* (London, UK: Hurst Publishers, 2019), 1-25.

⁶⁵ Besteman, Catherine. "Experimenting in Somalia: The new security empire." *Anthropological Theory* 17, no. 3 (2017): 404-420.

involve these groups in program design and implementation in Kenya. Additionally, there is a need for more research on how to build trust and promote positive relationships between refugees and host communities, as these factors can affect the success of inclusion efforts by the AU and other actors.

An additional knowledge gap is the limited understanding of the impact of technology on refugee response, and the effectiveness of different funding models have not been comprehensively tackled by scholars in Diplomacy and humanitarian work.

These gaps provide opportunities for further research in the field of humanitarian assistance. Further research and recommendations are needed in addressing these knowledge gaps and improving the provision of humanitarian assistance to refugees in Kenya.

While Core Humanitarian Standard (CHS) has been widely recognized as an important tool for improving accountability in humanitarian assistance, it is unclear whether all organizations involved in refugee response in Kenya including the AU are aware of the standard and are actively using it to guide their programmes. By adhering to the CHS commitments related to quality, transparency, participation, and feedback, organizations involved in multilateral diplomacy in refugee response in Kenya can ensure that they are accountable to refugees, donors, and other stakeholders. As highlighted by OCHA, "Accountability is fundamental to ensuring the effectiveness, efficiency, and appropriateness of humanitarian action and to building trust and confidence among affected populations, donors, partners, and other stakeholders".⁶⁶

There is also need for more analysis of the role of gender and diversity in refugee response, as well as the impact of refugees on host communities.

There are gaps in sustainable response for refugees not only by the AU but by all actors involved in humanitarian assistance in Kenya. One of the main challenges is the lack of

⁶⁶ UN OCHA, "Accountability," (2020), retrieved from <https://www.unocha.org/accountability>.

sustainable funding for refugee response programs, which can hinder the ability of organizations to plan and implement programs over the long term. This can also lead to disruptions in services and a lack of continuity for refugees.

In addition, there is a need for more focus on long-term solutions for refugees, such as education and livelihood opportunities, that can help refugees become self-sufficient and reduce their dependence on humanitarian assistance. Additionally, there is a need for additional research and data on the long-term effects of refugee response initiatives, including the social and economic effects on host communities and the region as a whole. The knowledge gaps identified in the review indicate the need for further research to improve the refugee response in Kenya by the AU.

1.7 Hypotheses of the Study

H1: The AU has a mandate to provide humanitarian assistance in Africa.

H2: The AU does not have a significant role in refugee assistance in Kenya

H3: The AU encounters challenges in providing refugee humanitarian assistance in Kenya.

H0: The AU mandate for the provision of humanitarian assistance in Africa is not clear

1.8 Justification of the Study

This study is essential as it seeks to examine the mandate of the AU in providing refugee humanitarian assistance in Africa and its role in the provision of effective refugee humanitarian assistance in the context of the refugee response in Kenya. The lack of a coordinated approach is one of the numerous challenges facing refugee response in Kenya. This has led to a patchwork of assistance programs that are often fragmented and ineffective. Other challenges include the fact that the influx of refugees into Kenya has had a significant impact on the country's political,

economic, and social landscape thus highlighting the need for effective and sustainable humanitarian assistance.

This study identifies the gaps in the current response mechanisms and proposes ways of strengthening the implementation of multilateral diplomacy in addressing the refugee crisis. It explores the significance of collaboration and cooperation and provides a basis for developing effective policies and strategies for addressing the refugee crisis in Kenya and other regions facing similar challenges. This study will positively affect the lives of refugees and the host communities. It will inform the existing policy and assist policymakers in the amendment and formulation of laws. Other actors such as organizations working on refugee response, humanitarian assistance and multilateral diplomacy can also draw valuable insights from this study.

1.9 Theoretical Framework

The AU's humanitarian assistance in relation to the refugee response in Kenya requires a theoretical framework for its interpretation and analysis. Cosmopolitanism is a prominent theoretical framework that can be employed to analyze the role and effectiveness of the AU in humanitarian assistance in the scope of the refugee response in Kenya.

1.9.1 The Cosmopolitanism Theory

Cosmopolitanism is a political and moral philosophy that emphasizes the importance of global cooperation and shared responsibility for human welfare.⁶⁷ Theorists of cosmopolitanism have written about the role of humanitarian assistance and refugee response in promoting a more just and equitable global order.

David Held, who is considered one of the leading scholars of cosmopolitanism, has argued that a more just and equitable global order requires a shift from state-centered to "multi-level"

⁶⁷ Mary Kaldor, *Cosmopolitanism and Organized Violence* (Cambridge: Polity Press, 2003).

governance, in which multiple actors (both state and non-state) collaborate to address global challenges such as refugee response. Held has also written about the importance of global democratic norms and institutions in ensuring that all people have a voice in shaping their own destinies, including refugees and other marginalized populations.⁶⁸

The States bear the primary responsibility for protecting refugees. Nevertheless, an array of factors prevent this duty from being carried out fully. For instance, a significant number of refugees live in countries with poor economies and challenges with development. The value of international cooperation in supporting states that are hosting refugees is widely acknowledged. “The establishment of the UNHCR and the 1951 Convention on the Status of Refugees was based on this premise. This principle has also been reaffirmed in regional treaties and legal instruments, particularly the Global Compact on Refugees (GCR), which emphasizes the importance of cooperation and collaboration. The GCR highlights the urgent need for a more equitable distribution of the duties and costs connected with accommodating and assisting refugees on a global scale, taking into consideration the current contributions and varied capabilities and resources of different nations.”⁶⁹

Kenya has been hosting large numbers of refugees from neighboring countries, including Somalia and South Sudan, for decades. The refugee situation in Kenya presents a complex set of challenges that require a collaborative, multi-level approach to address effectively. Therefore, this theory emphasizes the need for other actors to work with Kenya as a host country in the refugee response.

⁶⁸ David Held, “LAW OF STATES, LAW OF PEOPLES: Three Models of Sovereignty,” *Legal Theory* 8, no. 1 (March 1, 2002): 1–44, <https://doi.org/10.1017/s1352325202081016>.

⁶⁹ United Nations General Assembly, “Global compact on refugees,” A/RES/73/151, December 17, 2018, <https://www.unhcr.org/protection/operations/5b32f23a7/un-general-assembly-resolution-adoption-global-compact-refugees.html>.

Held's argument for multi-level governance is applicable in that, successful refugee response in Kenya will require the cooperation of multiple actors, including the Kenyan government and the AU. The AU will need to work with the State to create and enforce laws that enhance the safety and well-being of refugees whilst taking into consideration the requirements and concerns of the host populations.

Additionally, Held's emphasis on global democratic norms and institutions highlights the importance of ensuring that refugees and other marginalized populations are heard while shaping laws that have an impact on their lives. In the case of the refugee response in Kenya, this means involving refugees in discussions on issues that have an impact on their everyday lives, such as those related to their access to education, healthcare, and livelihoods.

Nussbaum also wrote about the need for a global system of refugee protection, which recognizes the inherent value, and worth of all human beings.⁷⁰

Seyla Benhabib, has written about the concept of "democratic iterations" in global governance. This idea emphasizes the importance of ongoing dialogue and deliberation among diverse stakeholders in shaping global policies and institutions, including those related to humanitarian assistance and refugee response.

In the case of the refugee response in Kenya, democratic iterations could involve the engagement of refugees and non-governmental entities while formulating policies and developing initiatives, as well as ongoing dialogue and collaboration between states, international organizations, and other stakeholders. This approach could help ensure that the perspectives and needs of refugees are heard and addressed and that humanitarian assistance is more responsive, effective, and respectful of the dignity and agency of refugees. By fostering a more inclusive and

⁷⁰ Martha C. Nussbaum, *The Monarchy of Fear: A Philosopher Looks at Our Political Crisis*, 2018, https://openlibrary.org/books/OL28692654M/Monarchy_of_Fear.

participatory approach to global governance, democratic iterations can contribute to more just and equitable outcomes for refugees and other marginalized groups.

1.10 Methodology of the Research

1.10.1 Research Design

The research adopts a qualitative case study design, which involves collecting and analyzing data from multiple sources, including primary and secondary data sources. The primary data sources included interviews with key stakeholders involved in the refugee response in Kenya. This includes government officials, aid workers, donors, host communities, and refugees themselves. The secondary data sources included published reports, policy documents, and academic articles related to humanitarian assistance and multilateral diplomacy.

1.10.2 Data Collection Method

The data collection process was guided by a semi-structured interview protocol, which was designed to elicit information on the role of the AU in the refugee response in Kenya. Depending on the participants' availability and preferred method of communication, the interviews were conducted in person or online.

1.10.3 Study Site

In this study, the researcher investigated the role of the AU in humanitarian assistance, with a focus on the refugee response in Kenya.

1.10.4 Target Population

The target population for this research included government officials, aid workers, donors, host communities, and refugees in Kenya.

1.10.5 Sampling Technique and Sample Size

For this qualitative case study, a purposive or strategic sampling technique was employed to select participants who meet the specific criteria outlined in the previous section. The criteria for participant selection included 2 government officials actively engaged in refugee-related policymaking, 3 experienced aid workers from local and international organizations, 2 representatives from donor organizations, 2 leaders or representatives from local host communities, and 2 refugees. 11 respondents were selected based on the outlined criteria and were instrumental in capturing diverse perspectives and experiences from key stakeholders in the research. This accounts for the process that led to their selection adhering to the principle of data saturation in qualitative research.

1.10.6 Data Analysis and Presentation

For analysis, the interviews were recorded and thereafter transcribed. The process of data analysis involved a thematic analysis of the interview transcripts and the secondary data sources. The thematic analysis involved identifying and analyzing patterns, trends, and themes in the data, which were used to develop a comprehensive understanding of the role of the AU, challenges in its effectiveness as well and recommendations with regard to refugee response in Kenya. The analysis was guided by the theoretical framework and research questions and was iterative, allowing for revisions and refinements as new data was collected and analyzed. The research findings were presented through a comprehensive narrative report and thematic analysis.

1.11 Scope and Limitations of the Research

The scope of the research was limited to the role of the AU in the refugee response in Kenya. The research was focused on the interaction between the AU and Kenya as well as other

multilateral actors such as international organizations, and NGOs, and how they work together to provide effective humanitarian assistance to refugees in Kenya.

This research also analyzed the impact of the AU's involvement in delivering sustainable humanitarian aid, highlighting the challenges and opportunities for enhancing the response.

There were various limitations to this research. Firstly, the research was limited by the availability and willingness of participants to be interviewed as well as contact with the refugee population for interviews from their end. Some stakeholders were initially hesitant to participate due to security concerns, political sensitivities, or other reasons, which could limit the breadth and depth of data collected. To mitigate this limitation, the researcher employed strategies to build trust and rapport with potential participants, ensuring confidentiality and emphasized the importance of their perspectives in the study.

Secondly, the research was limited by the scope of the data sources available. Some of the secondary data sources, in particular, were not comprehensive or up-to-date, potentially affecting the accuracy and dependability of the research findings. To address this limitation, the researcher carefully evaluated the credibility of secondary data sources and cross-referenced information from multiple reputable sources to enhance data reliability.

Lastly, the research was limited by the contextual factors of the refugee response in Kenya. The refugee response in Kenya is complex and dynamic, with multiple actors and factors involved. The results of this research may not be universally applicable across all situations and recommendations might not be appropriate in all situations. Therefore, acknowledging these limitations was crucial to maintaining the research's validity and ensuring an accurate understanding of the mandate of the AU in the delivery of humanitarian relief particularly in Kenya's refugee response. To mitigate this limitation, the researcher provided a nuanced and

context-specific analysis of the AU's role in Kenya's refugee response, recognizing the unique challenges and opportunities within this particular context.

1.12 Chapter Outline

Chapter 1: Introduction

This chapter introduces the research topic and provides a comprehensive background of the study. It identifies the problem statement, research questions, objectives, hypothesis, justification of the study and literature review. It also provides the Theoretical Framework and Research Methodology.

Chapter 2: The mandate of the AU in providing humanitarian assistance in Africa.

This chapter delves into the core mandate of the AU concerning humanitarian assistance within Africa. It explores the legal and policy frameworks that authorize and empower the AU to intervene in refugee humanitarian crises. The chapter examines the AU's founding documents and legal framework, including the Constitutive Act. Additionally, the chapter evaluates the AU's institutional structures and mechanisms for responding to humanitarian crises, highlighting its coordination efforts with member states and international partners.

Chapter 3: The role of the AU in providing effective refugee humanitarian assistance in Kenya.

This chapter focuses specifically on the AU's role in delivering efficient and impactful humanitarian assistance to refugees in Kenya. It delves into the AU's initiatives, policies, and actions aimed at addressing the unique challenges faced by refugees in the Kenyan context. The chapter examines the AU's involvement in coordinating efforts, providing resources, and supporting local and international organizations in their refugee response activities. It also analyzes how the AU collaborates with the Kenyan government and other stakeholders to ensure a comprehensive and effective approach to refugee humanitarian assistance. Moreover, this chapter

critically assesses the AU's contributions to enhancing refugees' well-being, safety, and integration in Kenya, drawing from specific case studies and examples to illustrate its impact.

Chapter 4: The challenges faced by the AU in providing effective refugee humanitarian assistance in Kenya.

This chapter critically analyses the obstacles and challenges encountered by the AU in its efforts to provide effective refugee humanitarian assistance within Kenya. It examines both internal and external challenges, such as resource constraints, political dynamics, security concerns, and coordination issues. The chapter offers insights into the complexities that impact the AU's ability to achieve its humanitarian objectives.

Chapter 5: Findings, Conclusion and Recommendations

The study's main findings and conclusions are summarized in this chapter, along with suggestions for additional research and policy development. It underscores the study's contributions to existing literature, acknowledges its limitations, and identifies areas warranting further investigation.

CHAPTER TWO

THE MANDATE OF THE AU IN PROVIDING REFUGEE HUMANITARIAN ASSISTANCE IN AFRICA

2.0 Introduction

This chapter provides a comprehensive analysis of the African Union's (AU) primary humanitarian assistance mandate. It examines the legal and policy frameworks that grant authority and obligation to the AU to respond to humanitarian crises involving refugees. The analysis includes a review of important documents such as the Constitutive Act, an evaluation of the AU's institutional structures and mechanisms for responding to humanitarian crises, and a focus on the AU's coordination efforts with member states and international collaborations.

2.1 The Evolution: From the Organization of African Unity (OAU) to the African Union (AU)

The AU is a continental organization with the principal objective of fostering unity and cooperation among African nations.⁷¹ Its establishment on 26 July 2001, in Addis Ababa, Ethiopia, and launch on 9 July 2002 in Durban, South Africa marked the transition from the Organization of African Unity (OAU) to the AU.⁷²

“The OAU was founded in 1963 and was mainly concerned with decolonization and anti-apartheid initiatives. The AU, on the other hand, was established with a broader mission that included peace, security, economic integration, and political cooperation.”⁷³

⁷¹ “About the African Union | African Union,” n.d., <https://au.int/en/overview>.

⁷² Edward Ansah Akuffo, “Cooperating for Peace and Security or Competing for Legitimacy in Africa? The Case of the African Union in Darfur,” *African Security Review* 19, no. 4 (December 1, 2010): 74–89, <https://doi.org/10.1080/10246029.2010.539813>.

⁷³ TRIVEDI, SONU. “African Unity: The Move Forward.” *World Affairs: The Journal of International Issues* 13, no. 1 (2009): 12–30. <https://www.jstor.org/stable/48505468>.

The evolution from the OAU to the AU was prompted by a recognition of the changing dynamics within Africa and the global context and that a more proactive approach to addressing these challenges and advancing peace, stability, and development on the continent was required.⁷⁴ "An Integrated, Prosperous and Peaceful Africa, driven by its own citizens and representing a dynamic force in the global arena" is the vision that steers the African Union.⁷⁵

2.2 The AU's Foundational Documents

The African Union's founding documents are instrumental in shaping the organization's objectives, principles, and operations.⁷⁶ The primary foundational document is the "Constitutive Act of the African Union," which was adopted on 11 July 2000, in Lomé, Togo, and entered into force on 26 May 2001. "This act serves as the AU's constitution, outlining its overarching goals and functions. The foundational document of the AU, the Constitutive Act, explicitly outlines its objectives in Article 3, emphasizing the pursuit of greater unity and cooperation among African countries, as well as the promotion of peace, security, and stability."⁷⁷

The "Abuja Treaty," officially the Treaty Establishing the African Economic Community, is another important document pertaining to the AU's establishment. Adopted in 1991, it provides a fundamental framework for the AU's goals of economic integration.⁷⁸ "The AU's vision of an economically independent and prosperous Africa depends on the accomplishment of these economic goals, which include a phased approach to establishing the African Economic

⁷⁴ Spandler, Kilian, 2020. "Unamid and the legitimation of global-regional peacekeeping cooperation: partnership and friction in un-au relations", *Journal of Intervention and Statebuilding*(2), 14:187-203. <https://doi.org/10.1080/17502977.2020.1725729>

⁷⁵ Manboah-Rockson, Joseph K., 2021. "'grabbing the 'bull' by the 'horns'": a critical analysis of the establishment of afcfta", *Open Journal of Political Science*(02), 11:301-315. <https://doi.org/10.4236/ojps.2021.112020>.

⁷⁶ Zeray Yihdego, "The African Union: Founding Principles, Frameworks and Prospects," *European Law Journal* 17, no. 5 (August 1, 2011): 568–94, <https://doi.org/10.1111/j.1468-0386.2011.00567.x>.

⁷⁷ Odinkalu, Chidi Anselm. "Back to the Future: The Imperative of Prioritizing for the Protection of Human Rights in Africa." *Journal of African Law* 47, no. 1 (2003): 1–37. <http://www.jstor.org/stable/30038546>.

⁷⁸ Nshimbi, Christopher Changwe, 2020. "african union and european union politics: the veiled account of long-standing interregional relations",. <https://doi.org/10.1093/acrefore/9780190228637.013.1128>

Community with major milestones like a Customs Union, a Common Market, a Monetary Union, and the establishment of an African Central Bank and an African Common Currency.”⁷⁹

In addition to these primary documents, the AU's Peace and Security Council Protocol plays a crucial role in guiding the organization's humanitarian and peacekeeping efforts. “It outlines the composition, functions, and decision-making procedures of the Peace and Security Council, which is central to the AU's efforts in conflict prevention, management, and resolution. This protocol underscores the AU's commitment to proactive conflict prevention and post-conflict reconstruction, aligning with its broader objectives for peace and security on the continent.”⁸⁰

2.3 The AU’s Objective to Provide Humanitarian Assistance

The significance of the AU stems from its ability to address the various issues facing the continent, such as public health, economic development, conflicts, and humanitarian crises. “The AU plays a pivotal role in conflict resolution and peacekeeping operations, underpinned by the principle of non-indifference as articulated in Article 4 (h) of the Constitutive Act.”⁸¹

Article 3 (1) of the Constitutive Act demonstrates the organization's commitment to humanitarian assistance by highlighting the necessity to “promote and protect human and peoples’ rights in accordance with the African Charter on Human and Peoples’ Rights and other relevant human rights instruments.”⁸² Notably, the 1951 Refugee Convention alongside the Universal

⁷⁹ Yingi, Edwin, 2022. "Beyond the pandemic: implications of covid-19 on regional economic integration in southern africa.", *International Journal of Research in Business and Social Science* (2147-4478)(2), 11:270-279. <https://doi.org/10.20525/ijrbs.v11i2.1661>

⁸⁰ Majinge, Charles, 2011. "Regional arrangements and the maintenance of international peace and security: the role of the african union peace and security council", *Canadian Yearbook of International Law/Annuaire Canadien De Droit International*, 48:97-149. <https://doi.org/10.1017/s0069005800010092>.

⁸¹ Nieuwkerk, Anthoni van, 2011. "the regional roots of the african peace and security architecture: exploring centre–periphery relations", *South african Journal of International Affairs*(2), 18:169-189. <https://doi.org/10.1080/10220461.2011.588824>.

⁸² Rafiu, Bakare Adebola, 2014. "african union and the developmental transformation of africa: challenges, achievement and prospects", *European Journal of Sustainable Development*(1), 3:67-86. <https://doi.org/10.14207/ejsd.2014.v3n1p67>.

Declaration of Human Rights and the Convention on the Rights of the Child are among such legal instruments.

Humanitarian assistance is stressed on more by the AU's Peace and Security Council Protocol which emphasizes the necessity of preventing, resolving, and participating in post-conflict reconstruction—all essential components of humanitarian work.⁸³

In alignment with Article 19 of the Constitutive Act, the AU's humanitarian principles are also demonstrated by its participation in regional and international organizations, including the United Nations. “These partnerships are essential to crisis management and peacekeeping efforts, thereby reinforcing the AU's role in promoting peace, security, and humanitarian well-being in the region.”⁸⁴

2.4 Administration of The AU’s Mandate to Provide Refugee Humanitarian Assistance in

Africa

The AU’s commitment to addressing humanitarian needs is reinforced through the establishment of vital departments and organs. Additionally, the continental organization has policies and mechanisms that are pivotal for providing humanitarian relief. Furthermore, the organization collaborates with various entities to implement its mandate to provide refugee humanitarian assistance in Africa.

“The AU seeks to uphold the rights enshrined in the Convention Relating to the Status of Refugees, ensuring that refugees are granted asylum, have access to basic necessities, receive

⁸³ “The Peace & Security Council | African Union,” n.d., <https://au.int/en/psc>.

⁸⁴ Kioko, Ben, 2003. "the right of intervention under the african union's constitutive act: from non-interference to non-intervention", *International Review of the Red Cross*(852), 85:807-826. <https://doi.org/10.1017/s0035336100179948>

protection, and are given the opportunity to rebuild their lives in a safe and secure environment.”⁸⁵ “By adhering to the principles of this international legal framework, the AU hopes to provide effective and comprehensive humanitarian assistance to refugees, contributing to regional stability, peace, and the well-being of refugees.”⁸⁶

The Department of Social Affairs (DSA) oversees a broad range of social issues, such as migration, health, and humanitarian affairs.⁸⁷ As such, the DSA plans and carries out initiatives pertaining to refugee aid, guaranteeing the safety and well-being of displaced people. “In terms of legal matters and international law, the African Union Commission on International Law (AUCIL) ensures that refugee and humanitarian law frameworks are established and upheld, which is essential for protecting the rights and welfare of refugees.”⁸⁸ “Working closely with The African Union Commission's Department of Humanitarian Affairs, Refugees, and Displaced Persons (AUC's HARDP), the Subcommittee on Refugees, Returnees, and IDPs is an essential part of the Permanent Representatives Committee.”⁸⁹ It is important to address issues pertaining to refugees, returnees, and IDPs within the larger framework of the Permanent Representatives Committee and the AUC's HARDP.

In order to address the challenges posed by refugee crises, the United Nations General Assembly adopted the Global Compact on Refugees (GCR) in December 2018.⁹⁰ The main objective of the GCR is to create a framework for the predictable and equitable sharing of burdens

⁸⁵ Edwards, Alice. "Human rights, refugees, and the right 'to enjoy' asylum." *International Journal of Refugee Law* 17, no. 2 (2005): 293-330.

⁸⁶ Hathaway, James C. "A reconsideration of the underlying premise of refugee law." In *International Refugee Law*, pp. 65-119. Routledge, 2017.

⁸⁷ The Department of Social Affairs (DSA) | African Union. (n.d.). <https://au.int/en/sa/about>

⁸⁸ Majinge, Charles Riziki. "The progressive development of the laws of the African Union: examining the potential contribution of the African Union Commission on International Law." *South African Yearbook of International Law* 35, no. 1 (2010): 1-35.

⁸⁹ Abebe, Allehone M. *The Emerging Law of Forced Displacement in Africa: Development and implementation of the Kampala Convention on internal displacement*. Taylor & Francis, 2016.

⁹⁰ Nannerini, Augusta. "The Global Compact on Refugees: International Development in the Service of Refugee Protection and National Self-interest." *Annali della Fondazione Luigi Einaudi* 54, no. 1 (2020): 169-195.

and responsibilities among UN Member States and relevant stakeholders, including regional organizations such as the AU.

Improving the living conditions of refugees, securing their integration into host communities, and fostering their independence are among its main goals. “By aligning with the GCR's principles and objectives, the AU strengthens its commitment to providing humanitarian assistance and protection to refugees on the continent, while also contributing to the larger goals of international cooperation in this crucial area. The AU has adopted the GCR as a significant tool for guiding its efforts in addressing refugee crises in the African context.”⁹¹

“The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (1969 Refugee Convention) holds the distinction of being the world's first regional refugee protection instrument. This historic convention establishes a comprehensive legal framework for addressing refugee issues within the African context, ensuring that the rights and well-being of refugees are upheld and protected.”⁹² It serves as Africa's governing treaty on refugee protection, outlining the rights and obligations of refugees as well as the responsibilities of host states.

The 1969 Refugee Convention has been embraced and adopted by the AU as a fundamental element of its commitment to tackling the continent's refugee issues. “The AU strengthens its mission to address the unique aspects of refugee problems on the continent by aligning with this crucial legal framework, which helps to further the larger goals of refugee protection and humanitarian assistance in Africa.”⁹³

⁹¹ Nicolosi, Salvatore F., and Solomon Momoh. "International Solidarity and the Global Compact on Refugees: What Role for the African Union and the European Union?." *Journal of African Law* 66, no. 1 (2022): 23-45.

⁹² UNHCR - The UN Refugee Agency. (n.d.). Persons covered by the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and by the Cartagena Declaration on Refugees (Submitted by the African Group and the Latin American Group) | UNHCR. UNHCR. <https://www.unhcr.org/publications/persons-covered-oau-convention-governing-specific-aspects-refugee-problems-africa-and>

⁹³ d'Orsi, Cristiano. "The AU Convention on Refugees and the Concept of Asylum." *Pace Int'l L. Rev. Online Companion* (2012): vi.

The African Union Humanitarian Action Policy, adopted in 2015 serves the vital function of providing a framework for the AU's humanitarian response to crises across the African continent.⁹⁴ It directs the AU's efforts to address humanitarian issues, such as offering vital support to internally displaced persons (IDPs) and refugees affected by crises. It also serves as a vital tool for coordinating and organizing the AU's response to humanitarian emergencies in Africa. “The policy places significant emphasis on the guiding principles that serve as the foundation for the AU's humanitarian operations. These principles comprise neutrality, impartiality, and a commitment to upholding international humanitarian law. By maintaining these core values, the AU guarantees that its humanitarian endeavors are carried out in a manner that is equitable, lawful, and compliant with ethical and legal norms.”⁹⁵

Initiated in 2006, the African Union Regional Consultative Process on Migration provides a forum for the gathering of African country representatives. “Its main goal is to promote policy coordination and dialogue concerning migration, with a specific emphasis on the safeguarding of refugees and asylum seekers. The African Union's consultative process is essential in fostering communication and cooperation among its member nations, allowing for coordinated efforts to tackle the different issues related to migration and displacement.”⁹⁶ The AU demonstrates its commitment to tackling the complex issues associated with migration and displacement in Africa by means of coordinated and collective efforts by endorsing this consultative process.

⁹⁴ African Humanitarian Policy Framework, AU Commission, Department of Political Affairs, Refugees and Displaced Persons Division, 20 November 2015, available at: www.peaceau.org/uploads/humanitarian-policy-framework-rev-final-version...

⁹⁵ International Review of the Red Cross. “The African Union’s Humanitarian Policies: A Closer Look at Africa’s Regional Institutions and Practice,” November 1, 2022. https://international-review.icrc.org/articles/the-african-unions-humanitarian-policies-920#footnote25_8t19twm.

⁹⁶ Maiyegun, Olawale. "Role of regional consultative processes in the lead up to the negotiations of global compact on migration: The case of Africa." *International Migration* 57, no. 6 (2019): 258-272.

The primary goal of the 2015 established Emergency Trust Fund for Africa is to provide prompt and efficient responses to crises that arise throughout the continent of Africa, including those involving the displacement of refugees and IDPs. “The trust fund is essential in meeting the immediate needs of impacted populations during emergencies and making sure that support is given. The AU adopted this trust fund and actively supports it as an essential mechanism for addressing humanitarian crises and displacement situations.”⁹⁷

“Adopted in 2018, the African Union Migration Policy Framework addresses the issues surrounding migration and displacement in Africa while promoting the rights and dignity of all migrants, including refugees. The framework's dual goals are to protect and assist refugees, asylum seekers, and individuals in need of international protection.”⁹⁸ The AU's ability to address the intricate problems surrounding migration, fight for the rights of all migrants, and assist individuals across the African continent who require international protection—including refugees—is strengthened by the adoption of this framework.⁹⁹

The African Standby Force (ASF) is a vital part of the peace and security architecture of the AU.¹⁰⁰ It plays a vital role in conflict prevention, management, and resolution—areas that are closely linked to humanitarian assistance efforts. “The ASF is a multidisciplinary force that is adaptable and can be quickly deployed to address security threats and conflicts. Its role is crucial in guaranteeing the safety and well-being of affected populations, including refugees.”¹⁰¹

⁹⁷ Emergency Trust Fund for Africa. “Our Mission,” n.d. https://trust-fund-for-africa.europa.eu/our-mission_en.

⁹⁸ “The Migration Policy Framework for Africa (MPFA) | African Union,” n.d. <https://au.int/en/documents/20181206/migration-policy-framework-africa-mpfa>.

⁹⁹ Abdelaziz, Ayaat. “Development as more than economic growth: A qualitative analysis on development in the African Union’s migration policy.” (2022).

¹⁰⁰ Neethling, Theo. “Realizing the African standby force as a pan-African ideal: progress, prospects and challenges.” *Journal of Military and Strategic Studies* 8, no. 1 (2005).

¹⁰¹ Apuuli, Kasaija Phillip. “The African capacity for immediate response to crises (ACIRC) and the establishment of the African Standby Force (ASF).” *Journal of African Union Studies* 2, no. 1_2 (2013): 63-88.

2.5 Summary of Key Chapter Findings

It is evident that the AU derives its authority to provide humanitarian assistance, with a particular focus on refugee humanitarian assistance, from its foundational documents. These documents, including the Constitutive Act, the Abuja Treaty, and the Peace and Security Council Protocol, explicitly expressly set forth the significance in the provision of humanitarian relief to displaced persons, in this case, refugees. The mandate is also reflected through various AU departments, mechanisms and policies such as The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, the African Union Commission's Department of Humanitarian Affairs, Refugees, and Displaced Persons (AUC's HARDP) and the Subcommittee on Refugees, Returnees, and IDPs. Indeed the AU has a role to play in refugee response in Africa.

CHAPTER THREE

THE ROLE OF THE AU IN PROVIDING EFFECTIVE REFUGEE HUMANITARIAN ASSISTANCE IN KENYA

3.0 Introduction

This chapter explores the AU's role in providing effective humanitarian assistance to refugees in Kenya. It delves into the AU's initiatives, policies, and collaborative efforts with the Kenyan government and other stakeholders. It critically evaluates the AU's impact on refugees' safety, well-being, and integration using case studies and examples.

3.1 Legal and Policy Frameworks in Kenya

Legal and policy frameworks in Kenya play a crucial role in authorizing and empowering the African Union (AU) to intervene in refugee humanitarian crises within the country. One key legal instrument is the Refugees Act of 2006.¹⁰² "This legislation provides a comprehensive framework for the management of refugees and their humanitarian needs, aligning with international standards and conventions. Kenya, as a sovereign nation, has adopted the Refugees Act, thereby granting the AU a legal basis for its interventions in addressing refugee humanitarian crises within its borders."¹⁰³ The Act outlines the rights and responsibilities of refugees, their access to essential services, and the government's obligations towards them, which enables the AU to coordinate and work within this legal framework.

Additionally, Kenya is party to a number of international conventions, such as the 1951 Refugee Convention and its 1967 Protocol, which define the rights and safeguards for refugees.

¹⁰² Refugees Act 2006," No. 13, 2006.

¹⁰³ MUIGUA, KARIUKI. "Protecting Refugees Rights In Kenya: Utilizing International Refugee Instruments, The Refugee Act 2006 And The Constitution Of Kenya As Catalysts..

As such, Kenya must ensure that its domestic policies are in line with these agreements.¹⁰⁴ By ratifying these conventions, Kenya not only demonstrates its commitment to international refugee law but also empowers the AU to engage in refugee humanitarian assistance on Kenyan soil.

Furthermore, Kenya's "National Action Plan for the Implementation of the United Nations Security Council Resolutions on Women, Peace, and Security" is another policy framework that authorizes and empowers the AU in refugee humanitarian crises.¹⁰⁵ Kenya has adopted this plan, which outlines strategies to address gender-based violence and protect women and girls' rights in conflict and post-conflict situations. Kenya supports the AU's efforts to provide gender-sensitive humanitarian assistance to refugee populations within its borders, emphasizing the importance of protecting vulnerable groups. Kenya has adopted and put this plan into action.

Kenya's commitment to these legal and policy frameworks empowers the AU to intervene effectively in refugee humanitarian crises in Kenya.

3.2 Forms of Refugee Humanitarian Assistance by the AU in Kenya

One crucial category of assistance offered by the AU in Kenya is protection. "The AU, through its Committee on Refugees, Returnees, and IDPs, plays a pivotal role in safeguarding the rights and safety of refugees. This committee, which operates under the Permanent Representatives Committee and the African Union Commission's Department of Humanitarian Affairs, Refugees, and Displaced Persons (AUC's HARDP), collaborates with Kenyan authorities to ensure that refugees receive the necessary protection and support."¹⁰⁶ It works to prevent and address issues such as gender-based violence, discrimination, and exploitation within refugee communities. "The

¹⁰⁴ Hurwitz, Agnès G. *The collective responsibility of states to protect refugees*. Oxford Monographs in International Law, 2009.

¹⁰⁵ "Kenya – 1325 National Action Plans," n.d. <http://1325naps.peacewomen.org/index.php/kenya/>.

¹⁰⁶ Usro, G., and Anna Hakami. "Regional migration governance in Africa: AU and RECs." (2020).

AU's mechanisms ensure that refugees in Kenya are provided with legal protection, and their rights are upheld.”¹⁰⁷

The AU, in collaboration with its member states, deploys humanitarian missions and teams, including the African Standby Force (ASF), to provide immediate relief to refugees in Kenya during crises.¹⁰⁸ These missions focus on delivering essential services such as food, clean water, shelter, and healthcare. “The AU's ability to mobilize these mechanisms is crucial in addressing the urgent humanitarian relief needs of refugees in Kenya. The ASF's rapid deployment capability enables it to respond swiftly to emergencies, ensuring that refugees' basic needs are met.”¹⁰⁹

The AU acknowledges the value of refugees' self-sufficiency and their contribution to the local economy and provides support for refugees in the areas of livelihood and self-reliance.¹¹⁰ “The AU Commission on International Law (AUCIL), in collaboration with Kenyan authorities, promotes initiatives to provide refugees with opportunities for education, vocational training, and employment.”¹¹¹ “The AU guarantees that refugees can lead more independent lives by helping them to acquire skills and find employment. The AUCIL works to establish legal frameworks that enable refugees to take advantage of these opportunities, thereby fostering their self-reliance in Kenya.”¹¹²

¹⁰⁷ Lomo, Zachary A. "The struggle for protection of the rights of refugees and IDPs in Africa: Making the existing international legal regime work." *Berkeley J. Int'l L.* 18 (2000): 268.

¹⁰⁸ Douglas, Damian E. "Humanitarian relief capabilities in the Horn of Africa." PhD diss., Fort Leavenworth, KS: US Army Command and General Staff College, 2014.

¹⁰⁹ Mills, Kurt. *International responses to mass atrocities in Africa: responsibility to protect, prosecute, and palliate.* University of Pennsylvania Press, 2015.

¹¹⁰ Jacobsen, Karen. "Livelihoods in conflict: the pursuit of livelihoods by refugees and the impact on the human security of host communities." *International migration* 40, no. 5 (2002): 95-123.

¹¹¹ Majinge, Charles Riziki. "The progressive development of the laws of the African Union: examining the potential contribution of the African Union Commission on International Law." *South African Yearbook of International Law* 35, no. 1 (2010): 1-35.

¹¹² Achour, Mr Rafaâ Ben, Mr Daniel Makiese Mwanawanzambi, Mr Boniface Obina Okere, Mr Kholisan Solo, Mrs Naceesay Salla-Wadda, Mr Ebenezer Appreku, Mr Minelik Alemu Getahun et al. "Aucil Journal of International Law." (2013).

Furthermore, the AU actively engages with international partners such as the UNHCR and non-governmental organizations in Kenya to enhance the effectiveness of its refugee humanitarian assistance.¹¹³ “The coordination between the AU and its international partners maximizes its impact and contributes to the development of a more sustainable and comprehensive approach to addressing refugee humanitarian crises in Kenya. These collaborations guarantee refugees a comprehensive range of support, including protection, humanitarian relief, and livelihood assistance.”¹¹⁴

Another critical category of refugee humanitarian assistance provided by the AU in Kenya involves cash assistance.¹¹⁵ “The AU, working in collaboration with relevant departments such as the African Union Commission's Department of Humanitarian Affairs, Refugees, and Displaced Persons (AUC's HARDP), employs cash-based interventions to support refugees. Cash assistance is an effective tool in humanitarian response, as it allows refugees to make choices that best suit their needs and empowers them in decision-making.”¹¹⁶

“The Department of Humanitarian Affairs, Refugees, and Displaced Persons of the African Union is actively engaged in the development and implementation of cash assistance programs for refugees in Kenya. These programs give refugees access to money so they can meet their basic needs, such as buying food, shelter, and other necessities.”¹¹⁷

¹¹³ Kraft, Kathryn, and Jonathan D. Smith. "Between international donors and local faith communities: Intermediaries in humanitarian assistance to Syrian refugees in Jordan and Lebanon." *Disasters* 43, no. 1 (2019): 24-45.

¹¹⁴ Sharpe, Marina. "UNHCR, the AU and the rhetoric and realities of 'Root Causes'." *Routledge Handbook of African Peacebuilding* (2022).

¹¹⁵ Sharpe, Marina. "Organization of African Unity and African Union Engagement with Refugee Protection: 1963–2011." *African Journal of International and Comparative Law* 21, no. 1 (2013): 50-94.

¹¹⁶ Allahi, Fahimeh, Saeed Taheri, Ramez Kian, and Ehsan Sabet. "Cash-based interventions to enhance dignity in persistent humanitarian refugee crises: a system dynamics approach." *IEEE Transactions on Engineering Management* 69, no. 6 (2020): 3436-3453.

¹¹⁷ The Department of Humanitarian Affairs, Refugees, and Displaced Persons of the African Union is actively engaged in the development and implementation of cash assistance programs for refugees in Kenya. These programs give refugees access to money so they can meet their basic needs, such as buying food, shelter, and other necessities.

“With cash assistance, the AU helps refugees in Kenya uphold their dignity, make decisions about their basic needs, and participate in the local economy—all of which lead to the eventual goal of self-sufficiency. Cash assistance is consistent with humanitarian aid principles, guaranteeing that refugees receive assistance that is effective, honorable, and customized to their individual needs.”¹¹⁸

3.3 Positive Impact of AU’s Refugee Humanitarian Assistance in Kenya

The AU invests in capacity building for its member states, including Kenya, to strengthen their ability to manage refugee situations. By enhancing the capacity of host countries, the AU guarantees that they can more effectively address the needs of refugees and internally displaced people.¹¹⁹ Furthermore, the AU is able to mobilize resources and support from around the continent and the world. This mobilization of resources aids in the funding and maintenance of refugee assistance programs, guaranteeing that the basic needs of refugees are satisfied.¹²⁰

One of the most significant benefits of the AU in its provision of humanitarian relief to refugees is its ability to foster a sense of solidarity among its member states. “This cohesiveness on a regional level facilitates mutual aid during humanitarian crises and creates a cooperative environment in which nations are willing to aid one another.”¹²¹ This cooperative spirit not only reinforces the AU’s commitment to humanitarian aid but also has a positive knock-on effect on

¹¹⁸ Slaughter, Amy G. "Fostering Refugee Self-Reliance: A Case Study of an Agency's Approach in Nairobi." *Journal of Refugee Studies* 33, no. 1 (2020): 107-124.

¹¹⁹ Ratha, Dilip, ed. *Leveraging migration for Africa: Remittances, skills, and investments*. World Bank Publications, 2011.

¹²⁰ Sharpe, Marina. "Organization of African Unity and African Union Engagement with Refugee Protection: 1963–2011." *African Journal of International and Comparative Law* 21, no. 1 (2013): 50-94.

¹²¹ Makinda, Samuel M., and F. Wafula Okumu. *The African Union: challenges of globalization, security, and governance*. Routledge, 2007.

refugee assistance efforts by Kenya. It is in line with the Global Compact on Refugees (GCR) and embodies the core values of the International Refugee Convention.¹²²

The AU frequently works with NGOs and international humanitarian organizations, such as UNHCR to offer humanitarian aid to South Sudanese refugees in Kenya. This cooperation entails giving the refugees access to food, water, shelter, and other necessities.

Additionally, the AU, being an African regional organization, has a comprehensive comprehension of the socio-political dynamics, cultural subtleties, and distinct challenges that exist in Kenya and the East African region. This expertise in the region enables the AU to more effectively customize its assistance to the particular needs and context of the refugees in Kenya.¹²³ For instance, the African Union has played a significant role in the provision of humanitarian assistance following the conflict that erupted in Sudan in April 2023 between the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF).¹²⁴ In order to ensure an immediate, permanent, inclusive, and unconditional cessation of hostilities and strengthening of the humanitarian response, the AU Roadmap was adopted by the Peace and Security Council (PSC) at the level of Heads of State and Government on 27 May 2023.¹²⁵

“The AU's presence and coordination mechanisms, such as the Subcommittee on Refugees, Returnees, and Internally Displaced Persons, enable the harmonization of efforts among member states, international organizations, and non-governmental actors involved in refugee assistance.”¹²⁶

¹²² Rimer, Kimberly Wangeci. "Unbearing burden of the refugee crisis on developing countries: Is the global compact on refugees the solution?." Master's thesis, University of Cape Town, 2020.

¹²³ Mbara, Kennedy O. "Regional Approaches to the Governance of Internally Displaced Persons: a Case Study of the African Union in Kenya." PhD diss., University of Nairobi, 2014.

¹²⁴ Kohnert, Dirk. "On the impact of the 2023 Sudanese war on Africa and beyond." Available at SSRN 4473724 (2023).

¹²⁵ "Third Meeting of the Expanded Mechanism on the Sudan Crisis to Discuss the Implementation of the African Union Roadmap for the Resolution of the Conflict in Sudan | African Union," n.d. <https://au.int/en/newsevents/20230531/third-meeting-expanded-mechanism-sudan-crisis-discuss-implementation-african>.

¹²⁶ Usro, G., and Anna Hakami. "Regional migration governance in Africa: AU and RECs." (2020).

This coordination reduces duplication of efforts and enhances the overall impact of humanitarian interventions.¹²⁷ The AU's commitment to international legal frameworks, such as the Convention Relating to the Status of Refugees, reinforces the protection of refugees' rights and well-being in Kenya.

The AU's peace and security architecture, including the African Standby Force, plays a vital role in conflict prevention and resolution.¹²⁸ By addressing the root causes of displacement and conflict in Kenya, the AU contributes to long-term solutions that can reduce the refugee population. While the instability in Somalia has been a major driver of refugee flows into neighboring countries, including Kenya, another noteworthy example is the African Union Mission in Somalia (AMISOM), where the AU deployed peacekeepers to support the Somali government's efforts to combat extremist groups like Al-Shabaab. Although AMISOM's primary mission is not humanitarian assistance, its presence and efforts contribute to the overall peace and security in the region.

The AU's diplomatic efforts assist in resolving legal and administrative issues affecting refugees, and its political and diplomatic engagement with the Kenyan government and other stakeholders facilitates discussions and negotiations that can lead to improved refugee protection and assistance. For instance, a considerable number of South Sudanese refugees have fled their country of origin in search of safety in neighboring countries, such as Kenya.

“The AU has been actively involved in mediation efforts to resolve the conflict in South Sudan through the Intergovernmental Authority on Development (IGAD) and its Peace and Security

¹²⁷ Nicolosi, Salvatore F., and Solomon Momoh. "International Solidarity and the Global Compact on Refugees: What Role for the African Union and the European Union?." *Journal of African Law* 66, no. 1 (2022): 23-45.

¹²⁸ Dersso, Solomon A. "The role and place of the African Standby Force within the African Peace and Security Architecture." *Institute for Security Studies Papers* 2010, no. 209 (2010): 24.

Council. The AU's efforts are crucial for creating the conditions necessary for refugees to return to their home country in the long term.”¹²⁹

3.4 Summary of Key Chapter Findings

The AU provides a multi-faceted approach to refugee humanitarian assistance in Kenya. It focuses on protection, humanitarian relief, and livelihood support while collaborating with its various organs and mechanisms to ensure that refugees' rights and well-being are preserved.

The AU's coordination with international partners further enhances the comprehensiveness of its assistance programs in Kenya, demonstrating its commitment to addressing the diverse needs of refugees in the country. The AU's involvement in refugee humanitarian assistance in Kenya leverages its regional expertise, coordination mechanisms, normative commitment, resource mobilization, peace and security initiatives, diplomatic engagement, regional solidarity, and capacity-building efforts. These advantages collectively contribute to more effective and comprehensive refugee assistance programs in Kenya, ultimately improving the lives of refugees and enhancing the overall humanitarian response.

¹²⁹ Tchioffo Kodjo, “Report of the Chairperson of the Commission on the Situation In South Sudan - Peace and Security Council 515th Meeting at the Level of the Heads of State and Government-African Union - Peace and Security Department,” African Union, Peace and Security Department, n.d.

CHAPTER FOUR

THE CHALLENGES FACED BY THE AU IN PROVIDING EFFECTIVE REFUGEE HUMANITARIAN ASSISTANCE IN KENYA

4.0 Introduction

This chapter sheds light on the multifaceted challenges confronting the African Union (AU) in its pursuit of providing effective humanitarian assistance to refugees in Kenya. These challenges, deeply embedded in Kenya's complex sociopolitical context, underscore the pressing necessity for strategic interventions.

4.1 Challenges faced in providing effective humanitarian assistance to refugees in Kenya

The AU has been instrumental in responding to humanitarian emergencies and offering aid to refugees, thereby making a substantial positive impact on the security and welfare of displaced people in Kenya. Throughout its engagement in the region, the AU has upheld a commitment to humanitarian principles, reflecting its mandate to protect and support those in need. “The AU's presence and coordination mechanisms have facilitated the harmonization of efforts among member states, international organizations, and non-governmental actors, working towards the common goal of effective refugee humanitarian assistance.”¹³⁰

Although the AU has had a tremendous impact in this area, it has not been without difficulties. Political unpredictability, financial constraints, and logistical difficulties present obstacles in the way of providing comprehensive and efficient humanitarian aid in Kenya.

¹³⁰ Wanyonyi, Shirley N. "Role of Regional Organizations in Environmental Migration Governance: a Comparative Study of Au and Eu." PhD diss., University of Nairobi, 2022.

4.1.1 Coordination Difficulties

The issue of inadequate coordination and ineffective collaboration among different humanitarian actors is one of the “major challenges that the AU is facing in Kenya when it comes to providing refugee assistance.”¹³¹ The success of humanitarian assistance frequently depends on the ability of various organizations, including the AU, to coordinate their efforts and resources seamlessly. “Lack of coordination results in duplication of efforts, resource wastage, and most importantly, impedes the delivery of timely and effective aid to refugees in Kenya, where multiple actors are involved in the refugee response.”¹³²

“This issue of poor coordination not only affects the efficiency of assistance but also raises questions about the ability to address the specific needs and priorities of different refugee and host community groups effectively. It also causes friction and disputes between different parties and lessens the overall effectiveness of humanitarian interventions.”¹³³

4.1.2 Political Instability

Political instability in Kenya poses a significant challenge to the AU efforts in providing humanitarian assistance to refugees.¹³⁴ “An illustrative example of this challenge occurred during the 2007 post-election unrest in Kenya when refugees and other displaced

¹³¹ Karanja, Peter Njuki, Christopher J. Mairura, and Kepha Ombui. "Determinants of effective logistics coordination among humanitarian organizations in Kenya. A case of humanitarian organization in Nairobi County." *International Journal of Scientific and Research Publications* 5, no. 6 (2015): 59-81.

¹³² Wandeto, Joel Wanjohi. "Factors influencing refugees access to social services. The case of Hagadera camp, Dadaab refugee complex in Garissa county, Kenya." PhD diss., University of Nairobi, 2014.

¹³³ Jacobsen, Karen, and Susan Fratzke. *Building livelihood opportunities for refugee populations: lessons from past practice*. Washington, DC: Migration Policy Institute, 2016.

¹³⁴ Kirui, Peter, and John Mwaruvie. "The dilemma of hosting refugees: a focus on the insecurity in north-eastern Kenya." *International Journal of Business and Social Science* 3, no. 8 (2012): 161-171.

people in the region were not receiving food supplies or other essential humanitarian aid during this time of political and ethnic violence.”¹³⁵

Due to the unstable political climate, "the United Nations World Food Programme (WFP) and other humanitarian organizations faced significant challenges in providing direct assistance to those who relied on their support.”¹³⁶ This crisis not only caused a delay in assistance but also created a precarious environment for both humanitarian workers and the refugees they sought to assist. Instances of political instability seriously impair the African Union's capacity to promptly and effectively provide humanitarian assistance to refugees in Kenya and underscores the importance of addressing this challenge to ensure the well-being of displaced populations.

4.1.3 Government Approach

“The AU’s humanitarian efforts have faced significant obstacles due to the Kenyan government's securitization-focused approach to refugee response, which frequently places more emphasis on security and deterrence measures than on protection and assistance.”¹³⁷ “Scholars have pointed out that this security-centric approach is primarily motivated by worries about national security, which places more emphasis on containment and deterrence strategies than on addressing the causes of migration.”¹³⁸ The outcome of this restrictive approach is “a legal framework that restricts the rights of refugees and their access to essential services, such as healthcare and education.”¹³⁹ The government's

¹³⁵ ReliefWeb. “Kenya Food Security Emergency: Post-Election Conflict Causes Extreme Food Insecurity in Rural Areas, Urban Centers - Kenya,” 2008

¹³⁶ Ibid.

¹³⁷ Natale, Fabiana. “Kenya and the Securitization of Refugees — The Security Distillery.” The Security Distillery, March 27, 2020. <https://thesecuritydistillery.org/all-articles/kenya-and-the-securitization-of-refugees>.

¹³⁸ Idachaba, Enemaku. “Military-Focused Security.” In Springer eBooks, 1–12, 2019.

¹³⁹ Bozorgmehr, Kayvan, and Oliver Razum. "Effect of restricting access to health care on health expenditures among asylum-seekers and refugees: a quasi-experimental study in Germany, 1994–2013." *PloS one* 10, no. 7 (2015): e0131483.

emphasis on security measures hinders the AU's attempts to offer comprehensive humanitarian assistance, which poses a serious obstacle to the organization's refugee assistance programs in Kenya.¹⁴⁰

4.1.4 Limited Funding

Limited financial resources present significant challenges to the AU's role in delivering humanitarian assistance to refugees in Kenya.¹⁴¹ “Since there has been a significant increase in the number of refugees entering Kenya in recent years, it has become more difficult for the Kenyan government and international organizations such as the African Union to meet the humanitarian needs of displaced populations.”¹⁴²

The government's limited financial resources, combined with the strain that the refugee influx has placed on them, make it difficult for them to provide the necessary support. “The AU's humanitarian initiatives in Kenya are thus constrained by this fiscal deficit. Furthermore, funding for refugee assistance programs often falls short of what is required to ensure refugees' well-being and their integration into host communities.”¹⁴³

For example, during the 2011-2012 famine and food crisis in the Horn of Africa, which directly affected a significant refugee population in Kenya, “the AU's efforts were constrained due to inadequate funding. Despite the dire need for food, medical supplies, and other relief items, the AU's intervention in the crisis was hindered by a shortage of financial resources. Due to the funding gap, the AU and other humanitarian organizations

¹⁴⁰ Onuong'a, Yobesh M. "Managing refugees in Kenya: Development assistance and conflict management." PhD diss., 2005.

¹⁴¹ Powell, Kristiana. "The African Union's Emerging Peace and Security Regime Opportunities and Challenges for Delivering on the Responsibility to Protect." (2005).

¹⁴² Lindley, Anna. "Between a protracted and a crisis situation: policy responses to Somali refugees in Kenya." *Refugee Survey Quarterly* 30, no. 4 (2011): 14-49.

¹⁴³ Hynie, Michaela. "Refugee integration: Research and policy." *Peace and Conflict: Journal of Peace Psychology* 24, no. 3 (2018): 265.

were unable to provide refugees and displaced people with aid in a timely manner, which prolonged the suffering of those in need.”¹⁴⁴

Resolving the funding issues and looking into more sustainable financial models for refugee assistance are crucial to improving the AU's ability to provide humanitarian aid to refugees in Kenya.

4.1.5 Lack of Awareness and Application of the Core Humanitarian Standard

Awareness (CHS)

A notable challenge in providing effective humanitarian assistance to refugees in Kenya is the limited awareness and application of the Core Humanitarian Standard (CHS) among organizations involved in refugee response,¹⁴⁵ including the AU. The implementation and awareness of CHS commitments can be a barrier to the AU and other actors being held sufficiently accountable to refugees, donors, and stakeholders.¹⁴⁶ Nonetheless, the CHS is an indispensable instrument for enhancing accountability and guaranteeing that humanitarian actions meet fundamental standards of quality, transparency, and efficiency.¹⁴⁷ A gap in understanding and utilization of the CHS commitments related to quality, transparency, participation, and feedback results in less effective and accountable humanitarian operations.

¹⁴⁴ Maxwell, Daniel, Nisar Majid, Heather Stobaugh, Jeeyon Janet Kim, Jacqueline Lauer, and Eliza Paul. "Lessons Learned from the Somalia Famine and the Greater Horn of Africa Crisis 2011-2012." Desk review, Feinstein International Center, Tufts University (2014).

¹⁴⁵ Getachew, Hermela. "Role of Humanitarian Organizations in Ensuring Peaceful Coexistence between Host Communities and Refugees: In case of the Bambasi and Jewi refugee camps." PhD diss., ST. MARY'S UNIVERSITY, 2020.

¹⁴⁶ Brouder, A. "Accountability to affected populations in Urban Crises: who cares." (2017): 3.

¹⁴⁷ Okhowat, Ali, and Caroline Clarinval. "Rescuing Relief in Remote Management and Programming: Using a Duty of Care Transfer Review to Assess the Accountability of Humanitarian Interventions." *Health Care in Contexts of Risk, Uncertainty, and Hybridity* (2022): 167-178.

4.1.6 Corruption and Mismanagement of Funds

The efficient delivery of humanitarian aid to refugees is severely hampered by corruption, both within Kenya and the AU.¹⁴⁸ Corruption in Kenya's government and partner organizations diverts funds intended for refugee assistance, leaving refugees with insufficient support and impeding the AU's ability to carry out its mandate, which not only makes their suffering worse but also erodes public confidence in humanitarian efforts.

Reports of corruption within the AU have sparked concerns regarding the effective use of funds allocated for humanitarian assistance on a continental scale.¹⁴⁹ “Examples of financial irregularities, bribery, and kickbacks have been documented, which may have an impact on the efficacy of refugee response programs.”¹⁵⁰

4.1.7 Environmental factors

Climate-related events, such as droughts, floods, and extreme weather conditions, exacerbate the living conditions of refugees in camps and settlements.¹⁵¹ “These environmental stressors strain already limited resources and disrupt aid delivery. Prolonged droughts result in a shortage of water, which affects refugees' access to safe drinking water. On the other hand, floods cause damage to infrastructure and interrupt supply chains, making it difficult to deliver basic goods and services. Furthermore, deforestation and

¹⁴⁸ Lindley, Anna. "Between a protracted and a crisis situation: policy responses to Somali refugees in Kenya." *Refugee Survey Quarterly* 30, no. 4 (2011): 14-49.

¹⁴⁹ Reports of corruption within the AU have sparked concerns regarding the effective use of funds allocated for humanitarian assistance on a continental scale.

¹⁵⁰ Maxwell, Daniel, Sarah Bailey, Paul Harvey, Peter Walker, Cheyanne Sharbatke-Church, and Kevin Savage. "Preventing corruption in humanitarian assistance: perceptions, gaps and challenges." *Disasters* 36, no. 1 (2012): 140-160.

¹⁵¹ Ahmed, Ayman, Nouh Saad Mohamed, Emmanuel Edwar Siddig, Talha Algaily, Suad Sulaiman, and Yousif Ali. "The impacts of climate change on displaced populations: a call for action." *The Journal of Climate Change and Health* 3 (2021): 100057.

overuse of natural resources by refugee populations pose long-term environmental consequences, affecting local ecosystems and creating tensions with host communities.”¹⁵²

4.1.8 Lack of Sustainable Response

The AU faces the challenge of ensuring a sustainable response to refugee assistance in Kenya.¹⁵³ “The lack of a long-term perspective can hinder the AU's ability to provide comprehensive and lasting support to refugees. One problem is that the AU's provision of short-term funding restricts its ability to plan and implement sustainable programs, like education and livelihood opportunities for refugees, which can help them become self-sufficient.”¹⁵⁴ This dependency on short-term funds limits the AU's capacity to plan and implement sustainable programs.¹⁵⁵

4.2 Summary of Key Chapter Findings

The AU has played a pivotal role in providing humanitarian assistance to refugees in Kenya, contributing significantly to the security and well-being of displaced populations. Guided by humanitarian principles and bolstered by its presence and coordination mechanisms, the AU has worked in concert with member states, international organizations, and non-governmental actors to ensure effective refugee humanitarian assistance.

However, the journey has not been without difficulties. Political instability in Kenya, exemplified by the 2007 post-election unrest, has disrupted humanitarian aid delivery and created a precarious environment for both refugees and aid workers. Coordination issues among various

¹⁵² Kemp, Susan P., Lawrence A. Palinkas, Marleen Wong, and Kristen Wagner. "Strengthening the social response to the human impacts of environmental change." *Grand Challenges for Social Work Initiative Working Paper 5* (2015): 1-31.

¹⁵³ Lindley, Anna. "Between a protracted and a crisis situation: policy responses to Somali refugees in Kenya." *Refugee Survey Quarterly* 30, no. 4 (2011): 14-49.

¹⁵⁴ Taylor, Janet. "Refugees and social exclusion: What the literature says." (2004).

¹⁵⁵ Nikkhah, Hedayat Allah, and Ma'rof Bin Redzuan. "The role of NGOs in promoting empowerment for sustainable community development." *Journal of Human Ecology* 30, no. 2 (2010): 85-92.

humanitarian actors have resulted in duplication of efforts, resource wastage, and delays in providing aid, hampering the efficiency of assistance efforts.

Limited funding and reliance on short-term financial resources have constrained the AU's capacity to plan and implement sustainable programs, impeding the long-term well-being of refugees.¹⁵⁶ The Kenyan government's security-focused approach to refugee response has hindered the AU's attempts to provide comprehensive humanitarian assistance and uphold the rights of refugees.

¹⁵⁶ Kumssa, Asfaw, James Herbert Williams, John F. Jones, and Eric A. Des Marais. "Conflict and migration: The case of Somali refugees in Northeastern Kenya." *Global Social Welfare* 1 (2014): 145-156.

CHAPTER FIVE

FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.0 Introduction

This study aimed to investigate the mandate of the AU to provide humanitarian assistance in Africa and its role in providing effective refugee humanitarian assistance in Kenya. The study also examined the challenges faced by the AU in providing effective refugee humanitarian assistance in Kenya. This chapter entails the key findings, conclusion of the study as well as recommendations by the researcher.

5.1 Study Key Findings

Based on the first objective, which is to investigate the mandate of the AU in providing humanitarian assistance in Africa, this study has established that the AU's mandate to provide humanitarian assistance in Africa is drawn from the Abuja Treaty, the Peace and Security Council Protocol, and most importantly its Constitutive Act. These documents, as well as various mechanisms, departments within the organization, and policies, authorize the AU to provide humanitarian relief to displaced people, especially refugees. The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, the Subcommittee on Refugees, Returnees, and IDPs, and the Department of Humanitarian Affairs, Refugees, and Displaced Persons (HARDP) of the African Union Commission are a few examples of these mechanisms and policies.

Based on the second objective, which is to analyze the role of the AU in providing effective refugee humanitarian assistance in Kenya, this study has established the crucial role played by the AU in refugee assistance in Kenya. The continental organization provides protection, humanitarian aid as well as livelihood and development support. Like any other entity that engages in refugee response, the AU works towards the protection of the rights and well-being of refugees. By

capitalizing on its regional expertise, mechanisms, normative commitments, resource mobilization, peace and security initiatives, diplomatic engagement, regional solidarity, and capacity-building endeavors, the AU assumes a central role in the provision of humanitarian assistance to refugees in Kenya.

Based on the third objective, which is to examine the challenges faced by the AU in providing effective refugee humanitarian assistance in Kenya, this study has established the AU faces numerous challenges whilst providing refugee humanitarian assistance. The humanitarian actor faces issues related to coordination with various humanitarian actors. This has resulted in duplication of effort, wastage of resources, and delays in aid provision, which has compromised the effectiveness of assistance initiatives. In addition, political unrest in Kenya, such as the unrest that followed the 2007 election, caused disruptions to the delivery of humanitarian aid, putting refugees and aid workers in a precarious situation. Furthermore, the AU has been hindered in its efforts to provide comprehensive humanitarian assistance and protect the rights of refugees by the Kenyan government's security-centric approach to refugee response. The long-term welfare of refugees has been jeopardized by the AU's inability to plan and implement sustainable programs due to a lack of funding and reliance on short-term financial resources.

5.2 Conclusion

The study conducted on the role of the AU in providing humanitarian assistance to refugees in Kenya revealed several challenges faced by the organization. The research gathered crucial insights from the respondents, which highlighted the coordination difficulties among various humanitarian actors, leading to inefficiency and ineffectiveness in refugee assistance.

Political instability emerged as a significant concern, disrupting aid delivery during periods of unrest. The study also found that the government's securitization-focused approach hindered

comprehensive assistance and perpetuated challenges. Limited funding emerged as a significant obstacle to the AU's ability to meet the escalating humanitarian needs in the region. The study also revealed that the involved organizations, including the AU, lacked awareness and application of the Core Humanitarian Standard (CHS). Respondents also expressed concerns about corruption and mismanagement of funds, environmental stressors, and the lack of a sustainable response, highlighting the multifaceted nature of the obstacles encountered by the AU.

5.3 Recommendations

Based on the key findings of the first objective of this study, which is to investigate the mandate of the AU in providing humanitarian assistance in Africa, the researcher recommends the establishment of a centralized coordination mechanism within the AU to ensure efficient and strategic provision of assistance to refugees. The mechanism should operate in collaboration with UNHCR and other humanitarian actors. The centralized mechanism will be ideal for ensuring joint planning and information exchange. Alongside the mechanism, clear Standard Operating Procedures (SOPs) need to be implemented by the AU for a structured framework of collaboration with other entities.

The researcher also recommends that the African Union takes advantage of the advancement of technology by establishing an online platform for sharing updates and best practices. Such a platform will not only enhance communication but also encourage collaborative efforts between the AU and other refugee aid entities.

Based on the second objective of this study which is to analyze the role of the AU in providing effective refugee humanitarian assistance in Kenya, the Researcher recommends that the African Union should actively engage other stakeholders in refugee humanitarian assistance in Kenya. Such engagement may be in the form of regular meetings and consultations beyond those

scheduled during emergencies. Regular engagement will improve the overall strategies for providing assistance to refugees in the country. The AU should also conduct regular assessments and evaluations of the effectiveness of the mechanisms it has in place for the provision of humanitarian assistance in Kenya. It can do so by implementing feedback mechanisms.

The AU should maintain constant communication and diplomatic dialogue with the government of Kenya in order to identify and effectively solve any underlying issues that may result in political instability in the country. Additionally, the researcher recommends the establishment of comprehensive contingency plans and providing additional support to the government in safeguarding refugee humanitarian operations and during times of political unrest especially during the general elections period.

Based on the key findings of the third objective of this study, which is to examine the challenges faced by the AU in providing effective refugee humanitarian assistance in Kenya, the researcher recommends that the AU collaborates with the government of Kenya in provision of capacity-building programs for government officials in order to broaden their understanding of refugee humanitarian assistance. The researcher also recommends that the AU conducts comprehensive training programs for staff, government officials, and other humanitarian actors on the principles and commitments outlined in the Core Humanitarian Standard (CHS). Additionally, the AU should engage directly with affected communities to raise awareness about CHS principles and their rights.

Additionally, public awareness campaigns can foster empathy towards refugees. The AU can also work with the government in policy development. The AU can play a critical role in backing the government in the implementation of policies that promote refugees' economic self-reliance, entrepreneurship, and skills development.

To address the challenge of limited funding several measures can be taken. The AU can explore and diversify funding sources beyond traditional donors by engaging with private sector partners, philanthropic organizations, and innovative financing mechanisms. Advocating for increased international support and donor contributions to address the growing humanitarian needs in Kenya can also be done.

The AU should also establish partnerships with development agencies to integrate refugee assistance into broader development programs that can attract funding for long-term projects that enhance self-reliance, education, and economic opportunities for refugees.

The researcher recommends that the AU improves its advocacy efforts by advocating for increased budget allocations from the national government for refugee assistance programs. Additionally, the AU should advocate for and negotiate long-term funding commitments from donors and international partners.

The AU should direct some of its focus and funds into designing and implementing climate-resilient infrastructure in refugee camps and settlements in Kenya. The AU can support water harvesting and conservation measures, as well as establish and enhance early warning systems for climate-related events.

The researcher recommends the involvement of the AU in addressing the challenge of corruption and mismanagement of funds. A measure that can be taken is the establishment of financial oversight committees comprised of representatives from diverse stakeholder groups, including civil society, to monitor fund utilization and financial management. Another important recommendation is the establishment of regular reporting mechanisms by the AU on fund utilization and project outcomes, demonstrating accountability and the impact of funds allocated for refugee assistance programs in Kenya.

The researcher also recommends the AU in collaboration with the government of Kenya, implement whistleblower protection mechanisms. This will encourage individuals to report instances of corruption without fear of retaliation. It is also important that the AU in collaboration with the Kenyan government establish or procure mechanisms for the conduct of independent audits and investigations into allegations of corruption within the AU, partner organizations and the Kenyan government.

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APPENDICES

Appendix A: Questionnaire

THE ROLE OF THE AFRICAN UNION (AU) IN REFUGEE HUMANITARIAN ASSISTANCE: A CASE STUDY OF KENYA

Section 1: Respondent Information

1.1. Name (Optional): _____

1.2. Age:

- Under 18 25-34 45-54 65 or over
 18-24 35-44 55-64

1.3. Gender:

- Male Prefer not to say.
 Female Other (please specify): _____
 Non-binary/Third gender _____

1.4. Occupation: _____

1.5. How familiar are you with the African Union's activities in Kenya and its role in providing humanitarian assistance to refugees?

- Very Familiar
 Somewhat Familiar
 Not Familiar
 No Knowledge

Section 2: Awareness of the African Union's Mandate

2.1. Please describe your understanding of the African Union's mandate in providing humanitarian assistance in Africa.

Section 3: African Union's Involvement in Kenya

3.1. In your opinion, to what extent is the African Union involved in providing humanitarian assistance to refugees in Kenya?

- Highly Involved Not Sure
 Moderately Involved
 Minimally Involved
 Not Involved

3.2. Can you provide examples of specific projects or initiatives led by the African Union in Kenya related to refugee humanitarian assistance?

3.3. How effective do you perceive the African Union's efforts to be in providing humanitarian assistance to refugees in Kenya on a scale of 1 to 5, with 1 being highly **ineffective** and 5 being highly **effective**?

1 2 3 4 5

Section 4: Challenges in Providing Assistance

4.1. What do you believe are the main challenges faced by the African Union in providing effective refugee humanitarian assistance in Kenya?

4.2. Are there specific cultural, political, or logistical challenges that you think the AU encounters in Kenya that affect their assistance efforts?

Section 5: Suggestions and Solutions

5.1. In your view, what strategies or approaches could enhance the African Union's effectiveness in providing humanitarian assistance to refugees in Kenya?

5.2. Do you believe there are opportunities for collaboration with other organizations or governments that could improve the AU's impact in this area?

Section 6: Personal Experiences or Observations

6.1. Have you personally observed or experienced any instances in which the African Union's humanitarian assistance has positively impacted refugees in Kenya? If so, please share your observations.

6.2. Do you have any additional insights or comments regarding the role of the African Union in refugee humanitarian assistance in Kenya? If so, please share below.

Section 7: Contact Information (Optional)

7.1. Email Address (if you are willing to be contacted for follow-up questions or clarification):

Thank you for participating. Your input will greatly contribute to the research on the African Union's role in refugee humanitarian assistance in Kenya.

Appendix B: Interview Guide

Section 1: Background and General Inquiries

- 1.1. Kindly provide some context about your role or involvement in refugee humanitarian assistance in Kenya.
- 1.2. To what extent are you familiar with the African Union's mandate and activities pertaining to refugee humanitarian assistance in Africa?

Section 2: The Mandate of the African Union in Refugee Humanitarian Assistance

- 2.1. What is your understanding of the African Union's mandate in the provision of refugee humanitarian assistance in Africa?

Section 3: African Union's Role in Refugee Humanitarian Assistance in Kenya

- 3.1. Could you elaborate on the specific actions or programs implemented by the African Union to support refugee humanitarian efforts in Kenya?
- 3.2. What results or impacts have you witnessed or experienced as a result of the African Union's engagement in refugee humanitarian assistance in Kenya?
- 3.3. How would you evaluate the effectiveness of the African Union's endeavors in fulfilling this mandate, particularly in the context of Kenya?

Section 4: Challenges Encountered by the African Union


- 4.1. In your perspective, what are the primary challenges or hindrances that the African Union faces in delivering effective refugee humanitarian assistance in Kenya?
- 4.2. Have you encountered any particular difficulties in your work related to the African Union's efforts in refugee humanitarian assistance?

Section 5: Conclusion and Additional Insights

- 5.1. Are there any supplementary insights or observations you would like to share regarding the African Union's role in refugee humanitarian assistance in Kenya?
- 5.2. Do you possess any recommendations or suggestions for enhancing the African Union's effectiveness in this domain?

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