

UNIVERSITY OF NAIROBI



INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

**REFUGEE REPATRIATION AS A NATIONAL SECURITY CONCERN IN AFRICA:
KENYA-SOMALIA EXPERIENCE (2013-2018)**

BY

ESMA, MICHAEL LONGESH

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SUPERVISOR: DR MARTIN OUMA

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DECLARATION

This research project is my original work and has not been submitted for any other award or examination in any university.

Signature.....

Date.....

ESMA, MICHAEL LONGESH

REG: R47/35851/2019

This research project has been submitted for examination with my permission as the University supervisor.

Signature.....

Date.....

Dr MARTIN OUMA

Institute of Diplomacy and International Studies

University of Nairobi

DEDICATION

This work is dedicated to my beloved wife Beth Esma, my parents Mr and Mrs Lokidongoi and my children for their continued support, guidance and believing in me. This has greatly influence my academic journey. My success is built on the foundation and support they have continuously given me.

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ABBREVIATIONS

ACF	- Action Contre la Faim
COA	- Country of Asylum
COO	- Country of Origin
GOK	-Government of Kenya
HRC	- Human Right Watch
IOM	- International Organization on Migration
IDPs	-Internally Displaced Persons
IRC	-International Rescue Committee
IRK	- Islamic Relief Kenya
KRCS	- Kenya Red Cross Society
NRC	-Norwegian Refugee Council
OCHA	- Office of coordination of Humanitarian Affairs
PSGs	- Peace Building and State Building Goals
RAS	- Refugee Affairs Secretary
RCK	- Refugee Consortium of Kenya
SOPs	-Standard Operating Procedures
SNAF	- Somali National Armed Forces
UNGA	- United Nation General Assembly
UNDHR	- Universal Declaration on Human Right
UNHCR	-United Nation Humanitarian Refugees office

ABSTRACT

The purpose of this study was to assess refugee repatriation as a national security concern in Africa: Kenya- Somali experience (2013-2018). Three specific objectives anchored the study: To examine the factors underlying refugee repatriation from Kenya to Somalia; To evaluate the influence of refugee repatriation on the Kenya's national security and to investigate the policy, security and the institutional framework implications of refugee repatriation from Kenya to Somalia. The study is founded on the realism theory as posited by Thomas Hobbes which states that the nation state as a rational actor pursuing its national interests within an anarchical system, and an international system of self-help in which the primary concern is security otherwise defined as survival. The actions taken by Kenya were meant for its survival and protection of the security of her citizens. The World Society theory as posited by John Burton indicates that in every action against an individual, should be done within the acceptable individual human right which must be protected at any one time. For this to be effectively managed it is imperative that all actors have to be involved in the process of refugee repatriation. Descriptive survey design was used where both qualitative and quantitative data was used answer to research questions. Primary data was collected using interview guides while secondary data was obtained from journals, e-books, government reports and newspapers. Content analysis was used to analyze the data collected. The findings of the study indicate that there is a correlation between improved security in Kenya and refugee repatriation. The study also established that the government of Kenya had genuine concerns on the presence of refugees in Kenya to include the environmental degradation, impact on national security, impact on health sector, straining the economy and lastly influenced the administration of the locals. The government viewed refugees' as a security threat, this informed the government decision to repatriate refugees back to Somalia. The study lastly established that Kenya's decision to repatriate Somali refugees was based on Kenya's national interest and was guided by international, regional and national legal instruments. The study recommends the following: International community and UNHCR should provide adequate support for the refugees and compensate the Kenyan government for the environmental degradation; the government of Kenya should improve the presence of security apparatus within the Dadaab complex and measures should be put in place to improve internal security reporting mechanism within the camps and lastly the refugee repatriation process should be done voluntarily and in line with in legal instruments governing refugees affairs.

CHAPTER ONE

INTRODUCTION AND BACKGROUND TO THE STUDY

1.0 Introduction

This study investigates the link between refugee repatriation and national security concerns in Africa: Kenya-Somali Experience (2013-2018). It is broken into the background of the study, statement of the problem, research questions, research objectives, literature review, justification, research methodology and chapter outline.

1.1 Background to the Study

Refugee repatriation has attracted scholarly discourse in the recent past due to its link with security issues in the 21st century security dynamics. The phenomenon is above the level of humanitarian domain and is today a security and political concern that affects the stability of different regions. By the year 2011 over 40 million people had been displaced and were living as refugees, majority fleeing from violence from their home countries. Even though repatriation is one of the significant options, it is often ignored as a major alternative to solving regional security.¹In conflict and security studies, studies have been conducted to find out the effects of refugee presence in a country's economy, factors pushing refugees to move and the relationship of refugees and national security.² Less attention has been paid to repatriation and its implication on national security.

Linking refugees to terrorism is widespread in many parts of the globe. For example, in November 2018, the Yemeni government added more stringent measure for the Somali asylum seekers because it was established that the refugees had associations with Al-Shabaab and this was confirmed by the arrest of some militants in the refugee camps. Regardless of widespread fears that

¹Peter Kirui and John Mwaruvie. The Dilemma of Hosting Refugees: A Focus on the Insecurity in North Eastern Kenya. (International Journal of Business and Social Science Vol. 3 No. 8 [Special Issue-April 2012]p. 164.

² Milner, James. 2009. Refugees and the Regional Dynamics of Peacebuilding. | Refugee Survey Quarterly 28(1): 3-30.

some refugees and displaced persons may be the source of increased terrorism, with few exceptions refugees and their potential connection to transnational terrorism have scarcely been examined empirically. In its place a large portion of study considers the relationship between refugee influx and higher forms of violence that include civil and interstate wars.³

Countries such as The United States, that accepts more refugees per year than any other country, have all but closed their door to the millions of refugees from countries such as Syria and Mexico that are currently part of the world's largest refugee community. The decision not to admit more Syrian refugees for instance in 2013 was linked to national security.⁴ Gil Loescher opined that the refugee crisis is not only viewed as a humanitarian problem but also as a national security issues. He indicated that presence of refugees accelerated existing internal conflicts in the host countries citing cases of resurgence of Pathan conquest in Pakistan and Palestinians refugees fostered conflicts in Lebanon and Jordan.⁵ The presence of refugees in many third world host states is further compounded by armed groups of exiles actively engaged in warfare with political objectives. Refugee warriors invite military retaliation, complicate relations with other states and threaten the host states and the security of their citizens. As a result, host countries have often been unwillingly drawn into conflicts with their neighbours.

Refugees' repatriation has been among the fastest growing forms of national security concerns, due to the increase in number of people running away from insecurity in their home countries. In the era of globalization, refugees have taken advantage of their vulnerability to engage in crime leaving the host countries with no option but to repatriate them. Increased social economic and demographic disparities between the developing and the developed world brought by poverty, terrorism, intra

³Eastmond, Marita and JoakimOjendal. 1999. Revisiting a Repatriation Success': The Case of Cambodia. In *The End of the Refugee Cycle?*, eds. Richard Black and Khalid Koser. New York: Berghahn Books, p. 38-55.

⁴Bakewell, Oliver. "Can we ever rely on refugee statistics?." *Radical Statistics* 72 (1999): 3-15.

⁵Loescher, Gil. "The UNHCR and world politics: state interests vs. institutional autonomy." *International Migration Review* 35, no. 1 (2001): 33-56.

and interstate conflicts have sustained terror groups activities which have been exported to other countries.⁶ The security concerns posed by the refugees in Dadaab has always been stressed by the government of Kenya in her development plan. The government of Kenya reiterated on the insecurity posed by the refugee presence with some resources diverted to provide security to the refugees and concerns raised over their involvement in terrorism, has led to the government's decision to close the refugee camps and repatriate them back to Somalia.

The refugees in Kenya can be divided into three categories based on their residence and legal status. The first and the largest number are camp refugees. According to the UNHCR the category constitutes about 450-500 000 in 2012, in 2013 registered refugees numbered 630 097. Dadaab refugee camp alone hosts approximately 235 269 while the rest were in Kakuma refugee camp. The second category is the urban refugees which are estimated between 70 000 in number while the third category is the unregistered refugees from the refugee countries such as Somalia.⁷ The large number of refugees from Somalia has been linked to increasing terror attacks in Kenya. This has informed the government decision to repatriate refugees rather than reintegrate them. Due to the political instability and insecurity in Somalia, repatriation was not initially considered as a possibility for the refugees.⁸ However, due to increased terrorist attacks within Kenya, the government had to shift its position to repatriation of refugees. Kenya like many other African countries faces increasingly diverse, differentiated and fragmented national security concerns.

Refugees presence in Kenya and their linkage to terrorist activities poise a great national security concern, this informed the government of Kenya's change of policy concerning refugees' freedom of movement to the containment of refugees in refugee camps. An increasing acknowledgement is

⁶Evans Mogire. *Refugees and the Proliferation of Illegal Small Arms and Light Weapons in Kenya*. (Centre for Refugee Studies, Moi University Press, Occasional Paper Series Vol 1 No.4 2003)

⁷Salehyan, Idean. 2008. The Externalities of Civil Strife: Refugees as a Source of International Conflict. *American Journal of Political Science* 52(4): 787-801

⁸Guy Goodwin-Gill (ed). *Refugees and Security*. *International Journal of Refugee Law* , vol. 11, no. 1, 2017) p.3

that insecurity on refugee camps as well as other forms of crimes occurring in refugee populated areas is likely to undermine political and public support for the establishment of asylum and the values of international protection. The presence of armed elements in refugees' camps has been proven to aggravate tension between nations, thereby posing threats to regional stability and host national security. This is in addition to the fact that uncontrolled and irregular movements of persons across international borders pose a major challenge to the sovereignty and steadiness of recipient countries.⁹ The damaging impact of refugees can be cited as challenging to the country and policy shift becomes a necessity. It is true Kenya can do very little to avert the situation, non-refoulement under international law provides that no refugees should be taken back to the country of origin or repatriated to the territory where his/her life or freedom is threatened. This could either be based on their nationality, race, religion, and membership of a particular social group or political opinion.¹⁰ A close examination of the principle exposes the recipient country to insecurity and as noted earlier, the asylum seekers, traditionally conceived and presented as humanitarian issues, are now increasingly viewed as security threats. This requires that measures be put in place to ensure national security is not compromised. National security concerns attributed to refugee repatriation include lack of proper knowledge of existing legal framework, lack of implementing existing legislations, poor international cooperation, corruption and lack of awareness among the population. Emerging transnational criminal groups are now operating regionally and exploit porous borders and dysfunctional state institutions to carry out their activities uninterrupted.¹¹

Conflict between the refugee and host government is also evident as in Kenya- Somalia Experience. In 2013 for example, several Somali refugees who fled from the refugee camps and illegally found

⁹ Milner, James. 2009. Refugees and the Regional Dynamics of Peacebuilding. *Refugee Survey Quarterly* 28(1): 13-30.

¹⁰ Achankeng, F. 2013. Conflict and conflict resolution in Africa; Engaging the colonial factor, African Centre for Constructive Resolution of Disputes, ACCORD

¹¹ International Conference on the Great Lakes Region (ICGRL). Regional Programme of Action on Humanitarian and Social Issues (Framework For Durable Solutions To The Humanitarian, Social And Environmental Issues In The Great Lakes Region, 2006).

their way into the city of Nairobi were arrested in Eastleigh. This was after demonstrations along the streets of Nairobi against the arrest of Abdulla Al-Faisal a Jamaican cleric. Tensions around Dadaab refugee camp has also been reported because of the presence of arms around the region. The easy proliferation of arms from Somalia combined with the government`s move to repatriate refugees back to Somalia is a combination that has posed security challenge not only to the region but to the country as a whole. The major issue in the refugees and national insecurity in Kenya relates to the crimes and terrors attack on civilians and foreigners which informed the government`s decision close the Dadaab Refugee camp. Moreover, what is emerging from the literature survey is a lack of adequate and up-to-date analysis of the impact of refugees` repatriation on national security. This study evaluated refugee repatriation as a national security concern in Africa: Kenya - Somalia experience (2013 - 2018).

1.2 Statement of the Problem

Even though, for a long time the Kenyan government`s attitude towards refugees was fairly ambivalent, the rise of international terrorism and increase in terror attacks in Kenya has necessitated a change in tact and the government is now actively engaging the UNHCR in registration and Status determination of refugees. Increased incidences of terror attacks within the country triggered multi-agency national security operations in Kenya and in Somalia. This clearly shows that there is a security problem linked to refugees, hence the need to repatriate refugees in an attempt to flash out criminals.

Refugee repatriation has placed Kenya into a tight corner considering that the country is a signatory to the international refugee laws emphasized in the 1951 Refugee Convention, 1967 Protocol and the 1967 Organization of African Unity (OAU) Convention governing specific aspects of refugee problems in Africa to which Kenya is a state party. All these instruments directs that no government should repatriate refugees back to the country of origin and especially when an

individual is in doubt about their safety. Given the fact that the current wave of insecurity in the country is being attributed to the presence of refugees in the country, Kenya therefore finds herself in an awkward state of balancing on whether to remain true to her international obligations or to give priority to her national security concerns.

The researcher chose this topic because it is significant to understand the rhetoric that surrounds the repatriation exercise. The repatriation process started in 2016 despite the fact that Somalia is still embroiled in a civil unrest. This raised several concerns, firstly, what were the considerations for repatriation of refugees from Kenya to Somalia, secondly, how does refugee repatriation influence the national security and thirdly what are the policy, security and the institutional framework implications of refugee repatriation from Kenya to Somalia?

1.3 Research Questions

This study sought to answer the following research questions:

1. What are the factors underlying refugee repatriation from Kenya to Somalia?
2. How does refugee repatriation influence Kenya's national security?
3. What are the policy, security and the institutional framework implications of refugee repatriation from Kenya to Somalia?

1.4 Research Objectives

1.4.1 Broad Objective

The main objective of this study was to analyze refugee repatriation as a National Security concern in Africa focusing on Kenya-Somali Experience (2013-2018).

1.4.2 Specific Objective

The specific objectives of this study were:

1. To examine the factors underlying refugee repatriation from Kenya to Somalia.
2. To evaluate the influence of refugee repatriation on the Kenya's national security.
3. To investigate the policy, security and the institutional framework implications of refugee repatriation from Kenya to Somalia.

1.5 Literature Review

This section examines the literature around the three specific objectives of this study. It also explored both theoretical and empirical literature. The literature review focused on refugee repatriation and national security; globally, regionally and in Kenya with a view of seeking to identify the knowledge gap.

1.5.1 Theoretical literature review

1.5.1.1 Realism Theory

The proponent of the realism theory like Thomas Hobbes, consider the world to be anarchic in nature hence classical realists argue that anarchy is the principal underlying cause of war since it renders the security of states problematic and potentially conflictual. Cox and Stokes argue that principal actors in the international system are sovereign states who regard themselves as the highest authority and have control over her domestic affairs according to how it deems it fit.¹² They subscribe to the realist assumption of the nation state as a rational actor pursuing her national interests within an anarchical system, and an international system of self-help in which the primary concern is security otherwise defined as survival. States being the major players in the international system view other players as being not useful in the international system which is considered as a self-help venture.

¹² Cox Miles, B. W. J., Chris R. Stokes,. "Rapid, climate-driven changes in outlet glaciers on the Pacific coast of East Antarctica." *Nature* 500, no. 7464 (2013): 563.

The state being the major actor in the international system aims at focus on its national interest and working towards the survival of her citizens. The international system being anarchic and full of distrust tends to force every state to focus on its survival. Thus according to realists, international cooperation and international law only applies when it serves ones national interests. Kenya's response to repatriate Somali refugees, was done in self-defense and in pursuit of national interest. Hence repatriation of Somali refugees was meant to ensure national security. According to realists, the promotion of national interests is the basic and noble law of necessity for states.

1.5.1.2 The World Society Theory

The theory was championed by eminent scholar John Burton. The assumption of this theory arises from the fact that from a realist point of view, the realm is either revolutionary where actors pursue interests without affecting its structures. The resting point of the World Society paradigm is the individual hence giving prominence to individuals in transactions within the International System. The rights of individuals whether among the Refugees or host community are thus a hallmark of the World Society. According to this theory, there are many actors in the international system that are engaged with societal issues in various ways. According to Burton, the World Society Theory explains that war and other conflict situations do not come from the nature of states or its external relations but from the way in which the environments acts on the individual.¹³ This implies that the individuals have certain needs they try to fulfill and that it's the frustration of failure to achieve these needs either individually or collectively leads to violence within the system. These needs may include need for identity, participation, and security. In that regard, the repatriation process should be all inclusive and should be done within international legal instruments that recognize the rights of refugees.

¹³John W Burton;1972. World society.Cambridge University Press.

Logically, the state's interactions in the international system is not exclusively state centric but include other actors as well. The operations of these actors cause different reactions which tend to strain the refugees' situation. These actors can work together towards achieving mutual objectives towards refugees' peaceful repatriation. It is also noted that refugee matters are not only a domain of the state but for a myriad of many other actors such as local and international humanitarian organizations.¹⁴ Refugees are themselves an important component of the refugee regime which basically addresses their management and the impact that they may pose to the rest of the society.

Looking at the refugee problem with the World Society Theory lens, the individual human right must be considered in the process of repatriation and this is possible if the government of Kenya follows the laid down legal instruments which guarantee individual rights for all the refugees. For this to be effectively managed it is imperative that state actors, non-state actors and individuals have to be involved. Concerning this study the theory considers refugee repatriation which may cause regional insecurity as the independent and dependent variables respectively. This is because when refugees are repatriated, their needs are not provided for and may be easy targets to radicalized groups like Al Shabaab, in turn this will affect the security of the whole region. The theory also explains the need for the Kenyan government to involve other stakeholders in the repatriation process, rather than making a unitary decision and the need to follow the international legal instruments to effect the repatriation.

1.5.2 Empirical literature review

In this study, empirical literature has been organized around the three specific objectives: To examine the factors underlying refugee repatriation from Kenya to Somalia, to evaluate the influence of refugee repatriation on the Kenya's national security and finally to investigate the

¹⁴Peter Kirui and John Mwaruvie. The Dilemma of Hosting Refugees: A Focus on the Insecurity in North Eastern Kenya. (International Journal of Business and Social Science Vol. 3 No. 8 [Special Issue-April 2012]p.164.

policy, security and the institutional framework implications of refugee repatriation from Kenya to Somalia.

1.5.2.1 Refugees Repatriation and National Security

Internationally, the decision to repatriate is a complex one for refugees, where refugees are left with a choice to return home where they are uncertain or remain in exile where they are more comfortable. The repatriation decision-making process requires refugees to make some form of cost benefit analysis, based on the information available to them, as to whether continued exile is a better option than returning home. The decision must involve a large number of factors, from both the home area and the settlement area. These factors include: security, availability of work or land, food and fuel supply, availability of health care and other social services. When the medium-term benefits of repatriation outweigh those of remaining as refugees, then return migration is likely to occur.¹⁵

Many governments are increasingly adopting the strategy of encampment in order to coerce refugees to choose to be repatriated rather than being held in camps. By limiting the rights of refugees to resettle and integrate is the surest technique to hasten the return of refugees to their countries of origin. From the Iraq – Afghanistan experience, refugees were observed to be reluctant to abandon their source of income and in some cases even the absence of basic amenities in the country of asylum did not motivate them to return.¹⁶ Empirical review in this area has centered on establishing the effects of refugee repatriation on national security. However, most studies fall short of sufficiently associating the implications of the repatriation of refugees on policy, security and the institutional framework. The existing literature proposes that refugees' repatriation can lead to the

¹⁵Crisp, J., 2002. No Solutions in Sight: the Problem of Protracted Refugee Situations in Africa Crisp, Jeff. A State of Insecurity: the Political Economy of Violence in Refugee populated areas of Kenya. (UNHCR, Geneva, working paper no 16 1999).

¹⁶Johansson, Patrik and New Orleans. 2010. Repatriation and Peacebuilding: ed. Patrik Johansson. Umea, Sweden: Umea University, 1-22.

spread of insecurity in two intermediate forms. Firstly, the refugees can change the stability of power in the host country by changing the country's ethnic structure. For instance, issues concerning access to available resources. This method of spread, as described by Lake and Rothchild, can create disorder in the host nation. If the procedure is neglected and remain unchecked, some analysts argue that the dispute can ultimately immerse an entire country.¹⁷

Fearon observes that conflict makes refugees to move to new countries in large numbers, which in turn destabilizes the social structures in a given area, creating more conflict.¹⁸ Even further excitingly, Premdas holds that increase of ethnic conflict across boundaries creates an ungovernable link of ever-widening reflection of host societies..¹⁹ Secondly, the literature recommends that fugitive issues can present to the scope of a disorder through a method of intensification that delivers new belligerents toward the dispute or conflict. This refugee conflict can start accusations among the concerned countries and in some instances might lead to a fully blown boundary conflict.

The behavior of refugees is not different; refugees have conveyed military practice beyond borders and launched invasions in the host nations. This could involve employment of force by the host nation where the aggressors are moved back to their home country. This position negatively affects the relationships with the host state, as well as global support agencies, and intensifies security anxiety among the neighbors.²⁰

Repatriation literature also involves comparative case studies, while considering the successful repatriation of refugees returning to Cambodia, considerations of forced and voluntary

¹⁷Lake, David A., and Donald Rothchild."Containing fear: The origins and management of ethnic conflict." *International security* 21, no. 2 (1996): 41-75.

¹⁸Fearon, James D., and David D. Laitin."Ethnicity, insurgency, and civil war." *American political science review* 97, no. 1 (2003): 75-90.

¹⁹Premdas, Ralph R. "Ethnicity and identity in the Caribbean: Decentering a myth." (1996).

²⁰Arthur Helton. *The Price of Indifference: Refugees and Humanitarian Action in the New Century*. (New York: Oxford University Press, 2017).

repatriation are made while looking at individual cases and the different methods employed. In their findings, the difficulty and complexity in the implementation of repatriation are enforced. They suggest that future repatriation efforts should take into consideration the desires and needs of home population.²¹ Using Kosovo and Bosnia case study, Nadjé Al-Ali analyses the role of repatriation and refugees on conflict resolution and state building. His analysis reveals that refugees who have been repatriated play a significant role in determining the post-conflict political structure. He is also cognizant of the strain adduced to fragile states by large scale repatriation. He suggests that repatriation is one of the main steps in resolving conflict in that the whole region will be more peaceful if the refugees are repatriated to their country of origin.²²

1.5.2.2 Repatriation of Somali Refugees

The 1990s Civil War in Somali led to thousands of people escaping for safety in adjacent nations. Although Kenya had been allowing refugees for a long period, the surge of Somali refugees who sort protection in Kenya the year 2011 due to conflict, aridity, and starvation brought with it new challenges. By August 2014, there were slightly more than 400,000 recorded refugees in Dadaab Refugee Camp and 53,816 in Kakuma Refugee Camp. Nevertheless, informal assessments for municipal refugees was estimated to be 100,000, of which Somali refugees approximated to 58% of the total.²³

Moreover, until recently, repatriation was not considered as a possibility for most refugees due to the continued insecurity in Somalia. Consequently, the majority of Somali refugees have remained in a protracted situation, with some of them living in the camps for more than twenty years. This however, changed when the governments

²¹Eastmond, Marita and Joakim Ojendal. *Revisiting a Repatriation Success: The Case of Cambodia*. In *The End of the Refugee Cycle?*, eds. Richard Black and Khalid Koser. New York: Berghahn Books, 2017. p. 38-55

²²Nadjé Al-Ali, Richard Black, and Khalid "Refugees and Transnationalism: The Experience of Bosnians and Eritreans International Migration, Immobility and Development: Multidisciplinary Perspectives (Oxford: Berg, 1997), 187

²³UNHCR, 2015. Global Trends: Forced Displacement in 2015

of Kenya and Somalia and UNHCR signed a Tripartite Agreement on November 10th 2013, even though UNHCR's essential requirements for repatriation had not been satisfied.

The Tripartite Agreement serves as a legal framework and, hence, provides the means for the repatriation of Somali refugees living in Kenya. The conditions in Somalia, however, are not yet ready for large-scale returns. Although UNHCR has emphasized on numerous occasions that the return would be voluntary, this is difficult to ensure in practice. There has been mixed reactions from donors, asylum seekers and the international community as to the viability of promoting this as a durable solution since regions of Somalia remain insecure and under Al-Shabaab control.²⁴

Of concern however, is whether the current security environment inside Somalia is conducive for voluntary repatriation, and if the Kenyan government will observe the human rights obligations relating to Somali refugees in particular the principle of non-refoulement.²⁵ Central to refugee law, this principle provides for the protection of refugees from being returned to places where their lives or freedom may be threatened. The principle is elaborated in the 1951 Refugee Convention, 1967 Protocol and the 1967 Organization of African Unity (OAU) Convention governing specific aspects of refugee problems in Africa.²⁶

Following the signing of the tripartite agreement, non-governmental organizations such as the International Rescue Committee (IRC), the Norwegian Refugee Council (NRC), INTERSOS, Action Contre la Faim (ACF) and Tearfund expressed their willingness to assist with the voluntary repatriation process, but pertinently urged for continued

²⁴<https://www.refworld.org/pdfid/5285e0294.pdf>

²⁵United Nations High Commissioner of Refugees. 2014. *Handbook for Repatriation and Reintegration Activities*. Geneva, Switzerland: UN High Commissioner for Refugees
UNHCR (2017b) Statistical summary as of 31 May 2017, refugees and asylum seekers in Kenya (<https://data2.unhcr.org/ar/documents/download/57232>)

²⁶Newman, Edward and Oliver Richmond.-The Impact of Spoilers on Peace Processes and Peacebuilding. | 2016. Policy Brief 22(2): 1-8.

engagement in the ‘processes and plans around solutions and the practical implications of the tripartite agreement. A tripartite commission was created to ‘draft an operational plan and provide policy guidance to effect the agreement’s provisions and regularly evaluate its progress’.²⁷ Former Kenya’s Cabinet Secretary for Interior and Coordination of National Government, Joseph Ole Lenku, however, insisted that there was ‘no turning back,’ and that it was ‘time to say goodbye and wish Somali refugees the best as they go back home.’ Kenya has also argued that the repatriation of refugees will expedite their reintegration inside Somalia and form a basis for rebuilding this Horn of Africa nation.²⁸

While there are two main refugee camps in Kenya the Kakuma Refugee Camp in north-western Kenya and Dadaab in the north-east it is the Dadaab Refugee Complex, the largest and most congested refugee site in the country that has been in the limelight over the repatriation process. Dadaab has been hosting about half a million refugees, mostly from Somalia, since the outbreak of civil war in 1991 and in October 2011 witnessed kidnappings of aid workers something that contributed to Kenya’s military intervention in Somalia. The Dadaab camp has been the focus of discussion on terrorism in Kenya because of its alleged connections to the activities of the al-Qaeda linked al-Shabaab terror group.²⁹

In Kenya, the biggest security threat may, however, not been the Dadaab Refugee Camp, but the country’s uneven growth and structural inequalities, which are helping al-Shabaab to recruit local human capital in Kenya. Of course, there is also the question of inadequately equipped security agencies and their inability to police the country’s borders. Some have argued that any move to repatriate Somali refugees against their will may be counter-

²⁷Moore, Will. H.—Whither WillThey Go? A Global Study of Refugees ‘Destinations. 2017.

²⁸Comments by Former CS Ole Lenku

²⁹Milner, James. Refugees and the Regional Dynamics of Peacebuilding. | Refugee Survey Quarterly 2016.28(1): 13-30.

productive, as the refugees would clandestinely find their way back through the porous border into the country. It is also important to understand that a sizable population of Somali refugees were born in the camps in Kenya, and may have little affinity with their parents' country of origin.³⁰ It is therefore crucial that the refugee repatriation process is done voluntary, and that Kenya's national security concerns are not prioritized over the rights of refugees. Any forceful repatriation could easily play into the hands of al-Shabaab by forming a fertile recruitment ground, if not a complete lack of cooperation from the refugees.

1.6 Literature gaps

From the above literature review, this study has established that factors underlying refugee repatriation from Kenya to Somalia has not been adequately covered by other scholars. It's also emerging that the influence of refugee repatriation on Kenya's national security has not been adequately outlined. This study will therefore address those gap areas and also investigate the policy, security and the institutional framework implications of refugee repatriation from Kenya to Somalia.

1.7 Research Hypotheses

H₀: There are no adequate reasons to repatriate refugees from Kenya to Somalia.

H₀: There is no relationship between refugee repatriation and improved Kenya's national security.

H₁: Refugee repatriation from Kenya to Somalia has an impact on Kenya's refugee policy, security and institutional framework.

³⁰ Evans Mogire. Refugees and the Proliferation of Illegal Small Arms and Light Weapons in Kenya. (Centre for Refugee Studies, Moi University Press, Occasional Paper Series Vol 1 No.4 2015)

1.8 Justification of the Study

1.8.1 Policy Justification

The findings of this study will be of significance to policy makers as it may be used to enhance policies on national security by providing a broader knowledge on the relationship between refugee repatriation and national security. The civil societies handling refugee affairs will greatly benefit from the findings as they will understand how the processes of refugee repatriation can affect the security of a country. Security agencies are equally going to benefit from the findings.

1.8.2 Academic Justification

Other studies have looked at the refugee issue from different perspectives. However, the issue of the nexus between refugee repatriation and national security has not been extensively explored. This study will broaden the knowledge base on the nexus between refugee repatriation and national security.

1.9 The Scope of the Study

This study sought to investigate the influence of refugee repatriation on the national/regional security using the Kenya –Somalia experience as a case study. The study focused on the factors underlying refugees’ repatriation, examined the impact of refugee repatriation on Kenya’s national security and established the policy, security and institutional framework implications of refugee repatriation on Kenya’s national security. The study was conducted within Kenya and specifically focused on Government Ministries and agencies as well as organization dealing with Refugees. Garissa County was the study location.

1.10 Limitation of the Study

This study covered the period between 2013 and 2018, because it was in 2013 when Kenya first sought to close refugee camps after the Westgate mall attack. The researcher anticipated limitations in data collection where the targeted respondents would feel uneasy to discuss matters considered sensitive as repatriation and national security. The researcher however explained the aim of the study and assured respondents of their anonymity to dispel their fears. The researcher also anticipated challenges in obtaining information from government officials dealing with National security. To overcome this challenge, the researcher sought a research permit from the National Commission for Science, Technology and Innovations (NACOSTI).

1.11 Research Methodology

The research methodology is the systematic, theoretical analysis of the procedures applied to a field of study. It involves procedures of describing, explaining and predicting phenomena so as to solve a problem.³¹ It is the 'hows'; the process or techniques of conducting research. A Methodology does not set out to provide solutions but offers the theoretical underpinning for understanding which procedure or set of procedures that can be applied to a specific case. Research methodology encompasses concepts such as research designs, target population, sample size and sampling procedure, data collection instruments and data analysis procedure.

1.11.1 Research Design

The research design refers to the overall strategy that one may choose to integrate the different components of the study in a coherent and logical way.³² This is done in order to ensure that one

³¹Kothari, C. R. (2004). *Research Methodology: Methods and Techniques* (2nd Ed.). New Delhi: New Age International limited.

³²Yin, K. R. (2009). *Case Study Research Design and Methods*, 4th Ed: USA, Sage Publications.

effectively addresses the research problem. Research design constitutes the blueprint or the roadmap for the collection, measurement, and analysis of data.³³

The study adopted a descriptive survey design which is a scientific method which involves observing and describing the behavior of a subject without influencing it in any way. The design is suitable in collecting qualitative and quantitative data to answer to research questions.³⁴ A descriptive research design is concerned with finding out the; who, what, where, when and how much of the existing situation.³⁵

Descriptive survey design was chosen because it is appropriate in collecting information on perception, attitude and behaviors on fact describing the existing situation under the study. The research design is suitable as it helped in getting information on opinions and views of the interviewees in regard to refugees' repatriation as a nation security concerns from the experience of Kenya and Somalia.

1.11.2 Target Population

Target population is a complete set of individuals, cases or objects with the same common observable characteristics. A research population is generally a large collection of individuals or objects that is the main focus of a scientific inquiry.³⁶ The target population for a survey is the entire set of units for which the survey data are to be used to make inferences. The target population of the study comprised of officers from the ministry of foreign Affairs, local Leaders, Security agencies, Ministry of interior and National coordination and from NGOs handling refugee matters as listed in table 1.1 below.

³³Ibid

³⁴Mugenda, O. M. &Mugenda, A. G.(2003). Research methods: Quantitative and qualitative Approaches. Nairobi: African Centre for Technology Studies.

³⁵ Ibid

³⁶Mugenda, O. M. &Mugenda, A. G.(2003). Research methods: Quantitative and qualitative Approaches. Nairobi: African Centre for Technology Studies.

Table 1.1 Target Populations, Sample Size and sampling Technique

Ser No.	Target Population	Sample Size	Sampling technique
1.	Ministry of foreign Affairs Officers	2	Purposive sampling
2.	Security agencies (Police and KDF) officers	15	Purposive sampling
3.	Ministry of interior and National coordination Officers	5	Purposive sampling
4.	NGOs handling refugees	8	Purposive sampling
5.	Local Leaders	5	Purposive sampling
	Total	35	

Source: Researcher 2020

1.11.3 Sample size and Sampling technique

Sampling is the selection of a subset of individuals from within a statistical population to estimate characteristics of the whole population.³⁷ A sampling technique is the process by which the entities of the sample are selected. The study used purposive sampling technique to select and interview 35 officers (key informants) handling refugee matters. Purposive sampling, also known as judgmental, selective, or subjective sampling, is a form of non-probability sampling in which researchers rely on their own judgement when choosing members of the population to participate in their study.³⁸ This type of sampling can be very useful in situations when you need to reach a targeted sample quickly, and of an informant due to their qualities the informant possesses.

³⁷Lance, P. & Hattori, A. (2016). Sampling and Evaluation. Web: MEASURE Evaluation. pp. 6–8, 62–64.

³⁸Kothari, C. R. (2004). Research Methodology: Methods and Techniques (2nd Ed.). New Delhi: New Age International limited.

1.10.4 Data Collection Instruments and Procedure

Data Collection is an important aspect of any research study. Inaccurate data collection can negatively impact the results of a study and ultimately lead to invalid results. The study collected both primary and secondary data. Primary data was collected using questionnaires (See appendix I) and interviews guides (See appendix II). Interviews were conducted to collect data from the security officials, government ministerial officers and from NGO. Secondary data was sourced from journals, government reports published and unpublished materials, newsletters and newspapers.

1.10.5 Data analysis

Data analysis is the process of evaluating data using analytical and statistical tools to discover useful information that aid in decision making.³⁹ After collection of both quantitative and qualitative data, it was summarized before analyzing using descriptive and content analysis respectively.

1.10.6 Ethical Consideration

Various ethical codes were applied in the conduct of this research to include not coercing individuals to take part in the research apart from clearly explaining to the participants the purpose of the research. In addition to that the information that was obtained was treated with utmost confidentiality and was utilized purposely for the research only.

1.10.7 Chapter Outline

This study has five chapters outlined as follows:

³⁹Mugenda, O. M. & Mugenda, A. G. (2003). Research methods: Quantitative and qualitative Approaches. Nairobi: African Centre for Technology Studies.

Chapter One - The background to the study, statement of the problem, objectives and research questions, justification of the study, its scope and limitations as well as definition of concepts that was used in the study. It also entails literature review, theoretical framework, research hypotheses and methodology.

Chapter Two - Examines and analyzes factors underlying repatriation of refugees from Kenya to Somalia.

Chapter Three - Evaluate the impacts of refugee repatriation on the Kenya's national security.

Chapter four - Explores the policy implications of refugee repatriation on Kenya's national security.

Chapter Five - Presentation of summary of finding, conclusions and recommendations of the study.

CHAPTER TWO

FACTORS UNDERLYING REPATRIATION OF REFUGEES FROM KENYA TO SOMALIA

2.0 Introduction

This chapter discusses the factors underlying refugees' repatriation from Kenya to Somalia. It has been broken into the following subsection: The study demographic characteristics and the factors that contributed to the repatriation of refugees from Kenya to Somalia.

2.1 Response rate

The study target a sample size of 35 respondents from which 23 were interviewed making a response rate of 66%. Interviews involve a set of assumptions and understanding about a situation which are not normally associated with a casual conversation.⁴⁰ The individual interviews were conducted over the phone while others were done face to face. According to Mugenda and Mugenda, a response rate of 50% is deemed to be adequate for analysis, 60% is a good response while anything above 70% is excellent.⁴¹ The response rate was satisfactory to make a conclusion for the study as it acted as a representative.

⁴⁰ Denscombe, Martyn (1999) *The good research guide for small scale research projects*. Open University Press London.

⁴¹ Mugenda, O. M. & Mugenda, A. G. (2003). *Research methods: Quantitative and qualitative Approaches*. Nairobi: African Centre for Technology Studies.

Table 2.1: Response rate

Ser No.	Category of Respondents	Total	Percentage
1.	Ministry of foreign Affairs Officers	1	2.6%
2.	Security agencies (Police and KDF) officers	10	28.7%
3.	Ministry of interior and National coordination Officers	2	5.7%
4.	NGOs handling refugees	6	17.2%
5.	Local Leaders	4	11.5%
	Total	23	66%

Source: Researcher 2020

2.2 Demographic characteristics of the respondents

The age, gender and level of education of the interviewees were considered in determining their perception on the impact of refugee repatriation on the Kenya's national security. This was necessary so as to ensure that the study captured a wide range of views of the population.

2.2.1 Age Distribution

Age was considered as an important factor for this study because people of various age group perceived the impact of refugee repatriation on the Kenya's national security differently. Based on the findings, majority of the respondents were aged 45 years and above make up 50%. 25% of the respondents were of aged between 36 and 45 years, 15 % were aged between 26 and 35 while 10% were aged below 25 years. This implies that the respondents were mature enough to give the

desired information on refugee repatriation. The results of age distribution are as presented on figure 2.1 below.

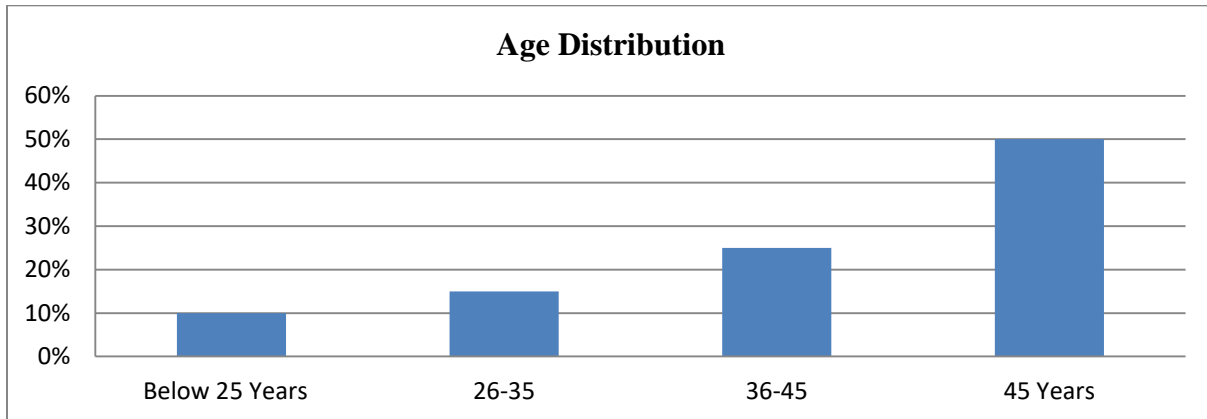


Figure 2.1 Age distribution

Source: Field Data, 2020

2.2.2 Gender distribution

The gender of the respondents was also considered in the study. From the findings, 57% of the respondents were male while 43% were female. This was of much importance to the study because the process of repatriation of refugees affected different sexes differently. The study observed that women perceived the repatriation process as being unjustified as compared to men. Results of the gender distribution are as shown below.

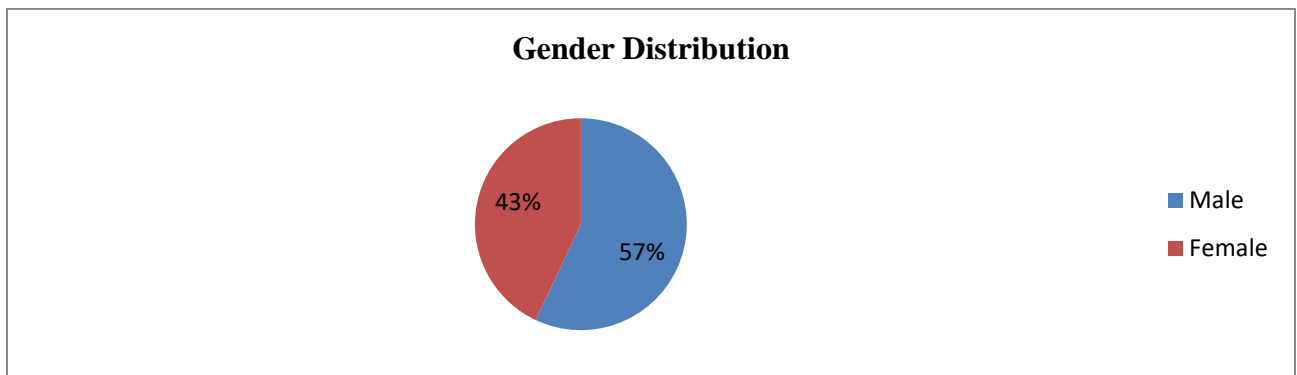


Figure 2.2 Gender distribution

2.1.3 Educational Background of the Respondents

In regard to the education background people of different educational level have different perception about issues of refugee repatriation. The study established that people with college education were of the opinion that other alternatives could be employed for example seeking for refugee asylum rather than repatriating refugees back to a country which is still volatile.

2.2 Factors that contributed to the repatriation of refugees from Kenya to Somalia

The study established that a combination of several factors contributed to the need to repatriate refugees from Kenya. These include; environmental degradation, national security concerns, health issues, economic burden to the Kenyan government, straining of the national government to provide for the refugees and the formation of the Federal Government of Somalia and accessibility to new areas previously controlled by the Al Shabaab. In the year 2013, UNHCR, the governments of Kenya and Somalia government signed a tripartite agreement for the repatriation of Somali refugees. However, the decision was done without the input of the Refugees. UNHCR announced that the repatriation process would take place from Kenya to Somalia over a period of four and half years, starting from July 2015 to December 2019.⁴²

The study also observed that voluntary repatriation is one of the three main durable solutions that a refugee is entitled to. Others are local integration into the host state and resettlement to a third country. Since late 1980's, voluntary repatriation has been the 'most feasible' of the three solutions. Resettlement places are rather limited whereas local integration is unpopular option in developing countries where majority of the world's refugees are found. Voluntary repatriation brings refugees back to the protection of their state. Commenting on the concept of repatriation, there is a

⁴²United Nations High Commissioner of Refugees. *Handbook for Repatriation and Reintegration Activities*. Geneva, Switzerland: UN High Commissioner for Refugees. 2014.

stereotype by UNHCR that ‘people who are forced to leave their homes very often want to go back to them’. However, quite often the option to repatriate is usually presented to the refugees without examining their views: whether or not they still conceive their country of origin as ‘home’, whether the circumstances that made them flee still exist or whether they want to return.⁴³

It is common sense to believe that the best place for any human being, refugees included is home. The assumption being that no refugee leaves their homeland without the expectation that they will return one day. The foregoing however suggests that refugees are vulnerable and hence cannot be able to make decision. According to Bakewell Oliver, individuals are capable of making rational decisions. Thus, refugees should be seen as strong and capable of making calculated decisions. He suggest that the solution to this kind of assumption is to find out from the refugees’ their motivations to repatriate.⁴⁴ In other words, refugees’ understanding of repatriation and their responses to the prospect of returning are inextricably linked with their idea of home.

2.1.1 Environmental Factors

The study observed that the inhabitants around the refugee camp made strong and passionate appeals for the relocation of those camps from their areas to other parts of the country. Majority of respondents observed that local communities complained of the presence of the refugee in their areas to be placing a severe strain on the fragile ecology where refugees cut down trees for firewood and construction and defecated in the open for lack of toilets.⁴⁵

The new arrivals, who can’t be accommodated in the camp, have resulted to settling around the camp in makeshift houses. The newly arriving refugees are forced to cut down trees to construct new houses. The study established that over time the Dadaab area has been badly deforested and

⁴³Ibid

⁴⁴Bakewell, Oliver. "Can we ever rely on refugee statistics?" *Radical Statistics* 72 (1999): 3-15.

⁴⁵Otunnu, O., *Environmental Refugees in Sub-Saharan Africa; Causes and Effects*, York University Centre for Refugee Studies. (2016).

refugees now walk for long distances in search of firewood. The increasing refugee population tends to increase the need for firewood near and around the camps, which have been observed to have caused tension between the refugees and the host community. The study has established that the presence of refugee has resulted into deforestation due to the huge demand for firewood as a source of power. The supply of firewood has become commercialized, where firewood harvesters go for long distances in search of the precious commodity.

The study observed that the management of solid waste in Dadaab is also a big challenge. According to the Department of Refugees, the increased refugee numbers has led to a lot of waste which is intern poorly managed. This has not gone down well with the host communities who have demanded relocation of the refugees for fear of further environmental pollution.⁴⁶

2.2.2 Security Concerns

The study established that the refugee inflow from the neighboring countries has been thought to considerably increase insecurity in Kenya with the refugee camps being used as transit area for illegal arms used to commit crime. The influx of refugee has led to the smuggling and proliferation of small arms and other illegal weapons. Several bomb explosions and killings of innocent Kenyans that have been linked to Al-Shabaab have forced the Government to take the drastic measure of moving all urban refugees to designated refugee camps.⁴⁷ This follows the sporadic attacks by the members of the Al- Shabaab where innocent Kenyans were killed in the Westgate Mall attack and in the Garissa University attack where 148 students were massacred. This act of terrorism had pushed the Kenyan government to take drastic measures of repatriating the Somali refugees back to their country.

⁴⁶Department of Refugees Affairs: Social and Environmental impact of Dadaab refugee camp (2010)

⁴⁷Salehyan, I., &Gleditsch, K. S. (2006). Refugees and the spread of civil war. *International Organization*, 60(2), 335-366

Intelligence brief and security investigations are constantly pointing out that refugee camps are not only harboring the criminal elements, but are also used as centers where the perpetrator plans their attacks. This can be confirmed by the arrest of 12 terror suspects who were linked to the Dusit terror attack in Daadab.⁴⁸

2.2.3 Health Factors

The study observed that health challenges posed by the presence of the refugees in the country is one of the main reasons why the government Kenya initiated the repatriation exercise. According to UNHCR estimates, in Dadaab refugee camp one health center serves up to 17,000 refugees which is way above the required global standards.⁴⁹ Medical services are provided by one full time NGO, with several others like Doctors without Borders occasionally sending teams of medics to Dadaab. The biggest challenge has been funding and medical supplies which have not been enough to effectively solve the health crisis. The study observed that in 2012 there was an outbreak of acute jaundice amongst refugees in Dadaab camp, with four fatalities, most of the cases reported amongst the new arrivals where sanitation was poor. In the year 2015, cases of cholera were also reported by the Kenyan authorities in the areas bordering Somalia. This resulted into 12 deaths on the Somalia side and 18 among the refugees.⁵⁰ Both diseases are associated with poor hygiene. Because of this reason the government of Kenya being worried about the health of its citizens opted to close the camp.

2.2.4 Economic Factors

The study has established that the Kenyan government has for long shouldered the cost of hosting refugees and of recent been unable to fully support them calling out to the international community

⁴⁸ Dadaab weak link against the fight of terror. <https://www.nation.co.ke/news/Dadaab-weak-link-in-fight-against-terrorism/1056-4965062-k4n738z/index.html>. Accessed on 30 Apr 20.

⁴⁹Milner, James. Refugees and the Regional Dynamics of Peacebuilding .Refugee Survey Quarterly 2016. 28(1): 13-30.

⁵⁰UNICEF Kenya Humanitarian Situation Report, May 2016

to assist. The frustration of Kenyan policy makers comes from the concerns that Kenya's hosting efforts are not supported as much as other regions of the world. The government of Kenya is spending a sizeable amount of money to pay for police officers working in the refugee camps, government administrative officials who are working for the refugee department. This additional responsibility has contributed to the decision of the government to repatriate the refugees and utilize the resources on other activities for national building. This is reinforced by Lucy in her article, where she asserts that;

“As long as most of the burden for looking after those who are displaced continues to be shouldered by some of the poorest and most fragile states in the world, the Kenyan government will feel it has the moral high ground to repatriate Somali refugees. However, most of the leaders, mostly in Europe still feel uncomfortable with that notion.”⁵¹

2.2.5 Administrative Factors

This study observed that each administrator has their cut out administrative boundaries with specific population, however, the presence of refugees has imbalanced this equation, hence each administrator is now shouldering a bigger burden than earlier anticipated. Kenyan national and regional authorities divert considerable resources and manpower from the pressing demands of their own development to the urgent task of keeping refugees alive, alleviating their sufferings and ensuring the security of the whole community. While Kenyan government has demonstrated a willingness to bear many of these costs, its understandably reluctant to pay, as a price for giving asylum, the cost of additional infrastructure that may be needed to accommodate refugees. Comment by the former CS Ole Lenku that Kenya was “forced by circumstances to reconsider the

⁵¹ Lucy Hovil (2016). The Guardian; *Why is the cost of hosting refugees falling on the world's poorest states?*

whole issue of hosting refugees,” indicates that the government was overstretched in providing for the refugees.⁵²

2.3 Summary of the chapter key findings

The chapter established that the Kenyan government had genuine concerns on the presence of refugees in Kenya, in that their presence had impacted negatively on the environmental, national security, the health sector, the economy and strained the local security apparatus. This study has also observed that the underlying factors to repatriation of refugees from Kenya to Somalia are cross cutting in that the identified issues affect the locals, the government agencies and the refugees.

⁵²Max Bearak 2016. Washington post: Kenya says it will close all refugee camps, displacing 600,000 people. <https://www.washingtonpost.com/news/worldviews/wp/2016/05/09/kenya-says-it-will-close-all-refugee-camps-displacing-600000-people>

CHAPTER THREE

THE INFLUENCE OF REFUGEE REPATRIATION ON KENYA'S NATIONAL SECURITY

3.0 Introduction

This chapter discusses national security implications inherent in repatriation of refugees from Kenya to Somalia. It first gives an overview of national security and goes further to analyze the impacts of refugees' repatriation to include improved security and, economic decline.

3.1 Overview of National Security

According to Zaum Dominik security is taken to be about the pursuit of freedom from threat and the ability of states and societies to maintain their independent identity and their functional integrity against forces of change which they see as hostile.⁵³ The bottom line of security is survival, but it also reasonably includes a substantial range of concerns about the conditions of existence. The traditional concept of security with the state as the main reference has been up for extensive debate. The traditional concept of security views the state as the sole protector of its sovereignty and territorial integrity by the use of force and that threats are always military in nature and arise from external sources rather than internal. The realist view on the other hand could be considered relevant during the period of the World Wars, whereby states seemed to be in a constant struggle for power. However, in the Post-Cold War era, the concept of Security has become much more complex.

With the new concept of security, in the post-Cold war era, new threats to national security have emerged. This includes political, economic, food, social and environmental insecurity. Refugees

⁵³Zaum, Dominik. *Post Conflict State building and Forced Migration*. In *Refugees in International Conflict*, eds. Alexander Betts and Gil Loescher. Oxford: Oxford University Press, 2011. 285-304.

contribute to the security challenge in that their presence affects Kenya's environmental and national security as per the research findings.

This study established that Kenya was host to some 490,650 refugees and asylum-seekers in 2017. This translated to about 1% of Kenya's total population estimate of forty eight million.⁵⁴ Refugees from Somalia form the largest proportion. The others are mainly from South Sudan fleeing civil war due to political strife in their countries. Kenya's ability to accommodate refugees due to regional conflicts in the region is slowly waning and issues of national security are growing. It was observed that there is now better service delivery by the government of Kenya to her citizens since the burden of refugees has been taken away

3.2 Security concerns

The study has established that, due to security concerns as well as the unsustainable burden on Kenya, the Government prior to the Tripartite Agreement justified its calls for Somali refugees to repatriate to 'safe areas' in Somalia. Linkage of some terrorist attacks in Kenya portrayed Somali refugees as a major security threat for example the 2015 Garissa University attack which was planned from Dadaab. The government of Kenya has continued to blame refugees for the insecurity in the country on the basis that refugees were responsible for the influx of illicit firearms that are the cause for rising violent crimes. The arrest and conviction of a number of refugees for various crimes including firearm offences indicate that refugee involvement in crime is not wholly unfounded. In Kenya, the government was particularly concerned that Al-Shabaab which has links to al-Qaeda had established close links with Somalia refugees and the weapons including the two SAM-7 missiles fired at the Israeli passenger jet in 2002 may have been smuggled from Somalia

⁵⁴UNHCR (2017b) Statistical summary as of 31 May 2017, refugees and asylum seekers in Kenya (<https://data2.unhcr.org/ar/documents/download/57232>)

into Kenya via the Somali refugee camps.⁵⁵ The reappraisal attacks targeted at Kenya by former refugees who now understand/ know the terrain better has become key concern.

The study has established that attacks from refugee camps and other forms of insecurity occurring in refugee populated areas are likely to undermine Kenya's National security. The presence of armed elements in camps has been proven to aggravate tension between clans, thereby posing threats to national stability. This is in addition to the uncontrolled and irregular movements of persons across international borders brings about a challenge to the sovereignty and security of recipient countries. The 'militarized camps' concept further stimulates images of fully fledged involvement of refugee population in armed conflict; which cannot be resolved with the peaceful presence and general normalcy of the camps. Kenya's action to send troops to Somalia was informed by the acts of violence conducted by Al-Shabaab terror group which was believed to be planning their activities from the refugee camps.⁵⁶ Since the Kenyan government adopted the laid-back approach to that of increasing limits and containment, there has been a slight decrease of threats by Al-Shabaab safe for properly planned attacks planned elsewhere. The study established that the repatriating Somali refugees back to their country led to improved security in Kenya. Kenya has now put more emphasis on the regional security (Horn of Africa) because a safer region translates to a national security. Government has since realized that when neighbors are not safe, we are also not safe either. i.e security has shifted from national to regional.

3.3 Economic concern

Refugees are generally seen as a burden to the host country. The government of Kenya has used this as one of the reasons to justify her actions to confine the refugees into camps. In the initial movement of refugees to Kenya, refugees were generally not perceived as a major security threat

⁵⁵ Hyndman, J., and Nyland, B., - UNHCR and the Status of Prima Facie Refugees in Kenya 2014.10 IJRL34

⁵⁶Chimni, B. S. -Refugees and Post-Conflict Reconstruction: A Critical Perspective. *International Peacekeeping* 9 (2): 2017. 163-180.

and instead were seen as contributing to the economy. The huge increase in refugee numbers in the 1990s, however, changed the scenario and Kenya began to view refugees as not its responsibility, precipitating hostility towards them since they were seen as constraining the country's resources. This was in addition to being considered less skilled and poorer than refugees of the previous decades. Contribution from the donors towards Somali refugees in Kenya also decreased and also received little attention from actors in the international refugee regime. This was after the 1990s original refugee emergency.

Kenya's internal crises have over the years also increased the view of refugees as a burden. The 1990s arrivals coincided with the then ensuing ethnic-based conflict in Kenya that led to the displacement of almost half a million persons. Furthermore, the situation of Kenya's economy at the time compounded the situation. The 2007 post-election violence also led to inter-ethnic conflicts that displaced thousands of persons, a good number of whom are still displaced. In September 2009, Kenya also experienced drought leaving millions of citizens reliant on emergency food aid. Subsequently, in crisis times, a negative view of Somali refugees as a liability arises. Although Kenya sees refugees from Somali as a burden, the study established that continued existence of refugees in Dadaab has inadvertently brought benefits in North Eastern, long considered a poor region. This is because the presence of UNHCR and other NGOs and has led to enhanced infrastructure as well as social services. As such, while hosting huge refugee populations puts pressure on limited resources, the benefits in many cases are bigger than the costs. These include improved employment opportunities, social and health services, commerce, and new water sources such as boreholes. It was observed that, closing the refugee camps might affect the economy of the neighboring communities negatively with the loss of numerous jobs. The communities might result to other means to look for a livelihood which in the long run affects the national security.

3.4 Summary of the chapter key findings

The study established that the repatriation of Somalia refugees from Kenya to Somalia had a positive impact on Kenya's national security which is evident by the reduced number of terrorist attack. The repatriation of refugees affected the community living in the areas hosting the refugees negatively.

CHAPTER FOUR

POLICY, SECURITY AND INSTITUTIONAL FRAMEWORK IMPLICATIONS OF REFUGEE REPATRIATION FROM KENYA TO SOMALIA

4.0 Introduction

This chapter discusses the policy, security and institutional framework implications of refugee repatriation from Kenya to Somalia. It covers: policy issues to repatriation of refugees from Kenya to Somalia, institution frameworks and security challenges.

4.1. Policy Issues to repatriation of Refugees from Kenya to Somalia

The process of refugee repatriation is well covered in several policy instruments which can be found in internationally, regionally and at national levels. Kenya being a signatory to most of these instruments is obliged to follow the laid processes.

4.1.1 International policy Instruments

Theoretically, no refugee can be repatriated against their will as long as an individual satisfies the definition of a refugee as outlined in the legal instruments. They cannot be forcefully returned. Nonetheless, in exceptional circumstances a refugee may be legally and forcefully returned to their country of origin. The international community has designed many legal instruments aimed at protecting refugees. These instruments fall under various categories namely: international human rights instruments which include the United Nations Convention Relating to the Status of Refugees of 1967 and the Universal Declaration of Human Rights.⁵⁷

Voluntary repatriation under articles 1C (1) and (4) of the 1951 Refugee Convention states that a person ceases to be a refugee once they voluntarily re-avail them self to the protection of their home country or if the refugee voluntarily re-establish them self in the country of origin. In both

⁵⁷Oluoch, K.K. (2012) Implementation of International Refugee Law: The Case of Kenya. Lap Lambert Academic Publishers, Saarbrucken, Germany.

circumstances, the refugee would no longer be in need of international protection. The 1951 Convention is the main legal instrument which spells out who a refugee is, spelling out his rights and giving the obligations of the state parties.

The study established that there are soft laws that provide for voluntary repatriation such as, the 1984 Cartagena Declaration on Refugees which states that the voluntary and individual character of repatriation of refugees and the need for it to be conducted in conditions of absolute safety. The United Nations General Assembly (UNGA) has upheld the right to return in general terms. For example, in 2017 the UNGA reaffirmed that voluntary repatriation, when feasible, is the ideal solution to refugee problems, and calls upon all the actors to facilitate the safe and dignified return of refugee. The right to return means that a refugee has a right to decide how and when they should return home.

For many refugees the immediate danger during repatriation process comes from the pressure from the Country of asylum and from the inadequate international assistance. Refugees from Dadaab felt short changed by the UN for paying them small cash handouts in order to convince them to return to Somalia. On arrival in Somalia, the refugees were taken to areas with no shelter, food and medical facilities. By crossing the international boundary, the refugees lost the legal status hence they are not entitled for any help from the country of asylum. The Kenyan government is justified under international law to repatriate refugees where a refugee has been involved in certain acts of grave moral culpability; the individual(s) may lose their rights as refugees, pursuant to Article 1F of the 1951 Convention, which provides that:

“any person with respect to whom there are serious reasons for considering that: he or she has committed a crime against peace, a war crime or a crime against humanity as defined in the international instruments drawn up to make provision in respect of crimes”⁵⁸

⁵⁸1951 Convention, Art. 1F

Further under Article 33(2) of the 1951 Convention indicate that protection against refoulement may not be claimed by

“a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country”.⁵⁹

Based on the above outlined international instruments on refugees and human rights laws, this study observed that Kenyan government was in a dilemma of whether to remain true to her international obligations as a signatory to these conventions and to allow the refugees who were already openly posing national security threats to continue staying in the country or to consider the lives and property of her people as important as and thereby repatriate them. Obviously Kenya had to consider the later option. This is quite in line with one of the key theories the study is based on (Realism)

Realists assume that nation are rational actors pursuing national interests within an anarchical system, and an international system of self-help in which the primary concern is security otherwise defined as survival. States being the major players in the international system view other players as being not useful in the international system which is considered as a self-help venture.

4.1.2 Regional Policy Instruments

The Organization of African Unity Convention of 1969 provides for an expanded definition of refugees.⁶⁰ Kenya being a signatory is obliged to respect all rights of asylum seekers and not return them to areas where their lives might be threatened. The Organization of Africa Union Convention governs the refugee plight in Africa while the African Charter on People and Human Rights provides for voluntary repatriation under article five. It mandates all member states to respect the

⁵⁹ 1951 Convention, Art. 33.

⁶⁰ Article VIII(2) of the OAU Convention.

voluntary character of repatriation in all cases and ensure that no refugee is repatriated against their will. It plays a key role in reflecting the African approach to refugees and has gained widespread acceptance by almost all states.

Article I (5) (c) of the OAU Convention, provides that a person is not entitled to its protections if that individual has committed acts contrary to the purposes and principles of the African Union.⁶¹ This particular article gives credence to the actions of Kenya to repatriate refugees because of the threat posed to its national security.

4.1.3 National Policy Instruments

The study established that the Constitution of Kenya has several clauses speaking to the issues of refugees in Kenya. The Refugees Act, institutes the domestic instruments for the treatment of refugees. The Kenya Citizenship and Immigration Act 2011 also address the lawful presence of refugees among other persons in Kenya. According to the refugee act, a person does not automatically acquire the refugee status unless he/she applies for it, meaning that the government is legally mandated to repatriate any person who is not registered. The study observed that Kenya had made it clear that Somali refugees are a ‘national security threat’ and needed to be repatriated. This has however, not taken place in a vacuum, with historical factors, having played a role in the country’s progressively more restrictive refugee policies in the wake of the signing of Tripartite Agreement. Refugee policies in Kenya have changed significantly, from a laid-back approach to that of increasing limits and containment. There were relatively few refugees in Kenya from 1963 to 1989, with only up to 15,000 at any given point. The government had an open asylum policy which meant that refugees could move and settle freely within the country, and also with a right to work. Prior 2006, a national refugee policy or a legal framework was not in place and an eligibility Committee was however in place which included representatives from the Immigration

⁶¹ The purposes and principles of the Organisation of African Unity are set out in the OAU Charter adopted in 1963, available at www.chr.up.ac.za/chr_old/hr_docs/african/docs/oau/oau5.doc.

Department, Ministry of Home Affairs, and observers from UNHCR who undertook refugee status determination interviews.⁶²

A planned change on Kenyan policy with regards to refugees was brought about by a high increase in refugees from the neighboring countries. The Kenyan government then adopted a general encampment policy with the high number of refugees seeking asylum. In 2006, the Kenyan government created a Department of Refugee Affairs although in theory the act implemented the 1951 Refugee Convention, the 1967 Protocol, and the 1969 OAU Convention. The government started developing negative outlooks on refugees, after assessing that the refugees' numbers were rapidly increasing hence the start of the enforcement of the Refugee Act of 2006. A more restrictive approach was taken by the government with regards to refugee management, by among others implementing a relocation directive in December 2012. This brought to an end urban refugee operation and all refugees were ordered to go back to designated camps.⁶³ Under the Act, the Refugee Affairs Secretariat (RAS) was tasked to administer, coordinate and manage all refugee matters. Kenya considers itself as only a country of asylum as long as a refugee has a mandate or is in the process of acquiring or renewing one. The decision of Kenya to repatriate Somali refugees, even though, it's a signatory to 1951 Convention and the 1967 protocol on refugees, brought a lot of uproar in the international arena.⁶⁴ Kenya's national policy has played a vital role in ensuring that there is a smooth process in ensuring voluntary repatriation of Somali refugees. Due to the international attention towards the closure of Dadaab and Kenya's government awareness of her strategic role in the region, led to a more inclusive approach to the repatriation process.

⁶²Oluoch, K.K. (2012) *Implementation of International Refugee Law: The Case of Kenya*. Lap Lambert Academic Publishers, Saarbrücken, Germany

⁶³Hyndman, J., and Nyland, B., -UNHCR and the Status of Prima Facie Refugees in Kenya 2014.10 IJRL34.

⁶⁴Oluoch, K., "Countering International Terrorism in the 21st Century: Prospects and Challenges", *Maarifa: Journal of Humanities and Social Sciences*, Eldoret, Kenya, Vol. 2No 1, 2007

4.2. Institutional Framework (The UNHCR)

The United Nation High Commission for Refugees has a legal mandate to protect refugees. This by extension includes refugees' repatriation .Article 35 of the 1951Convention which states that:

“[t]he Contracting States undertake to cooperate with the Office of the United Nations High Commissioner for Refugees . . . in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention”.

Voluntary repatriation is permitted under international refugee law and protection frameworks but, the frameworks places heavy responsibilities on the countries of asylum and origin, and on the UNHCR to ensure that return is voluntary, safe and dignified, and within a framework of sustainable reintegration. UNHCR took over the refugee affairs from the government of Kenya in 1992 following the swelling refugee numbers. UNHCR under the tripartite agreement is to ensure that decision to repatriate by the refugees is voluntary in nature in line with article 26 (i).⁶⁵

The study also established that the following return modalities have been put in place by UNHCR in Kenya, Confirmation of the voluntariness of the decision to return: UNHCR and its partners emphasize the voluntary return to refugees during a counseling process undertaken at Integrated Return Help Desks located in Dadaab. These Help Desks are staffed by UNHCR, the Department of Refugee Affairs (DRA) and Norwegian Refugee Council (NRC). The UNHCR Help Desk informs refugees that it will support return to any part of Somalia provided the decision by refugees to return is taken freely and voluntarily in the exercise of an informed decision. UNHCR confirms and verifies this voluntariness and all adult returning refugees complete and sign a Voluntary Repatriation

⁶⁵ UNHCR, Voluntary repatriation of Somali Refugees from Kenya, Operations Plan July 2015-December 2019, p.7, available at <http://www.unhcr.org/561627e39.pdf>

Form (VRF). NRC during departure procedures distributes the core relief items, hygiene kits and energy biscuits to returning refugees.⁶⁶

Ensuring protection in accordance with the Tripartite Agreement as well as UNHCR's guidelines and policies, ensures that all International standards are observed, especially with regard to the protection of persons with needs. To this end, inter-agency protection working groups have developed action-oriented standard operating procedures for refugees' protection for those deciding to return to Somalia. Specifically, cross-border protection, repatriation and reintegration coordination mechanisms have been established to support a viable return process in a humane and orderly manner.⁶⁷ UNHCR and Kenyan government developed standard operating procedures and modalities for the provision of return support packages to returning refugees to ensure that ineligible persons, including returnees who come back to Kenya to seek asylum do not have access to such assistance. Whereas Somalis are granted prima facie refugee status, recyclers are required to undergo status determination individually and a needs assessment before facilitating their re-registration.⁶⁸ These mechanisms have been established to ensure that eligible refugees only collect the support package one time. Under these legal instruments, the return of Somali refugees is justifiable as long as they follow the provision of voluntary return. The process of registration and verification are also used to weed out bad characters who pose a national security threat.

⁶⁶Zaum, Dominik. Post Conflict State building and Forced Migration. In *Refugees in International Conflict*, eds. Alexander Betts and Gil Loescher. Oxford: Oxford University Press, 2011. 285-304.

⁶⁷Salehyan, Idean and Kristian Skrede Gleditsch.-Refugees and the Spread of Civil War. *International Organization* 60 (Spring): 2016. 335-366.

⁶⁸Gorman, Robert. "Refugee Repatriation in Africa." *The World Today* 40, no. 10 (1984): 436-43. Accessed March 15, 2020. www.jstor.org/stable/40395561.

4.3 Security challenges

The study established that voluntary repatriation may be conducted when the safety and dignity of returning refugees can be ensured, and if the country of origin can support their sustainable return and reintegration. Population displacement as a result of on-going conflicts, particularly in south central Somalia which has until now been where the majority of Somali refugees from Dadaab have returned, may be seen as a key indicator that the safety and dignity of returnees cannot be assured. This is coupled with reports on the severity of drought, the scale of drought-driven displacement, outbreaks of disease and unmet needs in Somalia. In light of these factors, there are considerable questions whether safe and sustainable returns to Somalia are possible at present. Given the security and humanitarian situation in Somalia, there appears to be a real risk that returning refugees will be unable to reintegrate in Somalia and many will be forced into internal displacement or to again seek refuge across international borders. Even though the process implemented under the Tripartite Agreement provides some comfort that refugees appear to be returning to Somalia willingly, there remain doubts as to whether the requirements for voluntary, fully informed repatriation carried out under conditions of safe, dignified and sustainable return conditions are being, or can be, met.

4.4. Chapter Key Findings

The study established that Kenya's decision to repatriate refugees to Somalia was based on its national interest of securing her citizens. The international, regional and national instruments provide for the voluntary repatriation of the refugees which Kenya has complied with to ensure that the Somali refugees are repatriated back to Somalia. As a country Kenya is legally mandated to protect asylum seekers who under the same instruments can lose the refugee status if they become a threat to national security.

CHAPTER FIVE

SUMMARY OF FINDING, CONCLUSIONS AND RECOMMENDATIONS

5.0 Introduction

The chapter gives a summary of finding based on the three objectives of the study, which were to examine the factors underlying refugee repatriation from Kenya to Somalia; To evaluate the influence of refugee repatriation on the Kenya's national security and lastly to investigate the policy, security and the institutional framework implications of refugee repatriation from Kenya to Somalia. The chapter further gives a conclusion and recommendations based on the findings of the study.

5.1 Summary of findings

Based on objective one of the study which was to examine the factors underlying refugee repatriation from Kenya to Somalia the study established that the government of Kenya had genuine concerns on the implication of presence of refugees in Kenya to include the environmental degradation, national security concerns, health concerns, economic concerns and lastly overstressing the security organs. To curb this, the government opted to repatriate them to their country of origin.

Based on objective two of the study which was to evaluate the influence of refugee repatriation on the Kenya's national security, the study established that the repatriation of Somalia refugees from Kenya to Somalia had a positive impact on Kenya's national security which is evident by the reduced number of terrorist attack. The study also established that the repatriation process negatively affected the economy of the communities living in the areas hosting the refugees.

Based on objective three of the study which was to investigate the policy, security and the institutional framework implications of refugee repatriation from Kenya to Somalia the study

established that Kenya's decision to repatriate refugees to Somalia was based on her national interest of securing her citizens. Kenya has put in place laws governing the repatriation of refugees in line with international conventions and protocols. The refugee repatriation process is regulated by many international conventions to include UN Convention Relating to the Status of Refugees and its 1967 Protocol and the Universal Declaration of Human Rights, regional instruments to include the OAU Convention of 1969 and national instruments to include The Refugees Act, the Kenya Citizenship and Immigration Act 201.

5.2 Conclusion

Based on objective one, this study concludes that the factors underlying the repatriation of Somali refugees back to their country are cross cutting and are well founded as no country would want to jeopardize her socio economic wellbeing for other foreign nationals especially when they fail to reciprocate the good will being advanced on them.

Based on objective two, this study concludes that peace, improved security and tranquility presently being enjoyed in Kenya of late is as a result of repatriation of Somali refugees back to their country.

Based on the third objective, this study concludes that some of the international instruments may not be practical in certain ideal situation. A case in point is the refugee act that prohibits the hosting government from repatriating the refugees even when an individual act contrary to the hosting states norms and regulations..

5.3 Recommendations

Based on objective one, it is recommended that the issue of hosting refugees should be a collaborative issue between the host nation and the international community and agencies. The host nation should be adequately supported in hosting refugee and in cases of threat to national security,

it should be supported by the international community in the process of repatriation of the refugees back to their countries of origin to alleviate the dangers of hosting refugees. It is also recommended that the government of Kenya should improve the presence of security organs within the Dadaab complex including the Nyumba Kumi initiative to curtail the ability of bad elements to plan their activities from the camps.

Based on the second objective and finding, which infers that the repatriation process has had a positive impact on the Kenyan national security, it is recommended that the UNHCR, Kenyan government and Somalia government should hasten the process of refugee repatriation back to Somalia and if possible close the refugee camps as per the tripartite agreement in order to further improve the security in Kenya.

Based on the third objective, it is recommended that the refugee repatriation process be done voluntarily and in accordance with the Kenyan legal frameworks and the international legal instruments governing refugee's affairs. The government of Kenya is justified to conduct the repatriation process as long as it follows the laid down regulations in preservation of her national security.

5.4 Areas of further studies

This study sought to examine the refugee repatriation as a national security concern in Africa: Kenya- Somalia experience (2013-2018) by looking into the factors underlying refugee repatriation from Kenya to Somalia, and by evaluating the influence of refugee repatriation on the Kenya's national security and by lastly investigating the policy, security and the institutional framework implications of refugee repatriation from Kenya to Somalia. However, the findings cannot be generalized to cover the whole of Africa, hence similar studies should be carried out in other parts of Africa for comparison purposes.

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SECTION II: THE FACTORS UNDERLYING REFUGEE REPATRIATION FROM KENYA TO SOMALIA

7. What are some of the effects of having refugees within the Kenya?

a.

b.

c.

8. Do you think repatriation will solve any of the problems?

Yes () No ()

9. Are the conditions in the Country of Origin Conducive for Voluntary Repatriation?

Yes () No () Unsure ()

10. Indicate your level of agreement with the following statements relating to the refugee repatriation. Indicate by ticking in the appropriate place.

Key (1 = Strongly Disagree, 2 = Disagree, 3 = moderately disagree, 4 = Agree and 5 = Strongly Agree)

Statements	1 SD	2 D	3 MD	4 A	5 SA
The presence of refugees in Kenya has affected the national security situation.					
Repatriation of refugees will improve the Kenya's national security.					
Repatriation of refugees is the only option available to the Kenyan government to resolve the refugee problems.					
Do you support the government decision to close Dadaab refugee camp?					

SECTION III: THE INFLUENCE OF REFUGEE REPATRIATION ON THE KENYA'S NATIONAL SECURITY

11. Has the repatriation of refugees improved the security situation in Kenya in any way?

Yes () No ()

12. In what ways?

a.

b.

c.

SECTION IV: THE POLICY, SECURITY AND THE INSTITUTIONAL FRAMEWORK IMPLICATIONS OF REFUGEE REPATRIATION FROM KENYA TO SOMALIA

13. In your opinion what is the effectiveness of Kenya's Policy on the Repatriation of Somali refugees?

1. Highly satisfactory

2. Satisfactory

3. Neutral

4. Unsatisfactory

5. Highly Unsatisfactory

14. Are the regional and international legal frameworks on refugees strong enough to protect the rights of the refugees?

Yes () No () Not Sure ()

15. What are some of the areas which need to be improved?

a.

b.

c.

APPENDIX II: INTERVIEW GUIDE

1. What are the reasons for the government intent to close Dadaab refugee camp?
2. What are the causes of refugee repatriation from Kenya to Somalia?
3. What are the challenges attached to the process of repatriation of refugee from Kenya to Somalia?
4. Is the presence of refugees in Kenya a threat to national security?
5. Do you think the conditions in the Country of Origin Conducive for Voluntary Repatriation?
6. What is the implication of refugee repatriation on Kenya's refugee Policy?