

**THE PROTECTION OF REFUGEE RIGHTS AND SECURITY IN THE  
GREAT LAKES REGION OF AFRICA.THE CASE OF KAKUMA  
REFUGEE CAMP OF KENYA.**

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A Thesis  
Presented to the school of post graduate  
studies and Research of Kampala  
international university  
Kampala Uganda

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In partial fulfillment of the requirements for the degree of  
master of Arts (human rights and development)

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By  
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**APRIL 2010**



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## DECLARATION A

I, **Otieno Michael Jackson**, declare that this thesis is my own original work and that it has not been presented and will not be presented to any other university for a similar or any other degree award.

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### DECLARATION B

The undersigned certify that he has read and hereby recommend for acceptance by the Kampala International University a thesis entitled. Challenges in addressing refugee rights and security in the great lake region of Africa, in fulfillment of the requirements for the degree of Master of Arts (Human Rights and Development) of Kampala International University.

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### APPROVAL

This dissertation entitled “ The Protection of Refugee Rights and Security in the Great Lakes Region of Africa, A Case Study of Kakuma Refugee Camp of Kenya”. Prepared and submitted by Mr. Otieno Michael Jackson in partial fulfillment of the requirement for the degree of Masters of Arts in Human Rights and Development has been examined and approved by the panel on oral examination with a grade of PASSED



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## **DEDICATION**

To my daughter Sheryl Levine

To my mum Jenipher Obalah

To all the refugees and IDPs world over

## **ACKNOWLEDGEMENT**

In any game in life there are a multitude of players who are the hidden heroes, and in this endeavor there have been many. As I began putting on paper the feelings I have towards so many loyal and phenomenally selfless family members, friends and academicians, I am overwhelmed.

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## **ABSTRACT**

This study undertook to identify the challenges in protection of refugee rights and security in the great lakes region and the study was a case study of Kakuma refugee camp in Kenya.

The study objectives were to identify factors that contribute to the abuse of refugee rights, to identify potential security threats to refugees, find out the effectiveness of the strategies used to reduce such abuses and to suggest policy recommendations based on research findings. It is from these objectives that research questions were developed.

A cross sectional survey focusing primarily on sampled members of the refugee community at Kakuma, Humanitarian workers, camp leaders and government official indirectly involved in the protection of refugee rights and security was used. The major methods used were; interviews, focus group discussion and document analysis. Three hundred and fourteen respondents were interviewed and twenty eight focus group discussions held. Although provincial administration, development partners and humanitarian agencies are making a difference to ensure refugee rights and security, the study revealed that their efforts are still below the standard and cases of abuse such as trafficking, refoulment, and gender – based violence among many other cases still exist and continue to threaten refugee security at the camp. Most refugee are vulnerable to environmental and natural disaster because many live in informal and unsafe settlements. Unaccompanied minors are likely to be more vulnerable to abuses and to such problems as malnutrition, discuss physical danger, emotional trauma, exploitation and abuse. Based on the finding, conclusions and recommendations have been made. It is the researchers hope that this information will be useful to the relevant Ministries, non- Governmental Organizational, Turkana District Authorities, International community and to the refugee community to promote and to protect the right and security of refugee.

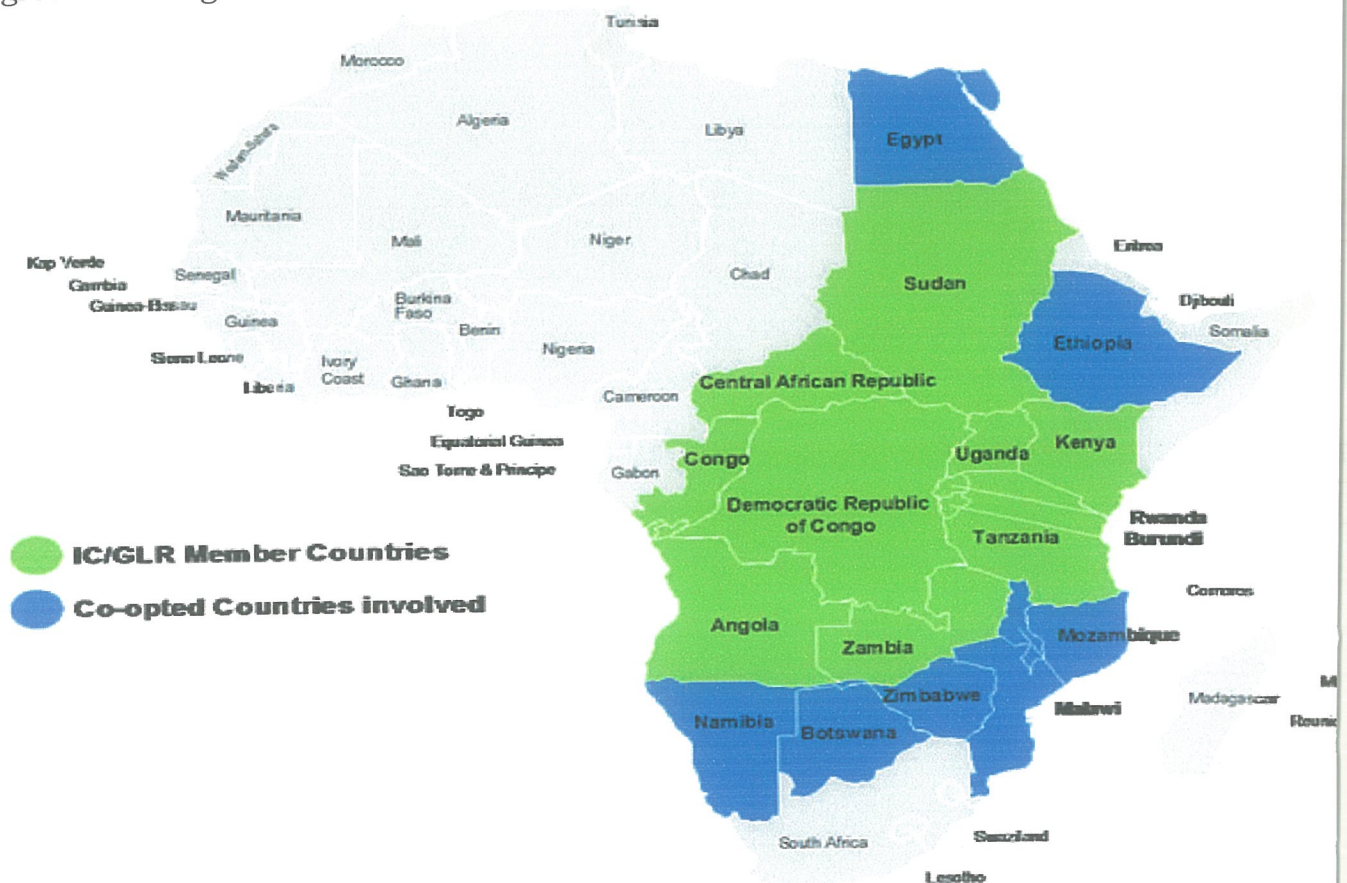
## CHAPTER ONE

### 1.0 INTRODUCTION

#### 1.1 Background of the study

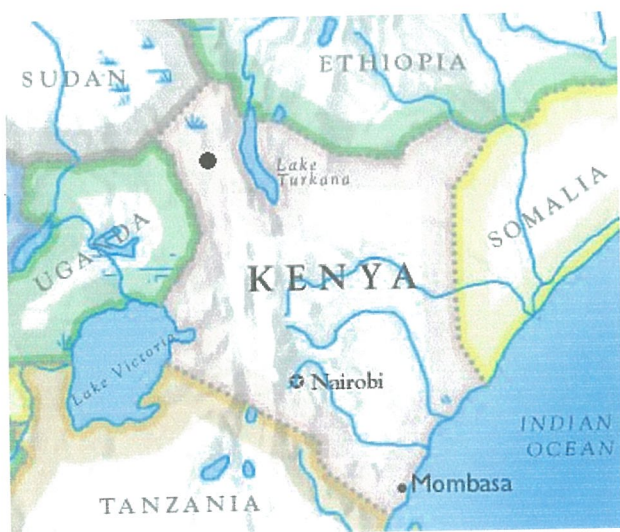
The term Great Lake region is likewise somewhat loose. It is used in a narrow sense for the area lying between northern Lake Tanganyika, western Lake Victoria, and lakes Kivu, Edward and Albert. This comprises Burundi, Rwanda, north-eastern DR Congo, Uganda and north-western Kenya and Tanzania. It is used in a wider sense to extend to all of Kenya and Tanzania, but not usually as far south as Zambia, Malawi and Mozambique nor as far north as Ethiopia, though these four countries border one of the Great Lakes.

**Figure 1** African map showing the position of the Great Lake region in green coloring.



The **Kakuma Refugee Camp** is a moderate-sized “city” of tents, shacks, and thatched roof huts in the desert of northwest Kenya, inhabited by more than 90,000 refugees (Sudanese, Ethiopian, and Somali, mostly, but also Congolese, Burundian, Rwandan, and Ugandan). Dating to 1991, it is equally a sanctuary and a prison—once admitted, residents cannot leave without permission of the Kenyan government—and inside its fences, children age into adulthood. The United Nations High Commission on Refugees administers the camp, with aid from a patchwork of international relief agencies, or nongovernmental organizations (NGOs).

**Figure 2:** Showing the position of Kakuma in Kenya



**Source:** National Geographic

Kakuma Refugee Camp is located in Turkana District of the northwestern region of Kenya, 120 kilometers from Lodwar District Headquarters and 95 kilometers from the Lokichoggio Kenya-Sudan border. (Indicated by a black dot on the map.)

### **The Contemporary Refugee Problem**

The world refugee problem has remained acute. When the Indian subcontinent was partitioned in 1947, millions of people were forced to migrate. Steady streams of refugees left China and East Germany, especially in the 1950s. The Korean War produced some 9 million

refugees. Other major refugee-creating events of the 1950s include the Hungarian Revolution (1956) and the uprising in Tibet (1958–59). Sub-Saharan Africa's massive refugee problem is rooted in the continent's colonial past. Before colonization, Africans had moved freely within their own tribal areas. However, the boundaries fixed by 19th-century colonial powers often cut across tribal areas, resulting, particularly after independence, in mass movements of refugees across national borders. By the early 1990s there were close to 7 million refugees in Africa, including 4.5 million displaced Sudanese. The Arab-Israeli War of 1967 expanded an already swollen refugee population in the Middle East (now estimated at 4.3 million), and hundreds of thousands Lebanese also fled (largely to other parts of Lebanon) when Israel invaded in 1982 and 2007. The Vietnam War and Cambodian civil war created large numbers of Southeast Asian refugees; the India-Pakistan War of 1971 produced about 10 million refugees, most repatriated to newly created Bangladesh.

In the 1980s and 90s fighting in Afghanistan created large Afghan refugee populations in Pakistan and Iran, and in the latter decade the conflicts in the former Yugoslavia, especially in Croatia, Bosnia, and Kosovo displaced hundreds of thousands within Europe. Conflicts in Uganda, Burundi Rwanda, and Zaïre/Congo, which sometimes spilled from one nation to the other, as well as fighting in Sudan and Somalia disrupted the lives of millions in the late 20th cent. and early 21st cent. At the beginning of 2007 the world's international refugee population was about 14.2 million, including the above-mentioned Palestinians. The largest displacements involved more than 2.1 million Afghans living in Pakistan, Iran, and other nations; more than 1.5 million Iraqis in Syria, Jordan, and other nations; more than 680,000 Sudanese in Chad, Uganda, Ethiopia, and other nations; about 460,000 Somalis in Kenya, Yemen, and other nations; and about 400,000 Burundians in Tanzania

and other nations. In addition, there were an estimated 24.5 million “internally displaced persons,” individuals forced from their homes within the boundaries of their own countries. Sudan (5 million), Colombia (3 million), Iraq (1.8 million), Uganda (1.6 million), and the Democratic Republic of the Congo (1.1 million) all had enormous numbers of internal refugees.

In the face of these numbers, and the expense of administering aid, private relief agencies such as CARE and Oxfam fight overwhelming odds; support often rises and falls on media attention. While Southeast Asians, Cuban, and Soviet refugees found political support in the United States, far fewer refugees from Central America, Haiti, and Africa gained entry. Many governments refuse asylum to refugees; meanwhile, long-term refugees suffer various psychological hardships, and the root causes of the problem—war, famine, epidemics—remain unsolved<sup>1</sup>.

### ***The Rise of International Refugee Organizations***

Early examples of mass dislocations include the expulsion of the Jews and the Moors from Spain in the 15th cent., the flights from religious persecutions in Europe to the New World in the 16th and 17th cent., and the exodus of the émigrés in the French Revolution. Before the 20th cent. there was little or no systematic attempt to help refugees, although some groups, on a private basis, provided assistance to refugees who were coreligionists.

After World War I, international organizations were created to give assistance. 1.5 million Russians fled the Revolution of 1917; in the 1920s large numbers of Armenian and Greek refugees fled from Turkey, and many Bulgarians left their country. In 1921 the League of Nations appointed Fridtjof Nansen its high commissioner for refugee work; later

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<sup>1</sup> J. Vernant, (1953); *The Refugee in the Post-War World*, Jomo Kenyatta Foundations, Nairobi, Kenya



the International Labour Organization and the Nansen International Office for Refugees took charge. Nansen effected repatriation wherever possible; in other cases he arranged for the issuance of Nansen passports, recognized by 28 countries, which gave the holder the right to move freely across national boundaries.

The refugee problem was revived after Hitler's accession to power in Germany (1933) and his annexation of Austria (1938) and Czechoslovakia (1939) and the persecution of Jews. The Loyalist defeat in Spain (1939) and anti-Semitic legislation in Eastern Europe added to the overall problem. Many asylum governments attempted to return refugees to their country of origin; they were often forbidden to work and sometimes imprisoned. Some progress was achieved with the establishment of a permanent committee for refugees in London after a conference of 32 nations held in France in 1938.

World War II further dislocated civil populations. At the war's end the United Nations Relief and Rehabilitation Administration (UNRRA) had the responsibility of caring for some 8 million displaced persons (persons removed from their native countries as prisoners or slave laborers). Most were eventually repatriated, but about one million in Germany, Austria, and Italy refused to return to their native countries, which were by then under Communist governments. The number of Jewish refugees was in time greatly reduced by emigration to Israel, but uprooting the Arab population of that new state in turn created some one million refugees. With the end of UNRRA, the United Nations created the International Refugee Organization to carry on its work. After much debate the United States in 1948 adopted the Displaced Persons Act, which, despite numerous restrictions, eventually permitted the entrance of about 400,000 immigrants<sup>2</sup>.

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<sup>2</sup> P.Collins, (1971); a Mandate to protect and Assist Refugees, McGraw Hill, New York

According to the provisions of the statute of the United Nations High commissioner for Refugees (UNHCR), a refugee can be defined as **“any person that owing to well founded fear of being persecuted for reasons of race, religion,, nationality or political opinion is outside the country of his nationality and other than personal convenience, is unwilling to avail himself of the protection of that country.....”** Article 1.

This is also defined in the convention relating to the status of refugee and its subsequent 1967 additional protocol.

The universal declaration of Human Rights (UDHR) sets out everyone's basic human rights. Article 14(1) state that “everyone has the right to seek and to enjoy in other countries asylum from persecutions”. However, this general rights to seek and to enjoy asylum does not constitute an individual right to be granted asylum, states have consistently shown great reluctance to agree international instruments that would impose duties on them to grant an asylum<sup>3</sup>.

International legal instruments have been drawn up that protect the rights of refugees and lay down minimum rights to which refugees are entitled. The 1951 convention relating to the status of refugees guaranteed minimum standards for refugees within their country of asylum and aims to ensure that refugees are treated in the same way in all states which are partly to the United Nations Refugee convention.

In addition to this treaty, other international legal instruments deal with asylum and refugees. The 1951 convention relating to the status of refugees (known as 1951 refugee convention) was drawn up following World War II and was an attempt by members of the international

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<sup>3</sup> UDHR, (1948); Article 14 (1)

community to deal with massive numbers of people who had been displaced as a result of the turmoil”.

To gain refugee status individuals must show that they subjectively fear persecution and that their fear is rational or reasonable, based on objective facts. Thus both elements – the subjective (how they perceive the threat) and the objective (the facts) must be considered in determining the existence of well- founded fear. It may be concluded that well- founded fear exists if there is evidence of:-

- Past persecution
- Credible threats of future persecution directed at an individual
- Persons in a similar situation who have suffered persecution.

A refugee must fear persecution, as opposed to conditions such as poverty or natural disaster.

The term persecution could cover the following actions

- Threats to life
- Bodily harm
- Torture
- Prolonged detention
- Repeated interrogations and arrests
- Internal exile
- Other serious human rights violations.

Discrimination does not qualify for the term persecutions unless it involves serious restriction on important rights such as the right to practice a religion, to earn a living or to receive an education<sup>4</sup>.

Criminal persecution does not amount to persecution unless

- The offence is a political crime or
- Punishment is excessive or the law violates human rights standards.

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<sup>4</sup> UNHCR (1951); Convention Relating to Status of Refugees, Article 1A (2)



Persecution usually results from the action of government authorities but it may also include action by private individuals if the government cannot or will not protect the victims.

The reasons for persecution according to UNNCR must be because of the five grounds listed in Article 1A(2): race, religion, nationality, membership of a particular social group or political opinion.

Finally, applicants for refugee status must be outside the country of their nationality. They must have crossed an internationally recognized border. If they have not they do not qualify for protection under the 1951 refugee convention.

Article 1A(c) sets out the conditions in which a refugee will lose that status. In the main, it is because the refugee voluntarily decides to return home or acquires the nationality of a new country.

A convention refugee will also lose that status if circumstances at home change in such a fundamental way that the reasons for becoming a refugee have ceased to exist. The convention details certain types of persons who cannot become convention refugees even if they satisfy the refugee definition. They include:-

- Persons who have committed crimes against peace, war crimes or crimes against humanity.
- Persons who have committed a serious non political crime outside the country of refugee prior to admission as a refugee.
- Person's guilty of acts contrary to the purposes and principles of the United Nations. This includes criminal acts undertaken by person in positions of power in this states.

Article 33 clearly prohibits states from expelling or returning a refugee "in any manner whatsoever to the frontiers of territories where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social

group or political opinion. “ This significant safeguard is known as the **Principle of non- refoulment** (non – return).

There are only two exceptions: refugees who are reasonably believed to be in danger to the security of the receiving country and refugee who have been convicted of a particular serious crime and are a danger to the receiving country.<sup>5</sup>

Article 31 forbids states from penalizing refugees who enter or remain illegally. This article recognizes to obtain visas for entering a country and some are forced to flee without the correct paperwork.

Article 12-30 of the 1951 refugee convention set out the rights which individuals are entitled to once they have been recognized as convention refugees. Such rights includes the following:

- All refugees must be granted identity papers and travel documents that allow them to travel out side the country.
- Refugee must receive the same treatment as nationals of the receiving country with regard to the following rights:
  - Free exercise of religion and religious education
  - Free access to the courts, including legal assistance
  - Access to elementary education
  - Access to public relief and assistance
  - Protection provided by social security
  - Protection of industrial property, such as invention and trade unions.
  - Protection of literary, artists and scientific work equal treatment by taxing authorities.
- Refugee must receive the most favorable treatment provided to national of foreign. The right to belong to trade unions. The right to belong to other non – political non profit organizations. The right to engage in wage –earning employment.

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<sup>5</sup> UNHCR, (2000); State of the World Refugees, Geneva, Switzerland

- Refugees must receive the most favorable treatment possible, which must be at least as favorable as that awarded aliens generally in the same circumstance, with regard to the following rights:

Right to own property

Right to practice a profession

Right to self-employment

Access to housing

Access to higher education.

### **The AOU/AU Convention on Refugees in Africa**

In 1963, the organization of African unity decided that a regional refugee treaty was needed in order to take account of the special characteristics of the situation in African. In 1969 the OAU convention Governing the specific aspects of Refugee problems in Africa accepted the definition of the 1951 Refugee convention and expanded it to include people who were compelled to leave their country not only as a result of persecution also owing to;

- External aggression
- Occupation
- Foreign domination or
- Events seriously disturbing public order.

The OAU definition also recognize non-state action as perpetrators of persecution and it also does not demand that a refugee shows that direct link between herself or himself and the future danger. It is sufficient that the refugee considers the harm sufficient to force her/him to abandon their home<sup>6</sup>.

### **1.2 Statement of Problem**

The abuse of refugee rights and the rights of asylum seekers is perplexing, especially with the fact that the international legal

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<sup>6</sup> L.Holborn, (1974); Refugee, a problem for Our Time: the work of United Nations High Commissioner for Refugees, 1950-1970, Oxford University Press, London

instruments and universal declaration of human rights all call for equal treatment of all humanity, let alone the efforts being made by the humanitarian and development partners. Failure to address the situation in the country of origin means that refugees cannot return home. The failure of the international community and regional players to consolidate peace generates a resurgence of conflict and displacement, leading to a recurrence of protracted refugee situation.

An increasing number of host states respond to protracted refugee situations by containing refugees in isolated and insecure refugee camps, typically in border regions and far from the governing regime. Many host governments now require the vast majority of refugees to live in designated camps, and place restrictions on those seeking to leave the camps for employment or education. This trend, recently termed the “warehousing” of refugees, has significant human rights and economic implications.

As highlighted by the US committee for refugees and immigrants, level of sexual and physical violence in refugee camps remain of great concern. UNHCR has argued that ‘most refugees in such situations live in camps where idleness, despair and, in a few cases, even violence. The prolonged encampment of refugee populations has led to the violation of a number of rights contained in the 1951 UN refugee convention including freedom of movement and the right to seek wage – earning employment. Restrictions on employment and the right to move beyond the confines of the camps deprive long –staying refugees of the freedom to pursue normal lives and to become productive members of their new societies. This study therefore, attempted to explore the challenges in addressing refugee rights and security in Kakuma refugee camp in Northwestern part of Kenya.

### **1.3 Purpose of the Study**

The purpose of the study is to identify challenges in addressing refugee rights and security in the great lake regions, study of Kakuma refugee camp in Kenya.

### **1.4 Research Objective**

#### **1.4. General Objective**

The general objective was to investigate the challenges in addressing refugee rights and security in the great lakes regions as well as the effectiveness of strategies.

#### **1.4.2 Specific Objectives**

- a) Identify factors that contribute to the abuse of refugee rights
- b) To identify the potential security threats to refugees.
- c) To find out the effectiveness of the strategies used to reduce such abuses.
- d) To suggest policy recommendations based on research findings.

From the above objectives the following research questions are formulated.

### **1.5 Research Questions**

- a) What are the factors contributing to the abuse of refugee rights at Kakuma refugee camp?
- b) How effective are the interventions and strategies used in addressing such abuses?
- c) What Problem affect refugee security at the camp?
- d) What are the states obligation and right in addressing refugee problem?
- e) How does conflicts and strives induce the abuse of refugee rights and security?

### **1.6 Scope of the Study**

This study focused on refugees who are facing security threats and human rights abuses. The factors were analyzed under political, social economic and socio- cultural factors and their effects on refugee rights. The study was conducted at Kakuma refugee camp in North western part of Kenya Turkana district.

To get a clear picture and trend of abuse the sample included both male and female. The study was conducted between November 2009 and February 2010.

### **1.7 Significance of the Study**

It is evident that refugees are more likely to be abused than any other person in a non refugee situation, and their human rights and security are poorly protected than other members of the human society. These findings will enable us to determine the available entry and other interventions to reverse the trend. While the multiple intergovernmental, socio- economic, cultural and political factors that promote human refugee rights are well documented a lot of work remains to be done to design and implement programmes to improve refugee rights and security in the great lake region.

By identifying and analyzing factors that hinder the protection and promotion of refugee rights and security, governments and development agencies will use this information to improve their planning and programming. This will enable these agencies to be more relevant to the needs of their targeted beneficiaries.

In summary, the study will generate information that could be utilized by governments, NGOs, CBOs, other researchers, academicians and give insights for further research.

## **CHAPTER TWO**

### **2.0 REVIEW OF RELATED LITERATURE**

#### **2.1 Introduction**

In this chapter an attempt is made to review previous studies which have contributed to knowledge of issues which impinge on refugees' rights and security. Studies reveal that of all the reasons that arrive refugees to flee their homes, none is as great as fear. It may be fear of direct physical attack, of a conflict where rape, torture and ethnic cleansing are part of military strategy.

In their attempts to escape refugees may dodge bullets in a war zone be cheated by human traffickers or risk their lives crossing stormy seas on leaky boats. Even if they survive these dangers and make to another country, they may find that their fears continue to dog them. The conflict they tried to escape may have followed them and their lives and dignity may still be threatened. Ensuring the physical safety of refugees is one of the most pressing concerns of UNHCR and its partners. The beginning of the twenty first century has seen a number of new developments with regard to refugee rights and security.

It is indisputable that refugees face the greatest threat in their rights and security than any human person. Thus the review reveals immensely that there has been an increasing interest and activity on refugee issues both at global and local levels. These include, the Statute of the Office of the United Nations High Commissioner for the Refugees (1951), Convention Relating to the Status of Refugees (28<sup>th</sup> July 1951), Protocol Relating to Status of Refugees (1967), United Nations Declaration on Territorial Asylum (1954). These are some of the many international events that have stimulated numerous country initiatives and activities to support refugee rights and security. Several studies have also been done that pointed interventions to accelerate the protection and

promotions of refugee rights and security in the Great Lake Region of Africa.

However, as reflected in the findings by various researchers reviewed in the literature, most of the studies have been conducted in the Middle East, West and North Africa, Europe and few done in the Great Lake Region. There is very little research carried out in this area in Kenya. The commitment of government of Kenya, state parties to the refugee convention and other development partners to redress the abuses of refugees has been equally demonstrated. Some key policies have been formulated and refugee responsive programmes set up. Despite these achievements the protection of refugee rights and security in Kakuma fall short of the typical indicators of the universally accepted standards of human rights protection (Crisp. 1999).

## **2.2 The Principle of Non –*Refoulement***

This principle of non-*refoulement* is also considered to apply in a human rights context to prohibit the forcible sending, or returning or in any other way transferring a person to a country where he or she may face torture<sup>7</sup>. The iteration of the principle in a human rights context makes it applicable to all persons and not only to refugees or asylum seekers. This has been affirmed by numerous international instruments, including Article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>8</sup>, and Article 13 (4) of the Inter-American Convention to Prevent and Punish Torture. The jurisprudence of the European Court of Human Rights recognizes that the principle applies equally to torture and cruel,

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<sup>7</sup> Sir Elihu Lauterpacht and Daniel Bethlehem, (2001); The Scope and Content of the principle of Non – refoulement (Opinion), Para. 132, UNHCR

<sup>8</sup> United Nations convention against Torture and other Cruel, inhuman or Degrading treatment or Punishment , adopted 10 December 1984, entry into force 26 June 1987



inhuman or degrading treatment and punishment,<sup>6</sup> as has the United Nations Human Rights Committee<sup>9</sup>.

*Non-refoulement* is recognized as a non-derogable principle applicable in all circumstances, regardless of the nature of the activities the person concerned may have been engaged in,<sup>8</sup> or their immigration status, and relates not only to the country to which the person faces immediate return but extends to “any other country where he runs a risk of being expelled or returned<sup>10</sup>.

### **History and scope of the principle of *non-refoulement***

#### ***The refugee context***

The best known expression of the principle of *non-refoulement* is contained in Article 33 of the 1951 UN Convention on the Status of Refugees which provides that:

“1. No Contracting State shall expel or return (“*refouler*”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular Social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.”

There also later expressions of the principle in various instruments:

- The 1966 Principles Concerning Treatment of Refugees, Article 1(3), adopted by the Asian-African Legal Consultative Committee;
- The 1967 Declaration on Territorial Asylum, Article 3;

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<sup>9</sup> United Nations Human Rights Committee, (10/03/1992): General Comment No 20, Para 9

<sup>10</sup> United Nations Committee Against Torture, (27 April 1997); *Mutombo v. Switzerland*, CAT/C/12/D/13/1993, para 10

- The 1969 Organization of Africa Unity Convention Governing the Specific Aspects of Refugee Protection in Africa, Article 11(3);
- The 1984 Cartagena Declaration, Section III, Para 5.

### ***The extradition context***

The principle is also contained in standard-setting instruments relating to extradition:

- The 1957 European Convention on Extradition, Article 3(2);
- The 1981 Inter-American Convention on Extradition, Article 4(5).

### ***The human rights context***

Article 3 ECHR 1950 provides that

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

In its turn, the HRC issued a General Comment 20 in 1992 on the scope of Article 7 ICCPR (the international analogue of Article 3 ECHR) in the following terms:

“3. The text of article 7 allows of no limitation. The Committee also reaffirms that, even in situations of public emergency such as those referred to in article 4 of the Covenant, no derogation from the provision of article 7 is allowed and its provisions must remain in force. The Committee likewise observes that no justification or extenuating circumstances may be invoked to excuse a violation of article 7 for any reasons, including those based on an order from a superior officer or public authority

9... States parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or *refoulement*. States parties should indicate in their reports what measures they have adopted to that end.”

The prohibition provided by article 3 against ill treatment is equally absolute in expulsion cases. Thus, whenever substantial grounds have been shown for believing that an individual would face a real risk of

being subjected to treatment contrary to article 3 if removed to another State, the responsibility of the Contracting State to safeguard him or her against such treatment is engaged in the event of expulsion<sup>11</sup>.”

This approach has subsequently been followed in a long line of cases. Thus the subsequent jurisprudence clearly establishes firstly that Article 3 applies to all and any forms of removal or return, including extradition, expulsion, or “rendition”: see generally; and secondly is absolute and unqualified: “in exercising their right to expel... Contracting States must have regard to Article 3 of the Convention..., which enshrines one of the fundamental values of democratic societies. It is precisely for this reason that the Court has repeatedly stressed in its line of authorities involving extradition, expulsion or deportation of individuals to third countries that Article 3... prohibits in absolute terms torture or inhuman or degrading treatment or punishment and that its guarantees apply irrespective of the reprehensible nature of the conduct of the person in question...” (Para 47)

“15. The Committee is concerned by the State party’s policy that, in exceptional circumstances, persons can be deported to a country where they would face the risk of torture or cruel, inhuman or degrading treatment, which amounts to a grave breach of article 7 of the Covenant. The State party should recognize the absolute nature of the prohibition of torture, cruel, inhuman or degrading treatment, which in no circumstances can be derogated from. Such treatments can never be justified on the basis of a balance to be found between society’s interest and the individual’s rights under article 7 of the Covenant. No person, without any exception, even those suspected of presenting a danger to national security or the safety of any person, and even during a state of emergency, may be deported to a country where he/she runs the risk of

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<sup>11</sup> Court Judgment, (1997); Paragraph 79-8, Ahmed v. Austria

being subjected to torture or cruel, inhuman or degrading treatment. The State party should clearly enact this principle into its law<sup>12</sup>.”

As regards the position in domestic law, article 3 is of course the controlling provision, by reason of the Human Rights Act 1998, sections 1 and 6. However, as noted above, the prohibition against return to prohibited ill-treatment is also reflected in other international and regional human rights instruments, and also arguably (by reason of its inherent link to the absolute prohibition of torture) has the character of a peremptory norm of customary international law<sup>13</sup>.

### **2.2.1 The Practice of Non-*refoulment* under threat**

Despite the absolute prohibition of *refoulment*, the principle has been progressively under attack in recent years in at least two distinct areas. The first area relates to counter-terrorism efforts post 11 September and the handling of ‘national security’ cases involving persons alleged to be international terrorists. In the landmark *Chahal* case before the European Court of Human Rights, the Court recognized that the principle of non *refoulement* to torture or cruel, inhuman or degrading treatment or punishment was absolute and allowed for no balancing with competing State concerns, even when these related to national security.<sup>14</sup> Yet five EU governments, led by the United Kingdom, have intervened in the pending case of *Ramzy v. the Netherlands*, (pending at the time of writing) to argue that the right of an individual to be free from torture may be balanced.

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<sup>12</sup> CCPR/CAN/CO/5; 85<sup>TH</sup> Session

<sup>13</sup> Lauterpacht and Bethlehem, (2003); “The Scope and Content of the Principle of Non *refoulment*”, Cambridge University Press, Cambridge Vol. 13, p.538

<sup>14</sup> European Human Rights Resolutions 413 (1997).

Against the national security interests of the State.<sup>15</sup> Further, the United Nations Special Rapporteur on Torture and others have repeatedly expressed concern regarding the use of diplomatic assurances against torture in cases involving national security considerations<sup>16</sup>.

Despite this, the United Kingdom Government has concluded Memoranda of Understanding with Jordan, Libya and Lebanon in order to circumvent non-*refoulement* obligations.

The second area relates to more diffuse concerns unrelated to national security, brought about by the general 'hysteria' concerning the perceived high numbers of asylum seekers in the United Kingdom and the tactics employment by the Government to reduce these levels as quickly as possible. Here, the threat relates as much to process as to principle.

The implementation of the principle of non-*refoulement* in general requires an examination of the facts of each individual case, and an unsuccessful applicant should be enabled to have a negative decision reviewed before rejection at the frontier or forcible removal from the territory. A *denial* of protection without an appropriate scrutiny of the individual circumstances of the applicant would be inconsistent with the prohibition of *refoulment*<sup>17</sup>. Equally, the practice of expediting returns of failed asylum seekers with final appeals still pending would violate the principle of non-*refoulment*.

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<sup>15</sup> Observations of the Governments of Lithuania, Italy, Portugal, Slovakia and the United Kingdom, Intervening in Application No.25424/05 Ramzy V. Netherlands.

<sup>16</sup> United Nations (2005); Report of the Special Rapporteur on Diplomatic assurance and Protection against Torture and ill-treatment

<sup>17</sup> UNHCR and EXCOM (1983); 34<sup>th</sup> session, No.30(xxxiv) recognizing the substantive character of a decision that an application for refugee status is manifestly unfounded or abusive.

### 2.2.3 Reasons for non- refoulment

Eminent human rights experts have expressed concern at the tension between reliance upon diplomatic assurances and the integrity of the principle of *non-refoulment*. Thus:

- The Council of Europe Commissioner for Human Rights, Alvaro Gil-Robles stated in July 2004 that:

*“The weakness inherent in the practice of diplomatic assurances lies in the fact that where there is a need for such assurances, there is clearly an acknowledged risk of torture or ill-treatment<sup>18</sup>. Due to the absolute nature of the prohibition on torture or inhuman or degrading treatment, formal assurances cannot suffice where a risk nevertheless remains ... When assessing the reliability of diplomatic assurances, an essential criteria must be that the receiving state does not practice or condone torture or ill-treatment, and that it exercises effective control over the acts of non-state agents. In all other circumstances it is highly questionable whether assurances can be regarded as providing indisputable safeguards against Torture and ill-treatment.”*

These comments were inspired by the Swedish government’s expulsion (with the assistance of hooded US agents and a US aircraft; see *Agiza v. Sweden*,)

- The former special Rapporteur on torture, Theo van Boven, in his September 2004 report to the UN General Assembly, concluded that where a person faced return to a state where torture was systemic: *“the principle of non-refoulment must be strictly observed and diplomatic assurances should not be resorted to<sup>19</sup>.”*
- The current special Rapporteur, Manfred Nowak, echoed these sentiments on the Today programme in March 2005:

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<sup>18</sup> Alvaro Gil- Robles,(July,2004);Report on a Visit to Sweden

<sup>19</sup> Theo Van Boven,(23.8.204); Report of Special Rapporteur on Torture to the General Assemble, paragraph 37

*“In the situation that there’s a country where there’s a systematic practice of torture, no such assurances would be possible, because that is absolutely prohibited by international law, so in any case the government would deny that torture is actually systematic in that country, and could easily actually give these diplomatic assurances, but the practice then shows that they are not complied with. And there’s then no way or very, very little possibility of the sending country to actually “as soon as the person is in the other country” to make sure that this type of diplomatic assurances are complied with<sup>20</sup>.”*

• The UN Independent Expert on the Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, Robert K. Goldman, in his February 2005 report observed that “the mere fact that such assurances are sought is arguably a tacit admission by the sending State that the transferred person is indeed at risk of being tortured or ill-treated,” and concluded that:

*“Given the absolute obligation of States not to expose any person to the danger of torture by way of extradition, expulsion, deportation or other transfer, diplomatic assurances should not be used to circumvent the non – refolement obligation<sup>21</sup>.”*

### **Non-refoulment and national security**

It has been seen in recent years the prohibition and safeguards against torture (including of course the principle of *non-refoulment* as applied in human rights law) seem to be under ‘attack’ as several governments, including Kenya, treat national security and the absolute prohibition of torture as opposite goals. It is in this context of “national security” that the application of the principle of *non-refoulment* by African Court of Human Rights(ACHR) will be addressed, and at the same time it will be

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<sup>20</sup> BBC Radio 4,(4 march, 2005) Today Programme,

<sup>21</sup> UN Commission on Human Rights (2005); Report of the Independent Expert on the Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, p. 19, Para. 56.

compared with the practice and jurisprudence of other international human rights bodies. The jurisprudence of African Court of Human Rights in regards to non-*refoulement* is not clear: the principle is implied in article 3 of the Convention prohibiting ill-treatment, it is “equally absolute in expulsion cases” and therefore “the activities of the individual in question, however undesirable or dangerous cannot be a material consideration. The Court has not established whether diplomatic assurances from the receiving government is sufficient to justify the expulsion. The ACHR has consistently been reluctant on this principle. Proper interpretation of non-*refoulement* is inherent to the absolute prohibition against torture and is consistent with the practice and jurisprudence of all other human rights bodies and with general principles of international law.

However, the Kenya Government faces international condemnation for having expelled Somalis running away from Somalia. States should be allowed to “balance” the risk of torture to the individual if transferred to a third country against the risk of national security if he or she is not transferred.

State should differentiate between torture and ill-treatment committed directly by member States, and torture and ill-treatment committed by receiving States in cases of removals. In other words, they challenge the position of the Court that the applicable principle is that of *causation* not of *extraterritoriality*. They also argue that the consideration of national security risks when balancing the rights of the individual not to be ill-treated against the rights of the ‘society’ to be free from ‘terrorism’, should be greater in cases where the risk of ill-treatment is further away from qualifying as torture (as opposed to Cruel, Inhuman or Degrading Treatment or Punishment). That is, when the spectrum of treatment risked in an expulsion case qualifies as some form of ill-treatment that does not amount torture, the balancing towards national security considerations is ‘obvious.’ Finally, these submissions state that criminal



systems are not sufficient to protect democratic societies against the danger posed by alleged terrorists and that the only solution therefore is to remove them despite the risk of torture or other ill-treatment that they might face in the receiving country.

The legal arguments advanced in this submission are in summary:

- 1) that national security considerations should be balanced with the individual's risk of ill-treatment;
- 2) the assessment of the nature of the risk required to trigger this prohibition and its application by the Court should reflect international standards;
- 3) there are exceptions to the *non-refoulement* principle in refugee law, including the threat to national security posed by an alien and whether he or she has allegedly committed acts of terrorism, and this is the appropriate legal provisions to deal with immigration, asylum and expulsion cases.

#### **2.4 The effect of abuse of the principle of non-refoulement**

UN resolutions, declarations, international conventions, interpretative statements by treaty monitoring bodies, statements of the UN Special Rapporteur on Torture and judgments of international tribunals, including the ACHR, have consistently supported that the prohibition on *refoulement* is inherent in the prohibition of torture and cruel, inhuman or degrading treatment or punishment. The obligations of the State under Article 3 are "equally absolute in expulsion cases" once the 'real risk' of torture or ill-treatment is shown. Therefore, no characteristics or conduct, criminal activity or terrorist offence, alleged or proven, can affect the right not to be subject to torture and cruel, inhuman or degrading treatment or punishment, including through *refoulement*.

The submission by the Kenyan government after the expulsion of the Somalis in 2008 was that article 3 had implied limitations in expulsions cases involving national security issues. The Kenya had contended that

it was under “a right and duty to weight the risk of torture against the harm caused to national security by the continued presence of an alien on its territory”. This approach was expressly condemned by the international community. CAT stated that “the Convention’s protections are absolute, even in the context of national security concerns<sup>22</sup>.”

### **The operation of the rule**

Let us look briefly at some technical aspects to analyse whether the standards used by Kenya and the great lake region states reflect international standards:

When considering the obligations of member States under article 3 in transfer cases, the Kenyan government seeks to establish whether “substantial grounds are shown for believing that the person concerned, if expelled, faces a real risk of being subjected to torture or to inhuman or degrading treatment or punishment in the receiving country.”<sup>23</sup> This test is very similar to those established by other bodies. Article 3 (1) of the UNCAT requires that the person not be transferred to a country where there are “substantial grounds for believing that he would be in danger of being subjected to torture.” The Human Rights Court has similarly affirmed that the obligation arises “where there are substantial grounds for believing that there is a real risk of irreparable harm.”<sup>24</sup>

The Inter-American Commission for Human Rights has likewise referred to “substantial grounds of a real risk of inhuman treatment.

The legal questions relevant to the application of *non-refoulment* in transfer cases, are therefore:

- (i) the nature and degree of the risk that triggers the *non-refoulment* prohibition;

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<sup>22</sup> Convention Against Torture *Agiza v. Sweden* (2005), Communication No. 233/2003

<sup>23</sup> *N.v Finland* (2005), No. 38885/02

<sup>24</sup> Human Rights Commission General Comment 31 (2004); Nature of the General legal obligation imposed on States parties to the covenant, CCPR/C/21/REV.1/Add.13

- (ii), the relevant considerations that constitute ‘substantial grounds’ for believing that the person faces such a risk;
- (iii), the standard by which the existence of these ‘substantial grounds’ is to be evaluated and proved<sup>25</sup>.

***On the nature and degree of the risk***

The AOU Convention, like the Committee Against Torture, has required that the risk be “real”, “foreseeable”, and “personal”<sup>26</sup>

There is no precise definition in Convention case law of what constitutes a “real” risk, although the Court has established that “mere possibility of ill-treatment is not CAT has held that the risk “must be assessed on grounds that go beyond mere theory or suspicion”, but this does not mean that the risk has to be “highly probable. The risk must also be “personal”. However, personal risk may be deduced from various factors, notably the treatment of similarly situated persons.

***What constitute ‘substantial grounds’ for believing that the person faces such a risk***

The AOU Convention and other international human rights courts and bodies have repeatedly emphasized that the level of scrutiny to be given to a claim relating to *non-refoulment* must be “rigorous” in view of the absolute nature of the right this principle protects. In doing so, the State must take into account “all the relevant considerations” for the substantiation of the risk. This includes both the human rights situation in the country of return and the personal background and the circumstances of the individual.

While the AOU Convention, like CAT, has held that the situation in the State is not sufficient *per se* to prove risk, regard must be given to the

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<sup>25</sup> Report on Terrorism and Human Rights (2002), Report on the Situation of Human Rights of Asylum seekers.

<sup>26</sup> Convention against Torture General Comment 1(1997) loc cit; Soering v. the United Kingdom.

extent of human rights repression in the State when assessing the degree to which personal circumstances must also be demonstrated<sup>27</sup>.

This principle is explicit in Article 3(2) of UNCAT: “For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.”

Still, “specific circumstances” proving that the applicant is personally vulnerable to torture or ill-treatment need to be considered. These specific circumstances may be indicated by previous ill-treatment or evidence of current persecution (e.g. that the person is being pursued by the authorities), but neither is necessary to substantiate that the individual is ‘personally’ at risk. A person may be found at risk by virtue of a characteristic that makes him or her particularly vulnerable to torture or other ill-treatment.

The requisite ‘personal’ risk does not necessarily require information specifically about that person therefore, as opposed to information about the fate of persons in similar situations.

For example, it is clearly established in the jurisprudence of the CAT that, in assessing the “specific circumstances” that render the individual personally at risk, particular attention will be paid to any evidence that the applicant belongs, or is *perceived* to belong, to an identifiable group which has been targeted for torture or cruel, inhuman or degrading treatment or punishment. It has held that regard must be had to the applicant’s political or social affiliations or activities, whether inside or *outside* the State of return, which may lead that State to identify the applicant with the targeted group.

Organizational affiliation is a particularly important factor in cases where the individual belongs to a group which the State in question has

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<sup>27</sup> Soering (1989) Loc cit.

designated as a “terrorist” or enough”, just as **certainty** that the ill-treatment will occur is not required. Notably, the “separatist” group that threatens the security of the State, and which for this reason is targeted for particularly harsh forms of repression. In such cases, the CAT has found that the applicant’s claim comes within the purview of article 3 even in the absence of other factors such as evidence that the applicant was ill-treated in the past, and even when the general human rights situation in the country may have improved.

In this connection, it is also unnecessary for the individual to show that he or she is, or ever was, personally sought by the authorities of the State of return. Instead, the CAT’s determination has focused on the assessment of;

a) how the State in question treats members of these groups, and  
b) whether sufficient evidence was provided that the State would believe the particular individual to be associated with the targeted group. Thus in cases involving suspected members of ETA, Sendero Luminoso, PKK, KAWA, the People’s Mujahadeen Organization and the Zapatista Movement, the CAT has found violations of article 3 on account of a pattern of human rights violations against members of these organizations, where it was sufficiently established that the States concerned were likely to identify the individuals with the relevant organizations<sup>28</sup>.

In respect of proving this link between the individual and the targeted group, the CAT has found that the nature and profile of the individual’s activities in his or her country of origin *or abroad* is relevant. In this respect, human rights bodies have indicated that a particularly important factor to be considered is the extent of publicity surrounding

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<sup>28</sup> UN Document. A/60/370,(September 2005); Report of the UN independent Expert: Protection of Human Rights and Fundamental Freedoms while Countering Terrorism.

the individual's case, which may have had the effect of drawing the negative attention of the State concerned to the individual. The importance of this factor has been recognized both by this Court and the CAT<sup>29</sup>.

***Standard and burden of proving the risk***

While the AOU Convention has not explicitly addressed the issue of standard and burden of proof in transfer cases, it has held that in view of the fundamental character of the prohibition under article 3, the examination of risk “must necessarily be a thorough one”. It has also imposed on States a positive obligation to conduct a ‘meaningful assessment’ of any claim of a risk of torture and other ill-treatment. This approach is supported by CAT, and reflects a general recognition by this and other tribunals that, because of the specific nature of torture and other ill-treatment, the burden of proof cannot rest alone with the Person alleging it, particularly in the view of the fact that the person and the State do not always have equal access to the evidence<sup>30</sup>.

***An existing risk cannot be displaced by “diplomatic assurances”***

States may seek to rely on “diplomatic assurances” or “memoranda of understanding” as a mechanism to transfer individuals to countries where they are at risk of torture and other ill-treatment. In practice, the very fact that the sending State seeks such assurances amounts to an admission that the person would be at risk of torture or ill-treatment in the receiving State if returned. Diplomatic assurances do not suffice to offset an existing risk of torture. This view is shared by a growing number of international human rights bodies and experts, including the UN Special Rapporteur on Torture, the Committee for Prevention of Torture, the UN Sub-Commission, the Council of Europe Commissioner on Human Rights and the UN Independent Expert on the Protection of

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<sup>29</sup> Report by the Council of Europe Commissioner for Human Rights (2005).

<sup>30</sup> Report of Special Rapporteur on Torture to the General Assembly (2004).

Human Rights and Fundamental Freedoms while Countering Terrorism<sup>31</sup>.

Most recently, the UN General Assembly, by consensus of all States, has affirmed “that diplomatic assurances, where used, do not release States from their obligations, under international human rights, humanitarian and refugee law, in particular the principle of *non-refoulment*.” Reliance on such assurances as sufficient to displace the risk of torture creates a dangerous loophole in the *non-refoulment* obligation, and ultimately erodes the prohibition of torture and other ill-treatment. Moreover, assurances cannot legitimately be relied upon as a factor in the assessment of relevant risk. This is underscored by widespread and growing concerns about assurances as not only lacking legal effect but also as being, in practice, simply unreliable, with postreturn monitoring mechanisms incapable of ensuring otherwise. While effective system wide monitoring is vital for the long-term prevention and eradication of torture and other ill-treatment, individual monitoring cannot ameliorate the risk to a particular detainee<sup>32</sup>.

Non – refoulment is the dominant principle of international law. It stipulates that states should not reject, return, or expel persons to territories where they would face persecution and violence. Most relevant in the context of an emergency is that states allow entry to asylum seekers to cross their borders. As a consequence of the hardening of asylum policies, the principle of non- refoulment has been undermined. For instance, in 2001 Pakistan refuse to allow a new influx of Afghan refugees onto its territory<sup>33</sup>. The government deemed that the

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<sup>31</sup> UN Declaration (2005). P.8

<sup>32</sup> Courts in Canada (Mahjoub), the Netherlands (Kaplan), and the United Kingdom (Zakaev) have blocked transfers because of the risk of torture despite the presence of diplomatic assurances. There is credible evidence that persons sent from Sweden to Egypt (Agiza & Al-Zari) and from the United States to Syria (Arar) have been subject to torture and ill-treatment despite assurances: for more information on practice, see Human Rights Watch, (2005), Still at Risk: Diplomatic Assurances No Safeguard Against Torture:

international community had not provided it with sufficient assistance to deal with the millions of refugees who had poured into the country since the end of the cold war. Kenya in 2003 refuses the Somalis refugees onto its territory.

In the initial phase of an emergency response, the principal focus is on diplomatic efforts to allow free passage of refugees. In 1999, during the Kosovo emergency, humanitarian evacuation and transfer programs transported refugees to 28 countries outside the region, thereby fairly apportioning the burden<sup>34</sup>. These programs attempted to relieve the pressure on Macedonia and encourage it to continue admitting refugees from neighboring Kosovo. In resolving the crisis, it helped that the media gave the Kosovo exodus a high profile that the international community was willing to act decisively and that developed states close to the region were willing to shoulder a fair share of the refugee burden.

While the non refoulment principle of the 1951 refugee convention (Article 33) offers a very important safeguard to asylum – seekers that they should not be returned to a country where they face persecution, the 1951 Refugee convention does not say anything about the rights of the asylum- seekers while they wait for their applications to be processed. We have to look to other international and regional legal instruments to find out the rights that asylum seekers should have

## **2.5 Humanitarian Logistics**

Logistics bridges emergency preparedness and response, yet this function tends to be disregarded in high –level decision making process. The swiftness of the response to an emergency is dependent on the ability to procure and transport supplies to where they are needed.

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<sup>33</sup> J. Crisp and E. Stigter, (2001); Real-Time Evaluation of UNHCR's Response to Afghan Emergency, UNHCR, Evaluation and Policy Analysis Unit, Bulletin no. 2.

<sup>34</sup> UNHCR, The State of the World's Refugees: Fifty Years of Humanitarian Action, p. 239



Various evaluations have highlighted gaps in these procedures, putting the lives of the displaced at risk. Disruptions in the flow of goods can be caused by lack of funding, high levels of insecurity and limited access, and competition among agencies to obtain the same relief goods at the same time. In response to the 2010 Haiti earthquake, damaged infrastructure, customs delays and heavy demands for transportation caused congestion at airport and on roads<sup>35</sup>.

Humanitarian logistics must also see to the timely deployment of appropriate staff. The logistical effort required to bring workers to an emergency area immense, arrangement for transport, visas, accommodation and other services must be made in good time.

Due to the complex and insecure working environment, there is often a high turn over of staff, resulting in the frequent shifting of responsibility lengthy induction periods, limited institutional memory and fragmented coordination efforts<sup>36</sup>.

Aid teams often need to be set up in remote locations where establishing basic administration and communication systems may take along time, thereby hindering their security and efficient coordination<sup>37</sup>.

High standards of capacity and coordination are required not only for the logistics of emergency response but also for the efficient management of the onward movement of a displaced population. In some instances, displaced populations may need to be moved out of conflict zones to safe areas. For such operations to be successful a sufficient number of a large vehicle and adequate supplies of fuel, food, water sanitation and shelter

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<sup>35</sup> Fritz Institute, Logistics and the Effective Delivery of Humanitarian Relief, P.3

<sup>36</sup> UNHCR (December 1996); Lessons learned from the Rwanda and Burundi Emergencies, UNHCR evaluation Report. Para 10.

<sup>37</sup> A. Jamal (2001); The Sudan /Eritrea emergency, May –July 2000: An Evaluation of UNHCR’s response, Evaluation and policy analysis Unit, UNHCR.

are needed. This was the case in Chad, where in 2003-2004 more than 150,000 Sudanese refugees were relocated into eight newly created camps under difficult circumstances, given the size of the population and the hostile desert environment<sup>38</sup>. This relocation away from the border area guaranteed a degree of protection against incursion by militants from Darfur. Kenya has equally face the same challenge especially with the Somali refugees in Kakuma. Inadequate humanitarian logistic has failed the transfer of Somali refugee from Kakuma where they pose a serious security threat to Kenya as well to themselves especially from the terrorist groups in Somali like the Al- Shabaab<sup>39</sup>.

## **2.6 The Protection – assistance nexus**

Response to emergencies should be driven by a clear assessment of need rather than available or anticipated levels of funding, but this is not always the case. Whenever possible assessments should be made and clear benchmarks set to determine priority areas of response. However, it must be noted that in many cases massive caseloads or extreme insecurity make it impossible to make reliable needs assessments. As a result, the overall quality of needs – driven assessment has been poor<sup>40</sup>.

An emergency response tends to emphasize assistance over protection. Particularly in mass- influx situations, immediate needs such as food and health is partly because the former are easily identified. As a result, in some situations protection and human rights take a back seat to assistance<sup>41</sup>. Protection needs could also be left unaddressed if senior

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<sup>38</sup> D. Bartsch and N. Belgacem (2004); Real-Time evaluation of UNHCR's response to emergency in Chad. Evaluation and Policy Analysis Unit, UNHCR, Geneva, P.13.

<sup>39</sup> G. Loescher (1994); The UNHCR and World Politics, Cambridge University Press, Cambridge P.14.

<sup>40</sup> United Nations (2004); Strengthening of the Coordination of Humanitarian Systems of the United Nations, UN Policy centre, San Francisco, U.S.A P.4

<sup>41</sup> United Nations (2004); Strengthening of the Coordination of Humanitarian Systems of the United Nations, UN Policy centre, San Francisco, U.S.A P.4

protection staffs do not formulate protection strategy in critical early stages of an emergency.

In the 1990s, UNHCR formulated a 'ladder of options' to provide security to displaced populations. The first step is to be in the presence of those who have been displaced. The second is to provide medium term alternatives such as training and support to build national law enforcement capacity and /or the deployment of international civilian or police monitors. The top of the ladder involves international peace keeping missions, including regional arrangement, such as in Afghanistan, the Democratic republic of Congo and Liberia. Due to personnel constraints, the second option has not received much attention.

It is only in Darfur in the whole of great lake region where the staff of the African Union have been deployed to provide protection and security along the routes taken by the displaced and in their camps<sup>42</sup>.

The United Nations and NGOs have moved towards encapsulating the wide variety of assistance activities in an all encompassing human rights framework. Such right make victims of conflict "claimants of rights" rather than objects of charity, and thus contribute to preserving their dignity.

Indeed humanitarian discourse has veered away from perceiving displaced persons as passive, aid- dependent victims and towards the view that they are in charge of their own lives. Even under the harshest personal circumstances the displaced try to help themselves. Thus, the need for a development- oriented approach in the initial stages of the

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<sup>42</sup> J. Borton, M Buchanan Smith and R. Otto, (2005); Support to Internally Displaced persons: Learning form Previous Experience, SIDA, P.16

humanitarian response has received more attention. This means the involvement of displaced people in the decisions that affect their lives<sup>43</sup>.

## **2.7 Gender and Age**

In emergency situations, pre-existing inequalities tend to be exacerbated and vulnerable groups tend to be more at risk. The main threats that women face during forced displacement include sexual and gender based violence, trafficking and increased exposure to HIV/AIDS. Women are at high risk of being attacked at night at the camp due to lack of lights at the camp. Gender – based violence is often considered to be a culturally sensitive issue as it deals in part with violations occurring in the private sphere hence making response and prevention very difficult. This explains the hesitation or refusal of some host governments to address gender issues.

In emergency settings, children, particularly those who are unaccompanied, have special protection needs. Displaced minors are often at an increased risk of malnutrition, disease, physical danger, emotional trauma, trafficking, exploitation and abuse<sup>44</sup>.

There is a significant gap in child protection, partly due to a lack of awareness, among humanitarian workers of the threats facing children and their protection needs<sup>45</sup>.

The role and responsibilities of agencies working with children are not always clearly defined, and there are sometimes gaps and /or overlaps in their activities.

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<sup>43</sup> E. Schenkenberg van , Mierop (2001); Improving the Quality of Humanitarian Response, Norwegian Refugee Council, Oslo, P.17

<sup>44</sup> J. Ward (2002); If not now, When? Addressing Gender Based Violence in Refugee, Internally displaced and Post-Conflict settings: A Global overview, New York, P.15

<sup>45</sup> World Food Programme (2001); Reaching people in situation of displacement: Framework for action. Executive board Annual session, Agenda Item 4, Rome, P.6

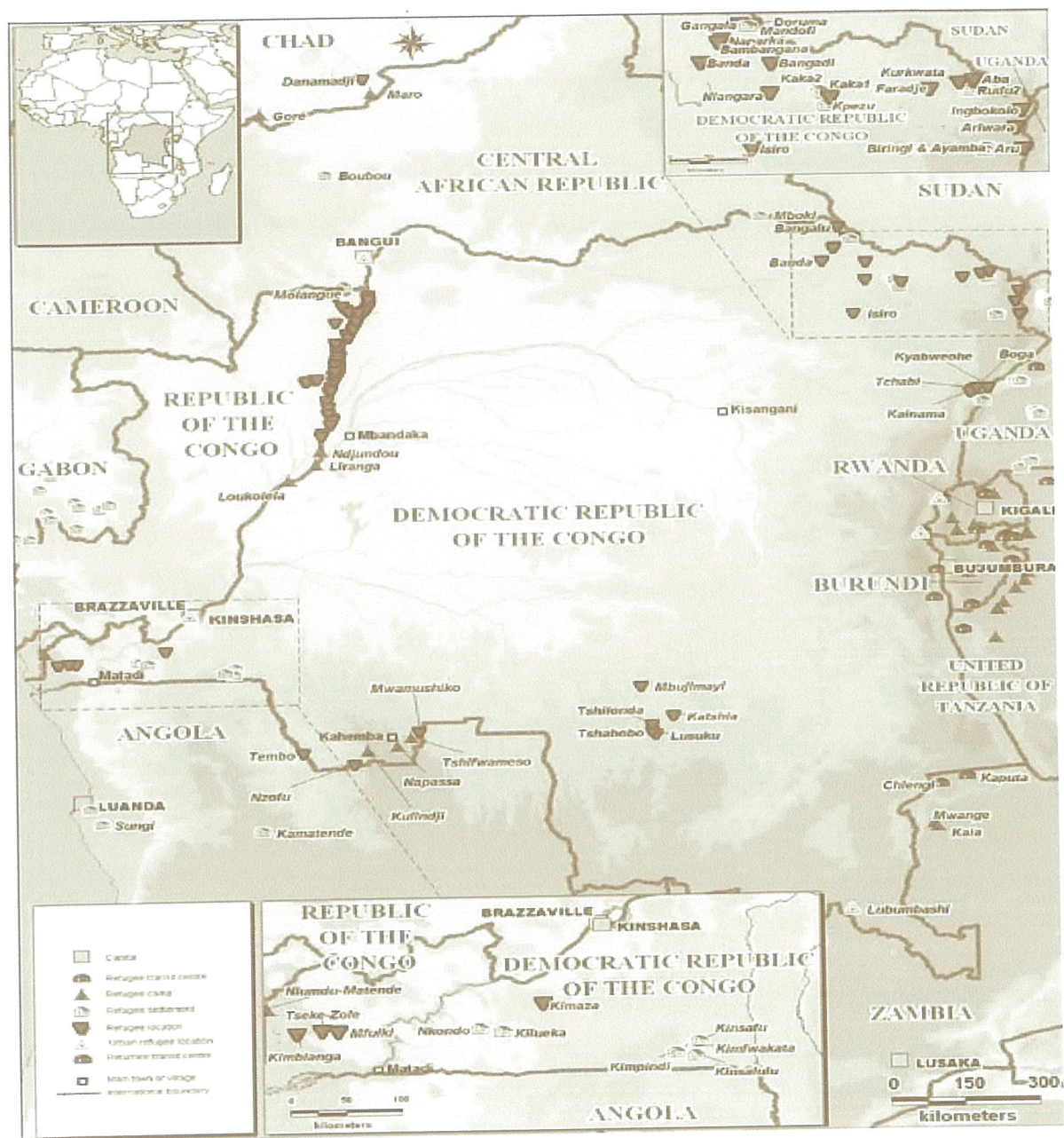
The needs of children have not been given enough priority, particularly when funds are short or new arrivals overwhelm existing assistance capacities.

The large number of young people among displaced populations has important implications for protection. Displaced children and adolescents are particularly vulnerable to threats to their safety and wellbeing. These include separation from families, sexual exploitation, HIV/AIDS infection, forced labor or slavery, abuse and violence, forcible recruitment into armed groups, trafficking, lack of access to education and basic assistance, detention and denial of access to asylum or family reunification procedures. Unaccompanied children are at greater risk, since they lack protection, physical care and emotional support provided by the family. Those accompanied by only one parent or carer may also be at high risk than other children<sup>46</sup>.

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<sup>46</sup> C.Linner,(2004); Introduction, Refugee Survey Quarterly: Focusing on Refugee Children. Vol. 23

**Figure 3:** Showing Democratic Republic of Congo, as at June 2005



The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations. Geographical data sources: UNHCR, Global Insight digital mapping - © 1998 Europa Technologies Ltd.

## 2.8 Conflicts and Civil strives

The World has witnessed two major wars and myriads of conflicts and civil strives. There has been a dramatic increase in the number of autocratic regimes and corresponding increment in repression and political discrimination against ethnic minorities. There has been self – determination conflicts. There has also been ethno national wars for independence which dominated decade following the end of the cold war<sup>47</sup>.

The Post -11 September 2001 global war on terror, has introduced a new dynamic crises around the world, particular where it has been used to justify new or intensified military offensives. People forcibly displaced by these conflicts have faced closed borders, extremely hostile and insecure conditions in exile and /or accelerated or involuntary returns due to anti- terror measures in asylum states. Inter- state conflict is not as prevalent today as internal strife and civil war, particularly in Africa<sup>48</sup>.

Foreign involvement in civil wars has continued to frustrate efforts to secure peace and stability in a number of areas- including the great lakes region of Africa centered on the Democratic Republic of Congo (DRC) as well as West Africa. Here, economic imperatives and commercial greed are intertwined with social and political grievances, all manipulated by political, commercial and military actors from within and outside the region. In the DRC, for example, the exploitation of local resources became progressively militarized as a consequence the conflict. Military groups used force to acquire and maintain control of mineral and other natural resources. Forced labour was used and populations

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<sup>47</sup> M.Marshall and T.Gurr, (2005); Peace and conflict 2005: Global Survey of Armed Conflicts, Self-Determination Movements, and Democracy, centre for international Development an conflict management, University of Maryland, USA, P.1-2

<sup>48</sup> S. Jackson (2003); Fortune of War: The Coltan Trade in the Kivus, Power, Livelihoods and conflict, overseas development institute, London P.21-36.



forcibly displaced. Most of the profits from mineral extractions have been siphoned off by external military, political and commercial interests<sup>49</sup>.

The patterns of mobility and displacement in such protracted crises are complex. In many situations of severe instability, including those in Burundi, Colombia, Sri-Lanka and Northern Uganda the dominant trend is one short-term, short-distance, repetitive dislocation rather than large-scale displacement into camps. It is often extremely difficult to distinguish between displaced and non-displaced population, or to differentiate movements as a coping mechanism from movement that is forced. Millions of people living in countries affected by conflict lack or risk losing even the most minimal levels of security, protection and support<sup>50</sup>.

Despite a decrease in the overall number of conflicts and those displaced across international borders, recent years have seen new refugee movements from lower-profile clashes. These include both new emergencies, such as in Cote d'Ivoire and the central Africa republic, and more protracted ones, including those in Burundi, Chechnya, the DRC-Congo, Myanmar, Somalia, and Southern Sudan<sup>51</sup>.

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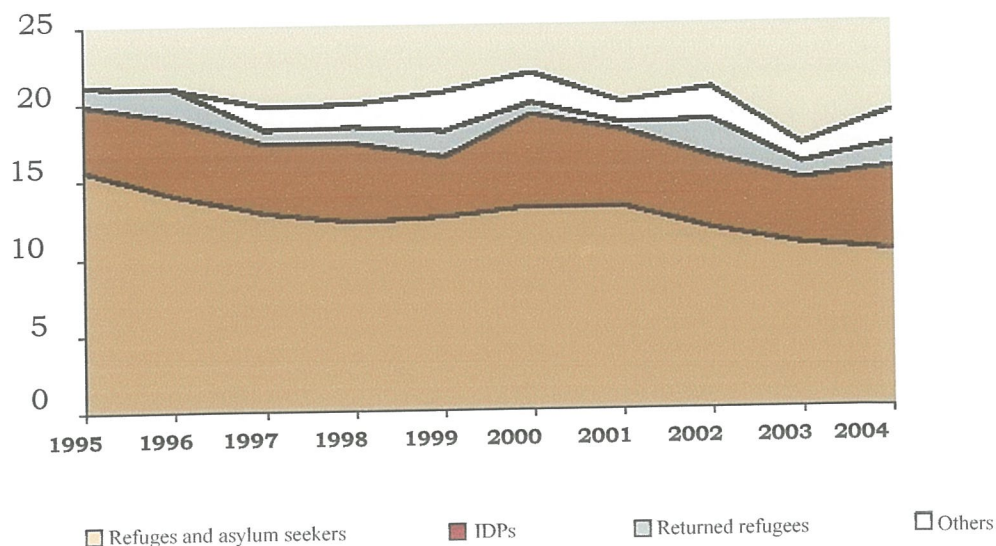
<sup>49</sup> UNHCR (1993); *The state of the World's Refugees: The Challenge of Protection*, Penguin books, Middlesex, (2005 Web Edition)

<sup>50</sup> International Development Committee (2001); *First Report: Humanitarian crisis in Afghanistan and the surrounding region*, the stationery office, London, Paras. 39-40

<sup>51</sup> UNHCR (2004 edition); *Refugees by Numbers*, P.9 &14



**Figure 4: Total Population of Concern to UNHCR, 1995-2005**



source: UNHCR.

## 2.9 Human Trafficking

The poorest and most marginalized people are particularly vulnerable to abduction, forced military recruitment and trafficking. This vulnerability is heightened in situations of displacement and armed conflict, where people are separated from their homes, families, communities and livelihoods.

There is now growing evidence of large scale trafficking of persons within and between every continent by organized criminal networks. The evidence suggests that such trafficking is highly diverse and varied in terms of routes and destinations. Some of it takes place within countries—as when women and children are forced away from rural areas into domestic work or prostitution, in urban centers and some takes place internationally, across regions and continent<sup>52</sup>.

<sup>52</sup> International Organization for Migration (2005); World Migration Report, P.13

Children and young women's are disproportionately affected by international trafficking, since much of it is linked to the sex industry. Such trafficking is also often associated with severe physical and mental abuse and exploitation. Displaced people are also more vulnerable to trafficking due to their relative poverty and separation from homes, families, communities and livelihoods with displaced children and women especially at risk<sup>53</sup>.

**Recommendations for Kenya on human trafficking:**

- Pass, enact, and implement the draft comprehensive anti-trafficking law.
- Provide additional awareness training to all levels of government, particularly law enforcement officials, on identifying and responding to trafficking crimes;
- Increase efforts to prosecute trafficking offenses and convict and punish trafficking offenders;
- Establish an official process for law enforcement officials to refer trafficking victims for assistance; and institute trafficking awareness training for diplomats posted overseas.

**2.10 Environmental and natural disasters.**

This broad category includes millions of people displaced directly or indirectly by environmental degradation and natural or manmade disasters. According to the International federation of the Red Cross and Red Crescent societies, the total number of people affected by natural disasters has tripled over the past decade to 2 billion people, with the accumulated impact of natural disasters resulting in average of 211 million people directly affected each year<sup>54</sup>.

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<sup>53</sup> S. Dick (2002); Responding to Protracted Refugee Situations: A case study of Liberian Refugees in Ghana, Evaluation and Policy Analysis Unit, UNHCR.

<sup>54</sup> Integrated Regional Information Networks (2005); Disaster reduction and the human cost of disaster, UNOCHA, P.3& 7

It is increasingly recognized that the recent escalation in the numbers of those affected by disasters is due more to rising vulnerability to hazards than to an increase in the frequency of hazards per se.

However, it is recognized that climate change may be playing a part in intensifying the number and severity of natural hazards<sup>55</sup>.

In many ecological and economic crises, mobility and migration represent crucial survival strategies. It can therefore be very difficult to distinguish between forced disaster-induced displacement and mobility linked to peoples coping mechanisms. Sometimes, restrictions on mobility are a major factor in the development of famine, as was seen when Eritrea's borders with Kenya and Sudan were closed.

Displaced populations and other migrants are often disproportionately vulnerable to disaster because their normal livelihoods have already been disrupted or destroyed, or because their presence has contributed to environmental degradation in their areas of refuge. Where disasters occur in conflict zones, the destruction of infrastructure and lack of state services can seriously hamper the provision of relief and recovery assistance.

'Self-settled' refugees and internally displaced persons living in urban areas are often highly vulnerable to the impact of natural disasters, many live in informal and unsafe settlements where they have no legal entitlements to their homes and are not saved by any risk-reduction measures. But all those displaced by disasters have specific needs, including access to assistance, protection from violence, and the restoration of their livelihoods<sup>56</sup>.

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<sup>55</sup> Ibid, P.37

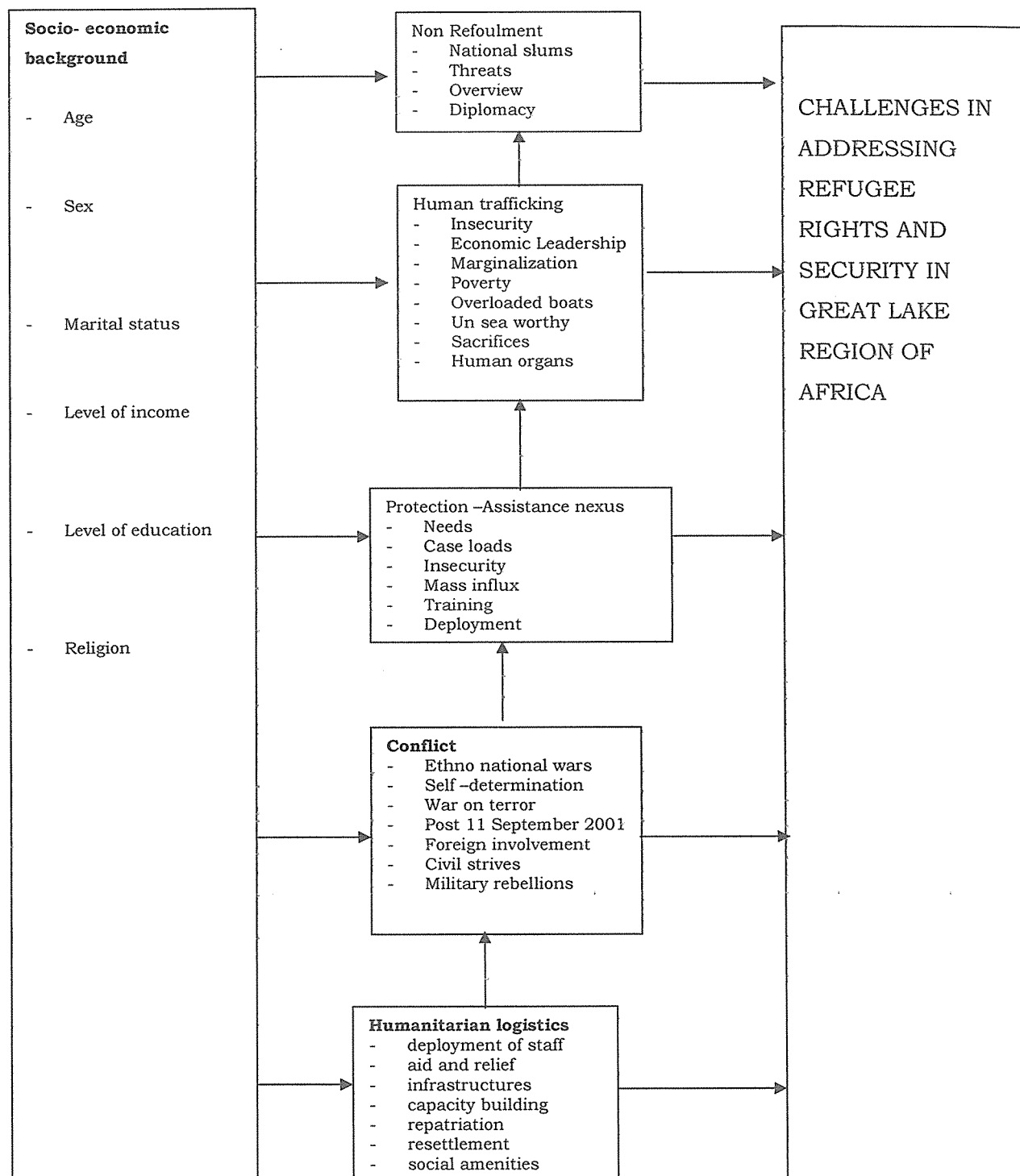
<sup>56</sup> E.Hedman (2005); The Politics of the Tsunami response, Forced migration review, Special Issue, P.4 -5

**Figure 5:** Devastation in Banda Aceh in Indonesia following the Tsunami of 26<sup>th</sup> December , 2004.



**Source:** UNHCR/J. Austin/2005

## 2.11 SUMMARY OF THE PROTECTION OF REFUGEE RIGHTS AND SECURITY IN GREAT LAKE REGION OF AFRICAN OF KAKUMA REFUGEE CAMP IN KENYA



## **CHAPTER THREE**

### **3.0 RESEARCH METHODOLOGY**

#### **3.1 Introduction**

This chapter shows how data was gathered from the field, processed and analyzed. This also covers the research design, sampling procedure data collection methods, quality control and data analysis.

#### **3.2 Research design**

The study used a case study. This design was chosen because of its intensity and depth of the investigation. Case studies are known since it offers through examination of specific social setting or particular aspect of social setting. Case studies therefore, befit the subject matter of this study. This particular design is flexible in respect to data collection method used; in this case interview, questionnaire, documentation survey and discussions are applied.

Due to the flexibility of case studies, some specific aspects of the social situation studied are emphasized. This is quite synonymous to the focus of this study, where the refugee communities of Kakuma are investigated. The essence of time and costs cannot be ruled out for the choice of this particular design. The data got from the field covers NGOs, UNCHR, and Government down to the local communities

#### **3.3 Area and Population of study**

##### **3.3.1 Area of study**

This study was conducted from Kakuma refugee camp in Northern western Kenya district of Turkana. It was selected as a case study by the researcher because it is one of the biggest refugee camps in Kenya and the region. Kakuma is a moderate sized “city” of tents, shacks and

thatched roof huts in the desert of northwest Kenya, inhabited by more than 90,000 refugees.

Dating to 1991, it is equally a sanctuary and a prison, once admitted, residents cannot leave without permission of the Kenyan government and inside its fences, children age into adulthood. The camp is administered by the United Nations High commission on Refugee with aid from a patchwork of international relief agencies, or nongovernmental organizations.

Kakuma is 120 Kilometers from Lodwar District Headquarters and 95 kilometers from the Lokichoggio Kenya –Sudan border. Kakuma has the highest number of refugees in the whole of Turkana district. Therefore; greater energies and commitment were anticipated to be present there, compared to other camps. Secondly, available information reflects that, little attention has been made towards protection of refugee rights and security. Finally resettlement programme in the Great Lake countries of Africa is wanting, implying that, refugees are in need for assistance and protection which the government offers.

### **3.3.2 Population of Study**

Kakuma Refugee camp has an estimated 97, 114 people (UNHRC 2008 Fact sheet) however, at the time of carrying out this study there were only 50,000 people at the camp.

The camp serves refugees who have been forcibly displaced from their home countries due to war or persecution. Was established in 1992 to serve Sudanese refugees but has since then expanded to serve refugees from Somalia, Ethiopia, Burundi, the Democratic Republic of Cong, Eritrea, Uganda and Rwanda. In 2007, Kakuma Refugee camp hosted 21% of the total refugee population in Kenya.

**Table 1: Population Distribution of the study area**

Categories	Number
Male adults	114
Children	40,000
Female adults	30,000
Total	97,114

**Source:** 1999 Kenya Census

### Sampling Technique

**Table 2: Choice of Respondents for the study**

Category	Sampling techniques	No chosen
UNHCR Staff	Simple Random sampling	10
Other development partners	Purposive	10
Government officials	Purposive	10
Refugee community	Systematic Random sampling	314
<b>Total</b>		<b>344</b>

**Source:** Field Survey

A total of 344 respondents were selected and treated as a sample population out of the total population of 97,114. this number was arrived at due to the wide area of coverage and large population of the area that could not be easily reached by the researcher due to the number of factors not excluding finance and time. Several methods were used to collect the respondents as indicated in table 3.2 above.

The 10 officials from UNHCR were selected randomly during simple random sampling. The 314 members of the Refugee community were selected using systematic random sampling technique, applying a Kth method, this is derived from that formula  $N/n=K$ , where N is the total Population , n is the sample population and K is the interval from which



each respondent is selected. Meanwhile 10 members from other development partners and 10 others from government were purposively selected.

### **3.4 Methods and instrument of data collection**

The study used both qualitative and quantitative methods of data collection and analysis. The main methods of data collection used were, questionnaires interview, focus group discussions and documentation. The detail of this is summarized below.

#### **3.4.1 Instruments**

#### **3.4.2 Questionnaires**

Structured questionnaires were used to reach the respondents as away of generating in- depth data. This method was chosen to administer among the chosen respondents, 10 respondents were targeted from the UNHCR and all of them were reached by use of questionnaires. This was because they could both read and write in English. One research assistant was used to reach the respondents.

#### **3.4.3 Interview**

All the targeted 20 respondents, ten from government and another 10 from development partners were reached through a face -to -face interview. Interview guides were used because they help the researcher to probe for more information from the respondent.

#### **3.4.4 Focus Group Discussion**

314 member of the refugee community were grouped into 28 groups 26 of which comprises of 11 members and 2 with 14 members each. The groups were then subjected into discussion of between 40-60 minutes each. Discussion guide was used to enable the researcher probe for more information. The discussion was rewarded as it was and

respondents equally encouraged for participation. Two research assistants were view.

#### **3.4.5 Documentary**

Documentary analysis was held at four levels, that is with the UNHCR development partners, government and with the refugees. This method was used because it helps the researcher to compare the information vis-a-vis what was prevailing in the Field. This inter-alia includes magazines, field reports, journals, brochures, handouts and testimonies. Issues to do with refugee rights and security such as non-refoulment, conflict, environmental and natural disasters, Gender and age, protection-assistance nexus and humanitarian logistic were all analyzed through the documentaries.

### **3.5 Data Quality control**

#### **3.5.1 Data validity**

In order to obtain the true intentions of the respondents during the field study, face validity was held at the camp with refugees and UNHCR officials for four days.

Further, the conceptual space and the representativeness of the population were held through careful attention to sampling and data collection methods. This was done in order to realize content validity through out the entire study.

#### **3.5.2 Data Reliability**

In order to establish the correlation of data, test-retesting was conducted at the camp covering 314 respondents, more so, data was compared, especially between different stakeholders in the refugees affairs at Kakuma, with the documents obtained from each one of them regarding their intervention areas. This way, the researcher was able to

determine between activities and performance of these stakeholders in Kakuma,

### **3.6 Data Processing and Analysis**

#### **3.6.1 Data Processing**

Data processing was guided by the research objectives (Specific) research questions for this study. Accordingly, data was discussed under seven sub themes, non- refoulment, humanitarian logistics, protection assistance nexus, conflict, environmental and natural disaster, human trafficking. The statistical packages for social services aided the processing process.

#### **3.6.2 Data Analysis**

The close linkage between processing and analysis meant that the specific objectives together with the research questions were used to guide the process of analysis throughout the study. The same objectives guided the process of editing, coding s well as translating from Kiswahili language to English.

Qualitative data analysis was basically applied on the respondents' views about refugee rights and security. During analysis, these very ideas generated from the field that were ultimately grouped into sub-themes reflecting the grand theme of the study. Qualitative analysis was prominent because respondent had more than what was demanded from them, these views had to be accommodated through this design to reflect the truths on the ground. Quantitative data analysis was expressed in terms of statistical tools such as table, figure, boxes, bar graphs, pie charts it is these statistical outputs that the researcher based on to discuss the possibilities, merits and demerits of different alternative as well as the way forward for the protection of refugee rights and security in the great lake region of Africa.

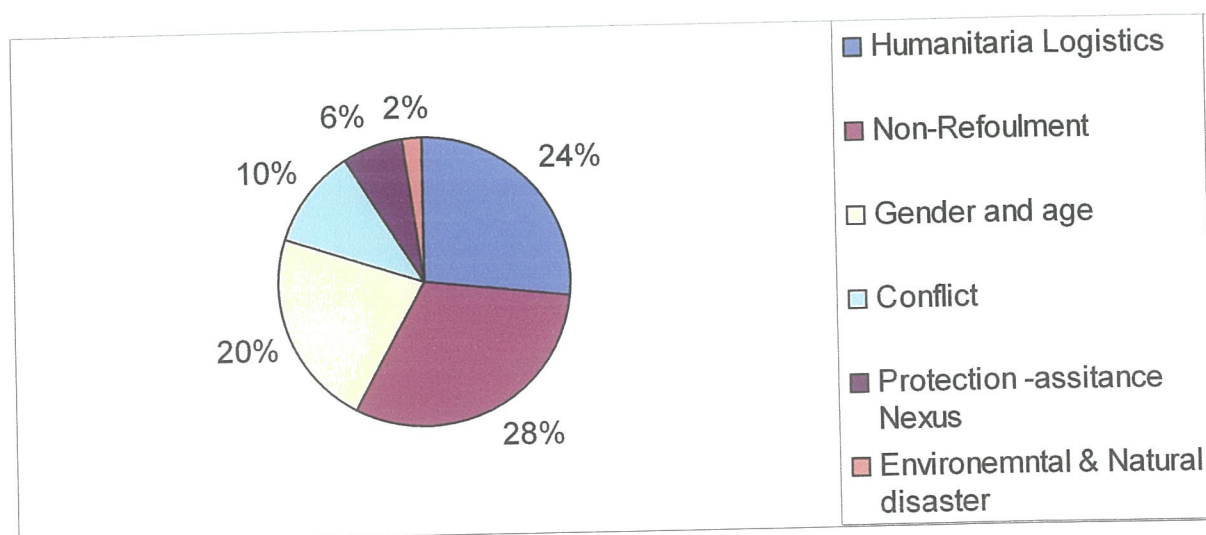
## CHAPTER FOUR

### DATA PRESENTATION, INTERPRETATION AND DISCUSSION OF FINDINGS

#### 4.1 Introduction

This chapter gives presentation, analysis, interpretations and discussion of the research findings on the topic “challenges in addressing the refugee rights and security in the great lake region. A study of Kakuma refugee camp in Kenya” the presentation reflects the relationship between variables of interest and characteristics of the respondents from each presentation, the researcher subsequently gives the analysis, interprets and discusses the data presented based to the background to the topic, other studies conducted to the subject, general held views, books written on the subject, expectations of the target group, researcher and other people.

**Figure 6:** Factors contributing to the abuse of refugees rights at Kakuma refuge camp.



**Source:** Field Work

The identified major factors were Humanitarian logistics (24%), refoulment (28%), Gender and Age (20%), protection- assistance nexus (6%), conflicts (10%), and environmental disasters (2%)

The respondents were asked the problems they faced at the camp. The findings indicate that women 24.2% were raped 10.6% of women were victims of refoulment. This can be interpreted that there is a significant association between the problems refugee faces at the camp and gender. Summary in table 4.1 indicates that human trafficking affected both male 40% and female 20%. This can be interpreted that human trafficking is amongst the problems and risks refugees faced at the camp. Given that refugees live in camps they are the major victims of insecurity. 14.3% of female and 5.4% of male refugees suffer from hunger. This can be interpreted to mean that refugees lack factors of production such as land, capital, skilled labour and entrepreneurship.

#### **4.2 State Obligation and Rights in Addressing Refugee problems**

The 1951 Geneva Convention spells out the rights and duties of refugees. The same convention tells us about the rights, obligations and duties of the state. This convention may be looked at as a coin whose one side presents the rights, obligation and duties of refugees and on the other side those of a state. A state while granting asylum must accept the obligation to cooperate. The state is expected to recognize the social and humanitarian nature of the refugees' problem and is suppose to do anything within its reach in supervising their activities of refugees. The state is also cautioned against the discrimination of refugees for example conditions of living, number of children, their sex ration etc.

State should also provide information relating to laws, regulations they have met to govern refugees other than those the UNHCR knows. All sovereign states are expected to give money to enable to contribute

financially but they have been generous in giving large chunks and parcels of land to refugees for settlement.

There are obligations that the state are suppose to carry as they work on the problem of refugees. A state has a right not to observe the statute for example sovereign state enjoy a large measure of political voluntarism i.e they do what pleases them and leave what hurts them. Many techniques have been adopted by states as a result of political voluntarism for example Article 9 of the 1951 Convention allows the state in times of war to safe guard its peace by either detaining a refugee or asking a refugee to live.

**Reservations:** In the 1951 Convention, the state is granted power to say I like and I hate the other. And if the state is signing any of those legal documents, it has the right to identify sections it does not want.

However, there are certain Articles which are not subject to reservation such as Article 1, Article 3(non-discrimination, race, nationality, religion etc), Article 4 (Freedom of worship), Article 16(1) (right to access of courts of law), Article 33(refoulment) and Article (Denunciation).

#### **4.3 Challenges faced by refugees according to Gender and Age**

According to the finding, the emergency situations, pre –existing inequalities tend to be exhibited and vulnerable groups tend to be at risk. The main threats that women face during emergency include sexual and gender based violence, trafficking and increased exposure to HIV/AIDS. The prevention and response of gender based violence is often considered to be culturally sensitive issues as it deals in part with violation occurring in the private spear.

Displaced minors are often at an increased risk of mal- nutrition, disease, physical danger, emotional trauma, trafficking, exploitation and abuse. There is a significant gap in child protection partly due to lack of

awareness on needs among humanitarian workers on the threats facing children and their protection needs. The needs of children have not been given enough priority; particular when funds are short or new arrivals overwhelmed existing assistance capacities.

**Table 3: refugee abuses by gender**

Reason	Female%	Male%
Rape	60	0
Gender – based violence	44	30
Trafficking	46	40
Exposure to HIV/AIDS	50	44
<b>Total</b>	<b>200</b>	<b>114</b>

**Source:** Field work

**Table 4: abuse by Age**

Sex	Age group	Reason						
		Malnutrition		Discus		Trauma		Trafficking
Female	10 yrs	50	<b>62.5</b>	<b>50</b>	<b>52</b>	<b>48</b>	<b>38</b>	<b>48</b>
	11-18	30	37.5	28	22	20	30	22
	19-25	20	25	18	20	15	18	18
	26yrs	15	19.75	10	8	18	12	12
Male	10yrs	45	40	40	45	30	42	50
	11-18	25	30	20	25	40	28	20
	19-25	18	20	15	20	20	28	20
	26yrs	10	10	8	10	15	20	10

**Source:** Field Work

#### **4.4 Conflict induced Displacement and Its effect on refugee Rights and Security**

According to the findings of this research interstate conflict is not as prevalent today as internal strife and civil wars particularly in Africa. However foreign involvement in internal strives has frustrated efforts to secure peace and stability in number of areas – including the great lake region of Africa centered on Democratic Republic of Congo (DRC) as well as West Africa, here, economic imperatives and economic greed are intertwined in social and political grievances or manipulated political, commercial and military actors from within and outside the region.

Our findings show how exploitation of local resources became progressively militarized as a consequence of the conflict. Military groups used force to acquire and maintain control of mines and other natural resource. Forced labor was often used and population forcibly displaced.

People forcibly displaced by conflict have faced closed border, extremely hostile and insecure conditions in exile and or accelerated or involuntary returns sometimes due to “anti-terror” measures in asylum states. This was the case with Somali refugees on their way to Kakuma refugee camp in 2003.



**Table 5: effects of conflicts on refugee rights and security**

Effects	Male %		Female %	
Discussion	20	22.8	30	15
Ethnic cleansing	15	17.1	38	19
Discrimination	10	11.4	42	21
Displacement	20	22.8	40	20
Hunger	29	33.1	30	15
Physical Property loss	10	11.4	15	7.5
Infrastructure	10	11.4	15	7.5
<b>Total</b>	<b>114</b>		<b>200</b>	

**Source:** Field work

#### **4.5 Camps and settlement**

Most of respondents in our findings complained of highly varied conditions of exile for different displaced populations and their advanced implication on their access to protection and assistance, and for their prospects for local integration, return or resettlement. According to the finding it is apparent that protracted refugee situations, many of the displaced has remained confined to refugee camp, sometimes for decades. They are marginalized in the country of asylum and able to return home in safety and can not look forward to resettlement elsewhere. In some situations those located in camps lacks many fundamental rights such as freedom of movement and right to work due to their forced exclusion from mainstream society. They are exposed to high levels of violence and human rights abuses because of poor security within and around the camps.

#### **4.6 Trafficking and Smuggling**

According to the finding of this research, a combination of poverty, marginalization contributes to high level of mixed migrations, refugees

according to their conditions may result to or be exploited by smuggling and traffickers. There is a growing evidence of large scale trafficking of persons within and between every continent by organized criminal networks. The evidence suggests that such trafficking is highly diverse and valid in terms of routes and destinations. Some of it takes places within countries as when women and children are forced away from rural areas into domestic work or prostitution in urban centers and some takes places internationally across regions and continents.

Our findings also reviewed how children and young women are disproportionally affected by international trafficking, since much of it is linked to the sex industry. Such trafficking is also often associated with severe physical and mental abuse and exploitation.

Some of the same criminal networks were stated by our respondent to be involved in the smuggling of refugees, migrants and asylum seekers which is a different phenomenon from trafficking. While many succeed, unknown numbers perish as result of unsafe conditions such as unseaworthy "overloaded boats, trucks and lorries.

#### **4.7 Effectiveness of Strategies**

Several attempts has been made by the Humanitarian organization such as the Danish refugee council, Lutheran world Federations, Catholic relief, Care International, UNICEF and UNHCR, Government and other development partners to find a lasting tangible and practical solutions to the refugee problem.

**Table 6: major protracted refugee situations, 1<sup>st</sup> January 2005**

Country of Asylum	Origin	End-2004
Algeria	Western Sahara	165,000
Burundi	DRC- Congo	48,000
Cameroon	Chad	39,000
China	Vietnam	299,000
Congo	Dem Rep of Congo	59,000
Cote d' Ivoire	Liberia	70,000
Dem Rep of Congo	Sudan	45,000
Egypt	Occupied Palestinian	70,000
Ethiopia	Sudan	90,000
Guinea	Liberia	127,000
Kenya	Somalia	154,000
Kenya	Sudan	68,000
Rwanda	Dem Rep of Congo	45,000
Sudan	Eritrea	11,000
Uganda	Sudan	215,000
United Rep of Tanzania	Dem Rep of Congo	44,000
United Rep of Tanzania	Burundi	153,000
Zambia	Angola	89,000
Zambia	Dem. Rep of Congo	66,000

**Source:** UNHCR

Most of the groups participates acknowledged that humanitarian organization has mentioned, development partners has contributed tremendous assistant and support towards the well being and welfare while on the move, at the camp and during their repatriation and as a result there was overall change and improvement in their environment.

The international legal documents such as the 1951 Convention Relating to the Status of Refugee and its subsequent 1967 additional protocol on refugees as well as the Statute of the UNHCR together with other relevant documents provides to protect the rights of refugees and lay down minimum rights to which refugee are entitled to. The 1951 convention guarantee minimum standard refugee with their country of asylum and aims to ensure that refugee are treated in the same way in all states which are party to the UN refugee convention.

In addition to these treaties, other international legal instrument deals with asylum and refugees. These are the resolutions and declaration of the general assembly and other bodies of the United Nations the binding force of these resolution and declaration depends on their nature of particular relevance for asylum and refugees is the statute of the office of UN High Commission for Refugees. The resolutions adopting this statute are considered to be binding all member states of the UN.

However there are still some issues that need to be address to ensure that all refugees right are protected and to improve the quality of security to refugees, measure which should be taken to achieve these goal include *non refoulment* which offers a very important safe guard to asylum seekers that they should not be returned to the country where they face persecution, *safe country of origin, voluntary repatriation and resettlement integration to the host community, safe third country of asylum.*

In reality the UNHCR have struggled very much to achieve its two major functions that is to *protect refugees and promote durable solutions* to their problems. When UNHCR was first established materials aspect of refugee relief were seen to be the responsibility of the government which had granted asylum. Initially, UNHCR mandate was limited to people of outside country of their origin, in recent years, the general assembly and

the secretary general have increasingly frequently called upon the UNHCR to protect or assist particular groups of internally displaced people who have not crossed an international border but are in a refugee like situations inside their own country. In Kenya the provisions relating to refugee protection is not in the national objectives and has not been enforced properly. Moreover, the constitution is silent on this provision. In Kenya and Kakuma in particular, at least refugee rights appear not to be properly enforced.

**Visa requirement** have been used extensively by state to limit asylum seekers access to protection. In practice, it is often impossible for asylum seekers to obtain visas for entering a country and some are forced to flee without correct paperwork. Article 31 of the 1951 Refugee Convention recognizes this problem and clearly states that asylum seekers should not be punished for arriving illegally in states provided that they present themselves without delay to the authorities and have good reasons for their illegal entry. Individuals who lack a valid entry visa are prevented even boarding an aircraft and even other means headed to the country in question. Many states adopt the practice of fining airlines and other carriers if they transport people who do not have the correct travel documents and the airline is expected to bear the cost of returning the refused passengers to their country of departure, as a result, some airlines conduct pre-flight screening.

A wide spread practice has developed of returning the refugee to the country through which they passed to reach the country where they applied for asylum. Such states are often referred to as *countries of the first asylum or safe third countries*.

Both these scenarios risk government violating the principle of non refoulment (article 33 of the 1951 of the refugee convention)

The rise in the number of victims of natural disaster over the past decade and other greater level of displacement caused by development project has added millions to the number of possibly displaced people in the world. According to the International Federation of Red Cross and Red Crescent society, the total number of people affected by natural disasters has tripled over the past decade to 2(Two) billion people, with the accumulated impact of natural disasters resulting into an average of 211 million people directly affected each year. This is approximately 5 times the number of people thought to have been affected by the conflict over the past decade.

It is increasingly recognized that the recent escalation in the number of those affected by the disasters due to more rising vulnerability to hazards than to an increase in the frequency of hazards per se. In many ecological and economic crises, mobility under migration represents critical survival strategies. It can therefore be difficult to distinguish forced disaster, induced displacement and mobility linked to peoples coping mechanisms. Sometimes, restrictions on mobility are a major factor with the development of famine, as was seen when Eritreans borders with Kenya and Sudan were closed.

In 2001 the UNHCR initiated the global consultation on International protection. This process evolved around three tracks, with overall goal of re-invigorating the refugee protection framework. The first track sought to strengthen the commitment of states to respect the centrality of the 1951 Refugee Convention and its 1967 protocol in International refugee protection. The second track provided a forum to take stock of development in refugee law and to clarified disputed notions through a series of expert discussion or the interpretation of convention and its protocols. The third track was structured around a number of protection policy matters to address contemporary challenges.

The Global Consultations tried to resolve areas of inconsistent interpretation and state practice. The process attempted to identify new approaches that would bridge gaps in refugee protection in a cooperative manner to ensure that burdens and responsibilities were more equitably shared.

The Agenda for protection provides a framework for fulfilling the commitments reaffirmed by states in the declaration. It sets out six inter-related goals and details actions for achieving them. The goals focus on issues that are inadequately covered by the convention. These include, for example, the issue of refugee registration, the protection of refugee women and children, protection responses in situation of mass influx and expanded opportunities for durable solutions.

Another recent initiative is the regional parliamentary conference on Refugees in Africa. The challenges of protection and solutions, held in Continuo (Benin) in June 2004. The conference adopted Declaration and a programme of Actions aimed at implementing the commitments contained in the declaration by developing concrete objectives and strategies to support African parliaments in their work in favour of protecting refugees and finding durable solutions.

Participants interviewed were of the view that if the strategies and mechanisms such as the Cartagena Declaration on Refugees (2004), Continuo (Benin) Declaration and Programme of Action on Refugees (2004), Global Consultation (2001) among others can be practically implemented, the refugee rights and security can be realized in the Great Lake region. The challenges, however, lies in the push and pull factors of forced displacement. Most of the refugee situations are as a result of these factors.

## **CHAPTER FIVE**

### **DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS**

#### **5.1 Introduction**

This chapter therefore presents the discussion of the major findings, conclusion and recommendations for addressing challenges in refugee rights and security in the Great Lake region.

#### **5.2 Discussion**

Kakuma refugee camp with the support from the UNHCR, development partners like Care International, World Vision and others as well as Kenyan Government promotes refugee programme to ensure protection of refugee rights and security. These partners have initiated programmes that promote and protect refugee rights and security at the camp. These programme include, education for all, health, sanitation, artistic and creativity, food production/solar cooker, water, among others. In this respect the vulnerable groups are empowered to provide for their sustainability and welfare.

However, it was established that a reasonable number of refugees especially women and children were still falling victims of abuse and violations. According to the research carried out, these were the reasons for the abuse and violation of refugee rights and security.

**Refoulment** was the major reason for the rights of refugees as thousands of them were forcefully repatriated to their country of origin where they faced danger of persecution. These factors affected more women (70%) and children (50%) than male adults (30%) This was because of the vulnerability of women and children to the security traps of the host country. Women are prone to security trap due to the fact that they move in mass influx and with luggage for their families.



Focus group discussion at the camp in Kakuma revealed that lack of humanitarian logistics affects mostly women (60%) and young girls (40%) This was due to their marginalization and vulnerability to hunger, malnutrition and poverty. They are therefore forced to resort to prostitution and in some occasions fall victims of trafficking. They also bear the heaviest wrath or burden of HIV/AIDS scourge.

The marginalization of the female refugee at the camp in Kakuma also affects their self esteem and dignity as human beings with equal rights.

Focus group discussions at the camp in Kakuma further revealed that most humanitarian organizations, government and other development partners put emphasis on assistance while ignoring the most pressing need for protection. Still the same, basic necessities such as sanitary towels, panties and half slips are not sometimes offered. When boys and sugar daddies offer such items, they are lured into sex, which result into pregnancy, HIV/AIDS infection or any STD. The camp and it's environ has also become a hot spot for disparate women ready to be married any time as long as that will entail getting them out of the camp.

The Refugee Convention of 1951 and its Additional Protocol of 1967 has set minimum standards for state parties to the UN to follow while handling refugees. Kenya has however, been criticized in its actions towards refugees especially from specific countries. Kenya ratified the convention but has in the past failed to uphold it.

According to one of the discussants, sometimes refugees are forced out of the camp by people who takes cover as security personnel and end up on the hands of human traffickers and their common destinations are United Arab Emirates (Dubai) Saudi Arabia, America and Europe, where

they are forced into slavery”, Human trafficking therefore is another cause of abuse of the refugee rights and security in Kakuma.

We also discovered that host community Refugee relation was bad and wanting, Kakuma refugee camp continued to experience frequent attacks from the host community and their properties including farm produces confiscated and their houses set ablaze.

The respondents’ further noted that it is hard to differentiate between a security personnel and an enemy or criminal as in most cases they both behave the same. This made security at the camp very poor. The security personnel are in most cases involve in rape, defilement, torture and other inhuman degrading activities. They are the government and you cannot do anything but to die in silence.

The survey findings revealed that lack of proper national legislation on refugee affairs contribute heavily on the abuses faced by refugees. It is quite rhetorical that refugees at Kakuma are much better off than the nationals in that region. The government has failed to provide for its nationals and it will be hard for the same government to provide for non-nations under the pretence of providing for refugees.

The survey findings also bring together recent efforts and initiatives aimed at improving the International Community response to crisis of forced displacement. Achievements are gauged and gaps recognized. The challenges ahead are identified of these, the first is to ensure that the core principles of International Law, in particular that of non-refoulment, are adhered to. Another is to see that the burden is shared fairly when addressing the root cause of forced displacement and when responding to it. It suggests that the supervisory, accountability and

partnership mechanisms of UNHCR, the lead organization in the field of human displacement, must of strengthen.

Participants, from the UNHCR propose voluntary repatriation, local integration in the country of first asylum or resettlement in a third country as the available options for the permanent resolution of the refugee cycle.

### **5.3 CONCLUSIONS**

There has, without doubt, been a major change in attitudes towards asylum-seekers. Where once they were viewed as innocent people to be protected and cared for, they are often now seen as a danger to a host states' economy and national security. This change in attitude has occurred the world over. The reasons for this change, which include increased numbers of refugees, a rise in international terrorism and the growing number of secessionist and ethnic conflicts, are unlikely to disappear in the near future. If anything, the refugee situation can only get worse.

It is for this reason that the international community needs to seriously consider undertaking a review of the current international refugee laws. Recent responses to mass influx and the restrictive policies being implemented by many Western states illustrate the incompatibility of state practice with international rules. Most concerning is the threat posed to the founding principle of the refugee regime, non-refoulment. Ideas like temporary protection regimes and safe third country rules are severely increasing the risk that refugees could be expelled or returned to a place where they would be in danger of persecution.

A new convention, replacing the 1951 Refugee Convention, seems the best way to make the necessary changes to the system. This would ensure that approaches to asylum-seekers are harmonious the world over. The first step needs to be a long overdue clarification of the non-

refoulment principle. At present states appear to be interpreting it in whichever manner best serves their immediate purposes. It is necessary to draft a new non-refoulment provision, which makes clear exactly what the principle requires and balances the interests of both states and asylum-seekers.

With the carnage and complete and utter terror caused by the attacks on the World Trade Centre and the Pentagon on September 11, it is unlikely that reform of the international refugee system will be at the forefront of international concern for some time to come. If anything, the terrorist attacks will lead to an even more restrictive attitude towards immigration, especially in the United States. However, I would argue that now more than ever we need a system which ensures that those who are in genuine danger of persecution are protected. The parameters of the non-refoulment principle are in dire need of clarification. A new convention is the ideal way to ensure that both states' and refugees' needs are met, and that a crisis like that involving the Tampa never happens again.

There are a number of different explanations for the abuse of refugee's rights and security. The phenomenon of human trafficking reflects many factors external to national legislation, such as marginalization, poverty, work obligation or the opportunity cost of personal welfare.

Refoulment and inadequate humanitarian logistic are likely to be significant additional factor since they hinder refugees' enjoyment of their rights and security.

The study indicated that most refugees are forcefully returned home in places where they face danger of persecution. A rational assessment of the situation demonstrated that it's the host country response to the problem of refugee rather than refugees in a person that subject refugees to refoulment.

Another observation made is that the problem of inadequate humanitarian logistics is caused by the attitude of the International Community towards the humanitarian demand for relief. It contributes greatly to the abuse of refugee rights and security.

Thousands of refugees or people in refugee situations especially women and children or unaccompanied minors are trafficked both internally, regionally and across continents where they are subjected to do odd jobs such as prostitution and hard labor without proper pay.

Whereas getting forcefully displaced does not lead to automatic abuse as refugee, governments' policies in practice has been a leading factor, government has restriction on entry visas and travel documents. On the other hand the host communities are even harsher towards intruders or refugees.

This dominant moralistic perspective of society induces one to forget that being a refugee is a symptom rather than a cause of forced displacement. And that everyone is a potential refugee.

In the Turkana culture, people running away from their communities are traditionally associated with bad omen thus refugees, irrespective of their age, and situation are viewed as signs of bad omen and who should not be let to mix up with inhabitants and therefore should be expelled.

Poverty and marginalization contribute significantly to the abuse of refugee rights and security. Apart from being mistreated or abused by doing all the domestic chores where employed, refugees are not given opportunity to develop new skills, study and to demand for fair treatment because they lack academic papers and strong financial resources to survive in a capitalist society.

Unaccompanied minors are left to suffer on their own, majority of who are sold into slavery and for ritual and sacrifice. A good number of them become street urchins with no future.

In final conclusion, access to humanitarian agencies does not guarantee survival for refugees. The national laws should define to a great extent the self image of a refugee, thereby influencing their protection and level of survival. An enabling environment is also paramount if refugee rights and security has to be protected.

#### **5.4 Recommendations**

The following recommendations were made on the basis of the conclusion

##### ***1) A New Non-Refoulment Provision***

At the core of the new Convention should be a re-formulated non-refoulment principle stating clearly the parameters of non-refoulment.

##### **2) Reasons for fleeing home country should be extended**

It has been accepted that the non-refoulment provision applies to all refugees, regardless of whether they fit the Convention definition. I would therefore suggest that the new provision should recognise this, and give a broader range of reasons for flight.

##### **3) The provision should apply to refugees 'wherever found'**

It is imperative that any new provision also settle the issue of extraterritoriality. This is a fundamental problem as it determines at what point a state becomes responsible for refugees. The purpose of the non-refoulement principle is to protect refugees from being returned to a place where their lives could be endangered.

##### **4) The provision should incorporate the necessity test**

The new provision should contain a test which states can apply in order to ascertain whether or not their particular reason for wanting to refuse

entry is actually valid at international law. Article 33 of the ILC Draft Articles on State Responsibility would be sufficient.

**5) Provision should explicitly state that both direct and indirect refoulment is illegal**

It is arguable that the wording of the provision needs to be changed to make things clearer. It should specify that a country is liable if their actions result, either directly or indirectly, in the return or refoulment of refugees to a place where his or her life or freedom would be threatened. It should be absolutely clear that a state is equally culpable when they 'pass the buck' to another state, who then returns the refugee, as they would be had they directly returned them themselves.

There should be a universally applicable standard that must be met before a state can be designated as 'safe'. This standard should incorporate both the requirements that the state has signed relevant human rights instruments, and also have in place an effective and tested refugee screening system.

**6) Exceptions need to be clearly specified**

It is necessary to balance carefully the needs of states to guard against criminal activity and internal disorder, with the needs of refugees to find safe-haven from whatever danger they have fled.

**7) Legislation of a new rules for mass influx situations**

It could therefore be suggested that it is unreasonable to expect the same rules to apply when one refugee is arriving as when 100,000 are.

**8) New Legislation on temporary protection**

One way to ensure that situations of mass influx are adequately dealt with, and that the indiscriminate use of temporary protection does not lead to non-refoulment, is to deal with temporary protection in the new convention. Harmonisation of temporary protection systems would eliminate many of the current problems. Harmonised and, ideally, codified temporary protection system which is universally applicable should be a main focus of any changes made to international refugee

law. Such a system will obviously need to cater to both the needs of states to determine who they allow to reside within their borders, and the needs of asylum-seekers to escape from persecution.

#### **9)An empowerment program**

Empowerment program to enable refugees cope with the pressures of life early enough is needed. Life skills such as self awareness, having self esteem, assertiveness, peer resistance and decision making should be incorporated in the government policies on refugees. The humanitarian and development partners' participation in refugee protection and assistance would be enhanced through economic empowerments. Provision of credit and involvement of refugees would compliment the efforts to provide a meaningful life to the welfare of refugees.

#### **10) Sensitization on Refugee rights**

Massive sensitization on refugee rights and security should be embarked on targeting all key stakeholders who are involved in refugee affairs, especially at grassroots level. Most community should be mobilized to respect and to protect refugees. More involvement of refugees and members of the community will significantly enhance this. The international community, the humanitarian laws and human rights laws should given some specific attention to the refugees, as they are more vulnerable to abuse and violation. Post – refugee relationship should be another area to be emphasized.

#### **11) Inter-Governmental cooperation**

Governments need to support policies such as non refoulment, voluntary repatriation, burden sharing and resettlement into the host country. There is need for a clear policy on refugee protection and assistance. This will help to ensure that the refuge rights are protected.

Country of origin policies should be reformed to prevent those factors or activities which might have resulted into forced displacement.



### **5.5 Issues for further study**

On the basis of the study, it was concluded that 7 major factors influence refugee rights and security. These factors were: refoulment, inadequate humanitarian logistics, protection assistance nexus, gender and age, conflict and environmental factors. However, the gaps in the quantitative data especially those relating to the various aspects of influencing the protection of refugee rights and security are still yawning.

There is need for an in-depth study to establish the extent to which refugee rights and security are abused due to each identified factors with a bigger sample. A study to investigate further the unique requirement of refugees is needed.

Finally, the role of the governments of the Great Lake region countries in perpetuating refugee rights violation also needs further investigation.

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## APPENDICES

### APPENDIX I: INTERVIEW GUIDE FOR UNHCR STAFFS

1. Name of Organization  
.....
2. How long has your organization been in the field of refugee protection?  
.....
3. Which areas do you operate in?  
.....
4. What prompted UNHCR to be involved in the refugee issues?  
.....
5. Mention the activities you are involved in?  
.....
6. Mention the requirements for a refugee to be protected under your organization and the benefits that comes with your protection?  
.....
7. How many camps are under your protection in Kenya and the larger East African Region?  
.....
8. How do you identify those refugees in need of your assistance?  
.....
9. What is your working relationship with the (i) Government (ii) Other organizations (iii) local communities (iv) Camp leaders (v) Politicians.  
.....
10. What are the challenges you are facing in pursuing this program?  
.....
11. How best have you tried to overcome these challenges?  
.....

12. Have your organization achieved its aims especially in refugee programme? Mention your achievements.

.....

13. What are the host community relations to the refugees at Kakuma camp?

.....

14. As an organization, do you see this programme to be successful?

.....

15. How do you monitor and evaluate the success of your project?

.....

16. How do you plan to improve on refugee rights and security?

.....

17. How do you plan to sustain this project?

.....

18. What is your comment about the refugee program in Kakuma and the great lake region as a whole?

.....

19. How best are the refugees benefiting from your assistance?

.....

20. What is your recommendation to the:

i) Government of the great lake region of Africa?

ii) Other partners

iii) Local community

iv) International community

**-End-**

## APPENDIX II: QUESTIONNAIRE FOR GOVERNMENT OFFICIALS

1. Position held

.....

2. How many active organizations are registered in refugee program in Turkana district?

- i) Less than 5 ☐
- ii) 5 to 10 ☐
- iii) 10-20 ☐
- iv) Over 20 ☐

3. How long have they been in the field of refugee protection and assistance?

- i) Less than two years ☐
- ii) 2-5 years ☐
- iii) 5-10years ☐
- iv) Over 10 years ☐

4. What are the activities they carry out?

- a) Food distribution ☐
- b) Water ☐
- c) Feeder roads ☐
- d) Education ☐
- e) Psycho-social support ☐
- f) Tolls and implement ☐
- g) Health ☐
- h) Human rights and security ☐
- i) Agriculture ☐
- j) Income generating ☐
- k) Others ☐





5. How many refugees have been assisted from Kakuma alone?

Types of assistance	Children	Female Adults	Male Adults	Total
Repatriation				
Resettlement				
Integration				
Legal redress				
Total				

6. What package were they given?

- i) Food items ☐
- ii) Beddings ☐
- iii) Transport ☐
- iv) Other (specify) ☐

7. Do they get any assistance from government in relation to their status as refugees?

Yes ☐ No ☐

If yes, what kind of assistance?

- i) Food stuffs ☐
- ii) Financial ☐
- iii) Tools ☐
- iv) Transport ☐
- v) Other (specify) ☐

8. What are the beneficiaries (refugees) views about the government involvement?

- i) Very appreciative ☐
- ii) Welcome ☐
- iii) Negative ☐
- iv) No other option but to accept ☐

9. Are people utilizing these packages well?

Yes ☐ No ☐ Some ☐

10. How do children benefit from government packages to refugees?

- i) Education/Education requirements ☐
- ii) Psycho-social support ☐
- iii) Training & security ☐

**-End-**

### APPENDIX III: DISCUSSION GUIDE FOR THE CAMP COMMUNITY

Marital status

Age..... Sex.....Occupation.....

Nationality..... Religion.....

1. What is the name of this camp?

.....

2. Do you receive any form of assistance?

.....

b) If yes, from whom /which organization?

.....

3How often do you receive the assistance?

.....

a) Weekly ☐ b) Monthly ☐

c) After 2 weeks ☐ d) over 2 months ☐

e) Uncertain ☐

4What kind of assistance do you receive?

a) Loan ☐ b) Social support ☐

c) Material ☐ d) Counseling ☐ e) Security ☐

5 Do government officials visit your camp?

a) Yes ☐

b) No ☐

c) Not sure ☐

6 How often do they visit this camp?

a) Quite often ☐

b) Rarely ☐

c) Once in a while ☐

d) Very rarely ☐

e) Never seen ☐

7 Do your children go to school?

a) Yes ☐

b) No ☐

c) Sometimes ☐

8 How far is the nearest health centre?

a) Below one kilometer ☐

b) 1-2 kms ☐

c) 5kms ☐

d) Over 5kms ☐

9 How is the security situation within and around the camp?

a) Very poor ☐

b) Poor ☐

c) Fair ☐

d) Moderately fair ☐

e) Good ☐

f) Very good ☐

g) Better ☐

h) Best ☐

i) Perfect ☐

10 What are the major problems faced in your camp?

e) Refoulment ☐

f) Inadequate humanitarian assistance ☐

g) Insecurity ☐

h) Conflicts ☐

i) Trafficking ☐

j) Lack of social amenities ☐

☐

k) Others specify

11 Are the role played by civil society organizations, NGOs, and  
Government helpful?

a) Yes ☐

b) No ☐

c) Somehow ☐

12 Mentions some of the key benefits form these organizations

i).....

ii).....

iii).....

iv).....

v).....

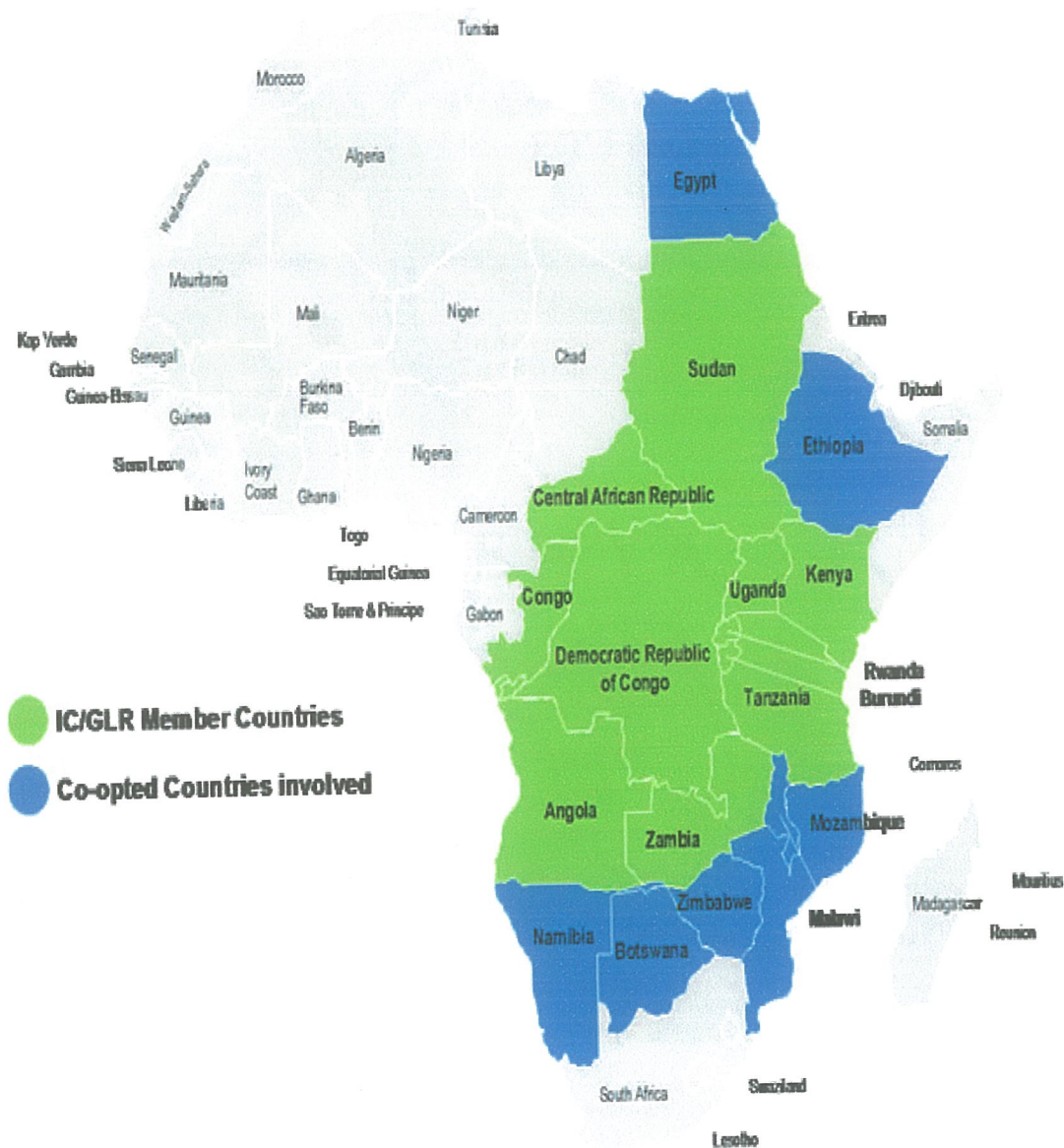
vi).....

13 What would you recommend to;

- The local leaders
- Civil society organization
- Humanitarian agencies
- NGOs
- Your respective country governments
- International community?

**-End-**

## APPENDIX IV: MAP SHOWING THE GREAT LAKE REGION OF AFRICA



## APPENDIX VI: TIME FRAME

TIME FRAME	ACTIVITY
15 <sup>TH</sup> -19 <sup>TH</sup> December	Design & Construction of Instruments
22 <sup>nd</sup> -24 <sup>th</sup> December	Pre- testing Instruments
3 <sup>rd</sup> -20 <sup>th</sup> January	Field Work
22 <sup>nd</sup> -23 <sup>rd</sup> January	Data Collection
1 <sup>st</sup> -10 <sup>th</sup> February	Research report writing
12 <sup>th</sup> -26 <sup>th</sup> February	Making correction
2 <sup>nd</sup> -18 <sup>th</sup> March	Final Report writing
22 <sup>nd</sup> March 2010	Submission of research Report

## APPENDIX VII: BUDGET ESTIMATIONS

Event/activity	Estimated expenditure (Kshs)
Transport	15,000
Food	3,000
Stationary	2,500
Printing & photocopy	1,000
Airtime	2,000
Accommodation	15,000
Medication	2,000
Miscellaneous	10,000
<b>Total</b>	<b>50,200</b>





## **APPENDIX VIII : INTRODUCTION LETTER**