

**FACTORS INFLUENCING ADMINISTRATION OF JUSTICE IN
CHILD-RELATED CASES HANDLED BY UNHCR: THE CASE
OF KAKUMA REFUGEE CAMP, KENYA**

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DECLARATION

I declare that this research project report is my original work and has not been submitted for a degree or other qualification in any other university or institute of higher learning.

Signed Date

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

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DEDICATION

I dedicate this research report to my family Jepchumba, Kiptum and Kiplimo. I am grateful for their support and encouragement. I also dedicate this research project to the humanitarian workers in Kakuma Refugee Camp who work tirelessly to improve the lives of refugees and to refugees whose resilient spirit in the face of adversity continues to inspire me.

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ABBREVIATIONS AND ACRONYMS

ADR	Alternative Dispute Resolution
CAT	Convention Against Torture
CDW	Child Development Worker
CRC	Convention on the Rights of the Child
IRC	International Rescue Mission
IP	Implementing Partners
JRS	Jesuit Refugee Service
LWF	Lutheran World Federation
NGO	Non-Governmental Organization
RCK	Refugee Consortium of Kenya
SGBV	Sexual Gender-Based Violence
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
WFP	World Food Program

ABSTRACT

Kenya is currently host to a large number of refugees many of whom are hosted at Kakuma Refugee Camp. About 50% of refugees are children who become especially vulnerable during armed conflict. One of the most essential components in the protection of refugee rights is through effective access to a justice system through which rights can be enforced and violations of rights rectified. While there has been some research in the area of administration of justice for refugees, there is limited study focusing on child-related cases. Therefore, the purpose of this study was to fill the gap in knowledge by examining the factors that specifically influence administration of justice in child-related cases handled by UNHCR. The study was carried out in Kakuma Refugee Camp focusing on 71 persons involved in child-related cases who filled questionnaires and 30 community leaders who participated in focus group discussions. Descriptive survey design utilizing both qualitative and quantitative approaches was used. The research instruments used were questionnaires, designed to gather objective data, interviews and three focus group discussions. The data was analyzed through qualitative and quantitative methods. The findings established that the refugee community has a role to play in administration of justice and that the UNHCR policy on children is streamlined with the child protection policies of the Kenyan Government. Although the Government of Kenya has an effective policy on administration of justice relating to child-related cases involving refugees, the refugees do not have a lot of trust in the justice system. They seem to believe that the police working in Kakuma and the judiciary have limited capacity to handle child-related cases. This indicated that there is not sufficient confidence in the capacity of these institutions to handle these refugee cases. The respondents also agreed that refugees resort to alternative justice systems because they do not understand how the Kenyan justice system works, hence they prefer to solve disputes through alternative means due to fear that they may have to bribe the authorities to get justice or it may be too expensive to take the matter to court. From the findings of this study it is recommended that UNHCR should create awareness and sensitization about refugee rights in the host state, human rights standards and Kenya's legal system to the refugee community. In addition they should also encourage children to report cases of abuse, build capacity among the police and security forces on refugee laws and human rights standards and on handling child-related cases. The Kenya Government likewise should increase the number of police officers and establish a permanent court including a children's court in Kakuma to increase access to the courts and reduce the burden of travel costs carried by refugees who have to attend court in Lodwar. They should also extend witness protection programmes to protect witnesses in cases where they fear for their safety.

CHAPTER ONE

INTRODUCTION

1.1. Background of the Study

International law imposes the responsibility of refugee protection upon states through international treaties and customary international law. This responsibility is based in part on the general legal principle that a sovereign state has jurisdiction over individuals found on its territory and over that territory itself. It is also espoused in the customary international law principle of *non-refoulement* which forbids states from returning refugees to places where their lives or freedoms could be threatened (Goodwin-Gill and McAdam, 2007). A further legal basis for this responsibility is based on the adoption of the several treaties including the United Nations Convention Relating to the Status of Refugees (1951) hereinafter referred to as “The 1951 Refugee Convention”, the Protocol relating to the Status of Refugees (1967) and the Convention against Torture (CAT 1984). Article 1A(2) of the 1951 Refugee Convention defines a refugee as a person who is outside his/her country of nationality or habitual residence because he/she has a well-founded fear of persecution because of his/her race, religion, nationality, membership in a particular social group or political opinion. He/she is unable or unwilling to avail himself/herself to the protection of his/her country of origin, or to return there, for fear of persecution.

UNHCR’s international protection mandate includes those who do not fall under the scope of the 1951 refugee Convention grounds and recognizes those compelled to leave their countries due to indiscriminate harm or threats of harm resulting from situations of generalized violence or events seriously disturbing public order. Similarly, regional instruments on refugees have expanded the 1951 Refugee Convention definition. For example, due to the nature of African conflicts, the Convention Governing the Specific Aspects of Refugee Problems in Africa adopted by the Organization of Africa Unity (O.A.U) in 1969 expanded the UN definition to include people fleeing external aggression, internal civil strife, or events seriously disturbing public order (Kirui and Mwaruvie, 2012).

Protection provided by the country of asylum means that refugees become subject to the authority of that country and though limited in certain capacities by national legislation, they have rights, obligations and duties under the laws of the land similar to citizens of that country. One of the biggest concerns faced by refugees is whether they can access justice institutions in their country of asylum (Da Costa, 2006). Some of Kenya's refugees are settled in urban areas but government policy and legislation requires refugees to get humanitarian assistance in Dadaab Refugee Camp and Kakuma Refugee Camp which are located in remote and historically marginalised areas. The result is that majority of refugees are forced to live in areas which have traditionally been insecure, where the rule of law is weak and where the perpetrators of violence can act with a high degree of impunity (Crisp, 1999). It is therefore of concern that there are many challenges facing administration of justice in refugee camps especially in a setting where the population in question involves persons from different countries and cultures who may not be aware or have an understanding of the justice system in Kenya (Kirui and Mwaruvie, 2012).

The land mark study in 1996 commissioned by the UN General Assembly on the impact of armed conflict on children in over 30 international conflicts spearheaded by the appointed expert Graca Machel found that displaced children are especially vulnerable due to the devastating impact of international conflict. Their lives were disrupted and they were deprived of their material and emotional needs, including the social structures and cultural life. The study also found that although refugee camps are supposed to be places of refuge and are supposed to offer safety, protection and assistance, the reality is to the contrary. Displaced populations are complex societies that suffer a breakdown of social and traditional structures and there are often high levels of violence, alcohol and substance abuse, family quarrels and sexual assault (Machel, 1996). Indeed much of the violence experienced by refugees in Kenya is inflicted upon them by members of their own family and community. Women and adolescent girls are particularly vulnerable (Crisp, 1999).

Further studies in refugee camps around the world indicate that child abuse cases are rampant in most of them. According to Da Costa's (2006) empirical research in refugee camps in Bangladesh, Cote d'Ivoire, Ethiopia, Guinea, Kenya, Mexico, Nepal, Pakistan, Sierra Leone, Tanzania, Thailand and Yemen, the majority of cases surveyed fall into the broader Sexual

Gender-Based Violence (SGBV) category. Some of the cross-cutting abuses specific to children include gender-based violence abuses such as Female Genital Mutilation (FGM), forced and early marriage, defilement, forced prostitution, violence against children in domestic violence situations, kidnapping of children following separation by spouses and child labour. Other disputes include child custody cases and abuses from persons of authority. De Berry's research in Teso, Uganda during the civil war from 1987 to 1992 between the insurgent group, the Uganda's People's Army (UPA) and the government's National Resistance Army (NRA) documented the sexual vulnerability of adolescent girls and the threat of underage recruitment of boys. This was despite the fact that they were in camps under the supposed protection of the NRA (De Berry, 2004). The vulnerability of Albanian Kosovan children has also been documented whereby girls were especially vulnerable to trafficking and exploitation by Albanian gangs in refugee camps in Albania, Montenegro and Macedonia with little intervention or protection from the host country's authorities (Swayne and Feeny, 2004). Due to the location of Dadaab and Kakuma refugee camps near the borders of Somalia and South Sudan respectively, there is constant threat of forced recruitment of adolescent boys to fight on behalf of a particular clan or faction within their country such as the Sudan People's Liberation Army (SPLA) and the Al Shabaab in Somalia (Crisp, 1999). These conclusions demonstrate that without intervention of humanitarian organizations, UNHCR and the host government, children in camps would remain unprotected against human rights violations committed against them.

One of the most essential components of the realization of human rights and one way to provide the individual with a degree of control is through effective access to a justice system through which rights may be demanded and violations of rights rectified (Purkey, 2011). Due to the setting of refugee camps, the conditions and the environment, children are particularly at risk of abuse, exploitation, crime and human rights violations (McCallen, 1991). Some of the reasons that these vulnerable groups are at risk include poverty, uncertain legal status in the host country, lack of resources or willingness of host governments to take an active role in law and order issues, remoteness of the refugee camps and the lack of resources and infrastructure and a breakdown of traditional community and family support structures . Another reason is because of limited monitoring of camps due to a limited number of professional staff working in

Humanitarian Organizations in the camp and especially UNHCR and unwillingness by host governments to improve access to justice (Da Costa, 2006).

From the foregoing discussion, the protection of child refugees requires a multi-disciplinary and multi-sectoral approach, linking closely work in education, health and criminal justice. Increasing the effective protection of children also involves working with a wide range of formal and informal bodies, including governments, multilateral agencies, donors, communities, guardians, and families. To this end the role of the government in providing law enforcement officers in the camp, and judicial staff, child officers as well as an efficient state council's office is paramount in child protection and improving children's access to justice.

1.1.1. Kakuma Refugee Camp

The Kakuma Refugee Camp is located in Turkana District of North Western Kenya, 95 Km south of the South Sudanese border and approximately 1,000 km from Nairobi. The camp was established in 1992 after the arrival of 12,000 "Lost Boys/Girls of Sudan", a group of children who together with their caretakers undertook a hazardous five-year odyssey fleeing the civil war in Sudan to Ethiopia. When war erupted in Ethiopia they went back to an insecure Sudan before they finally reached the Kenyan border point of Lokichoggio in 1992. The same year, large groups of Ethiopian refugees who had fled their country following the fall of the Ethiopian government added to the refugee population (UNHCR, 2012).

During the course of subsequent years, the caseload in Kakuma increased with inclusions of Ethiopian refugees, as well as refugees from the Great Lakes Region transferred from Nairobi. As of 31 December 2012, the total camp population in Kakuma stood at 107,205 with 50,366 Somali refugees accounting for 47% of the total population, 33,867 (31.6%) from South Sudan, 6,374 (5.9%) from Ethiopia, 6,149 (5.7%) from the Democratic Republic of Congo and 5,345 (5%) from Sudan. Other nationalities include Burundi (3,699), Uganda (736), Rwanda (510), Eritrea (112), Congo Brazzaville (28), Tanzania (13), Ivory Coast (3), Zimbabwe (2), Cameroon (1) and Iran (1) accounting for 4% of the camp population; thus bringing the number of nationalities in the camp to 15. 1,271 individuals were registered in December 2012 bringing the total figure of new arrivals registered in the year to 16, 558. Of the total registered new arrivals,

56.2% originated from South Sudan, 13.5% from Sudan, 9.5% from Burundi, 6.7% from Somalia, 6.4% from DRC, 6.2% from Ethiopia, while the remaining 1.5 % were from Uganda, Rwanda, Eritrea, Tanzania, Zimbabwe, Cameroon, Ivory Coast and Iran (UNHCR, 2012).

About 50% of the refugee population in Kakuma Refugee Camp is children who have also fled war with their parents and guardians as well as unaccompanied minors and separated children (UNHCR 2012).

1.2. Statement of the Problem

Due to the nature of displacement and encampment whereby the camp is geographically isolated and located in a marginalized area of the country with scarce resources and an underdeveloped infrastructure, the rights of refugee victims of crime are often violated due to inadequate access to legal recourse (Harding and Scanlon, 2008). While legally refugees in Kenya have equal access to the courts, they face numerous challenges in accessing the host justice system. Considering the general vulnerability of children, refugee children have even less access to Kenya's justice system (Da Costa, 2006)

The nature of the legal status of refugees is ideally supposed to be a temporary one with the view that there will be a durable solution for refugees. However, the reality is that most refugees are forced to stay in refugee camps and rely on the host state and humanitarian aid for lengthy periods because of ongoing conflict in their countries of origin (Jacobsen, 2002). At the same time, they are restricted from permanently settling within the host state which often does not give the option of integration and access to work permits and freedom of movement, while, on the other hand, the response by the international community remains inadequate (Crisp,2003) . The durable solutions envisioned by UNHCR include resettlement of asylum seekers to a third country of asylum, integration of refugees by the country of asylum and voluntary repatriation back to their country of origin. (Goodwin-Gill and McAdam, 2007). In the Kenyan context, the war in the Democratic Republic of Congo, the lack of democratic space in Ethiopia and Burundi and the conflict in Somalia mean that the number of refugees seeking asylum is always rising and that durable solutions are limited. Kakuma refugee camp also experienced an influx of Sudan and South Sudanese refugees as a result of the conflict over the disputed Abiyei, South

Kordofan and Blue Nile States in South Sudan. Inter-ethnic conflict in Jonglei and Upper Nile regions of Southern Sudan has also contributed to the rising number of refugees in Kakuma (UNHCR, 2012).

Since it is unlikely that the situation will change, the focus of the host government and stakeholders must be on ensuring that the human rights of refugees are respected to the greatest extent possible and that refugees are able to live in a manner that is respectful of their human dignity, that is, which includes at the very least the ability to act as agents of their own destiny (Purkey, 2011). The scarcity of resources, break down of social structures, hostilities between refugees and the host community are causes of disputes and insecurity within the camp and outside the camp. Considering the vulnerability of children in the camp there is the need to set up special measures to ensure protection of children within the law (Bhabha and Young, 1999).

Kenya's obligation to protect children is contained in the United Nations Convention on the Rights of the Child (1989) which has been ratified within the Children's Act (2001). Kenyan laws, also provides for the protection of children in the Sexual Offences Act and the Penal Code (Odongo, 2004), among other instruments. The rights afforded to children in these legal instruments can only be realised through enforcement by the host government and the aid agencies through an effective justice system. It is for these reasons that this study sought to assess the factors influencing the administration of justice in cases arising from child refugees in Kakuma Refugee Camp.

1.3. Purpose of the Study

The purpose of this study was to examine the factors influencing administration of justice in child-related cases handled by UNHCR in Kakuma Refugee Camp, Kenya.

1.4. Objectives of the study

The study was guided by the following three objectives:

- i. To assess the influence of UNHCR child protection policy on administration of justice in child-related cases handled by UNHCR in Kakuma Refugee Camp.
- ii. To assess the influence of the host country justice system on administration of justice in child-related cases handled by UNHCR in Kakuma Refugee Camp.
- iii. To examine the influence of availability of alternative means of dispute resolution on administration of justice in child-related cases handled by UNHCR in Kakuma Refugee Camp.

1.5. Research Questions

The study sought answers to the following research questions:

- i. To what extent does UNHCR's child protection policy influence administration of justice in child-related cases handled by UNHCR in Kakuma Refugee Camp?
- ii. To what extent does the host country justice system influence administration of justice in child-related cases handled by UNHCR in Kakuma Refugee Camp?
- iii. How does availability of alternative means of dispute resolution influence administration of justice in child-related cases handled by UNHCR in Kakuma Refugee Camp?

1.6. Significance of the study

The findings and recommendations of this study are important to various groups including Programme coordinators in child protection programmes in humanitarian organizations as well as humanitarian workers, the police and judicial officers working with refugees in similar situations. From the recommendations, the main stakeholders mandated to deal with refugee issues, most notably UNHCR and the government of Kenya, have fresh information that they could use as they review policies that govern administration of justice in child-related cases. This

research also provides an insight into the various aspects of administration of justice in refugee camps which will be vital information for future research in the field.

1.7. Limitation of the study

The study accepts some challenges as envisaged in the research. One of the challenges was accessing the respondents owing to the fact that the research involved staff from different organizations who are often in the field. Another challenge faced during the study was the language barrier while interviewing refugee respondents of different nationalities. These limitations were overcome by involving research assistants and interpreters.

1.8. Delimitations of the study

The study focused on the administration of justice in child-related cases handled by child-protection officers working in UNHCR and its implementing agencies and police officers stationed at the Kakuma Police Station in Kakuma Refugee Camp in Turkana County. It also focused on the functions of the current justice system and its handling of child-related cases and the role played by the judiciary and government officials, which include the police and judicial officers.

1.9. Assumptions of study

This research assumed that the respondents would be available for interview and that they would give correct and objective information. As indicated in Table 4.1, this assumption was fulfilled with high 76% questionnaire return rate.

1.10. Definition of significant terms used in the study

Child in this study adopts the definition under Article 1 of the United Nations Convention on the Rights of the Child (CRC) which provides that a child means “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier” (UN, 1989).

Child protection refers to measures and structures taken to prevent and respond to abuse, neglect, exploitation and violence affecting children. The goal of child protection is to promote, protect and fulfil children's rights to protection from abuse, neglect, exploitation and violence as expressed in the UN Convention on the Rights of the Child and other human rights, humanitarian and refugee treaties and conventions, as well as national laws.

Host country refers to the country which a refugee seeks protection from persecution and in this study it refers to Kenya. In this study, the host country justice system refers specifically to government structures available to refugees living in Kakuma Refugee Camp within Turkana County and not necessarily the whole country.

Asylum seeker is a person who has fled his country and sought refuge in another country but has not been recognised as a refugee in that country according to international treaties, national legislation or UNHCR

Refugee is a person who has acquired legal status in the country of asylum according to the procedures laid out in international treaties, national legislation or UNHCR.

1.11. Organization of the study

Chapter one offers the background of the study, statement of the problem, objectives of the study and research questions, justification and significance of the study, limitations of the study, definition of terms and the purpose of the study. Chapter Two presents a review of the literature relevant to the objectives of the study. Chapter Three presents the research methodology adopted during the study to include the research design, analysis and interpretation that was used during the study. It also includes the target population; data collection methods used and research procedures. Chapter Four focuses on data analysis, interpretation and presentation of the findings. Frequency tables, percentages, mean and standard deviation are used to present data while qualitative data collected through focus group discussions is organized in themes and presented in narrative form. Chapter Five provides the summary of the findings, the discussions, the conclusions and recommendations of the study based on the objectives of the study. The chapter also presents suggestions for further studies.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter presents a review of the literature related to the purpose of the study. The literature is reviewed from global, Kenyan and local perspectives. The chapter is organized according to the specific objectives in order to ensure relevance to the research problem. The review was undertaken in order to eliminate duplication of what has been done and provide a clear understanding of existing knowledge base in the problem area. The literature review was based on authoritative, recent, and original sources such as journals, books, thesis and dissertations. This chapter presents a review of the literature related to the administration of justice as it concerns children in refugee camps. The subsequent sections present the relationships between the various variables of the study and in the last section the conceptual framework that guided this study is presented.

2.2 The Concept of Administration of Justice

The origin and growth of administration of justice is identical with origin and growth of man. The social nature of man demands that he must live in society. While living so, he must have experienced a conflict of interests (Rawls, 1971). The concept of administration of justice has its origins in the recognition that in the primitive times, might was the sole right. Only the strongest maintained their rights and man was his own judge. A person who was aggrieved by the actions of his neighbor could only seek revenge with his own hand because there was no tribunal from which he could seek redress and balance the scales of justice (Salmond, 1912). The establishment of a tribunal to administer justice was therefore necessary and the state has been mandated with this function. If a state is not capable of performing either or both of these functions, it cannot be called a state (Rawls, 1971).

Salmond further argues that man does not have one reason in them and each is moved by his own interests and passions. The only alternative is to have one power over men. He supposes that man is by nature a fighting animal and force is needed to have order. Force is also necessary to stop the criminal minority and prevent them from gaining an unfair advantage over the law-abiding

majority in the state (Salmon, 1912). According to Hobbes (1651), without physical force, injustice is unchecked, and the life of the people is solitary, poor, nasty and short and therefore the most important and primary purpose of law is to achieve justice and justice can be achieved through administration. Similarly, law is and should be the law of the state and it should be applied uniformly to all persons, exclusive of all other law, and administered by a single set of state institutions (Griffiths, 1986)

Administration of justice has been defined as the rules of law that govern the detection, investigation, apprehension, interviewing and trial of persons suspected of crime and those persons whose responsibility it is to work within these rules. The administration of justice is not confined to the courts; it encompasses officers of the law and others whose duties are necessary to ensure that the courts function effectively. It is the fair, just and impartial upholding of rights, and punishment of wrongs, according to the rule of law (Duhaim, 2002). In the broader context, access to justice includes issues to do with accessibility of courts, language of court proceedings including interpretation services, court fees, public participation in administration of justice, accessibility to persons with disability and availability of information (Ojwang 2002).

2.3 UNHCR child protection policy and administration of justice.

Responsibility of refugee protection is shouldered by poorer, less developed nations that, even if they have the will, do not have the means to fulfill their protection obligations. As a consequence of both the lack of will and of resources, host states delegate their refugee protection responsibilities to a greater or lesser degree to the UNHCR (Hathaway, 2005). UNHCR in turn delegates certain aspects of the management of refugee camps to other non-governmental organizations (NGOs) called Implementing Partners (IP) (UNHCR, 2002).

The Office of the United Nations High Commissioner for Refugees (UNHCR) was established on December 14, 1950 by the United Nations General Assembly. Although states have the primary responsibility under international law to take care of refugees, UNHCR has the mandate to lead and co-ordinate international action to protect refugees as a representative of the international community (Goodwin-Gill and McAdam, 2007). UNHCR works to ensure that

everyone can exercise the right to seek asylum and find safe refuge in another state and although not always feasible, seeks to provide the options of voluntary repatriation, local integration or resettlement in a third country (UNHCR,1950).

Availability of the UNHCR (1993) Policy on Refugee Children recognizes that the protection and care of refugee children is a fundamental mandate of UNHCR. UNHCR considers a child to be a person “below the age of 18 years, unless, under the law applicable to the child, majority is attained earlier”. This definition is derived from the Convention on the Rights of the Child (1989) which also provides that in some cases a person over the age of 18 years may be afforded the same protection as a child where an assessment deems it necessary (UNCRC 1989).

2.3.1 Content of the UNHCR Policy on children

The UNHCR Policy (1993) recognizes that children’s special needs arise from three interrelated factors which are their dependence, their vulnerability and their developmental needs which refers to their requirements for healthy growth and development at different ages (Machel, 2000). International law and national law recognizes that children are dependent on their parents or other adults to provide basic needs for their survival (McCallen 1991). This dependence on adults for care and protection means that children are vulnerable because they are not able to provide for themselves as an adult would (UNHCR, 1993). According to Machel (1996), to flee from one’s home is to experience a deep sense of loss, and the decision to flee is not taken lightly. People fleeing conflict are forced to make the decision for fear of being killed, tortured, forcibly recruited, raped, abducted or starved, among other reasons. They leave behind them assets and property, relatives, friends, familiar surroundings and established social networks. Although the decision to leave is normally taken by adults, even the youngest children recognize what is happening and can sense their parents’ uncertainty and fear (Machel, 1996). The UNHCR policy recognizes that children are at a greater risk of psychological trauma in armed conflict situations and since they are physically less able than adults to survive from illness, malnutrition and deprivation of basic necessities, hence when resources are scarce, they are the first to die (UNHCR, 1993).

The UNHCR policy on refugee children also recognizes that refugee girls are often more vulnerable than refugee boys. In some cultural and social contexts, girls are less valued than boys and, consequently, are more often subject to neglect and abuse. The loss of a male family member in a community also creates disruption of social networks that puts girls at risk (Boyden and De Berry, 2004). Swain and Feeny's (2004) research of adolescent girls' experiences in the Kosovo conflict of 1999, found that Albanian Kosovar girls were victims of early marriage which was used as a form of protection from rape and sexual assault by Serbian soldiers. The absence of male family members also made refugee camps home to trafficking rings by Albanian mafia who targeted adolescent girls (IOM, 2001). De Berry's (2004) research on the treatment of adolescent girls during the civil war in Teso, Uganda showed that Teso girls experienced humiliation and sexual abuse in the hands of government soldiers of the NRA. It is noted that these violations happened in camps set up by the National Resistance Army (NRA) to safe guard the population against the conflict between the NRA and the insurgent group UPA (Uganda People Army) (Human Rights Watch, 1992). The threat of trafficking and sexual exploitation of girls in refugee camps is a valid concern for UNHCR (Crisp 1999). UNHCR therefore has the duty to take extraordinary measures in its policy in Kakuma Refugee Camp to protect girls. It is important to have an active police force that apprehends perpetrators and for the courts to apply provisions of the law such as the Sexual Offences Act (2006) that specifically outlaws trafficking and sexual exploitation of girls (Odongo, 2004). Other groups of refugee children are particularly at risk of sexual and gender-based violence. children in detention, child soldiers, adolescents, mentally and physically disabled children, working children, girl mothers, children born to rape victims/survivors, boys as victims/survivors, and child perpetrators (UNHCR, 2003).

2.3.2 Unaccompanied minors and separated children

There is particular emphasis by UNHCR policies on unaccompanied minors and separated children who are considered especially vulnerable (Machel 1996). The impact of separation was documented after the Second World War by psychologists Freud and Burlingham (1943) who found that separation of children from their mothers was more traumatic than the exposure to bombing, death, destruction and injury. In modern conflicts, increasing number of children have become separated from their parents (Mann, 2004). In the absence of special efforts to monitor

and protect their well-being, the basic needs of unaccompanied refugee children often go unmet and their rights are frequently violated (Machel, 2000). “Unaccompanied children” (also called “unaccompanied minors”) are children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so (UNHCR, 1993). “Separated children” are those separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members (UNHCR, 2008). However, O’Donnell’s (1994) analysis of children fleeing Vietnam to Hong Kong and Palawan in January 1993 found that separated children and those accompanied by their parents had the same stress levels due to their traumatic experience. He argued that those accompanied by adults were in fact more susceptible to exploitation and abuse. In some cases more boys become more likely to be separated from their parent than girls (Ashbranner and Ashbranner 1987). Mann (2004) suggests that this is because most of the research regarding separated children has taken place in the public sphere while girls happen to be in the domestic sphere but both need equal protection. These conclusions suggest that all children in displaced situations are at risk of psychological trauma abuse.

2.3.3 Implementation of the UNHCR Policy on children

The guiding principle in the implementation of the UNHCR (1993) policy is derived from Article 3 of the CRC (1989) which sets out the “best interest principle”. UNHCR Guidelines (2008) states that the “best interest determination” (BID) describes the formal process with strict procedural safeguards designed to determine the child’s best interests for particularly important decisions affecting the child. It should facilitate adequate child participation without discrimination, involve decision-makers with relevant areas of expertise, and balance all relevant factors in order to assess the best option. A “best interest’s assessment” is an assessment made by staff taking action with regard to individual children, except when a BID procedure is required, designed to ensure that such action gives a primary consideration to the child’s best interests. The assessment can be done alone or in consultation with others by staff with the required expertise and requires the participation of the child (UNHCR, 2008). An understanding on the care and protection of children in emergencies helps in the design of programmes and policies to assist them (Mann, 2004). UNHCR’s organizational goals with regard to refugee

children are firstly, to ensure the protection and healthy development of refugee children and secondly to achieve durable solutions which are appropriate to the immediate and long-term developmental needs of refugee children (UNHCR, 1993). Refugees lacking the proper legal status required by the host state to live in the camp or who have not fulfilled the requisite administrative or other requirements to live in the camp, may be perceived by relevant authorities as having even less rights than other refugees and be denied access to the state judicial system altogether (Da Costa , 2006). It is therefore up to UNHCR to ensure that children especially those who are unaccompanied are afforded with the same rights as adults and are given priority.

Children often have the same asylum claims as adults. Even where they are unaccompanied, their claim should have nothing to do with their status as children. However, it should also be noted that in some claims specific to children, their status as children is at the center of their claim, for example, infanticide, conscription as child soldiers, early marriage, trafficking, defilement, Female Genital Mutilation (FGM), child labour among others (Bhabha and Young 1999).

Considering their vulnerability and special needs, it is essential that a child's refugee status application be given priority and that every effort be made to reach a decision promptly and fairly (McCallen, 1991). Not being legally independent, an asylum-seeking child should be represented by an adult who is familiar with the child's background and who would protect his/her interests. Interviews should be conducted by specially qualified and trained officials (UNHCR, 1993). Appeals should be processed as expeditiously as possible. In the examination of the factual elements of the claim of an unaccompanied child, particular regard should be given to circumstances such as the child's stage of development, his/her possibly limited knowledge of conditions in the country of origin, and their significance to the legal concept of refugee status, as well as his/her special vulnerability (UNHCR, 2009).

2.3.4 Coordination of activities of implementing partners

UNHCR works with several humanitarian organizations dealing with child protection as implementing partners such as Refugee Consortium of Kenya (RCK), International Rescue Committee (IRC), Jesuit Refugee Services (JRS), Lutheran World Federation (LWF), National Churches Council of Kenya (NCCCK) , Norwegian Refugee Council (NRC) and International

organization for Migration (IOM) that operate in Kakuma with the purpose of providing services to refugee children. There are also a number of other international agencies which developed expertise in dealing with unaccompanied refugee and displaced minors: for example, the International Rescue Committee, Save the Children and UNICEF. These organizations work in tandem with UNHCR as implementing partners and undertake particular functions. The coordination of these partners is pertinent in ensuring that refugee children get the help they need (Pask 1989).

Lack of capacity on the part of the host state, UNHCR or other NGOs to monitor and manage the camps and to ensure their security from threats both within and outside of the camp, contributes to the unmitigated necessity and importance of having effective administration of justice within refugee camps (Purkey, 2011). Farmer (2006) argues in her research on the widespread sexual violence and exploitation of women and girls in refugee camps in Guinea reported by UNHCR in 2002 was attributed to the failure of coordination between the host government, UNHCR, and various non-governmental organizations operating in the refugee camps. Their efforts left accountability, access to justice, and enforcement of women's human rights laws sorely lacking. She argues that this trio of aid providers being the Guinean government, UNHCR and NGO's had laid the ground work but did not deliver a complete response to the specific human rights violations faced by refugee women.

For this to happen aid providers had to make the protection of women's human rights and generally the rights of refugees a central concern by instituting a robust, multi-layered system of accountability to which all refugee women have access (Farmer 2006). In this regard, while host governments have the primary responsibility in administration of justice in refugee camps, UNHCR and aid agencies have an important role to play in the administration of justice (Jacobsen, 2002). The involvement of aid workers in the sexual exploitation of workers in Guinea calls attention to the capacity building of aid workers involved with refugees and immediate dismissal and prosecution in case of misconduct against refugees (Farmer 2006). The same can be applied in child-related cases whereby a concerted effort between UNHCR and its implementing partners and the host government can ensure improvement in the administration of justice of child-related cases.

2.4 Host country justice system and administration of justice.

It is important for the host country to have an effective justice system for refugee camps because it is the only avenue through which a refugee can enforce his rights or seeks redress where his rights have been violated since, because of his diminished legal status in the country of asylum, he does not have the democratic means to change those in positions of authority (Hathaway, 2005). The legal status of refugees also means that there are restrictions on basic rights such as freedom of movement, the right to work and freedom of expression (Purkey, 2011).

As earlier mentioned, although refugee camps are supposed to be places of refuge, the reality is that due to the disruption of social structures and a break down of traditional systems there are high levels of violence, alcohol and substance abuse, family quarrels and sexual assault (Machel 1996). Administration of justice is therefore necessary in refugee camps to protect the vulnerable, especially women and children (Purkey, 2011). The population of a refugee camp may also be a source of vulnerability. While the population of Dadaab refugee camp is 97% Somali, Kakuma refugee camp is home to multiple nationalities which include Somali, Sudanese, South Sudanese, Rwandans, Congolese, Ugandans, Ethiopians, Eritreans, Burundians and a few other countries (UNHCR, 2012). This multi-cultural population, therefore, may leave minority groups susceptible to mistreatment by the majority. Therefore, while it may be easier to identify vulnerable children through community networks in the Somali and South Sudanese communities who are the majority, vulnerable children in the Congolese or Burundian communities may be harder to identify (Kirui and Mwaruvie, 2012).

The remote location of refugee camps limits access to courts and law enforcement authorities and may also contribute to the vulnerability of their residents who may be the target of security threats if it is located too close to a border or in an unstable region (Harrel-Bond 2008) . The presence of law enforcement authorities is crucial in deterring attacks against the refugee population. A case in point is the Gatumba massacre in Burundi on 13 August 2004 when the predominantly Hutu Forces for National Liberation (FNL) killed at least 152 Congolese civilians and wounded another 106. The victims were largely Banyamulenge (Congolese Tutsis) (Human Rights Watch, 2004). Some host states or host state populations may also be openly hostile to

refugees, thus increasing the likelihood of discrimination, exploitation and other human rights violations. For example, Bhutanese refugees in camps in Nepal are often harassed and occasionally assaulted by local Nepalese who come into the camps (Human Rights Watch, 2003) In Kenya's Daadab Refugee Camp there is hostility from Kenyan Somali's who feel refugees are given special attention than them because they receive food, medical attention, and education among other social services from humanitarian organizations like UNHCR and other NGO's while majority of Kenyan Somalis do not have access to even the most basic services. In Kakuma refugee camp, the Turkana community who have historically been marginalized are hostile and blame their problems on refugees (Kirui and Mwaruvie, 2012)

2.4.1 Kenyan government's policy on refugees

International legal obligations espoused in treaties and customary international law which it espouses sets the rules for the treatment of refugees and especially children (Pask, 1989). While the administration of justice within a refugee camp should be carried out according to the judicial and penal system of the host country, many host countries effectively cede control of these matters to UNHCR (Bettes 2002). Reforms in institutions of administration of justice in Kenya have undergone radical changes in recent years due to the promulgation of the new Constitution (2010) and increased public awareness and interest in the role of such institutions. The institutional and structural changes are expected to usher in efficient and effective operations and service delivery through the Judiciary (Sihanya 2011). It remains to be seen whether there will be reforms in areas such as Turkana County where Kakuma Refugee camp is located.

Kenya is a party to the main refugee-specific international instruments and it has also ratified the CRC (1989). Kenya's obligation to protect children is contained in the United Nations Convention on the Rights of the Child (1989) which has been ratified within the Children's Act 2001. Kenyan laws, also provides for the protection of children in the Sexual Offences Act and the Penal Code (Odongo, 2004). Key child protection articles in the UN Convention on the Rights of the Child are Articles 9 (family separation), 10 (family reunification across borders), 11 (illicit transfer of children), 16 (right to privacy, honour and reputation), 19 (protection from violence, injury, abuse, neglect, maltreatment or exploitation), 20 (alternative care), 21 (adoption), 22 (refugee children), 23 (disabled children), 24 (harmful practices), 25 (periodic review of alternative care), 32 (economic exploitation), 34 (sexual abuse and exploitation), 35

(abduction, sale or trafficking of children) , 36 (other forms of exploitation), 37 (juvenile justice and protection from torture or other cruel, inhuman or degrading treatment or punishment), 38 (protection in armed conflict), 39 (recovery and reintegration) and 40 (children in conflict with the law).

Read together, they contain comprehensive provisions that recognize the rights and protection of refugee children. Kenya, therefore, has a responsibility to fulfill its international obligations in the protection of children (UNHCR, 1997). However, access to justice in Kenya faces a lot of challenges including high court fees, geographical location, complexity of rules and procedure, use of legalese, understaffing, lack of financial independence, lack of effective remedies, backlog of cases that delays justice and lack of awareness on ADR and traditional dispute resolution mechanisms (Ojwang 2002). Article 3 of the CRC (1989) specifically requires states to ensure that all actions concerning children whether undertaken by public or private social welfare institution, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be the primary consideration. The Children's Act (2001) also makes provisions for parental responsibility, fostering, adoption, custody, maintenance, guardianship, care and protection of children to make provision for the administration of children's institutions (Odongo, 2004)

2.4.2 Capacity of Host government

The legal protection of children requires coordination by a trio of the main aid providers which is the government whose machinery include law enforcement authorities and the judiciary, UNHCR and NGO's (Farmer 2006). However, despite a state being willing to fulfill its willingness to have an effective justice system that serves refugee camps, in some cases, the state may not have the capacity or willingness to implement refugee law and uphold refugee rights (Harrell –Bond 2008). In some situations, the host state's citizens as well as the refugee population do not have access to the national justice system (Purkey 2011).

This is the case of Kenya whereby both Dadaab and Kakuma Refugee camps are located in historically marginalized areas and the resources needed to equip the security forces, the department of public prosecutions office and the courts are inadequate. However, with the help

of UNHCR, the Kenyan government made steps to increase access to the courts in 1998 by establishing mobile courts in Dadaab and Kakuma (UNHCR, 2006). In principle, mobile courts from Garissa and Lodwar visit the Dadaab and Kakuma camps respectively once a month. UNHCR monitors the proceedings and provides advice and material assistance to allow witnesses to attend the trials. The idea of mobile courts is to bring the administration of justice closer to the community in a region with a dispersed population over large areas and with little economic means to travel (Danny, 2005). The sparsely populated areas in which the camp is located also meant there is scarcity of law enforcement authorities, prosecutors, judicial officers and practicing advocates. It is hoped that, once the Constitution (2010) is fully implemented, it should usher in numerous changes to Kenya's judicial structure and system. Numerous laws, policy and administrative instruments have been enacted and appointments effected while others are due (Sihanya, 2011).

Most refugees are hosted in developing countries; hence the lack of adequate legal representation may be because of the weak capacity of the state judicial system (Hathaway, 2005). However, following the promulgation of Kenya's new constitution in 2010, there have been reforms in the judiciary (Sihanya 2011). The effect of the reforms in remote areas such as Turkana County, where the refugee camp is located is yet to be seen. Issues of transportation and physical access are often related to the distance of refugee camps from major cities or towns where courts and legal services are located. There is no legal aid and little pro-bono assistance in Kenya, refugees, like poor Kenyans, are usually not represented by lawyers. UNHCR does not generally provide legal representation to refugees but in some cases it has been able to facilitate the attendance of lawyers especially in children's cases (Danny, 2005). Refugee and human rights lawyers charged with this task of handling children's cases need an understanding of the problems confronting the children, access to information about the manner in which negative situations can infringe upon the rights of the children and information relating to effective intervention strategies (McCallen 1991). It is noted that in some host countries, for example, in Sierra Leone which may have themselves suffered civil strife, have institutions and infrastructure which are severely overburdened, or have a serious shortage of judicial officers, including magistrates and lawyers, due to the effects of war or brain drain (Da Costa 2006).

The effectiveness of law enforcement authorities is a major factor in the administration of justice. Many problems in systems of justice in camps can be traced back to lack of an enforcement system. Police or camp security forces play a fundamental role in ensuring refugee access to justice as a first point of contact in the criminal justice system (Crisp, 1999). Most developing countries already face the challenge of having adequate forensic capabilities, a strong witness protection programme and dealing with corruption. These challenges are magnified in marginalized areas where refugee camps are located (UNHCR, 2006). However, because of lack of resources resulting in poor pay of state officers working in harsh environments, many host states may also be unwilling to apply or enforce the law within the refugee camps or to facilitate access to these systems by refugees (Harding and Scanlon, 2008). This can be through refusal to properly file reports when a case is reported to the police or the unwillingness to prosecute cases especially where the case is between two refugees as opposed to disputes only involving nationals (Danny, 2005)

In cases where the host government justice system machinery is functioning, its capacity may be limited in the effective administration of justice if the relevant state authorities lack knowledge or familiarity with the specific rights and sources of law relevant to refugees, including refugee and human rights law, minimum standards of treatment for both victims and the accused, and concepts of due process (UNHCR, 2006). In many cultures, children are rarely seen and not heard, special attention has to be given in creating awareness and building the capacity of state authorities to apply international standards when dealing with children (Bhabha and Young, 1999)

2.4.3 Attitude of refugees towards the justice system in Kenya

Refugees have concerns about the potential for discrimination and bias within the state legal system and especially where the dispute is between a refugee and a national. There is fear that they may have to bribe the authorities to get justice. Due to the lengthy processing of cases under the host justice system, many may resort to an alternative dispute resolution system (McChonnachie, 2013). The refugee may also be discouraged from reporting cases since they have to face the perpetrators in the camp which are isolated and generally lack adequate security to begin with. This may be in form of intimidation and serious physical threats against these

persons, their families and even their ethnic or tribal group (Crisp, 2002). The host government often does not have a witness protection programme of any kind or mechanisms to protect the victim from further abuse by the perpetrators particularly if they lack the traditional support and protection of their extended family, ethnic, tribal, or community structures (Da Costa 2006.)

According to available literature, there is a general mistrust of the state justice due to long delays, awareness that some crimes are simply not taken seriously by authorities, and that the judicial system may sometimes be manipulated or is subject to corruption at different levels and stages of the process (Harding and Scanlon, 2008). They may also have had a negative experience getting past border patrols and immigration officers. Some may even have been arrested by the police for lacking proper documentation and detained and mistreated by authorities of the host country (Harrell-Bond, 2002). Consequently, they already have a negative perception of the host country's authorities once they get to the refugee camp and are hesitant to seek redress from the formal justice system. McConnachie (2013) also found in her research that in refugee camps in Thailand, refugees also had concerns about using Thai courts due to a fear that Thai officials or offenders would exert individual or collective repercussions against the camps and/or a perception that refugees would not be treated fairly in Thai courts and that camp based systems were at times actively preferred as more culturally relevant and more appropriate for the camp context

2.5 Alternative means of dispute resolution and effective administration of justice

Uncertainties and fear surrounding the host community judicial processes is common among refugees because of high levels of illiteracy, poor access to social services and psychological trauma (Keyhanlou, Mansourian, Azimi, 2003). As a result refugees often tend to resort to other informal dispute resolution mechanisms informed by their culture, traditions and to an extent the laws from their country of origin. The administration of justice in refugee camps can take many forms, including the development of refugee rules specifying agreed-to codes of behavior and the establishment of formal grievance committees where refugees arbitrate minor disputes amongst themselves (Purkey 2011). It can also be in form of traditional, non-State systems of justice imported by the refugees from their country of origin and practiced in their country of asylum (Harrell-Bond, 2002). For example , in the refugee camps in Thailand occupied by ethnic Karen

groups, the Karen National Union (based in Burma) has established rules that address cases of rape, murder, serious physical assault and political matters or be unique to a particular subsection of the population (an ethnic or religious group) (McConnachie 2013). Iran has been host for two decades to one of the world's largest refugee populations, has been pioneering an alternative approach to dispute resolution among Afghan refugees from the formal justice system approach. A committee with tertiary educated refugees and lawyers provides legal advice to refugees lacking legal status who would otherwise have not been able to afford legal representation and who may end up imprisoned or forcibly repatriated back to their country of origin. In response to the rise in the number of family cases and the reluctance of Afghan women to raise personal or legal issues in the presence of a male legal advisor, a women's committee was also established (Keyhanlou, Mansourian, Azimi, 2003).

2.5.1 Application of Traditional Customary Law

In 2007, the UN recognized the right of indigenous peoples "to promote, develop and maintain their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards." Through the adoption of the Declaration on the Rights of Indigenous People (2007), it endorsed the right to use customary systems of law as long as it respects human rights standards (Perry, 2011). According to Chirayath (2005), the reality is that the majority of people in developing countries rely on customary systems of law as a means of resolving disputes. The imposition of formal state laws tends to alienate these communities and exacerbates resentment towards the often-corrupt urban elite that administers them. Even where the state has its formal justice system, legal pluralism often exists albeit under its command in the form of customary laws for different groups within the national population, groupings ordinarily defined by ethnicity, religion, or geography (Griffith, 1986). Considering that many refugee populations are multicultural and may be from rural areas with low literacy rates, they were most likely to rely on customary systems of law and the same would be applicable in their communities in the camp setting. Perry (2011) supports Griffith's (1986) argument that the state law is rarely, if ever, the only relevant and effective legal order in people's lives. There is, in fact, a multiplicity of non-state systems of law that govern peoples' lives in both developed, western societies and developing, non-western societies, including religious, informal-urban and indigenous-ethnic

systems of law. Traditional customary law is normally administered by refugee elders, traditional judges or refugee leaders. They may be viewed as representative, transparent, fair, impartial and affordable by the refugee community, thus offering refugees a continuation of the system from their country of origin. Their rulings are likely to be accepted by the community, which will reinforce respect for their sanctions. Additionally, these systems offer both easy access and a quick response to victims. To the accused, traditional courts offer reassurance to be judged through a familiar system with no language or cultural barriers (Perry, 2011).

Traditional Customary law is recognized and listed as one of the sources of Kenyan law in Chapter 8 of the Judicature Act. However it limits its application to parties that are subject to civil customary laws and not criminal laws, which are governed by the Penal Code (Nyambu-Musembi, 2003). Article 159 of the Constitution (2010) now explicitly recognizes their use in conflict management, thus enhancing access to justice. They can now be effectively applied in resolving a wide range of commercial disputes, family disputes and natural resource based conflicts, among others, thus easing access to justice. The Civil Procedure Act provides for ADR as a means of solving disputes (Mbote and Migai, 2011). The legal system acknowledges only Kadhi courts as the only religious courts in Kenya. But there are other examples of non-state justice systems in Kenya including the respected *Njuri Ncheke* council of elders among the Meru and the ‘peace elders initiative’ in Laikipia district who have defied tradition to improve dispute resolution by bringing in youth and women as ‘elders’ and chiefs and assistant chiefs who are appointed by government as local administrators. They take on a significant role in settling disputes in many parts of Kenya where access to police and courts is restricted and have been known to resolve a range disputes from domestic disputes to land disputes. They are usually the first office involved in solving disputes in the community (Nyambu-Musembi, 2003). In Kakuma Refugee Camp, the Sudanese Bench Courts apply Sudanese customary law. These include county courts, a General Bench Court, an Appeals Court and a Special Court (Verdirame, 1999) while in Dadaab the Somali have the *Maslaxad (Maslaha)* system (Da Costa, 2006).

Despite their advantages, informal dispute resolution systems are discriminatory to vulnerable persons especially women and children and often rely on cultural norms rather than international human rights standards (Griek, 2006). Traditional and customary methods of dispute resolution

are that more often than not, refugee leaders and justice workers have little or no knowledge of basic legal principles and there are problems of inconsistency in prosecution and sentencing (McChonnachie, 2013). They may also be unaware of discriminatory practices that are against human rights standards. Gender based violence is an area of particular concern, with extramarital sexual activity policed more rigorously than sexual violence and domestic violence often resolved at section level with a warning (Nyambu-Musembi, 2003). There are also usually no procedures for complaints against and discipline of members of traditional courts that are prescribed by law (Mbote and Migai, 2011).

Article 12 of the CRC (1989) establishes a Child's right to be heard. It states that, " States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child." It further elaborates that, " For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law." This provision places a responsibility on states and those adjudicating children's matters. However, in most cultures, children are rarely given the chance to air their views especially if they contravene those of their family members. This is a major short coming in traditional dispute resolution mechanisms where culturally, children are normally seen and not heard and considering that the child may be traumatized, a child may not be able to articulate his case and much less in a public forum (Bhabha and Young, 1999). Nevertheless, in the formal justice system, the Children's Act (2001) and the Civil Procedure Rules provides that children's cases can be heard in the magistrates chambers traumatic experiences.

2.5.2 Lack of knowledge or familiarity with formal legal systems

Refugee camps are host to people from different races, religions, cultures and nationalities and languages. These cultural and linguistic differences discourage refugees from using the formal justice system (Purkey 2011). According to Da Costa (2006) in the majority of the 13 countries surveyed in her research, the lack of familiarity with substantive or procedural aspects of the host state legal system was considered a significant barrier to refugees accessing the state judicial

system particularly in camps where much of the refugee population is from a rural background and has little or no formal education, there is often little knowledge or prior experience with formal justice systems. They may have relied on and been exposed exclusively to tribal and other traditional DRS in the past. However, it is extremely difficult for the camp-based systems to resolve cases involving a non-refugee or cases where a refugee is attacked outside a camp (McChonnachie, 2011).

2.5.3 Access to legal services and geographical location

Due to the nature of displacement and encampment entailing resource scarcity, geographic isolation, restricted mobility and curtailed legal rights – refugee victims of crime often have inadequate legal recourse (Harding and Scanlon, 2008). Legal restrictions on freedom of movement for refugees may mean that bribes are required in order to obtain permission to leave the camp to access the courts and in some cases the authorities themselves may be the perpetrators. These challenges make it impossible for children to pursue justice through the formal justice system (Mann, 2004). It follows, therefore, that an authorized officer can arrest a refugee without travel documents if they do not have the requisite travel documents. In Zambia, a breach of this legal requirement can be punished by up to three months in prison. In addition police officers have the right to use unreasonable force, including firearms, to compel refugee compliance, and are given immunity from any liability, action, and claim or demand whatsoever for their actions under the Act (Veroff, 2010).

2.6 Conceptual framework

From the literature reviewed in this chapter, there are many variables that influence the administration of justice in child-related cases. The conceptual framework presented in this section illustrates the relationship between three independent variables and the dependent variable. This is illustrated in Figure 1.

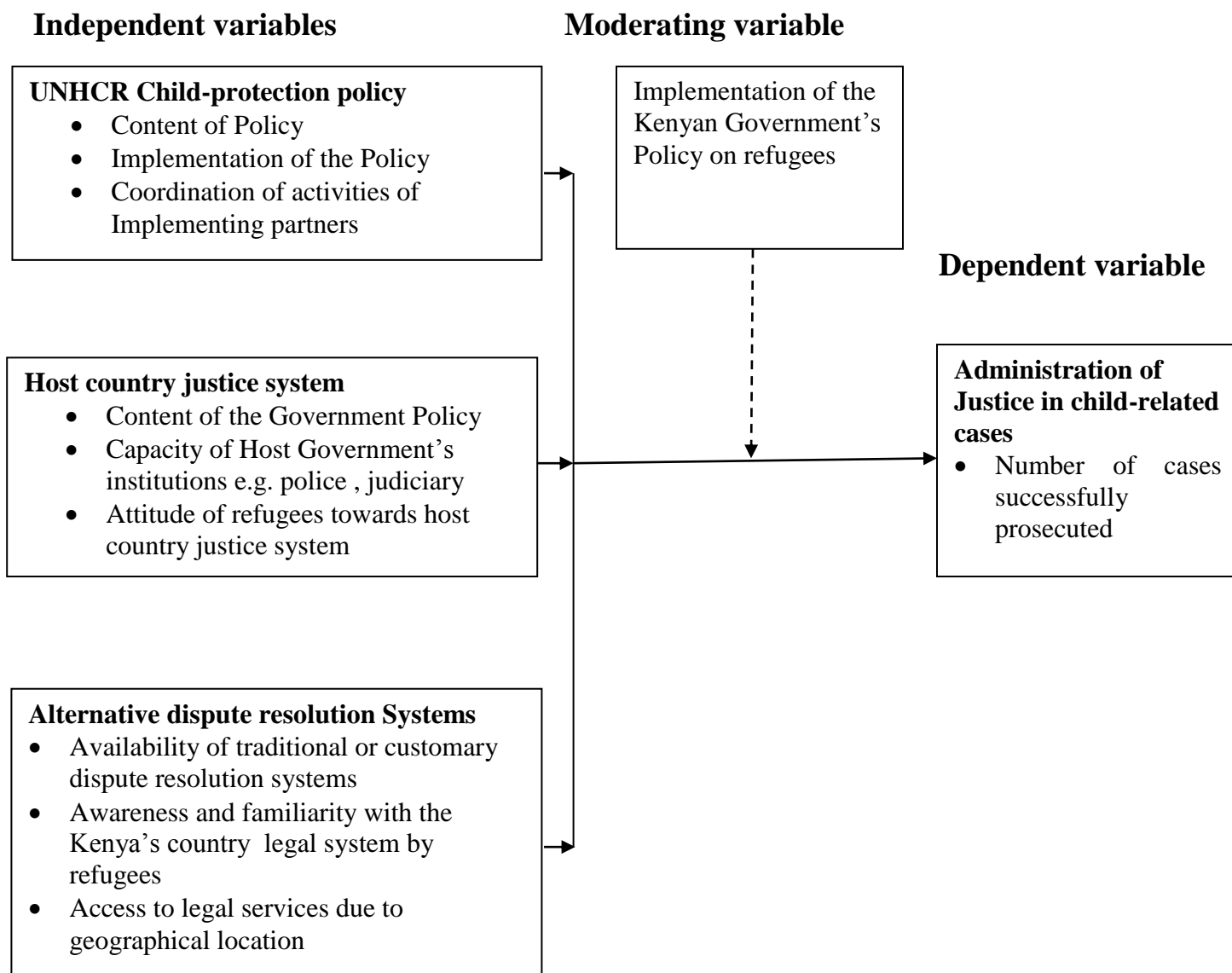


Figure 1: Conceptual framework on the relationships among variables

From this conceptual framework, it was envisaged that UNHCR policy on child protection would have a relationship with the administration of justice seen in the number of cases successfully prosecuted. The child protection policy was indicated by the availability of the policy or policy statements regarding child protection, the content of the policy and what it states about child administration of justice, the efficacy of its implementation and the efficiency of coordination of activities of its Implementing Partners. As evidenced by literature, the host country justice system and how it is perceived by the refugees has some influence on the effective

administration of justice. Other dimensions to consider in investigating this variable are the government policy, capacity of the host government and attitude of refugees towards host country justice system. The third independent variable on alternative dispute resolution systems influences the effectiveness of administration of justice. Available literature indicates that alternative systems arise because of lack of awareness of the available legal system or because of mistrust or because of real or perceived biasness of the host country legal system. This was indicated during the research by the existence of traditional or customary systems of dispute resolution, awareness and familiarity with the host country's legal system and access to legal services due to geographical location

2.7 Summary

This chapter reviewed literature from global, African and Kenyan perspectives and also offered a conceptual framework. It covered the concept of administration of justice and reviewed the content of the UNHCR child protection policy (1993) and subsequent documents supporting the policy including guidelines on Best Interest Determination and the protection of unaccompanied and separated children. The chapter also examined previous practices by UNHCR and presented its successes and failures with regard to the coordination of activities with its implementing partners with a focus on refugee camps in other parts of the world. The chapter further reviewed literature on the link between the host government's justice system and administrations of justice with a focus on Kenya's policy on refugees and practices documented in previous studies. It laid out the challenges encountered in other jurisdictions as well as good practices. Finally it reviewed literature on the use of alternative dispute resolution methods by refugees in different parts of the world and the influence it has on administration of justice. From the literature reviewed, it appears that scanty research exists in Kenya on the factors influencing the administrative of justice in child-related cases among refugees and especially in Kakuma Refugee Camp.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This chapter presents the research methodology that was used in this research to answer the research questions and adopts a cross-sectional approach. The chapter describes the research design, the target population, sampling design, data collection and the respondents. It also explains validity and reliability of the research instruments, data collection procedures and finally the data analysis procedures.

3.2 Research Design

This study adopted a descriptive research design with a mixed methods approach to investigate the challenges facing administration of justice in child-related cases. According to Best and Khan (1992), descriptive research seeks to establish factors with certain occurrences, outcomes, continuous or type of behavior. Abagi (1995) argues that descriptive research attempts to describe what was or what is in a social system. The study was cross-sectional and followed both the quantitative and qualitative approaches. The qualitative approach sought to investigate issues that were personal to the respondents and in-depth probing through interviews and focus group discussions were appropriate. The data was analyzed quantitatively through the use of descriptive statistics and the qualitative data was presented in narrative form.

3.3 Location of the study

Turkana County is located in north-western Kenya. The climate is hot most of the year with unreliable rainfall pattern. It is sparsely populated, especially, due to the harsh weather conditions with an underdeveloped infrastructure. The proposed County Capital is Lodwar Town which is about 120 kilometers from Kakuma Refugee Camp. Kakuma Refugee camp, which is one of the two camps in Kenya, is located in Turkana North Constituency. The area is, therefore, generally isolated from the major towns where commercial and government services such as the courts and police stations can be accessed by refugees.

3.4 Target Population

A target population is the complete set of individual cases or objects with some common characteristics to which the results of the study can be generalized (Mugenda and Mugenda, 1999). The research targeted humanitarian workers in UNHCR and its implementing partners handling child-related cases, the police and law enforcement authorities, and refugees from selected nationalities. There are four main agencies involved in implementing child protection and handling child-related case in Kakuma Refugee Camp: Refugee Consortium of Kenya (RCK), International Rescue Committee (IRC), Lutheran World Federation (LWF) and UNHCR. The research targeted a population of 71 workers from departments dealing with child-related cases in the selected organisations including the police and 134 community leaders from the Burundian, South Sudanese and Somali nationalities.

3.5 Sampling Design

The study adopted a non-probability sampling design. This is because the population characteristic of administration of justice in child-related cases is not normally spread across all the UNHCR implementing partners and not all employees deal with child-related cases. In this case, therefore, the organizations and respondents who participated in the study were selected purposively. The sample was drawn from humanitarian workers handling child protection cases, police officers working in Kakuma Police station and refugees of Burundian, South Sudanese and Somali nationalities community leaders. From among these organizations, respondents were picked randomly from four representative organizations working in child protection in Kakuma Refugee Camp, police officers working in Kakuma Police station and refugee community leaders from the Burundian, South Sudanese and Somali nationalities. From the target population a total of 101 respondents were selected purposively and conveniently. This sampling method was necessitated by the nature of data being sought and access to the respondents. From the departments dealing with child-related cases in the selected organisations a census of the 71 respondents from child-related organisations and the police was taken while 30 community leaders from a population of 134 were selected conveniently for focus group discussions. This sampling design is shown in Table 3.1

Table 3.1: Sample

Organizations	Sample
UNHCR	12
Lutheran World Federation (LWF)	28
International Rescue Committee (IRC),	10
Refugee Consortium of Kenya (RCK),	6
Police officers	15
Community leaders from the Burundian, Somali and South Sudanese Community	30
Total	101

3.6 Research Instruments and Procedures

Data collection in this study involved both a questionnaire and focus group discussion in which a guide with questions was administered. The questionnaire contained both closed and open ended questions. The UNHCR and implementing agency workers and local police officers were given the questionnaire to fill and they were collected within one week. Focus group discussion conducted targeted refugee community leaders from the Somali, Burundian and South Sudanese communities. It involved collection of data through face to face interaction. The testimonies from were documented and recorded on a voice recorder. Key information on dynamics of different communities and their attitude towards the justice system in Kenya was collected through this method. An interpreter assisted in the process.

3.7 Validity of Research Instruments

3.7.1 Validity

Validity refers to the appropriateness, meaningfulness and usefulness of the inferences a researcher makes. Validity depends on the amount and type of evidence there is to support the interpretations the researcher wishes to make concerning data they have collected. To avoid errors of impression whereby the respondent lies to impress the researcher, the process of

triangulation was used. This means comparing with other respondents to decide which answer is the most accurate. In this study, this was achieved by having different sets of respondents such as humanitarian workers, police officers and refugees themselves. Content validity of the instrument was determined by colleagues and experts in research who looked at the measuring technique and coverage of specific areas like objectives and variables covered by the study. Advice given was used to improve the instrument. The corrections on the identified questions were incorporated in the questionnaire to increase validity.

3.7.2 Reliability of Research Instruments

Reliability refers to the consistency of scores or answer from one administration of an instrument to another and from one set of items to another. Reliability was tested by asking the same questions but in different ways to allow the researcher to make comprehensive decision on the same (Kasomo, 2006). During the pilot study the questionnaire was administered on a random sample of five UNHCR and implementing agency workers to get feedback and input on other important issues that may be worthy of consideration that the instrument may have missed. This guided the study to determine that the instrument measured the right concept, hence its reliability. The participants in the pilot study were not included in the actual study.

3.8 Methods of Data Analysis

Data collected through the questionnaires was edited and coded for analysis. The data was analyzed quantitatively and qualitatively through the use of descriptive statistics. Tables and percentages were used for data presentation. Quantitative analysis was used for the closed ended questions while qualitative analysis was used for the open ended questions and the focus group discussions. The qualitative data was analysed and presented according to the objectives of the study while frequencies and percentages were used to present the qualitative data. The data was analyzed using the Statistical Package for Social Scientists (SPSS).

3.9 Ethical Considerations

The participants were asked not to write down their names on the questionnaire. Respondents in the focus group discussions were also assured that their identity will remain anonymous in order to uphold their privacy. Permission to participate was sought from the participant organizations

before interviewing or administering the questionnaire to the selected staff members. Permission was sought from the Head of Sub-Office of UNHCR to be able to collect data from refugees and access to records and information.

3.10 Operational Definition of the Variables

Table 3.2 gives the variables and measurable indicators, data collection and analysis techniques and instruments. An operational definition is a demonstration of a process such as a variable, term, or object in terms of the specific process used to determine its presence and quantity. The variables used in this study are operationalized as shown in Table 3.2.

Table 3.2: Operational Definition of Variables

Objectives	Variables	Indicators	Measurement	Scale	Data analysis Techniques
To assess the influence of UNHCR's child policy on administration of justice.	<u>Dependent Variable</u> Administration of Justice	Number of cases identified in the last year	No. of cases reported to UNHCR in the last year	Ordinal	Frequencies, Means, Standard Deviation and Percentages
			Method of handing of cases	Ordinal	Frequencies, Means, Standard Deviation and Percentages
		Number of cases currently being processed	No. of cases currently being handed by child-protection staff	Ordinal	Frequencies, Means, Standard Deviation and Percentages
			No. of pending cases instituted by UNHCR in criminal or civil court	Ordinal	Frequencies, Means, Standard Deviation and Percentages
		Cases successfully prosecuted in	Actions taken against perpetrators in cases handled	Ordinal	Frequencies, Means, Standard

		the last year			Deviation and Percentages
			Successful civil applications decided in court in the last year	Ordinal	Means and Percentages
			No. of cases abandoned by applicants in the last year	Ordinal	Means and Percentages
	<u>Independent Variable</u> Child-related policies on administration of justice	Existence of Content of Policy policies	Availability of documentation on the policies	Nominal	Means and Percentages
			Training initiatives on the policy in the last year	Nominal	Frequencies , Means and Percentages
		Implementation of the policy	Awareness by UNHCR staff of specific provisions related to handing of child-related case	Nominal	Means and Percentages
			Awareness by UNHCR staff of specific provisions on administration of justice	Nominal	Frequencies , Means and Percentages
		Coordination of activities of Implementing partners	No. of consultation meetings in the last year	Ordinal	Frequencies , Means and Percentages
			Good practices in child protection arising from consultation meetings in the last year	Ordinal	Frequencies , Means and Percentages
			No. of joint projects between UNHCR and its implementation partners	Ordinal	Ordinal
		To examine the influence of host country justice	<u>Independent Variable</u> Host country justice system	Government policy	Availability of documentation on the policies
Experience of	Nominal				Frequencies

system on effective administration of justice.			UNHCR staff with government institutions		, Means and Percentages
		Capacity of the host government	No. of High Court sitting in the last year	Interval	Frequencies , Means and Percentages
			No of perpetrators arrested by the police in the last year	Nominal	Frequencies , Means and Percentages
		Attitude of refugees towards host country justice system	No of cases instituted in court by refugees through UNHCR in the last year	Interval	Frequencies , Means, Standard Deviation and Percentages
			No. of cases reported to the police in the last year		
To assess the influence of alternative dispute resolution on effective administration of justice.	<u>Independent Variable</u> Alternative dispute resolution system	Availability of traditional customary ADR	Presence of traditional customary ADR among the Burundian, Somali and South Sudanese Communities	Nominal	Frequencies , Means, Standard Deviation and
			No. of cases handled per month	Nominal	Percentages
		Access to legal services due to geographical location	No. of court sittings away from the camp in the last year	Nominal	Content Analysis
			No of cases dismissed for lack of attendance in the last year	Nominal	Content Analysis
		Lack of knowledge of familiarity with the justice system	No of awareness initiatives carried out in the camp in the last year	Nominal	Content Analysis
			Challenges encountered with the justice system	Nominal	Content Analysis
			Difference between the justice system and regimes in refugee's countries	Nominal	Content Analysis

3.11 Summary

This chapter covered a discussion of the research methodology that was used in this study. It discussed the criteria for determining the appropriate methodology for the study and explained the research constructs. It looked into the research design in detail, the location of the study as well as the target population. It also identified the sampling design. A non-probability sampling design was used in the study. The chapter also provides a table to show the target population. It also laid out the data collection instruments and procedures used in the study which includes a questionnaire and focus group discussions. It also sets out the methods that were used to determine the validity and reliability of the instruments used during the study as well as the ethnical considerations made during the study. The chapter also set out a table giving an operational definition of variables.

CHAPTER FOUR

DATA ANALYSIS, PRESENTATION AND INTERPRETATION

4.1 Introduction

This chapter focused on the data analysis, interpretation and presentation of the findings. The main purpose of this research was to investigate factors influencing effective administration of justice in child-related cases handled by UNHCR with special focus to Kakuma Refugee Camp. The study also sought to establish how UNHCR child protection policy, host country justice system and how availability of alternative means of dispute resolution influences effective administration of justice in child-related cases. The researcher made use of frequency tables, percentages, mean and standard deviation to present data. Verbatim statements are cited to present testimonies voice recorded during the focus group discussions.

4.2 Response Rate

The questionnaire return rate results are shown in Table 4.1.

Table 4.1 Response Rate

Response	Frequency	Percentage
Responded	54	76
Non response	17	24
Total	71	100

The study used a census of 71 respondents who are humanitarian workers involved with child related cases in the refugee camp and police officers working in Kakuma Police station. From the study, 54 out of 71 target respondents filled in and returned the questionnaires contributing to 76%. This commendable response rate can be attributed to the data collection procedure, where the researchers engaged gave the respondents questionnaire to fill leaving it with the respondents for a period of one week. The questionnaires were distributed to the respondents personally by the researcher and through department heads. This response rate was good, representative and conforms to Mugenda and Mugenda (1999) stipulation that a response rate of 50% is adequate for analysis and reporting; a rate of 60% is good and a response rate of 70% and over is

excellent. The questionnaires that were not returned were due to respondents not being available to fill them in time and after persistent follow-ups, there were no positive feedback from them.

16 community leaders from the Burundian, South Sudanese and Somali nationalities out of a target of 30 respondents also participated in the focus group discussions, which is a 53% response rate. The respondents were taken through an interview guide with the help of an interpreter and the responses filled by the researcher on the spot. The focus group discussions were conducted to target refugees actively involved in the community and were focused on getting the personal experiences and views of refugees with regard to administration of justice.

4.3 Demographic Characteristics of the Respondents

The study found it crucial to ascertain general information about the respondents to establish their profiles.

4.3.1 Gender of the Respondent

The study aimed to investigate the gender of the respondents. This is shown in Table 4.2.

Table 4.2: Gender of the Respondents

	Frequency	Percent
Male	34	63.0
Female	20	37.0
Total	54	100.0

From the findings, majority (63%) of the respondents were male while the rest (37%) of the respondents were females. This seems to imply that men have occupied a larger portion in all organizations concerned with child protection rights and child-related cases compared to women.

During the focus group discussions, only 3 women out of a total of 16 participants attended the sessions. This only accounts for 19 % while 81% accounted for the men. The gender disparity is attributed to the low number of female community leaders in three participant nationality groups.

4.3.2 Age Bracket of the Respondents

The study requested the respondent to indicate the age bracket they fall. The findings of the study are as shown in Table 4.3.

Table 4.3: Age Bracket of the Respondents

	Frequency	Percent
20-25 years	14	25.9
26-30 years	24	44.4
31-35 years	8	14.8
36-45 years	6	11.1
Above 46 years	2	3.7
Total	54	100.0

According to the study findings, 44% of the respondents were aged between 26-30 years, 26% aged between 20-25 years, 15% were between 31-35 years, 11% aged between 36-45 years while the rest (4%) was aged over 46 years as shown in each case. This implies that most of them met the constitution requirement on the employment act and thus they can effectively handle child related cases effectively.

4.3.3 Organization where respondent worked

Further, the study requested the respondents to indicate the body or organization they are working with as indicated in Table 4.4.

Table 4.4 Organization of work

	Frequency	Percentage
International Rescue Committee	8	15
Government of Kenya	9	17
Lutheran World Federation	23	43
UNHCR	10	19
Refuge Consortium of Kenya	4	7
Total	54	100

From the findings 48% of the respondents were working with Lutheran World Federation, 19% were working with GOK and UNHCR as shown in each case while 15% were working with IRC.

This indicates that all bodies/organization targeted by the study were represented and that the response depicts real situation in the ground.

4.3.4 Working Duration

Table 4.5 illustrates working duration of the respondents in their respective organization.

Table 4.5: Working Experience in Administration of Justice for Children

	Frequency	Percent
Less than 1 year	18	33.3
1-2 years	16	29.6
3-4 years	12	22.2
5-6 years	6	11.1
Over 7 years	2	3.7
Total	54	100.0

This was important as it depicts the experience that respondents had in terms of working duration. From the findings most (33%) of the respondents had worked in the refugee camp for a period of less than 1 year, 29% had worked for a period of 1-2 years, 22% had worked for a period of 3-4 years, 11% had worked for 5-6 years while the rest (4%) had served in the organization for a period of over 7 years. This implies that most of the respondents of this study have worked for only up to four years. This is attributed to the short contractual nature of humanitarian work which leads to a high staff turnover.

4.3.5 Highest Education Level of the Respondents

The study was also sought to determine the highest level of academic qualification that the respondent held. Table 4.6 shows the findings of the results.

Table 4.6 Highest Education Level of the Respondents

	Frequency	Percent
Degree	28	51.9
Diploma	20	37.0
Secondary School Certificate	6	11.1
Total	54	100.0

As indicated in Table 4.7, the workers at the Kakuma Refugee Camp are well educated with the majority (almost 90%) being graduates or holders of a diploma.

4.4 UNHCR Policy on Child Protection and Administration of justice

Table 4.7 illustrates the findings of the study on the respondent level of agreement on statements relating to UNHCR child protection policy.

Table 4.7 UNHCR Policy on Child Protection

	Mean	STDev
The UNHCR child protection policy is in administration of justice in child-related cases	4.04	0.931
The policy is well known to UNHCR staff and implementing partners handling child-related cases	4.04	1.115
Frequent consultation meetings are held between UNHCR staff and implementing partners	4.33	0.614
The policy caters adequately for more vulnerable children (unaccompanied/separated minors, separated children and girls)	4.26	0.894
The policy is streamlined with the child protection policies of its implementing partners	4.19	0.913
Activities of implementing agencies and UNHCR are well coordinated	4.04	0.889
There are enough staff members in my organization to handle child-related cases	3.19	1.100

From the findings, most of the respondents agreed that frequent consultation meetings are held between UNHCR staff and implementing partners as depicted by mean score of 4.33, also respondents agreed that the policy caters adequately for more vulnerable children (unaccompanied/separated minors, separated children and girls) as shown by mean score of 4.26 almost the same number of respondents agreed that the policy is streamlined with the child

protection policies of its implementing partners as illustrated by mean score of 4.19. Further, the respondents' agreed that the UNHCR child protection policy on administration of justice in child-related cases is well known to UNHCR staff and implementing partners handling child-related cases and that activities of implementing agencies and UNHCR are well coordinated as illustrated by mean score of 4.04 in each case. Finally respondents were neutral that there was enough staff members in their organization to handle child-related cases as shown by mean score of 3.19

4.5 Kenyan Justice System

Table 4.8 illustrates the findings of the study on the respondent level of agreement on Kenya justice system.

Table 4.8 Kenyan Justice System

	Mean	STDev
The government of Kenya has an effective policy on administration of justice relating to child-related cases involving refugees	3.70	0.903
The UNHCR policy on children is streamlined with the child protection policies of the Kenyan government	4.04	0.699
The police working in Kakuma have the capacity to handle child-related cases	3.37	1.170
The judiciary has the capacity to handle cases in Kakuma refugee camp	3.26	1.247
refugees are willing to resolve child-related cases through Kenya's courts	2.96	1.115
Treatment of refugee by government authorities play a role in administration of justice	3.85	0.940
The community has a role to play in administration	4.15	0.810

Most of the respondents agreed that the community has a role to play in administration of justice as depicted by mean a score of 4.15. Also respondents agreed that the UNHCR policy on children is streamlined with the child protection policies of the Kenyan government as illustrated by mean score of 4.04. Likewise respondents agreed that treatment of refugees by government authorities plays a role in administration of justice as shown by mean a score of 3.85. The respondents also agreed that the Government of Kenya has an effective policy on administration

of justice relating to child-related cases involving refugees as depicted by a mean score 3.70. Further respondents were neutral that the police working in Kakuma have the capacity to handle child-related cases as illustrated by mean score of 3.37. Almost the same numbers of respondents were neutral that the judiciary has the capacity to handle cases in Kakuma refugee camp as shown by mean score of 3.26. Finally respondents were neutral that refugees are willing to resolve child-related cases through Kenya’s courts as depicted by mean score of 2.96

4.5.1 Access to Kenya justice system

The study also requested the respondents to indicate factors that determine access to Kenya justice system. Table 4.9 shows the summary of the study findings.

Table 4.9 Access to Kenya justice system

	Mean	STDev
Lack of familiarity with the Kenyan justice system affects administration of justice	3.52	1.005
Corruption among law enforcement authorities	3.19	1.480
Language barrier	3.18	1.530
Approval by community members	2.78	1.144
Culture and/or nationality of the refugee	3.15	1.472
Lack of legal representation	3.33	1.479

Most of the respondents agreed that lack of familiarity with the Kenyan justice system affects administration of justice to a great extent as shown by a mean score of 3.52. However, other respondents were neutral whether the lack of legal representation affects access to Kenya justice system. The respondents were also neutral on the extent to which corruption among law enforcement authorities, language barrier, culture and/or nationality of the refugee and that approval by community members determines access to Kenya’s justice system as illustrated by means core of 3.33, 3.19, 3.18, 3.15 and 2.78 respectively.

However, the focus group discussions with community leaders from the Burundian, Somali and South Sudanese communities all agreed on several factors that affect access to justice. These included corruption among police officers, language barrier, the geographical location of the courts, lack of witness protection, laxity among NGOs when the cases are reported to them and poverty among refugees.

Members of the South Sudanese community stated that poverty is a major factor with regard to access to justice which makes it difficult to travel for court sessions or get representation. They stated that language barrier is also a factor. The community leaders in the Anyuak community stated that they do not believe that they can get justice through the Kenya justice systems for the reason that one must give a bribe in order to obtain justice as cited below:

“Do you feel that refugees in Kakuma have access to the police and the judiciary? Are they available? If a problem arises, how easy or hard is it to report a case to the police?”

“There is something I want to say, actually it is not easy to report to the police. one is you don't have money to report to the police may not record your case if you don't pay the reporting money

How much do they ask for?

There is no set price, it depends on the type of the case that you have. It could be KES 200,300 or 400 depending on the type of case you want to report.

The biggest challenge is that sometimes the victim reports to the police, if the person you are reporting has more money than you, that person will be considered more than you who is the victim. And you know what happens really is that the person who has more money will actually block you by paying more money to the police such that that case will be left pending with the police and you who is the complainer because you had little money, you will be told they will take the case but they will prolong such that you feel tired in the process, the police will frustrate you so you don't follow up the case”

They also stated that once a person reports the case they have no protection and they are vulnerable to attacks by the perpetrators. Two of the participants, a youth leader in the Anyuak

community and a former community leader and security guard from the same community narrated their experiences in the hands of the police.

“Have any of you ever had any personal experience whether good or bad with the police or the judiciary where it had affected you personally and what happened?”

Youth leader: Like myself I experience it, I went to buy lentils and then I met police and I was just slapped without being asked why I was on the road and then when I asked the reason why I was beaten up they said I was a criminal. They beat me seriously and I was scared again that I could not report to the police because they were the same people

Former community leader: I also have something to add. Sometime back I worked as a local security in the camp. Mostly I operated at the distribution center as a gate keeper. One day as I was on duty there was someone who was caught. I was the one who caught him and when I caught him I referred him to my bosses, people above of me. Not only I but also my colleague who was based in LWF and also a Kenyan were involved and then the person who was caught stealing was dismissed from the job and then when that person was dismissed he came with his relatives with his group members because I was the person who caught him when he stole. Because I reported the case to the police the same people wanted to fight me and they attacked me on various occasions because I know if I was to follow up the case with the refugee security they might influence the case so I chose to report to the Kenyan police before I reported to the police the same person was caught by the police and he was taken to Lodwar. Now the whole of his community started talking about me and they wanted to demonstrate against me because I had reported their person and they wanted me to be sacked so I went and reported to the police. You know what happened, when I reported to the police they said that they wanted to go back to confirm with the security if the case is true .Now the irony came in when they said that they could not arrest the whole community so they said they will not follow up the case.

I think they might have bribed the police with a lot of money maybe that is why they didn't want me to proceed with the case. I kept reminding them because my life could be insecure. It is two years now and I am living in fear and no action has been taken by the police. And when I saw that I had no otherwise so instead I went to UNHCR peace building office at the field post and again I was told by those workers in peace building and that the case is too general and it is not

specific and until something happened to me personally if they came to my house is when they will do their report.”

Focus group discussion with the Somali community revealed that most cases are referred back to the community and solved through the elders mostly because people fear the police, there is a language barrier and one may be required to have money to take the case to court. It also revealed that the Somali communities feel especially targeted by the police and one has to have pay money in for their case to go through as cited below:

“Do you feel that refugees in Kakuma have access to the police and the judiciary? Community leader 1: It is a very hard system. People got to the police but 99% and even the cases which go to the police we ask for them to be referred back to the community because we know that if this person is taken to the court he will either be guilty or not guilty. I am not saying that there is an injustice, there is justice and there is the Kenyan law and the person should face the offence that is committed so even for us even if we try to solve certain conflict it might be difficult and we may decide that the case should be taken to court”

Community leader 2: There is fear and there is a language barrier. Like when a mother wants to go to the police station and there is no interpreter in the police station she will fear because nobody knows her language. There is also fear that if you go to the police station you will be arrested so why not keep quiet and even if the case goes to court you will need money and we don't have money so why leave the case and stay the way you are. If someone tell you the police are coming, even if it is a young boy they will start running away and also in Somali culture if we hear this name of a police we fear. We believe that as Somalis that if the police see a Somali they will be targeted. It is like the reality is that if you don't have money you cannot access the police. Sometimes there are false accusations and that is why people fear because if someone falsely accuses you and you are don't have money or people to contribute for you will be

Community leader 3: If you don't have the money to push your case you just leave it the way it is.”

The discussions revealed that there were incidences of corruption in the camp and some accused persons are released after a while without being charged after they bribe the police even where

there is a government medical report (P3 form). They stated that the police threaten the community leaders when they try to follow up such cases. They stated that the perpetrators who are released also target the victims once they come back to the camp and therefore the victims prefer not to follow up the case. They also stated that the victims do have the money to travel to the court in Lodwar and follow up their cases. They also cited that most refugees cannot afford the transport to Lodwar.

Discussions with the Burundian community revealed that it is difficult to report cases to the police as an individual and community members would rather report cases through humanitarian organizations like LWF or UNHCR. They revealed that the police do not follow up the cases when an individual refugee reports the case. The cases delay and one might find a different police officer every time they go to the police station. Some of the community leaders narrated the challenges they faced in reporting the cases as cited below:

“Child Development worker: I remember that last year when I worked with child protection I reported a case of child protection to the police and when I got to the police station, it was very hard. The way the police asked question they asked the girl, to stop lying that she was under 18 and they asked us how we knew she was under 18 and we told the police that the same was recorded with UNHCR. They said that they don’t have to follow what UNHCR and what if she lied. It is very hard to report these cases if you just go as a refugee CDW the officers very embarrassing, you even start shaking.

Community leader: To add on that, is like you are reporting the case as an individual, they find like it is just another refugee coming to report a case but when a Kenyan working in an NGO comes and reports that the case that is when they become serious about it.”

They also revealed that another challenge is that their cases are not taken seriously by UNHCR and other NGOs because they believe some refugees make false accusations so that they can be resettled to a third country. Humanitarian workers in NGOs also do not follow up on the cases reported promptly. They also stated that if someone pays money they will be helped, for example, so as to get a P3 one has to pay for it to be followed up hence there is corruption.

4.6 Alternative Dispute Resolution and Administration of Justice

Table 4.10 shows the responses on Alternative dispute resolution.

Table 4.10 Alternative Dispute Resolution

	Mean	STDev
Traditional customary disputes resolutions mechanism (council of elder) exist in the community	4.00	0.991
The traditional customary disputes resolutions committees handle a majority child-related cases	2.81	0.953
The traditional customary disputes resolutions mechanisms because they do not understand how the Kenyan justice systems works	3.48	1.077
Refugees do not have access to court due to the geographical location of the map	2.52	1.384

Further, the study requested the respondents to indicate their level of agreement with the statement relating to Alternative Dispute Resolution. From the findings as shown in Table 4.10, most of the respondents agreed that traditional customary disputes resolutions mechanism (council of elders) exist in the community as shown by mean score of 4.00. Further respondents agreed that refugees resort to alternative systems because they do not understand how the Kenyan justice system works as illustrated by mean score of 3.48. On the other hand respondents were neutral that the traditional customary disputes resolutions committees handle majority of child-related cases and that refugees do not have access to court due to the geographical location of the map as shown by mean score of 2.81 and 2.52 respectively.

The focus group discussions held with South Sudanese community stated that minor offences such as theft and assault as well as marriage disputes are solved within the community while

serious offences such as murder and rape are referred to the police. The applicant stated that the Anyuak community has a council of elders called the *Kwaciwok*. They stated that in South Sudan the members of the *Kwaciwok* are appointed by a king named *Nyanya* because he is believed to know the character of the people in the community. An elderly woman is usually chosen as a council member. They remain as members of the council for life. However, in Kakuma, because the structure is different due to the absence of the king, the council of elders are chosen by the community members for two, two-year terms and if the elder has done a good job his term may be extended. The participants stated that the King solved all disputes in their home country including murder and rape cases as cited below.

“Back at home, what is the punishment for rape/defilement of a child?”

Back at home if someone defiles a girl there is kind of a dowry called dimwi so you would pay two dimwi.

What is dimwi?

It is a kind of dowry back at home. They are white beads which are very expensive, they cannot be found anywhere in the world. They are only used for marriage. They are 1500 South Sudanese Pounds (KES 45,000). So the person would give two dimwis and two cows but he would not be given the girl.

What about in Kakuma?

This is another thing that we cannot solve in Kakuma. We refer this case to the police because if the child is infertile in the future it is between the two families. Back at home it is the King who would solve the problems but since it is serious we refer it to the Kenyan police”

The participants added that in the camp, since there is no king, only certain types of disputes are solved by the *Kwaciwok* while serious offences are reported to the police.

“Who does the community prefer to report the case to between the police and council of elders?”

We categorize, like defilement should be referred to the police because we consider it as serious and if there is quarrel in the community we settle such issues and if it is stealing we solve in the community but killing and raping we don't solve because we are in Kakuma .Since we don't have the King here we can't solve it here. Back at home if a person kills someone and runs to the King the King won't allow the person to be killed when he is in custody. The kind will first compensate

the life of the family of the person who is killed to calm the family and after many years the King will go to the family of the perpetrator to claim the dowry as debt that he paid. Even in Kakuma if someone kills another and runs to the police he will not be killed, it is the law of Kenya that will 'talk' to that person."

Focus group discussions with Somali community leaders revealed that serious cases are usually reported to the police while minor cases are solved through Somali cultural traditions or through the Islamic religion. They stated that in some cases the police allow for some of the cases to be referred back to the community elders and then they are solved. Once the cases are solved they confirm the same with the police and the case is solved. The participants also stated that in some cases where community member report a minor case directly to the police the community elders ask the OCS to allow the elders to solve the dispute instead. They stated that when the Somali elders submit the request the person is released and the case is solved through the community's Peace Committee. The Somali community Peace committee works with the police and the peace building office of UNHCR. Cases that the Peace committee asks to be withdrawn from the police include domestic violence and daily disputes among community members such as fight over the water tap. The community leader is cited below:

"What methods do you use in the Somali community to solve disputes?"

We have many ways of solving disputes. In criminal cases, like if someone is killed, raped or stabbed, those are cases that we cannot solve in the community, those are taken to the police. When the case goes to the police sometimes what happens is that both sides, both people involved in the conflict go to the police so there is an option when they are at the police station. They can decide to send the case to court or they can decide to solve it through Somali traditional culture or through religion. So those are the options they give sometimes.

When someone is injured and the case is taken to the police sometimes the side of the injured and the side of the accused can come back and get a religious solution. The police allow for the case to be solved that way if both parties agree. We work with the police through the security and if they agree that the case can be taken back to the community to be solved according to the religion and then we report back to the police that that the case has been solved, it is confirmed to the police and then the case is closed.

Do they allow all types of cases to be referred to back to the community leaders?

There are cases like rape cases that even for us as Somalis we don't accept to solve through the tradition or through the police so once we get a rape case it goes directly to the police and to court but daily conflict like fights over the water tap are solved through community. Even when there are sports, when there is football and the boys fight, we solve that through the community."

The participants stated that for a case to be solved the religious way, the case is reported to the sheikh and the sheikh makes a decision using the Koran. Community leaders may also make an injury assessment and refer the case to the Kadhi who will make an assessment and give the necessary statement for example in the case of an injury the Kadhi may decide that the perpetrators family should pay the medical expenses and pay for his meals until the injury heals. Cases solved through the Somali cultural if a community is offended *Haal and Saaben* is offered. This is where an amount of money is put in an elders scarf and put on a table in front of the aggrieved party, the elders and the peace committee. The offender does not reveal the amount of money but instead says that the money is in *Haal and Saaben* . The community leader is cited below:

" Community leader 1: Haal and Saaben means that if a child in a family is beaten by a child of another family and that family of the injured child is angry, at that time, they are ready to revenge. So when the other family realizes that their child that has committed an offence, so before another situation takes place they send elders to cool the situation with an amount of money so according to Somali culture when those elders come with the scarf and that amount of money the family of the victim cannot start another conflict

Community leader 3: Also in a situation where someone had eloped with a girl without their permission the man's family is also supposed to pay Haal and Saaben

Community leader 1: It means that we have accepted that we have done wrong, it is like an apology where the person who has wronged you admits that they have done wrong to you and now we are going to finish in a good way

Community leader 2: And the money remains with the elder; it is divided among the elders.it they can take the whole day to solve the problems"

With regard to children case, focus group discussion with the Somali community revealed that community leaders will usually refer a case to the child protection office in UNHCR in case there is a vulnerable child. Further discussions also revealed that in some cases disputes involving the host community are solved through the traditional elders. One case is cited by a community leader:

“ Community leader 1: African cultures are the same it is only religion that is different, there is an incident where a Somali boy and a boy from the host community were playing, the Turkana boy broke his hand and he cried. They both came to the community and we asked if we should take the case to the police and the boy said no, “Do not take anything to the police because I will never ever get my right. It is better I get something from you so that I can be taken to hospital”. And what happened is that so we called his family from the rural areas and we sat and discussed and paid the compensation and that is how we solved the problem”

Focus group discussions with the community leaders in the Burundian community revealed that they also have a council of elders who minor solve disputes but serious cases are taken court. They revealed that they don't solve all the cases, it depends on the seriousness of the case. They revealed that when the elders are solving a problem they keep in mind the Kenyan Laws. They stated that cases that involve other communities or cases like rape and murder cannot be solved in the community. They revealed that the council of elders is called *abachamanza* which means in the name of God or *inararibonye* which is more of a traditional council of elders. The council constitutes of eight members, with a chairman and one female member. The members are people of good character in the community who are conversant with the Burundian culture and who are elderly. The chairperson in the *inararibonye* is called *umukuru wa bashinganaye*.

A person may report the case to the chairperson of the council of elders or through a council member and then they will set up a meeting to discuss the case and try to reconcile the parties. The council of elders may also decide to fine the person in the community or send him to the police.

“Community elder 1: Right now these days someone may be told to pay a fine to the victim .what I have seen is that in the old times there was a fine to be paid .If the elders decide then you have to give. For example if you elope with a woman you will be forced to pay the dowry and to

apologize to the elders and to the family but now the apologies may be in terms of drinks or certain ceremonies so it may not be in terms of money but in terms of traditions it would be in terms of other things rather than the money

Community elder 2: What I have seen in our community is that if someone refuses to follow what they have been told by the elders they will send that person to the higher authority which is the police. Like there was a case where there was a man who used to beat his wife, every morning when they woke up he would beat his wife. The elders talked to him but he could not listen so the elder took option B they sent him some boys who beat him up seriously and they said, can so now you look like a fighter can you fight your fellow men but that is within the community because now that is against the law”

They stated that there are Child Development Workers (CDWs) attached to LWF in the community who look out for children’s cases and they are usually taken up by NGOs working in the camp. In cases where children are neglected, the cases are reported to the *inararibonye* who ask members of the community to foster the child or call for contributions to buy school uniforms or clothes for the child.

4.7 Nature of child-related cases reported in participant organizations

The study also requested the respondents to indicate the types of child-related cases involving vulnerable children which they have encountered in their work. The responses included early marriage, child labour, child prostitution, sexual assault including defilement, incest and sodomy, deprivation of the right to education, children previously recruited or at risk of being recruited by militia groups, female genital mutilation (FGM), handicapped children, children abducted due to cultural practices, custody disputes, children in conflict with the law, physical abuse especially of unaccompanied and separated children and child neglect.

The respondent were further asked how that cases reported were dealt with and they stated the actions taken were that investigations were undertaken by the police, the perpetrators were arrested and jailed in court, some are fined while others are jailed, the children who were abused were visited by LWF child protection and went through guidance and counseling while other case were referred to the child services department of the government.

The respondents indicated that some of the challenges encountered in dealing with child –related cases include the lack of a permanent court for children in Kakuma. The court and detention centers are located in Kakuma while a mobile court sits once a month to deal with all pending cases. The respondents indicated that there is difficulty in obtaining evidence in some cases like defilement to lack of awareness by the refugee population on how to preserve such evidence, delays in court judgments some perpetrators escape arrest by going back to their home countries, inadequate judicial staff to expedite cases, lack of witnesses, lack of witness protection especially for children who are often intimidated not to give evidence, lack of knowledge on existing laws to protect children largely on the part of parents and caregivers.it was also noted that there is no children’s home or rescue centers in Kakuma. There are also no remand homes or rehabilitation centers for children in conflict with the law. Language barrier is also a challenge in accessing justice.it was also noted that in the case of abductions, it is difficult t trace the children since they could easily have been taken out of the country.

Other respondents indicated that some of the cases were not genuine because some refugees wanted to use the cases as an avenue to feign insecurity and secure resettlement to a third country.

Table 4.1I: No. of cases child-related reported to UNHCR and Kenya Police in the last year

	Cases reported needing legal redress	Cases currently being handled	Cases pending court	Cases in Successfully Prosecuted
UNHCR	52	20	10	8
Kenya Police	67	24	18	34
Total	119	44	28	42

Data obtained from UNHCR community services department indicated that 52 cases were reported during the year 2012/2013 while only 8 cases were successfully prosecuted. This is only 15% of the cases reported. The police reported a higher figure where it was quoted that 67 cases were reported in the last year while 34 cases were successfully prosecuted. This shows that 51% of the cases were successfully prosecuted.

4.8 Summary

This chapter focused on the data analysis, interpretation and presentation of the findings. It presented the research findings from the questionnaires issued in frequency tables, percentages, mean and standard deviation as well as verbatim statements from focus group discussions. It sets out the response rate and demographic characteristics of the participants in the study. It also sets out the responses on the objectives of the study including the UNHCR Policy, the Kenyan Justice System and alternative dispute resolution systems. It also set out experiences of refugees with the Kenya justice system through the focus group discussions. The responses on the nature of child-related claims encountered by humanitarian workers working with participants were also documented.

CHAPTER FIVE

SUMMARY OF FINDINGS, DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter provides a summary of the findings, the discussions, the conclusions and recommendations of the study based on objectives of the study. The chapter also presents the suggestions for further research. The study sought to understand the factors that affect effective administration of justice of child-related cases reported to UNHCR. The study was guided by three objectives whose findings are summarized in the next section. The study employed a descriptive survey design. A census of 71 respondents participated in the study. The results were analyzed using SPSS while verbatim statements were provided.

5.2 Summary of the Findings

The findings of the study indicate that UNHCR child protection policy is well known by the staff and implementing partners. The findings also show that frequent consultation meetings are held with implementing partners and that the policy caters for vulnerable groups of children (unaccompanied/separated minors, separated children and girls). There is also good coordination between the activities of the implementing partners and UNHCR which indicates that they are able to effectively implement the policy.

The results of the study also indicate that the Government of Kenya has an effective policy relating to administration of justice in cases involving children and that it is streamlined with the UNHCR child protection policy. However respondents were neutral with regard to whether the police working in Kakuma have the capacity to handle child-related cases as illustrated by a mean score of 3.37. Almost the same numbers of respondents were neutral that the judiciary has the capacity to handle cases in Kakuma refugee camp as shown by mean score of 3.26. Finally respondents were neutral that refugees are willing to resolve child-related cases through Kenya's courts as depicted by mean score of 2.96. Results from the focus group discussions show that refugee communities have their own dispute resolution mechanisms mainly in the form of a council of elders as shown by mean score of 4.00 and as stated in focus group discussion conducted for the Burundian, Somali and South Sudanese communities. The findings established

that respondents agreed that refugees resort to alternative systems because they do not understand how the Kenyan justice system works as illustrated by mean score of 3.48.

Focus group discussion indicated that refugees face several challenges in accessing justice which includes corruption among police officers, language barrier, the geographical location of the courts, and lack of witness protection, laxity among NGOs when the cases are reported to them and poverty among refugees.

5.3 Discussion of findings

5.3.1 UNHCR Child Protection Policy

The findings indicate the child protection policy is well known to UNHCR staff and implementing partners handling child-related cases and that activities of implementing agencies and UNHCR are well coordinated as illustrated by means core of 4.04 in each case. The results of this finding indicate that the exploitation of vulnerable groups in the camp is reduced since previous research has shown that widespread sexual violence and exploitation of women and girls in refugee camps in Guinea reported by UNHCR in 2002 was attributed to lack of awareness and hence proper coordination between the host government, UNHCR, and various non-governmental organizations operating in the refugee camps (Farmer, 2006).

It also indicates that UNHCR and its implementing partners are able to identify vulnerable children and take action or make referrals. In this respect, the findings of his study show that implementation and knowledge of UNHCR policy by staff positively affects the administration of justice in children cases to a great extent. Nevertheless, respondents were neutral that there was enough staff members in their organization to handle child-related cases as shown by mean score of 3.19. Results from previous studies found that due to the large number of refugees and the isolation of refugee camps, UNHCR and its implementing partners are unable to have enough staff member to tackle all child-related cases (Da costa, 2006). It is noted that Kakuma Refugee Camp has a population on 107,205 (UNHCR, 2012) with a large number of cases and few officers to deal with all the cases (Harding and Scanlon, 2008).

5.3.2 Host Country Justice System

The findings established that the refugee community has a role to play in administration of justice and that the UNHCR policy on children is streamlined with the child protection policies of the Kenyan Government. Although the Government of Kenya has an effective policy on administration of justice relating to child-related cases involving refugees, the refugees do not have a lot of trust in the justice system (Harding and Scanlon, 2008). The refugees believe that the police working in Kakuma and the judiciary have limited capacity to handle child-related cases. This indicated that there isn't sufficient confidence in the capacity of these institutions to handle these refugee cases. These findings are similar to previous research which indicates that there is lack of capacity on the part of the host state, UNHCR or other NGOs to monitor and manage the camps and to ensure their security from threats both within and outside of the camp. This contributes to the unmitigated necessity and importance of having effective administration of justice within refugee camps (Purkey, 2011).

Focus group discussions indicated that refugees face several challenges in accessing justice which include corruption among police officers, language barrier, the geographical location of the courts, and lack of witness protection, laxity among NGOs when the cases are reported to them and poverty among refugees. (Crisp, 2002) observes that refugees may also be discouraged from reporting cases since they have to face the perpetrators in the camp which are isolated and generally lack adequate security to begin with. This may be in form of intimidation and serious physical threats against these persons, their families and even their ethnic or tribal group. The host government often does not have a witness protection programme of any kind or mechanisms to protect the victim from further abuse by the perpetrators particularly if they lack the traditional support and protection of their extended family, ethnic, tribal, or community structures (Da Costa 2006.)

5.3.3 Alternative Dispute Resolution

Results from the focus group discussions show that refugee communities have their own dispute resolution mechanisms mainly in the form of a council of elders and as stated in focus group discussion conducted for the Burundian, Somali and South Sudanese communities. The respondents agreed that refugees resort to alternative systems because they do not understand how the Kenyan justice system works. Refugees prefer to solve disputes through alternative

means due to fear that they may have to bribe the authorities to get justice or it may be too expensive to take the matter to court. A similar study by McChonnachie (2013) showed that, due to the lengthy processing of cases under the host justice system, many may resort to an alternative dispute resolution system. Similarly, alternative means of dispute resolution are seen as representative, transparent, fair, impartial and affordable by the refugee community, thus offering refugees a continuation of the system from their country of origin. Their rulings are likely to be accepted by the community, which will reinforce respect for their sanctions. Additionally, these systems offer both easy access and a quick response to victims. To the accused, traditional courts offer reassurance to be judged through a familiar system with no language or cultural barriers (Perry, 2011).

5.4 Conclusion

The protection of child refugees requires a multi-disciplinary and multi-sectoral approach, linking closely work done by UHNCR and its implementing partners as well as the police and security forces responsible for law and order and the judiciary as well as the refugee community itself. The findings indicate that the alternative means of dispute resolution fills a great gap in the resolution of conflicts in Kakuma Refugee Camp, however the need for an accessible justice system cannot be underestimated since serious cases are reported to the police. To this end the role of the Kenya Government in providing law enforcement officers in the camp, and judicial staff is paramount in child protection and improving children's access to justice. While the government may have a comprehensive policy on administration of justice for children, barriers such as corruption, poverty and language barriers make it difficult for refugees to access justice. This indicates that it is even harder for children to access justice through the Kenyan justice system.

5.5 Recommendations

Based on the findings of the study, the following recommendations can be made to UNHCR, the Kenyan Police and researchers.

Recommendations to UNHCR

1. It is recommended that UNHCR create awareness and sensitization about refugee rights in the host state, human rights standards and Kenya's legal system to the refugee community
2. Launch prevention awareness raising programmes children through educational programmes to increase awareness and encourage children to report cases of abuse Capacity building for the police and security forces on refugee laws and human rights standards and on handling child-related cases
3. Creation of networks with the refugee community through refugee leaders to identify vulnerable children and assist refugees in following up criminal cases with the police
4. Conduct awareness campaigns for refugees on Kenya's justice system
5. Capacity for committees administering Alternative dispute resolution such as council of elders on the Kenyan justice system to encourage them to report and follow up cases and ensure that decisions made are fair ,just and in line with the law.

Recommendations to the Government of Kenya as the host government

These recommendations steps that should be taken by the police and the judiciary as well as the state:

1. The government should increase the number of police officers to be able to tackle the cases promptly.
2. The government of Kenya should establish a permanent court including a children's court in Kakuma to increased access to court and reduce the burden of travel costs carried by refugees who have to attend court in Lodwar.
3. Launch witness protection programmes to protect witnesses in cases where they fear for their safety

4. Establish detention facilities in the camp so as to increase the enforcement capacity of the police

5.6 Suggestions for further research

The following are suggested areas for further research:

1. Factors that influence administration of justice in other demographic groups such as men and women.
2. A comprehensive investigation into the role played by the judiciary and the police in administering justice in the camp.
3. An investigation into administration of justice in other refugee populations such as those Dadaab Refugee Camp and urban refugees in different urban centers in the country.

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APPENDIX I: LETTER OF TRANSMITTAL

Clare J. Kidombo
P.O. Box 25491 – 00100
Nairobi

Dear Respondent,

RE: COLLECTION OF SURVEY DATA

I am a postgraduate student at the University of Nairobi, School of Continuing and Distance Education. I am carrying out a research on “**Factors Influencing Effective Administration of Justice in Child-related cases handled by UNHCR: The Case of Kakuma Refugee Camp.**”

This research is in partial fulfillment for the award of my postgraduate degree in Project Planning and Management. You have been selected to form part of this study. Your cooperation in completing this questionnaire as objectively and as accurately as possible will be highly appreciated. The identities of the respondents and the information provided will be kept in strict confidence and the findings will be used exclusively for academic purposes.

Thank you for your understanding and cooperation.

Yours Sincerely,

Clare J. Kidombo

APPENDIX II: QUESTIONNAIRE

This questionnaire is a survey to collect information on the “*Factors Influencing Effective Administration of Justice in Child-Related Cases Handled by UNHCR: The Case of Kakuma Refugee Camp*”. Please complete each section as instructed. **Do not write your name or any other form of identification on the questionnaire.**

Kindly fill in all the blank spaces provided and tick \surd or circle **O** where appropriate.

PART A- PERSONAL DETAILS

Please tick where appropriate

- 1) Gender
 - a. Male
 - b. Female
- 2) Age bracket
 - a. Less than 20 years
 - b. 20-25 years
 - c. 26-30 years
 - d. 31-35 years
 - e. 36-45 years
 - f. Above 46 years
- 3) Please indicate the organization for which you work (*Optional*).

- 4) How many staff members do you have in your organization?
 - a. 5-20
 - b. 21-40
 - c. 41-60
 - d. 61-80
 - e. 81-100
 - f. Above 100

5) How long have you been working in Kakuma Refugee Camp?

- a. Less than 1 year
- b. 1-2 years
- c. 3-4 years
- d. 5-6 years
- e. Over 7 years

6) What is your academic qualifications

- a) Degree
- b) Diploma
- c) Secondary School Certificate
- d) Primary School Certificate
- e) Other (Specify)-

7) What is your nationality?

PART B- UNHCR POLICY ON CHILD PROTECTION

Rate the extent to which you agree with the following statements

Statement	Strongly Agree 5	Agree 4	Neutral 3	Disagree 2	Strongly disagree 1
The UNHCR child protection policy is effective in administration of justice in child-related cases					
The policy is well known to all UNHCR staff and Implementing partners handling child-related cases.					
Frequent consultation meetings are held					

between UNHCR staff and Implementing partners					
The policy caters adequately for more vulnerable children(e.g unaccompanied minors ,separated children and girls)					
The policy is streamlined with the child protection policies of its Implementing Partners					
Activities of implementing agencies and UNHCR are well coordinated					
There are enough staff members in my organization to handle child-related cases					

PART C- KENYA’S JUSTICE SYSTEM

Rate the extent to which you agree with the following statements

Statement	Strongly Agree 5	Agree 4	Neutral 3	Disagree 2	Strongly disagree 1
The Government of Kenya has an effective policy on administration of justice relating to child –related cases involving refugees					
The UNHCR policy on children is streamlined with the child protection policies of the Kenyan Government					
The police working in Kakuma have the capacity to handle child-related cases					
The judiciary has the capacity to handle cases in Kakuma Refugee Camp					

Refugees are willing to resolve child-related cases through Kenya's courts					
Treatment of refugees by government authorities plays a role in administration of justice					
The community has a role to play in administration of justice					

PART D- ALTERNATIVE DISPUTE RESOLUTION

Please rate the extent to which you agree with the following statements

Statement	Strongly Agree 5	Agree 4	Neutral 3	Disagree 2	Strongly Disagree 1
Traditional customary dispute resolution mechanisms (e.g. council of elders) exist in the community					
The traditional customary dispute resolution committees handle a majority child-related cases					
Refugees resort to traditional customary dispute resolution mechanisms because they do not understand how the Kenyan justice systems works					
Refugees do not have access to courts due to the geographical location of the camp					
Lack of familiarity with the Kenyan justice system affects administration of justice					

To what extent do the following factors determine access to Kenya's justice system by refugees

Statement	Very low extent	Low extent	Neutral	Great extent	Very great extent
Corruption among law enforcement authorities					
Language barrier					
Approval by community members					
Culture and/or nationality of the refugee					
Lack of legal representation					

PART E: ADMINISTRATION OF JUSTICE

(Kindly provide estimates were you do not have exact figures)

1. Do you deal with child-related cases in the course of your duties?

Yes

No

If yes, what type of cases have you encountered?

2. How many cases involving vulnerable children have been reported to your organization in the last year ?

3. How were the cases dealt with?

4. How many child-related protection cases is your organization currently handling?

5. How many criminal and/or civil cases reported to your organization in the last year are currently pending in court?

6. What kind of actions are taken against perpetrators who violate the rights of refugee children?

7. How many cases on child-related claims handled by your organization have been successfully decided and/or prosecuted in the last year?

8. What challenges have you encountered in dealing with child-related cases with regard to administration of justice?

THANK YOU!

QUESTIONS FOR FOCUS GROUP DISCUSSIONS

Do refugees in Kakuma have access to the police and the judiciary?

What are your experiences with the Kenyan police?

What are your experiences with the Kenyan judiciary?

How do the police and the judiciary handle child-related case reported to them?

Do traditional customary dispute resolution mechanisms exist in your community?

How are they run?

What type of disputes do they handle?

Do they handle child-related cases?

What kind of sentences do they give to perpetrators?

How does the geographical location of the camp affect administration of justice?

What prevents refugees from solving disputes through the Kenyan justice system?