



Electronic Theses and Dissertations

2022

Policy framework for refugee management in Kenya: an assessment of challenges, gaps, and options.

Mwaluko, Judy Mboya
Strathmore Business School
Strathmore University

Recommended Citation

Mwaluko, J. M. (2022). *Policy framework for refugee management in Kenya: An assessment of challenges, gaps, and options* [Strathmore University]. <http://hdl.handle.net/11071/13149>

Follow this and additional works at: <http://hdl.handle.net/11071/13149>

**POLICY FRAMEWORK FOR REFUGEE MANAGEMENT IN KENYA: AN
ASSESSMENT OF CHALLENGES, GAPS, AND OPTIONS.**

JUDY MBOYA MWALUKO



**A DISSERTATION SUBMITTED IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DEGREE OF MASTER OF PUBLIC POLICY
AND MANAGEMENT AT STRATHMORE UNIVERSITY.**

STRATHMORE UNIVERSITY BUSINESS SCHOOL.

NAIROBI, KENYA.

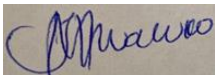
JUNE 2022.

DECLARATION

I declare that this work has not been previously submitted and approved for the award of a degree by this or any other University. To the best of my knowledge and belief, the dissertation contains no material previously published or written by another person except where due reference is made in the dissertation itself.

© No part of this dissertation may be reproduced without the permission of the author and Strathmore University

Name of Candidate **Judy Mboya Mwaluko**



Approval

The dissertation of Judy Mboya Mwaluko was approved by the following:

Name of Supervisor: **Dr. Bernadette Wanjala**



School/Institute/Faculty: Strathmore Business School

Dr. George Njenga

Executive Dean

Strathmore University Business School

Dr. Bernard Shibwabo

Director, Office of Graduate Studies



ABSTRACT

Statistics on the level of integration for refugees are lacking, despite Kenya being signatory to the 1951 Convention that provided a legal framework for the integration of refugees in States party to the Convention. The statistics provide evidence that there are gaps in refugee management in Kenya which require further examination and empirical investigation. The overall aim of this study is to assess the challenges, gaps, and options for policy framework for refugee management in Kenya. The study sought to identify challenges facing the refugee management system in Kenya, to review the existing policy framework and identify the gaps for refugee management in Kenya, and to come up with clear policy recommendations for refugee management in Kenya. The research adopted the exploratory research design. This study was undertaken in Kakuma refugee camp and Kalobeyei Integrated Settlement. The focus of the study was refugees living in Kakuma and Kalobeyei Integrated Settlement. The data approach for this research was qualitative. The primary data collection tool for this study was an interview schedule. Data was analyzed in two phases; the first phase involved coding to look for themes and trends in the data. This was done through the Nvivo software version 12. The study found that refugee management is highly politicized as Kakuma and Kalobeyei camps therefore seem to have freehand on refugees in their soils regardless of the general provisions of the conventions. The study also found that there is inadequate protection space for asylum seekers and refugees. The study also established that the specific needs by the refugees are a challenge. The study found that there were gaps in policies such as there appeared to be no policies, guidelines or strategies that explicitly address refugee health. The study also established that the current encampment policy has a number of disturbing features, which affect the enjoyment of rights by refugees. The study concluded that today's refugee policy mainly consists of responding to crises as they happen rather than trying to prevent them and this does not make much sense as the refugee problem in Africa is indeed grave and appears to be worsening and, in practical terms a lot needs to be done. The research recommends that the bill must establish a more lenient basis for granting movement passes to Kenyan refugees. The research recommends that the Kenya government must administer services uniformly to refugees across the country.

Keywords: refugees, policy framework, refugee management, encampment policy.

ACKNOWLEDGEMENT

I wish to thank God for his unending provision over my life and for giving me the strength to complete this dissertation, to my parents, Dr. T.S Mwaluko and Marietta Mwaluko for being my source of inspiration, to my late father in law, Perez W.J Odera for being my biggest cheerleader throughout my graduate studies and finally to my supervisor, Dr. Bernadette Wanjala for her tireless effort in guiding me.

Thank you.



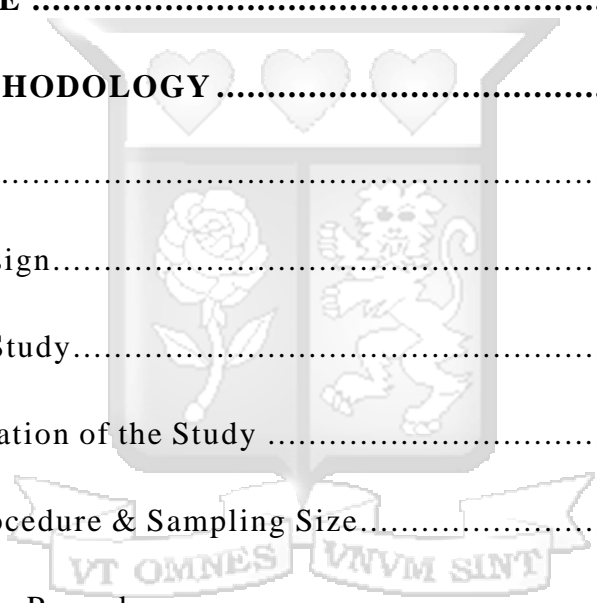
TABLE OF CONTENT

DECLARATION	ii
ABSTRACT	iv
ACKNOWLEDGEMENT	v
TABLE OF CONTENT	vi
LIST OF FIGURES	xii
LIST OF TABLES	xiii
LIST OF ABBREVIATION	xiv
OPERATIONALIZATION OF VARIABLES	xv
CHAPTER ONE	1
INTRODUCTION	1
1.1 Introduction.....	1
1.2 Background to the Study	1

1.2.1 Kenya’s Refugee Management	5
1.3 Statement of the Problem	7
1.4 Research Objectives	9
1.4.1 Specific Objectives	9
1.5 Research Questions	9
1.6 Scope of the Study	9
1.7 Significance of the Study	10
CHAPTER TWO	11
LITERATURE REVIEW	11
2.1 Introduction.....	11
2.2 Theoretical Foundations	11
2.3 Challenges facing Refugee Management.....	12
2.3.1 Little information on the urban refugee population	14
2.3.2 Lack of domestic refugee legislation	15
2.3.3 Refugees not included in development and poverty reduction strategies.....	15

2.3.4	Absence of refugee registration by Government	15
2.3.5	Physical insecurity of refugees	16
2.3.6	Absence of documents conferring protected status	16
2.3.7	Lack of mobility	16
2.3.8	Inadequate assistance in meeting protection needs	17
2.3.9	Low education rates	17
2.3.10	Inability to achieve self-reliance	17
2.3.11	Limited opportunities for durable solutions	18
2.3.12	Limited assistance to needy, refugee-impacted host communities	18
2.4	Policy Frameworks on Refugee Management	18
2.4.1	The Constitution of Kenya 2010	18
2.4.2	The Refugees Act 2006	20
2.4.3	The refugee management institutional and protection framework	21
2.4.4	The right to seek asylum	22
2.4.5	Non-refoulement	23
2.4.6	Basic standards of treatment	24

2.4.7 The duties of refugees.....	25
2.4.8 Encampment policy and freedom of movement	26
2.5 Literature Review Summary and Research Gaps	29
2.6 Flow Diagram	32
CHAPTER THREE	34
RESEARCH METHODOLOGY	34
3.1 Introduction.....	34
3.2 Research Design.....	34
3.3 Location of Study.....	34
3.4 Target Population of the Study	35
3.5 Sampling Procedure & Sampling Size.....	36
3.5.1 Sampling Procedures	36
3.5.2 Sampling Size.....	36
3.6 Validity and Reliability of Research Instruments.....	37
3.6.1 Validity of Research Instrument	37
3.6.2 Reliability of Research Instrument	37



3.7 Data Collection Procedure	38
3.8 Data Analysis	39
3.9 Ethical Considerations.....	39
CHAPTER FOUR:	40
PRESENTATION OF RESEARCH FINDINGS.....	40
4.1 Introduction.....	40
4.2 Sample Representation	40
4.3 Demographic Analysis.....	40
4.3.1 Respondents’ Gender	40
4.3.2 Respondents’ Experience with Refugee Issues.....	41
4.3.3 Distribution of the Interviewees.....	42
4.4 Challenges Facing Refugee Management in Kenya	43
4.5 Gaps Existing in Policy Frameworks for Refugee Management in Kenya	50
CHAPTER FIVE:	58
DISCUSSIONS, CONCLUSIONS & RECOMMENDATIONS.....	58
5.1 Introduction.....	58

5.2 Discussions of the Findings.....	58
5.2.1 Challenges Facing Refugee Management in Kenya	58
5.2.2 Gaps Existing in Policy Frameworks for Refugee Management in Kenya.....	60
5.3 Conclusion	62
5.4 Contribution to Knowledge	63
5.5 Recommendations	63
5.5.1 Policy Recommendations for refugee management in Kenya	66
5.6 Suggestions for Further Studies	67
5.7 Limitations of the Study.....	67
REFERENCES	69
APPENDICES	78
Appendix I: Interview Guide.....	78
Appendix II: Ethical Review	80
Appendix III: Nacosti License.....	Error! Bookmark not defined.

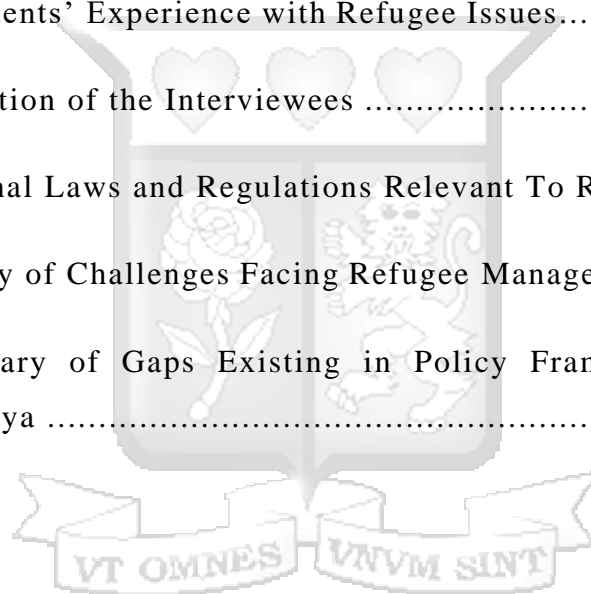
LIST OF FIGURES

Figure 2. 1: Flow Diagram of Refugee Durable Solutions33



LIST OF TABLES

Table 1. 1: Refugee and asylum seekers in Kenya by country of origin, as at June 2020	2
Table 3. 1: Target Population	35
Table 3. 2: Sample Size.....	36
Table 4. 1: Respondents’ Gender	41
Table 4. 2: Respondents’ Experience with Refugee Issues.....	41
Table 4. 3: Distribution of the Interviewees	42
Table 4. 4: Additional Laws and Regulations Relevant To Refugees	44
Table 4. 5: Summary of Challenges Facing Refugee Management in Kenya.....	49
Table 4. 6: Summary of Gaps Existing in Policy Frameworks for Refugee Management in Kenya	54



LIST OF ABBREVIATION

CRRF	Comprehensive Refugee Response Framework
CSOs	Civil Society Organizations
DRA	Department of Refugee Affairs
ECHCP	Executive Committee of the High Commissioner's Program
EFL	English as a Foreign Language
EU	European Union
HIV	Human Immunodeficiency Virus
ILO	International Labour Organization
IOM	International Organization for Migration
LRRO	Local Refugee Resettlement Organisation
NACOS	National Commission for Science, Technology, and Innovation
TI	Innovation
NGO	Non-Governmental Organizations
OAS	Organization of American States
OAU	Organisation of African Unity
PLW	People Living With
RAS	Refugee Affairs Secretariat
SEA	Southeast Asian
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
WFP	World Food Program

OPERATIONALIZATION OF VARIABLES

Durable solutions – This refers to the long-term solutions adopted to address the challenges of refugee in a nation, including local integration, voluntary repatriation, and resettlement (Lal, 2017).

Local integration – This refers to creating circumstances in which both the local population of the country of asylum and the refugees can co-exist participating in the social and economic life of country with no bigger friction than that which already subsists within the host community (Ahimbisibwe, 2013).

Policy- This refers to a distinct path of action that is suitable for pursuing desired goals within a particular context, directing the decision making of an organization or individual (Braman, 2011).

Refugee repatriation – This refers to Voluntary return is the assisted or independent return to the country of origin, transit, or another third country based on the returnee's free will (Gemeda, 2019).

Refugee resettlement – This refers to the process of screening and transportation of refugees from the country of first asylum to a third country which has consented to provide them with permanent residency (Ahimbisibwe, 2013).

CHAPTER ONE

INTRODUCTION

1.1 Introduction

This chapter is an introduction to the study and presents the background of the study, problem statement, research objectives, research questions, scope and significance of the proposed research. The background gives a description of refugee integration in Kenya and the lack of a formal policy of refugee integration.

1.2 Background to the Study

In the last few decades, the world has witnessed a rise in the number of refugees and displaced persons. This increase has been a result of factors such as political instability, increasing human conflicts and climatic change-related disasters (Nyangweso, 2014). By the end of 2018, there were 70.8 million persons of concern for the United Nations High Commissioner of Refugees (UNHCR, 2019). The large-scale displacement of refugees creates significant and urgent challenges not only for the refugees themselves, but also for governments and residents of the receiving societies (Echterhoff, Hellmann, Back, Esses, & Wagner, 2019). The current refugee crisis facing Turkey and Greece from an influx of refugees escaping the ongoing Syrian conflict further elucidates the problem of refugee management in the 21st century (Rygiel, 2016).

The problem of refugees and asylum seekers in Kenya has escalated with huge influxes of new arrivals being witnessed. The evolving political and economic contexts, since the 1960s to date, have progressively shaped the refugee situation in Kenya. Three main issues cut across the timeline: the rise in refugee population, changes in individual liberties, and socio-economic opportunities. Kenya has enjoyed relative peace and stability, compared to her neighbors in Eastern and Central Africa. In the 1960s, the refugees came from only three countries

(Ethiopia, Uganda and Somalia), and their population was estimated at only 5,000. These refugees could freely move and work anywhere in Kenya, including in the formal sector. Government was in charge of the refugee affairs

The Government of Kenya maintains an open-door asylum policy and two of the world’s largest refugee camp complexes (Kakuma/Kalobeyei and Dadaab) are found in Kenya. The majority of refugees and asylum seekers in Kenya originate from Somalia (53.7%). Other major nationalities are South Sudanese (24.7%), Congolese (9%) and Ethiopians (5.8%). Persons of concern from other nationalities including Sudan, Rwanda, Eritrea, Burundi, Uganda and others make up 6.7% of the total population of 494,921, as at the end of June 2020. Table 1 below summarizes refugees and asylum seekers in Kenya by country of origin.

Table 1. 1: Refugee and asylum seekers in Kenya by country of origin, as at June 2020

Country of origin	Number of refugees and asylum seekers	Percentage of refugees and asylum seekers
Somalia	265,933	53.7
South Sudan	122,371	24.7
Democratic Republic of Congo (DRC)	44,636	9.0
Ethiopia	28,795	5.8
Burundi	16,047	3.2
Sudan	10,020	2.0
Uganda	2,582	0.5
Rwanda	1,876	0.4
Eritrea	1,845	0.4
Others	816	0.2
Total	494,921	100

Source: United Nations High Commissioner for Refugees (UNHCR)

The Dadaab refugee camp complex is located near the border with Somalia in Garissa County, and had a population of 217,516 registered refugees and asylum seekers, as at the end of June 2020. Dadaab refugee complex consists of three camps (Ifo, Dagahaley, Hagadera). The first camp was established in 1991, when refugees fleeing the civil war in Somalia started to cross the border into Kenya. A second large influx occurred in 2011 when some 130,000 refugees arrived,

fleeing drought and famine in southern Somalia. There is a considerable difference between the old and new camps. A large part of the residents in the old camps have children and grandchildren born in the camps and the camps resemble naturally-grown towns that have developed into commercial hubs connecting north-eastern Kenya and southern Somalia. In contrast, most of the residents in the new camp, Ifo 2, came during the 2011 famine and are mainly pastoralists.

Kakuma refugee camp, on the other hand, is located near the border with South Sudan, Ethiopia and Uganda, on the outskirts of Kakuma town in Turkana County. Kakuma camp and Kalobeyei Integrated Settlement had a population of 196,645 registered refugees and asylum-seekers at the end of June 2020. The camp was established in 1992 following the arrival of the 'Lost Boys of Sudan'. During that year, large groups of Ethiopian refugees also fled their country following the fall of the Ethiopian government. With an influx of new arrivals in 2014 (following conflict in South Sudan), Kakuma surpassed its capacity by over 58,000 individuals, leading to congestion in various sections. Following negotiations between the United Nations High Commissioner for Refugees (UNHCR), the National Government, the County Government of Turkana and the host community, land for a new settlement was identified in Kalobeyei, situated about 40 kilometres northwest of Kakuma. In addition to decongesting Kakuma Camp, the Kalobeyei Integrated Settlement was established in recognition of the need for a different approach to refugee assistance, that promotes better integration between the host and refugee communities, and that also benefits the former.

The settlement is therefore intended to promote the self-reliance of refugees and host communities by providing them with better livelihood opportunities and enhanced service delivery. Despite Kenya's policy of encampment, both registered and unregistered refugees and asylum seekers live within urban areas of Kenya, with their presence implicitly endorsed by the government. It is worth noting that the encampment policies are still largely in force despite a 2017 court of appeal decision deeming them unconstitutional. As of June 2020, the UNHCR's Urban

refugee program catered for 80,760 registered asylum-seekers and refugees residing primarily in the capital city Nairobi, and other urban locations including Mombasa, Nakuru, Eldoret, Kitale, Meru-Maua, Isiolo and Bungoma

From 1991, civil wars erupted in Somalia, Ethiopia, Sudan and the Great Lakes region resulting in a massive influx of refugees to Kenya. Consequently, the Kenyan government started Dadaab and Kakuma camps. Rising insecurity was linked by host populations, to refugees, further alienating them from the former. During this same period, the UNHCR also assumed dominant roles of managing refugee's affairs in Kenya. The refugees also suffered the perverse effects of structural adjustment programs prescribed on poor nations by the World Bank, and added to discrimination as Kenyan citizens perceived them as competitors in the fast-shrinking opportunities in the job market.

Over time, the Kenyan Government, in partnership with the UNHCR and other United Nations (UN) agencies and international and local non-governmental organisations (NGOs), progressively developed policies and programs aimed at securing the health and welfare of the refugees. The UNCHR recommends three durable solutions to the issue of refugees. First, Voluntary repatriation which generally requires appropriate measures to ensure that any choice regarding return made by refugees is voluntary, free from coercion and based on objective information. Second, local integration in the country of the first asylum can be an appropriate solution in some countries and/or for some groups of refugees. Third, resettlement of refugees to a third country where they can enjoy long-term protection and integrate into the host society can be a solution for some refugees, particularly those with limited prospects for local integration or voluntary repatriation, or for those with specific needs who cannot find adequate protection in the country of origin or the country of asylum (Bidandi, 2018).

Refugee policies in Kenya have restrictive implications on the socio-economic entitlements of concerned populations, compared to, for example, neighbouring

Uganda, with restrictions on the freedom of movement and right to work. There are major funding gaps with UNHCR support for refugees at only 32% funded in Kenya (Aggrawal, 2015). With generally limited opportunities to integrate with the host populations, refugees use their social networks as support mechanisms and draw on alternative forms of governance. Although refugees have limited socio-economic opportunities, both skilled and unskilled persons work in the informal sector or are employed by aid organisations and paid incentives rather than full salaries.

In 2006, the Kenyan Parliament passed the Refugees Act (2006), that provides for ‘the recognition, protection and management of refugees’; and covers a broad range of areas including the process of administration, management and coordination, and rights and duties of refugees. This law was enacted on May 15, 2007, and is grounded within the Convention and Protocol Relating to the Status of Refugees (Crisp, 2013). Despite the existence of this policy, its implementation has been ‘patchy’ and problematic, resulting in potential adverse consequences for refugees and asylum seekers. This therefore informs the need to assess the challenges, gaps, and options of the policy framework for refugee management in Kenya.

1.2.1 Kenya’s Refugee Management

The Aliens Restriction Act of 1993 and the Immigration Act of 1967 were enacted to protect refugees and asylum seekers in Kenya. These laws were applied exclusively for immigration matters relating to non-citizens and without regard to the protection needs of those involved. However, they did not incorporate the terms of the Refugee Convention and its Protocol (Odhiambo, 2007). Similarly, the terms of the Refugee Convention and Refugee Protocol were not incorporated. The key elements of these treaties were recognized and incorporated into Kenyan law by reference (Odhiambo, 2007).

The two pieces of legislation were shaped by the exodus of Ugandans into Kenya

during Amin's reign. The Immigration Act, for instance, was amended to provide for forced migration, as well as (orderly) immigration. The Aliens Restriction Act was passed to govern non-citizens and 'aliens', including refugees, also in direct response to the Ugandan exodus. The preamble to the Aliens Restriction Act stipulates that this piece of legislation was passed to impose specific restrictions on foreigners and more generally to 'make such provisions as are necessary or expedient' to fulfill the restriction objective (Odhiambo, 2007).

The scale and profile of refugees in the early 1990s prompted a major shift in the Kenyan refugee policy away from integration and towards one of encampment (O'Callaghan & Sturge, 2018). The policy required the settlement of refugees in camps where their movements were controlled. A refugee was not at liberty to leave a camp unless there was a valid reason to do so (Jaji, 2012). Encampment has an important bearing on public attitudes towards refugees in that it reduces opportunities for contact that are deemed so integral to positive attitudes. This suggests that the development of refugee policy in Kenya has been marked more by security concerns than protection considerations (Dempster & Hargrave, 2017).

Literature from global, regional, and local perspectives indicates that refugee protection and management are influenced by political factors, perceptions, and regulatory frameworks. Several studies have shown the influence of political factors on refugee protection (Goodwin-Gill, 2008; Weima, 2017; Hemaadri, 2017; Gerver, 2018). Other researchers (Campbell, 2006; Hynie, 2018; Guiu & Siddiqui, 2019) have shown how public perceptions of refugees have influenced their protection in host nation encampment of refugees in the receiving nation. On the influence of legal regimes, studies (Crisp & Long, 2016; Bidandi, 2018; Moussaoud, 2019) indicate that international and homecountry legal and regulatory frameworks and perspectives affect refugee protection and management. Public policy is a deliberate and (usually) careful decision that provides guidance for addressing selected public concerns in this case refugee management. These determinants of refugee management can be addressed by having a clear and

comprehensive policy on the subject which guides implementation of actions targeted towards addressing refugee issues.

1.3 Statement of the Problem

In early 2018, Kenya saw a new wave of refugees from Ethiopia as an estimated 9,600 Oromo people fled persecution and settled at the border town of Moyale (Wamuyu, 2017). The statistics show that 85,067 Somalis have been assisted by UNHCR and partners to voluntarily return to Somalia between 2014 and 2019. There remains large number of refugees in Kenya totaling to 491,258 as of January 2020, from 587,223 refugees in 2013 before the start of the voluntary repatriation (UNHCR Kenya, 2019). Eighty four percent of these refugees reside in camps with 16% residing in urban areas. Males account for 51%, 49%, with women and children comprising of 78%. In terms of legal status, 89% were refugees and 11% were asylum seekers (UNHCR Kenya, 2019).

There are three durable solutions of refugee management: voluntary repatriation, third country resettlements, and local integration. Kenya has been able to successfully conduct voluntary repatriation of refugees with respective home countries and also conduct successful resettlement of refugee in partnership with international organisations - United Nations High Commissioner for Refugees (UNHCR) and International Organization for Migration (IOM). On the same note, local integration of refugees in Kenya has been adopted less in managing refugee affairs. Voluntary repatriation which began in 2013 has only managed to repatriate 25% of refugees in the last five years whilst only 1% have been resettled to a third country (Kirui, Wanyonyi, & Kutto, 2020).

As of 31st March, 2020, there were 494,585 registered refugees and asylum-seekers. 37,039 refugees have been resettled since 2011 while 88,623 refugees were voluntarily repatriated since 2009 (UNHCR, 2020a). Statistics on the level of integration for refugees in Kenya are lacking, despite Kenya being signatory to the 1951 Convention that provided a legal framework for the integration of refugees in

States party to the Convention. The statistics provide evidence that there are gaps in refugee management in Kenya which require further examination and empirical investigation. Refugees have the right to work, but practical barriers, including requiring an offer of employment to gain a work permit and restrictions on working above a certain pay grade, frustrate the realisation of this right (Samuel Hall, 2018). Kenya's policy of encampment effectively prohibits refugees from leaving the camps. Movement passes are only granted for specific reasons and bureaucratic and financial difficulties fundamentally curtail refugees' ability to access formal employment and higher education (ILO and UNHCR, 2019).

There are several studies that have been conducted on refugee management in Kenya. Kamau (2014) study on factors influencing integration of refugees into the local community in Dadaab, Garissa County which cited family support systems, local language, socio-cultural factors, and government support systems as influencing local integration. Harufa (2014) research on social integration of refugees in Kenya which found that some refugees had integrated and enjoyed access to education and medical facilities but this was limited to urban areas.

Cheva (2019) examined the impact of self-integration of Somali refugees in Nairobi on Kenya-Somalia relations which found that self-integration had an impact on trade, security, and immigration between Somalia and Kenya. Kirui et al. (2020) examined challenges of repatriation and prospects of local integration which found that voluntary repatriation and settlement as durable solutions had not met the anticipated outcomes. From these studies, it can be deduced that refugee management strategies have not been successfully implemented in Kenya and this could be attributed to the lack of a policy framework to operationalize the Refugee Act of 2006 which is the most comprehensive regulatory framework for refugee management in Kenya. This study sought to fill these gaps by analyzing the challenges facing refugee management in Kenya, policy gaps in refugee management and possible policy solutions for addressing the identified policy gaps.

1.4 Research Objectives

The main objective of this study is to assess the policy framework for refugee management in Kenya: an assessment of challenges, gaps, and options

1.4.1 Specific Objectives

The study was guided by the following research objectives;

- i. To identify the challenges facing the refugee management system in Kenya.
- ii. To review the existing policy framework and identify the gaps for refugee management in Kenya.

1.5 Research Questions

The study aims to answer the following questions;

- i. What are the challenges facing refugee management in Kenya?
- ii. What gaps exist in the policy frameworks for refugee management in Kenya?

1.6 Scope of the Study

A significant number of refugees reside in camps with a small number in Kenya's urban areas. However, this study limited its investigation towards refugee communities in refugees in Kakuma and Kalobeyei camps. This study focused on refugee management by examining the gaps and challenges in repatriation, integration, and resettlement of refugees in Kenya. Several factors have been associated with influencing policy formulation in the literature, however, this study limits its investigation to gaps in existing refugee act and challenges in practice of refugee management processes in Kenya.

1.7 Significance of the Study

This study is important to policy and decision-makers in refugee policy as it would provide an insight into the factors influencing refugee management and integration in Kenya as a durable solution. The study would be useful for nongovernmental organizations and state department agencies in Kenya as it provides insight into problems facing implementation of refugee integration perspectives of refugees and staff working in these organizations. The study hopes to be of significance to scholars as it would contribute towards the body of knowledge on refugee management through the refugee integration which is one of the durable solutions recommended for addressing refugee issues. The study further would suggest areas of further research for future researchers to investigate on refugee integration in Kenya and the region.



CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter presents the review of literature for the study. A theoretical framework is presented herein along with empirical literature for each of the study variables, the study research gap, conceptual framework and operationalization of variables.

2.2 Theoretical Foundations

A theoretical framework is a collection of interrelated concepts that can be used to direct research with the purpose of predicting and explaining the results of the research. Simply put, a theoretical framework is used to provide the rationale for conducting the research (Radhakrishna, Yoder, & Ewing, 2007).

Refugee Aid and Development (RAD) theory, identifies the multifaceted links and synergies between development and refugee issues focuses mainly on building infrastructural capacity to facilitate the hosting of refugee populations as well as recognizing the need for refugee assistance to be development oriented, taking into serious account host populations' needs (Betts, 2004; Morfor, 2012). RAD theories managed to draw the attention to the situation of host populations working along the assumption that refugees represent a burden rather than an opportunity (Kuhlman, 1990). Harrell-Bond (1990) cited in Mehta & Gupte (2003) associating himself in this regard asks: "Why are refugees and displaced people defined as a welfare problem requiring „relief“ or „care and maintenance“, rather than as people who have problems, but who also have the determination to survive and who are ready to put their energies into productive work that could also benefit their hosts?" For it has been recognized in recent times that refugee situations bring both costs and benefits to their host communities. Refugee resource in this

context should be identified and utilized as contribution towards socio-economic development of host countries (Morfor, 2012).

Human rights theory has assisted in understanding the violations of the rights of the refugees in their countries of origin, in the camps, and in their countries of resettlement (Pirouet, 1995) points out that “violations of human rights are not simply the result of conflict in Africa, they are among the causes, though when conflicts occur, human rights violations increase and such situations generate refugees”. Marete (2011) contends that many of the conflicts and wars in Africa can be attributed to historical injustices created by colonists in their scramble to colonise Africa. Loss of key cultural customs and beliefs due to colonization and western influences in many African nations in turn led to greater social disorganization, conflict and violence. Conflict in Africa has been caused by dictatorial leadership and poor governance by some African leaders as well. This has led to ethnic tensions pitting different tribes in the same countries against each other, most often over leadership, religious beliefs, or natural resources. These conflicts have led to prolonged wars in many African countries, leading to genocide and mass destruction of infrastructure and property (Stadler, 2016).

2.3 Challenges facing Refugee Management

Kenya’s history of refugee hosting began in the 1960s. With a small refugee population of a few thousand, no specific refugee laws had been enacted within the country, but “refugees could access work and move freely” under only the purview of the Kenyan government.⁶⁵ At last, Kenya signed the 1951 Refugee Convention in 1966 and the 1967 Refugee Protocol in 1981. Despite signing these international pieces of legislation, Kenya made no effort to develop a refugee program at that time. In the 1970s, the country received an influx of Ugandan refugees after the administration of Idi Amin, but even then “they were received well and most of them eventually integrated into Kenyan society” receiving educations and being “allowed to work in formal sectors.

For refugees, the UNHCR has defined three durable solutions in order to allow refugees to rebuild their lives after fleeing persecution. These solutions are intended to provide refugees with the fullest extent of their human rights and grant them opportunities to return to relative stability. The three durable solutions for refugees are voluntary repatriation, local integration, and resettlement. Voluntary repatriation occurs when refugees willingly return to their countries of origin after being granted asylum elsewhere; this can take place after the reason for their initial persecution has lessened or has ceased to exist in their country of origin altogether; with the cessation of conflict, a cessation of refugee status may occur as refugees are allowed to return to their homeland. Local integration occurs when a protracted conflict or persecutory state persists in a refugee's home country and they are unable to return. In this case, refugee programs exist for refugees to integrate in their new homes and become part of a new community. Lastly, refugee resettlement "is the transfer of refugees from a temporary asylum country to another State that has agreed to admit them and ultimately grant them permanent settlement. Resettlement is unique in that it is the only durable solution that involves the relocation of refugees from a temporary asylum country to a third country."

In the 90s, Kenya's relatively *laissez faire* approach to refugee hosting underwent a dramatic transformation. Hundreds of thousands of refugees arrived from Somalia, Ethiopia, Burundi, Rwanda, and the DRC fleeing civil war, multiplying Uganda's refugee population about tenfold.⁶⁷ In response, the Kenyan government recused itself from refugee hosting, relying instead on UNCHR emergency response construction of refugee camps. The hope of both the Kenyan government and the UNHCR was that these refugees could voluntarily repatriate after the cessation of their respective conflicts, making the camps a temporary structure.⁶⁸ Neither party had anticipated that additional conflicts would rise up in neighboring countries and make Kenya's refugee camps a permanent feature of the country. Many refugees were eventually repatriated, at times voluntarily and

at times involuntarily, but the camps continued to grow in size due to a continued flow of arrivals.

Kenya finally formulated its own Refugee Act in 2006, establishing its own Refugee Regulations in 2009 to create a national legal framework for refugee hosting and rights. Until this point, refugees in camps possessed little to no rights within Kakuma and Dabaab, the only two refugee camps within the country at that point. The 2006 Refugee Act created certain rights and benefits for refugees within Kenya, including agreements to international OAU and UNHCR definitions of refugees and the establishment of the Department of Refugee Affairs (DRA), the Refugee Affairs Committee, and the Refugee Affairs Board of Kenya.⁷²

However, Kenya's 2006 Refugee Act created numerous problems for refugees who thought they were promised the full extent of their rights by the act. It only allowed refugees the same rights to work as other "non-nationals" within the country, meaning that they had to apply for conditional "Class-M" work permits accompanied by "a recommendation from a prospective employer, and must be accompanied by a letter from the DRA confirming refugee status" to gain legal employment.⁷³ To further complicate matters, refugees were only allowed to seek work permits from the government in Nairobi, not in refugee camps, and "refugees were required to reside in refugee camps unless they had authorization to live elsewhere."⁷⁴ Seeking a work permit was not considered a sufficient reason to leave a refugee camp, so in practice, it was physically impossible for a refugee in Kenya to legally seek formal employment. Refugees could not exit their camps without a "movement pass", the infringement of which entails a "penalty of a six-month jail term, a fine of 20,000 Kenyan shillings (approximately \$200), or both." The following is a list of some of the key challenges facing the refugee management system:

2.3.1 Little information on the urban refugee population

Most refugees living in urban areas do so without the authorization of the

government, and are in violation of the government's encampment policy. In light of this, and UNHCR's own limited resources, the programme of the Office is focused on camp based refugees, with assistance to urban refugees reserved only for those whom there is a compelling reason for residing outside the camps. Relatively little is known on the actual size and need of urban refugee populations living in Nairobi and elsewhere in Kenya.

2.3.2 Lack of domestic refugee legislation

Kenya does not have national legislation specifically addressing refugee issues and the government's refugee status determination procedure was discontinued in 1993. Other legislation which has a bearing on refugee issues falls short of an asylum/refugee framework. The absence of specific legislation governing refugee affairs leaves refugees vulnerable to treatment that is not in accordance with internationally recognized protection standards.

2.3.3 Refugees not included in development and poverty reduction strategies

Refugees are often viewed negatively by the host population who see them as a threat to security, specifically as traffickers of small arms and drugs. They are also believed to place a strain on social services and to harm the environment. These sentiments are reflected in national poverty reduction and development strategies which do not include refugees as beneficiaries of such strategies or as agents of change.

2.3.4 Absence of refugee registration by Government

Prior to 1993, the Government had a refugee determination process, and those who were found to be Convention refugees were registered. Since the discontinuance of Refugee Status Determination (RSD) by the Government, the Government has undertaken a one-off registration exercise in each of the camps; however, no regular and systematic registration by the Government is being done, and as a

consequence over half the refugees currently in Kenya are not registered by the Government. This responsibility has fallen to UNHCR.

2.3.5 Physical insecurity of refugees

The Dadaab and Kakuma camps continue to be plagued by security problems including banditry, rape and murder. While the situation has improved over the years, women and children, in particular, remain vulnerable to abuse and exploitation. One perennial problem facing women is the risk of sexual assault while when collecting firewood outside the camps. Harmful traditional practices also affect the protection and well-being of women and girls including female genital mutilation, which is practiced amongst the Somali and Ethiopian refugees, and forced marriage, which occurs within both Somali the Sudanese communities.

2.3.6 Absence of documents conferring protected status

No more than 20% of refugees possess individual documentation which confirms the status of the bearer. Moreover, there is no single document that is in use. Rather there are various documents issued for different purposes including: Alien Identity Cards for government-registered Convention Refugees; Refugee Certificates for mandate refugees residing outside of the camps; movement passes for refugees transiting to/from the camps; and ration cards held by the head of household for the all camp-based refugees.

2.3.7 Lack of mobility

The vast majority of refugees are required to live in the isolated Dadaab or Kakuma camps. The government's encampment policy, which severely restricts freedom of movement, limits refugee access to markets, employment, and opportunities for self-reliance. It also inhibits the potential for refugees to contribute to local development. Violations of the encampment policy often result in the arrest and detention of refugees.

2.3.8 Inadequate assistance in meeting protection needs

While minimum standards of life-saving assistance have generally been maintained, malnutrition rates, anaemia among pregnant women, low-weight births, and neonatal death rates are unacceptably high due to nutrient deficiencies in the food baskets and limited supplementary feeding programmes. Additionally, the lack of regular non-food distributions has led many refugees to sell portions of their food baskets in order to purchase needed items, further impacting both caloric and nutritional consumption.

The majority of the refugees continue to reside in substandard shelters composed of branches covered by grass, cloth, and, when available, plastic tarpaulin which offer little privacy or security and are, arguably, inappropriate in a post-emergency situation. The collection of firewood, which has repeatedly been shown to put women and children at-risk for abuse and exploitation, has only partially been addressed through firewood distributions. The distributions, which cover only a portion of the need, have reduced but not eliminated women's and children's exposure to abuse.

2.3.9 Low education rates

There are a significant percentage of school-aged children who do not attend primary school. Of those who do attend, there is parity between boys and girls attendance in the early years but the latter falls dramatically in junior and senior grades.

Access to secondary education is severely limited. Secondary schools in the Dadaab camps, for example, only have space for 25% of primary school graduates.

2.3.10 Inability to achieve self-reliance

The government encampment policy, which restricts access to markets, land and employment, and the local labour laws, which prohibits refugees from engaging

in economic activities, severely constrains refugees' income generation potential and, hence, the opportunity to become self-reliant.

2.3.11 Limited opportunities for durable solutions

Voluntary repatriation to Somalia and southern Sudan is hindered by insecurity, the absence of services in communities of return, and the lack of UNHCR monitoring presence in areas of return. Local integration is contrary to government policy and not viewed as an option for significant numbers of refugees. Further, while large numbers of refugees are resettled out of Kenya each year (4,000 – 5,000), the numbers are fairly insignificant in comparison to the entire caseload.

2.3.12 Limited assistance to needy, refugee-impacted host communities

The host communities surrounding the Dadaab and Kakuma camps are, in many ways, more impoverished and desperate than the refugees in the camps. While members of the host communities can access some camp-based services, particularly in Kakuma, more could be done to build a sustainable economic environment, continue to provide host community with access to camp services, further develop local infrastructure, and strengthen programmes which benefit both the refugee and host communities.

2.4 Policy Frameworks on Refugee Management

The following are the policies on Refugee Management in Kenya:

2.4.1 The Constitution of Kenya 2010

The Constitution of Kenya is the supreme law of the land that binds all persons and state organs. Significantly, Article 2 (5) of the Constitution of Kenya 2010 in turn states that the general rules of international law shall form part of the law of Kenya. Article 2 (6) then states that any treaty or convention ratified by Kenya shall form part of the law. A plain reading of this article implies that, by virtue of

this provision, treaties and conventions ratified by Kenya do not now have to be domesticated for them to have the force of law. However, it is arguable whether treaties relating to human rights and fundamental freedoms are self-executing, as another constitutional provision requires the State to legislate international obligations in respect of human rights and fundamental freedoms.

Whereas there was already refugee legislation in place prior to the promulgation of the Constitution, the interpretation of provisions may influence the respect of rights of refugees that may not be provided for in the existing law, but are recognised in international frameworks. Most pertinently, in respect to the 2011 Refugees Bill currently under consideration, constitutional provisions on international treaties may be used to enhance the existing national law. There could even be room for litigation brought by individuals or by non-governmental entities against the government if the law - existing or revised - fails to meet the standards set by the constitution.

Equally, the Bill of Rights under the Constitution may positively influence the protection of refugees. The Bill of Rights is comprehensive and covers civil, political, economic, cultural as well as group rights. Asylum-seekers and refugees are also set to benefit from its progressive provisions in as far as they apply to all persons, for benchmarks are provided against which the enjoyment of human rights in Kenya is to be measured. And whereas many rights and freedoms may be limited, any such limitation shall only be by law, and only to the extent that is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom. Thus, for instance, for the policy of refugee encampment to be lawful, beyond description in law, it must also meet the test established by the limitation clause; otherwise it is null and void.

Article 43 on economic and social rights is also important. This article establishes six rights accessible to all: the highest attainable standard of health, including the right to health care services and reproductive health; accessible and adequate

housing, and to reasonable standards of sanitation; freedom from hunger, and access to adequate food of acceptable quality; clean and safe water in adequate quantities; social security; and education. Services in respect of those rights have to adhere to the minimum core content of each right as established by the UN Committee on Economic and Social Rights. The current situation for refugees at the camp level would not meet these minimum standards, and to this extent the Bill of Rights could be invoked in holding the government of Kenya to its constitutional responsibilities towards refugees.

Whereas the constitution plays a crucial role in describing the rights and responsibilities of all in Kenya, including refugees, the specific frameworks for asylum-seekers and refugees give a more detailed account of which freedoms refugees in the country are able to exercise, and how far Kenya is adhering to international standards.

2.4.2 The Refugees Act 2006

Prior to 2006, Kenya did not have refugee-specific legislation, and refugee affairs were administered under the general framework of immigration-related laws, notably the Immigration and the Alien Restriction Acts (both now repealed Cap 172 and 173 respectively). From 1992, on the invitation of the government, UNHCR assumed overall responsibility for refugee protection. This included the receipt of asylum applications and refugee status determination, resulting in the granting of refugee status based on UNHCR's mandate.

Under this regime, UNHCR recognized two classes of refugees: mandate and *prima facie*. Mandate status applied to those refugees who had undergone some form of individual refugee status determination (RSD), whereas *prima facie* status primarily applied to persons from Somalia and South Sudan - both regions affected by generalized conflict. *Prima facie* refugees primarily resided in camps, though over time even some mandate refugees were sent to the camps. Moreover, prior to the year 2000, there was no systematic registration of refugees by the government

and thus refugees could not access the right to identity documents. But this changed in 2000, when the government through the National Registration Bureau commenced registration and issuance of refugee identity cards¹⁸, a practice that has now been standardized under the Act.

In November 2006, after almost two decades of civil society-led advocacy, the Refugees Act was passed by Parliament, and in December 2006 received presidential assent. Commencing on 15 May 2007, the Act was significant for a number of reasons. Most importantly, it allowed the Kenyan government to formally assume overall responsibility for the management of refugee matters through the creation of an institutional framework, including the administrative processes on refugee status determination. Moreover, the law was also to serve as a guide to all stakeholders on how to deal with refugee matters in Kenya.

In its definition of a refugee, the Refugees Act categorizes refugees as either statutory or *prima facie*. In regard to statutory refugees, the Act adopts the definition from the 1951 Convention with the addition of sex as a ground for persecution. On the other hand, the definition of a *prima facie* refugee follows the expanded refugee definition under Article I (2) of the 1969 OAU Convention.

Further, the Act provides that the Minister may declare *prima facie* status to any class of persons. The use of the term may imply that the minister is at liberty to declare *prima facie* - but it is unclear what happens if he does not make such a declaration. Who is not a refugee is defined in similar terms as those of the 1951 Convention.

2.4.3 The refugee management institutional and protection framework

The Act establishes the Department of Refugee Affairs (DRA) within the Ministry of State for Immigration and Registration of Persons, replacing the Refugee Secretariat which had been set up under the Ministry of Home Affairs. The DRA is headed by a Commissioner of Refugees and is charged with overall

responsibility for all administration, coordination and management of refugee matters. The Act and its implementing regulations, the Refugees (Reception and Adjudication) Regulations of 2009, spell out the asylum application procedures as well as the rights and duties of refugees.

2.4.4 The right to seek asylum

Article 14 of the Universal Declaration provides that ‘Everybody has the right to seek and enjoy asylum.’ While this does not translate to an automatic right to asylum, the granting of which remains a national prerogative, states are expected to put in place fair refugee status determination procedures that are accessible to asylum-seekers. Specifically the OAU Convention in Article I (1) urges member states to ‘use their best endeavours consistent with their respective legislations to receive refugees and in Article II (2) recognizes that ‘the grant of asylum is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any member state.’

Section 11 of the Refugees Act 2006 provides that those who come to Kenya seeking protection as refugees must be allowed to do so regardless of whether or not their entry into Kenya was by legal or illegal means. However, once they are within the Kenyan territory, it is the responsibility of every asylum-seeker to report his/her presence to the Appointed Officer. This must be done within 30 days. Section 11 (2) of the Act also recognizes that persons that are already lawfully in Kenya can apply for refugee status and requires that they surrender other permits issued under the immigration laws for cancellation in exchange for the Asylum Pass. Essentially, this section is a codification of the non-criminalization principle that provides that asylum-seekers should not be penalized for failing to conform to the set immigration procedures. Furthermore, the refugee status determination procedure should be independent of immigration regulations and procedures regarding entry.

With regard to asylum applications and procedure, the Act and its implementing regulations, the Refugees (Reception and Adjudication) Regulations of 2009, outline the procedure for individual status determination. Under the Act, the function of refugee status determination is to be carried out by the DRA, with the Refugee Affairs Committee²² being responsible for issuing first instance decisions which can be appealed to an independent Refugee Appeals Board. However, both the Act and the Regulations are silent on the process to be followed in the case of prima facie refugees, a classification to which Somali refugees in Kenya belong.

2.4.5 Non-refoulement

Related to the right to seek asylum is the right not to be forcibly returned (*non-refoulement*). *Non-refoulement* has been referred to by UNHCR as the cornerstone of asylum and international refugee law. Enshrined in Articles 33 and II (3) of the UN Convention and the OAU Convention respectively, the principle prohibits the return of persons to countries or territories where their lives or freedom may be threatened for reasons of race, religion, nationality, political opinion or membership of a particular social group.

Furthermore, forcible return is also prohibited if a person would be in danger of being subjected to torture, inhuman or degrading treatment. This prohibition is explicitly or through interpretation provided by a range of international instruments²⁴. *Non-refoulement* also applies to asylum seekers, meaning that persons wishing to seek asylum must not be turned away at the borders or at any time before their status has been determined. This also means that states should have in place procedures or arrangements for identifying asylum-seekers and refugees so as to ensure that anyone deserving of international protection is granted it.

Section 18 of the Refugees Act conforms to this principle through the following provision:

No person shall be refused entry into Kenya, expelled, extradited from Kenya or returned to any other country or subjected to similar measure if, as a result of such refusal, expulsion, return or other measure, such person is compelled to return or remain in a country where -(a) The person may be subject to persecution on account of race, religion, nationality, membership of a particular social group or political opinion; or (b) The person's life, physical integrity or liberty would be threatened, on account of external aggression, occupation, foreign domination or events seriously disturbing public order in part or the whole of that country.

However, Article 33(2) is clear that *non-refoulement* 'may not be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.'²⁵ The principle of *non-refoulement* is not therefore absolute- national security and public order are allowable exceptions- but importantly, the individual and not the group is the target for the application of these exceptions. Hence, a state is precluded from turning away or denying entry to whole groups of people, as Kenya has sometimes done. Section 18 of the Refugees Act also codifies the *non-refoulement* principle in terms of the individual. Even in the event that the minister declares a certain class of persons to be *prima facie* refugees, exclusion from that class is on an individual basis.

2.4.6 Basic standards of treatment

Once granted admission into Kenya, asylum seekers and refugees have a number of rights and responsibilities. The Refugees Act, with the exception of the right to identification documents and wage-earning employment, does not detail what these rights are. However, it provides in general terms for recognised refugees and their families to be entitled to the rights and subject to the obligations contained in the international conventions to which Kenya is a party.

The 1951 UN Convention prescribes what can be viewed as minimum rights to

which Convention refugees are entitled. These can be clustered as follows: Those that require refugees to receive the same treatment as nationals of the receiving country: free exercise of religion and religious education, access to the courts, including legal assistance, access to elementary education, access to public relief and assistance, protection provided by social security, protection of intellectual property, such as inventions and trade names, protection of literary, artistic and scientific work, and equal treatment by taxing authorities.

Those that require refugees to receive the most favourable treatment provided to nationals of a foreign country: the right to belong to trade unions, the right to belong to other non-political non-profit organizations, and the right to engage in wage-earning employment. Those that require refugees to receive the most favourable treatment possible, which must be at least as favourable to that accorded to nationals of a foreign country generally in the same circumstances: the right to own property, the right to practice a profession, the right to self-employment, access to housing, the right to choose their place of residence and to move freely within the country, and access to higher education.

The principle of non-discrimination requires that all refugees be treated equally, irrespective of their race, religion, nationality, membership of a particular social group or political opinion. This principle also cuts across other human rights instruments such as the ICCPR, International Covenant on Economic, Social and Cultural Rights (ICESCR), CRC, Convention on the Rights of Persons with Disabilities (CRPD), and the Committee on the Elimination of Discrimination Against Women (CEDAW), all of which are also applicable to refugees and to which Kenya is signatory.

2.4.7 The duties of refugees

Generally, refugees, like other aliens, have a duty to respect the laws of the countries in which they find themselves. For example, Article 2 of the 1951 Convention provides that 'every refugee has duties to the country in which he

finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.’

This is echoed in the terms of the OAU Convention. In particular, refugees are obliged to abstain from any subversive activities against any Member State of the OAU and on their part signatory states are obliged to prohibit refugees residing in their respective territories from attacking any State Member of the OAU. The essence of these provisions is to ‘depoliticize and cohere the grant of asylum’ rather than bar refugees from holding political opinions. That said, in exercise of their political opinions, refugees cannot take up arms or be active combatants because in so doing they will compromise their civilian nature, resulting in loss of international protection.

While these are also imputed duties of Section 16 of the 2006 Refugee Act, which imports the rights and obligations contained in the international conventions to which Kenya is a party, the Act also includes the provision of truthful information on registration, attendance of the status determination interview, compliance with fingerprinting and photographing requirements, and surrender of any permits issued prior to the application for asylum.

2.4.8 Encampment policy and freedom of movement

Until the mid-2000s *prima facie* refugees primarily resided in camps, while convention refugees could get authorization to stay in the urban areas - the so-called ‘urban mandate’. Over time, even asylum seekers of other nationalities and mandate refugees were sent to the camps, but some still remain in Nairobi. During interviews with the DRA Officers in Nairobi and Dadaab, it was confirmed that the Government pursues an encampment policy in respect of both refugees and asylum seekers.

In the words of one official, encampment has been established through practice - ‘*kuzoea ni kama sheria*’. However, not all asylum seekers or refugees live in the

camps, and there are those that still enjoy the urban mandate - mainly the pre-mid-2000s non-Somali, non-South Sudanese caseload and a smaller post-mid-2000 caseload whose urban mandate is for education or security reasons-and an even larger number living in the urban areas without authorization. The reasons for leaving the camps are varied, but most are connected to livelihood opportunities and better security.

The Constitution in article 39 (3) reserves the right to choose a place of residence for Kenyan citizens only. The national refugee law does not expressly provide for encampment but makes reference to designated places of residence. Section 16(2) (a) and (b) states that the ‘Minister may by notice in the Gazette, in consultation with the host community, designate places and areas in Kenya to be transit centers for purposes of temporarily accommodating persons who have applied for recognition as refugees or members of the refugees’ families while their applications for refugee status are being processed; or refugee camps’. Furthermore Section 17(f) empowers Refugee Camp Officers to issue movement passes to refugees wishing to travel outside of the camps. Finally, Section 25(f) makes unauthorized residence out of the camp an offence punishable by a fine of up to KES 20,000 and/or imprisonment for six months. However, the Minister is yet to designate the actual location of these camps. This policy is further entrenched through documentation, with the place of residence indicated on the face of the refugee identity card.

Restriction of movement is generally not contrary to the 1951 Convention. For asylum seekers, article 31 (2) allows restrictions that are necessary until one’s status is regularized, a not uncommon caveat in other jurisdictions⁴⁸. But with regards to refugees, restriction of movement should only be in the same terms as other aliens in similar circumstances. Read together with the Kenyan constitutional provisions, encampment is not illegal abinitio. The question is: given that other aliens are not subject to similar restrictions, does the restriction on refugees as a category amount to discrimination within the meaning of article

27(4) of the Constitution?

A majority of Somali refugees are confined to camps from where they receive humanitarian assistance. Others have made their way to Nairobi and other urban areas in the country, but without express permission to change their residence they are subject to ongoing harassment by the police.

Encampment in designated areas has meant that refugees, unlike other aliens in Kenya, do not have the right to choose their place of residence and their freedom of movement is severely curtailed. As movement is an enabler, rather than an end in itself, the lack of freedom of movement negatively impacts on the enjoyment of other rights as well. These include employment, self-employment, practice of profession, higher education and even access to courts, as refugees have to wait for the monthly mobile court sittings in the camp.

As stated earlier, refugees who wish to travel outside of the camps are required to obtain a movement pass from the DRA. This allows an asylum seeker or refugee to travel outside of the camp for a limited duration of time. The Regulations provide that movement passes will be issued to refugees with valid reasons, but fall short of indicating what such valid reasons might be. However, the DRA website lists some of the following: medical grounds, education, resettlement, and business. This restricted list also appears to acknowledge the importance of movement passes in enabling the enjoyment of certain rights by refugees. Most importantly, the movement pass in of itself is meant to promote and secure the enjoyment of the freedom of movement. But in the case of Dadaab, the process has been securitized: the focus is on the restriction, not the right of movement. Applications for movement passes have to be screened by a locally constituted security committee chaired by the local district officer, who then agrees to allow or disallow the travel. This process, which is not provided in law, undermines movement and occasions delays - meaning refugees may be forced to take the risk of travelling without the requisite authorization. The obvious outcome of this

illegal government action, then, is the exposure of refugees to police harassment and extortion. To avoid this, refugees with the help of local residents have found alternative routes that bypass police road blocks. Thus it is not uncommon to find a significant number of refugees in urban areas without movement passes.

2.5 Literature Review Summary and Research Gaps

The empirical literature shows refugee management challenges from a global, regional, and a local context. However, the literature has not gone in-depth to examine the policy gaps in these contexts that have contributed to the state of affairs in refugee management. Second, the literature shows different policy frameworks influenced by the international framework for refugee management, which have been adopted in different extents in different countries. This is a gap that the study aims to fill by assessing the challenges facing refugee management in Kenya to make policy recommendations to bridge the gaps in the current policy framework in Kenya. This study therefore aims to examine the challenges facing refugee integration which is limited to six domains as identified in the literature and go in-depth to show how these are constraints to refugee integration in Kenya. More so, the empirical literature shows that countries have adopted one of the four policies in refugee management. Kenya has adopted two or more of these policies in its evolution as a host country to refugees in the region and the impacts of these policies on integration of refugees was thus examined.

Table 2. 1: Research Gaps

Author	Title	Methods	Findings	Gaps	Focus
Rook (2020)	Identifying Better Refugee Policies for an Evolving Crisis	Desk study review	The countries involved include the haven countries of Kenya and Uganda, the coastal nation of Italy, the inland	The study does not focus on Kenya a sole and	This study sought to analyze the challenges facing refugee

		European countries of Germany and Hungary, and the North American countries of the USA and Canada. All of these countries are scrutinized based on their previous and current institutions, the author's personal experiences with them, and contemporary literature on refugee hosting.	therefore has general findings	management in Kenya	
Muiru (2018)	The impact of security policies on refugee repatriation of Somali Refugees from Dadaab refugee camp, Kenya	This study took a qualitative, desk research approach	It was established that Kenya has played positive diplomacy in the process of repatriation of Somali refugees. Kenya's foreign policy has been effective and instrumental in ensuring repatriation process is carried out in	The study is limited to refugee repatriation	This study sought to analyze the challenges facing refugee management in Kenya

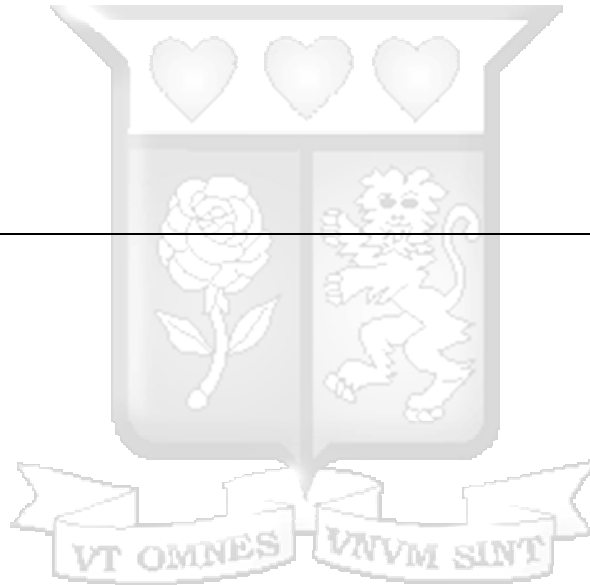
			accordance to the prevailing law. The findings also showed that refugee security has been the center of focus during repatriation		
Noell (2014)	Slipping Through the Cracks: A Kenyan Case Example of Refugeeism, International Norms, and Gender-Based Violence	This thesis utilized document analysis	The study concluded that refugees facing gender-based violence in Dadaab and Kakuma will benefit from a shift in Kenyan policy away from its current application of international norms, the implementation of the more human rights conscious policies of the African Union, and Kenya's reconsideration of its responsibility as a host country.	The study is based on a document analysis as compared to the current study	This study sought to analyze the challenges facing refugee management in Kenya
Abdiha fid (2016)	Factors influencing	The study adopted	The findings of this study revealed that	The study does	This study sought

manage
ment of
refugee
camps in
Kenya

a
descripti
ve
research
design.

there are
incidents of
crimes in the
refugee
camps such as
banditry,
shootings,
there are also
some
instances of
terror cells
operating in
the camps.

not offer
options
and solu
tions to
the facto
rs affec
ting the
mana
geme
nt of
refugee
camp
s



2.6 Flow Diagram

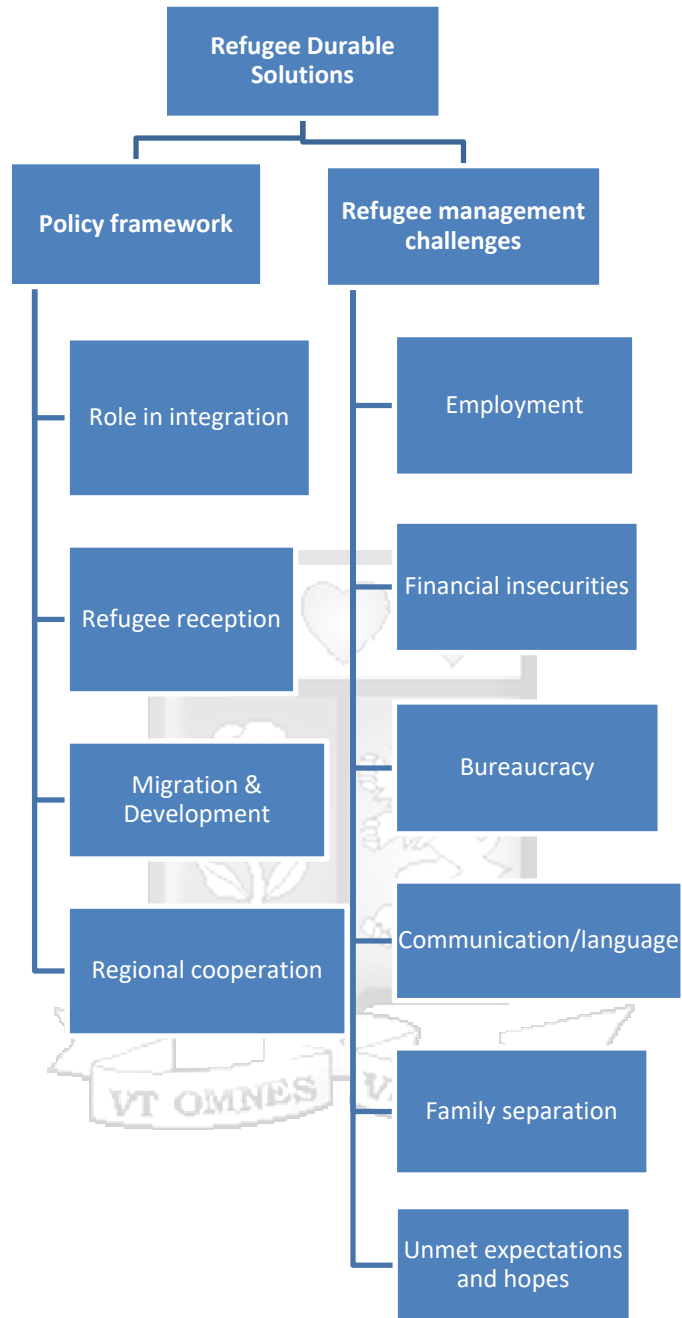


Figure 2. 1: Flow Diagram of Refugee Durable Solutions

Source: Researcher (2022)

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

The research design and methodology that the researcher used to gather requisite data is expounded in this chapter. Specifically, the chapter presents the research design, location of study, target population, sampling procedures, data collection, and instrumentation, sampling procedures, data analysis and presentation as well as ethical issues.

3.2 Research Design

A research design is a detailed set of questions, hunches, procedures, and a plan of action for the conduct of a research project (LeCompte & Schensul, 2010). The research adopted the exploratory research design to assess the policy framework for refugee management in Kenya. According to Burns and Groove (2001), exploratory research helps gain new insights, discover new ideas, which are important for increasing knowledge of the phenomenon. This fact is supported by Orodho and Mutungwa (2014) who argue that this design enables multiple outcomes and exposures to be studied hence allowing data on all variables to be collected at the same time. It was, therefore, suitable for this study, since it is faster, requires less time and resources and at the same time allows room for further investigation.

3.3 Location of Study

This study was undertaken in Kakuma refugee camp and Kalobeyei Integrated Settlement. Kakuma refugee camp is based in the Northwestern region of Kenya. After negotiations by the United Nations High Commission for Refugees, the County Government of Turkana and the National Government, Kalobeyei Integrated Settlement was identified for resettlement. This study focused on policy

specifically integration, organizations dealing with refugee management was sampled. These include UNHCR, IOM, the Kenyan Government, Danish Refugee Council, Non-Governmental Organizations and Civil Society Organizations. The study also sampled refugees from both Kakuma and Kalobeyei locations were chosen because the refugees have been living in appalling conditions, substandard housing, poor roads, inadequate water and poor sanitation, the camp is not a sustainable long-term solution to the displacement of people, nor was it ever meant to be. The Kenyan Government has made several attempts in recent years to close the camp.

3.4 Target Population of the Study

The study targeted the refugees living in Kakuma and Kalobeyei Integrated Settlement. The unit of analysis was mainly the officials in charge of refugee policy development and implementation from UNHCR, IOM, the Kenyan Government, Danish Refugee Council, Non-Governmental Organizations and Civil Society Organizations and refugee representatives including women, youth and PLW representatives. Table 3.1 shows the target population.

Table 3. 1: Target Population

Location	Description	Sample
Kakuma & Kalobeyei	Leader	23
	Women Representative	5
	Youth Representative	3
	People Living with Disabilities	2
Kituo RCK (CSO)		5
UNHCR		5
IOM		5
Danish Refugee Council		5
Ministry of Interior		5
Total		58

Source: US Refugee Admissions Program (2020)

3.5 Sampling Procedure & Sampling Size

3.5.1 Sampling Procedures

These officials and representatives were purposively selected. Purposive sampling gives flexibility to the researcher to use his/her own judgment to pick the representative from the population. The researcher purposively selected the leaders in the refugee camps, the section in UNHCR, IOM, NGOs, Danish Refugee Council and CSOs responsible for refugee integration.

3.5.2 Sampling Size

The leaders include male and female respondents from the different countries as well as arepresentative for people living with disabilities. 10% of the leaders were selected for the key informant interviews. The other groups (Women, youth and PLW representatives) had all their representatives interviewed.

Table 3. 2: Sample Size

Location	Description	Sample
Kakuma & Kalobeyei	Leader	5
	Women Representative	4
	Youth Representative	3
	People Living with Disabilities	2
Kituo RCK (CSO)		1
UNHCR		1
IOM		1
Danish Refugee Council		1
Ministry of Interior		1
Total		19

Source: UNHCR & Kituo RCK

3.6 Validity and Reliability of Research Instruments

3.6.1 Validity of Research Instrument

Validity and reliability are two factors that are used to measure the quality of the instruments used in a study. Validity checks whether an instrument measures what it is intended to measure (Tavakol & Dennick, 2011). The study used content and face validity. In content validity, the questionnaire was formulated and operationalized as per the study variables to ensure adequacy and representativeness of the items in each variable in relation to the purpose and objectives of the study. Content validity was verified through expert opinion from supervisors and practitioners in the industry. This assisted in improving validity of the collected data. It as well ensured the appropriate modification and revision of instruments of research thus augmenting validity

In face validity, the questionnaire was subjected to expert analysis and opinions from at least two external experts who thoroughly checked the representativeness of the research instrument at face value. The experts critically examined each question against study objectives and how they were answered by the potential respondents and necessary adjustments were made. Instruments developed for other similar studies were also used for comparison purposes. The reviewers noted that the questionnaire had face validity and the questions in the questionnaire were rated as a good translation of all the study constructs.

3.6.2 Reliability of Research Instrument

Reliability checks whether an instrument gives consistent results after repeated times (Madanji, 2014). A pilot study was conducted to determine the reliability of the instrument which consisted of administering the interview to 10 members of the population. The pilot was conducted with members of the refugee in Nairobi

County, in Eastleigh. The test-retest technique of assessing the reliability of research instrument involves administering the same research instrument twice to the same group of subjects (Bonett & Wright, 2015) in order to establish the extent to which the contents of the interview are consistent in eliciting the same responses every time the instrument was administered. The researcher examined and went through the interview from the respondents and then harmonized inconsistencies which were unearthed by the pilot respondents.

3.7 Data Collection Procedure

The data approach for this research was qualitative. The primary data collection tool for this study was an interview schedule. The schedule was used to conduct the in-depth interviews using a key informant guide. An in-depth interview goes beyond the surface details to collect detailed information that relates to the study. The questions are pegged on probing the responses given, therefore, not structured. The research adopted a triangulation approach of data collection. Triangulation method is essential since it facilitates validation of data among sources to test the consistency of the findings. With the introductory letter, a briefing meeting was held with the officials from UNHCR responsible for managing the Kakuma and Kalobeyei camps to get access to the leaders of various refugee families. The officials also formed part of the sample as well as officials from the Kituo Refugee Consortium of Kenya.

For the camps, the researcher organized research assistants, the ones conversant with the local language for interpretation and clarification of questions. A debrief was done prior to the collection of data. On the actual day, the researcher gathered the research assistants and the leaders for the dissemination of the interviews to the respondents. The respondents are the ones who have met the criteria of being leaders and involved in matters of refugee integration. The Key informant interviews were conducted by the researcher in UNHCR, IOM, and Danish Refugee Council. After the collection of data, the researcher took the interview guides for

data analysis

3.8 Data Analysis

Data was analyzed in two phases; the first phase involved coding to look for themes and trends in the data. This was done through the Nvivo software version 12. The approach of generating the codes was inductive, i.e., codes generated while examining the collected data. The themes and relationship of data generated inductively was presented in the second phase. Here, the data was mostly interpreted to provide meaning. Further, the data was interpreted in line with every objective in prose.

3.9 Ethical Considerations

Ethical considerations are one of the researcher's responsibilities in research. They are expected to adhere to ethical practices and procedures of research subjects, research process and reporting and intellectual rights of other researchers (Akaranga and Makau 2016). This research was undertaken in line with the ethical guidelines stipulated by the Strathmore University Institutional Ethical Review Committee and the National Commission for Science Technology and Innovation. After obtaining clearance from proposal defense and the institutional Ethical Review Board at Strathmore University. The researcher sought research authorization from National Commission for Science, Technology, and Innovation (NACOSTI) and an introductory letter from the Directorate of Postgraduate Studies at Strathmore Business School.

CHAPTER FOUR:

PRESENTATION OF RESEARCH FINDINGS

4.1 Introduction

The findings from the study's primary instrument are discussed in this chapter. It goes through the profiles of the respondents as well as their thoughts on the challenges, gaps, and options that influence policy framework for refugee management in Kenya. The researcher presented the information gathered in prose to summarize the interviewees' collective reactions.

4.2 Sample Representation

The researcher carried out the study at Kakuma Refugee Camp and Kalobeyei Settlement Center where the researcher engaged the refugee leaders and policymakers. Out of 19 interviewees, only 16 turned out for the interview representing a response rate of 84.2%.

4.3 Demographic Analysis

This section allowed the researcher to see who was being interviewed, allowing them to determine whether the respondents were the ones they were looking for and whether the researcher was obtaining the information they needed. It also determines how well the sample represents the entire population. In this section, respondents were asked to provide background information such as their gender, length of time they had worked on refugee issues and demographics of the interviewees.

4.3.1 Respondents' Gender

The researcher sought the respondents' gender. Table 4.1 reveals the findings.

Table 4. 1: Respondents' Gender

	Frequency	Percent
Male	12	75.0
Female	4	25.0
Total	16	100.0

The study sought to establish the gender of the interviewees where it was established that majority (75%) were male while the rest (25%) were female. This means that the researcher took into account all respondents, regardless of gender, in order to gather reliable data on the subject at hand.

4.3.2 Respondents' Experience with Refugee Issues

The researcher moreover asked to the respondents to indicate their experience with refugee issues. Table 4.2 shows their results.

Table 4. 2: Respondents' Experience with Refugee Issues

	Frequency	Percent
Less than 3 years	4	25.1
3 - 5 years	5	29.1
5-7 years	4	23.5
More than 7 years	3	22.3

Total

16

100.0

From the findings, 29.1% of the respondents experience with refugee issues for 3 - 5 years, 25.1% for less than 3 years, 23.5% for 5-7 years and 22.3% for more than 7 years. This implied that majority of them had sufficient experience with refugee issues and could therefore be able to provide credible and accurate information on the issue under investigation.

4.3.3 Distribution of the Interviewees

The researcher sought the distribution of the interviewees. Table 4.3 reveals the findings.

Table 4. 3: Distribution of the Interviewees

	Frequency
Kituo RCK (CSO) official	1
UNHCR official	1
IOM official	1
Danish Refugee Council official	1
Ministry of Interior official	1
Male People Living with Disabilities Representative	1
Female People Living with Disabilities Representative	1
Male Youth Representative	1
Female Youth Representative	1
Women Representatives	2
Leader	5

4.4 Challenges Facing Refugee Management in Kenya

The study sought to identify challenges facing the refugee management system in Kenya. The interviewer required the interviewees to indicate the government policies on refugees that they knew. The Ministry of Interior official indicated that the changing situations in Kenya led it to adopt new refugee laws and policies. Laws such as Immigration Act of 1967 and the Aliens Restriction Act of 1973 were replaced to introduce new refugee policies. Thus new laws like the 2006 Kenya Refugee Act introduced the encampment policy, and the Security Laws (Amendment Act 2014) Act intended to scale down the number of refugees and reinforce the encampment policy.

The UNHCR official stated that the integration policy was used between 1963 and 1991, because of the low number of refugees in the country. This policy enabled refugees to settle in urban centres rather than in camps because the number of refugees was as low as just 20,000.

The IOM official noted that the encampment policy started around 1991 following the influx of refugees from Somalia and Sudan. It grudgingly accepted the refugees from neighboring countries on condition that they were settled in the distant refugee camps. This indicates that the encampment system took root in Kenya following the influx of refugees in 1991.

The Danish Refugee Council official stated that the Refugee Act, 2006 (revised 2012) provides the recognition, protection and management of refugees; and covers a broad range of areas including the process of administration, management and coordination, and rights and duties of refugees. The Act classifies refugees into two main groups, statutory refugees and prima facie refugees, and lays out the

conditions for the exclusion and withdrawal of refugee status. This includes those who have committed crimes either outside or within Kenya, have dual nationality and are able to seek refuge in their second country of origin, or people from places where the conditions for seeking refuge no longer exist. The Refugees Act defines and classifies refugees as “statutory” and “prima facie.” In this case, “a statutory refugee” is one who, owing to a well-founded fear of being persecuted for reasons of race, religion, sex, nationality, membership of a particular social group or political opinion is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself to the protection of that country; or not having a nationality and being outside the country of his former habitual residence, is unable or, owing to well-founded fear of being persecuted for any of the aforesaid reasons is unwilling, to return to it.

Table 4. 4: Additional Laws and Regulations Relevant To Refugees

Legislation	Purpose
Kenya Citizenship and Immigration Act, 2011	<ul style="list-style-type: none"> • Regulates matters relating to citizenship and immigration. • Recognizes various categories of refugees, including foreign nationals and stateless persons, and stipulates procedures and requirements necessary for such persons to obtain citizenship. • Defines a prohibited immigrant and inadmissible person, which includes a person who refuses to submit for examination by a medical practitioner after being required to do so. While the current version no longer specifies mental disorders as a basis for inadmissibility, “anyone who has been judicially declared incompetent” is inadmissible.

2012 Kenya Citizenship and Immigration Regulations

- Based on the Citizenship and Immigration Act, regulates citizenship registration, issuance of passports and other travel documents, immigration control, etc.
- Specifies the class of permits that refugees and other migrants can access, as well as the requirements for obtaining them; none are health requirements.

Kenya Citizens and Foreign Nationals Management Service Act, 2011

- Provides for the creation and maintenance of a national population register to record identification and registration information for all Kenyans and resident foreign nationals; includes asylum seekers and refugees as defined in the Refugee Act.
- Governs the administration of laws relating to births, deaths, marriages, identity and travel documentation, immigration matters and related matters.

3. Additional Laws Relevant to Migration and Migrants

The interviewees were also asked to indicate the challenges they thought that the government had in implementing policies. The UNHCR official stated that refugee management is highly politicized as Kakuma and Kalobeyei camps therefore seem to have freehand on refugees in their soils regardless of the general provisions of the conventions. Politics in Kakuma and Kalobeyei camps determine legislations governing refugees including regulations on repatriation and when to cease refugee status. For example, Article 5(e) of Refugee Act 2006 states that a person shall cease to be a refugee if that person “can no longer, because circumstances in connection with which he was recognized as a refugee have ceased to exist,

continue to refuse to avail himself of the protection of the country of his nationality”. This therefore means that Kenya can invoke the cessation clause by simply claiming that Somalia is now safe for return. Although refugees are persons of concern to the UNHCR, they are subject to Kenyan laws.

Moreover, one camp leader said that another challenge was the inadequate protection space for asylum seekers and refugees. This was seen by the limited capacity of authorities in key areas like child protection, female police officers, gender officers, magistrate and civil registry. This challenge was also seen with the delays in production of refugee ID cards and a backlog in the RSD procedure.

Another challenge as noted by the Kituo RCK (CSO) official was the specific needs by the refugees. Some of refugees were noted to be highly vulnerable with limited access to health and livelihood; they are exposed to limited mobility, stigma and discrimination. These include LGBTQI persons, elderly, and persons living with disabilities, women and children at risk, survivors of violence and gender-based violence (GBV), as well as individuals suffering from mental disabilities or disorders. In addition, the safety of women and children is severely threatened by cultural practices and social prejudices which continue to stigmatize survivors, preventing them from seeking available support, and ending certain types of SGBV (particularly Intimate Partner Violence and early/forced marriage). One Woman Representative added that protection remains a major concern for children residing in Kakuma Camp and Kalobeyei Settlement with close to 60 per cent of the population being below the age of 18 years. The large number of unaccompanied and separated children coupled with limited resources for families depending solely on humanitarian assistance, has exposed children to abuse, exploitation, violence and neglect.

Another challenge noted by another camp leader was the lack of community

participation and peaceful co-existence. These included: limited economic opportunities, freedom of movement within the County, legal challenges and a complex lengthy process exacerbated by administrative procedures for local integration. A UNHCR official added that durable solutions (resettlement, complementary pathways, voluntary repatriation and local integration) were not adopted as prospects for resettlement is low due to limited resettlement quotas.

The research also sought the various directives by the Government intended to evaluate its use of security concerns as the basis of its policies. The Danish Refugee Council official indicated that one of the directives was closing the Dadaab camp which was first hatched in 2013 when a tripartite agreement was signed binding Kenya, Somalia and the UNHCR on joint effort in repatriating Somali refugees. The government has threatened to force the Somali refugees out of the country which is against Article 33 of the UN Convention on Non-refoulement.

An IOM official stated that the other directive was Operation Linda Nchi (OLN) which was the most significant security operation undertaken by Kenya in another country. The operation was launched in October 2011 by the Kenya Defence's cooperation and the Somali military forces after the abduction of two French nationalities by the al-Shabaab in September 2011.

In addition, another directive stated by a leader was the Operation Usalama Watch to remove undocumented migrants from a community that has been portrayed as 'terrorists' by the narrative of the state and other Kenyans that are against them. After two attacks in March 2014 that injured many people, the Kenyan authorities began rounding up Somalis and forcibly relocating them to refugee camps in northern Kenya.

Another operation launched in July 2015 as stated by the Ministry of Interior official was the Operation Linda Boni enacted as a result of the Mpeketoni massacre in Lamu County and Garissa university attack in Garissa County. The operation involved some security agencies, including the KDF, the NPS, the AP, and the NIS. The government realized (through NIS information) that terrorists who carried out the attack used the forest as their haven. A small section of the Al-Shabaab in Kenya was using Boni forest as their hideout and an entry point of terrorists from Somalia into Kenya. The group was behind terror attacks in Lamu and Garissa counties between 2014 and 2015.

The interviewees were also required to indicate their thoughts on forceful encampment and repatriation of refugees being a contravention of refugee rights according to United Nations regulations. The UNHCR official indicated that the directive was in contradiction of Kenya's international obligations towards refugees because those who move from one country to another in search of better economic prospects were now as easily affected (in terms of how they are viewed) as those who flee from persecution. To top up however, the male people living with disabilities representative stated:

The media's propaganda made it look like repatriation is a forceful affair. He maintained that every country had a limit in terms of the number of refugees they can take. Kenya has the largest number of refugees in Africa despite the fact that the Kenyan economy is still struggling.

The Kituo RCK (CSO) official noted:

Looking at what happened in Europe, Greece and Italy, you can say that no single country should take sole responsibility of a regional

problem. In as much as the Kenyan government would like to play her part in accommodating all people that flee from conflict zones or for other reasons, we can only do so much as the interests of the Kenyan citizens come first.

The female youth representative said

Refugee or not, Kenya will always be a target for the Al-Shabaab terrorist group, but the encampment and repatriation of a reasonable number of refugees will go a long way to reducing the propensity of attacks being carried out in Kenya. Several potential attacks have been thwarted since the Operation Usalama Watch started.

Table 4. 5: Summary of Challenges Facing Refugee Management in Kenya

Interviewee	Challenges
UNHCR official	Refugee management is highly politicized
Camp leader	Inadequate protection space for asylum seekers and refugees
Kituo RCK (CSO) official Woman Representative	Some of refugees were noted to be highly vulnerable with limited access to health and livelihood; they are exposed to limited mobility, stigma and discrimination
Camp leader	Protection remains a major concern for children residing in Kakuma Camp and Kalobeyi Settlement
	There is limited economic

UNHCR official

opportunities, freedom of movement within the County, legal challenges and a complex lengthy process exacerbated by administrative procedures for local integration. Resettlement is low due to limited resettlement quotas

4.5 Gaps Existing in Policy Frameworks for Refugee Management in Kenya

The second objective of the study was to review the existing policy framework and identify the gaps for refugee management in Kenya. The researcher required interviewees to state how effective they thought the policies on the refugees in Kenya were. The male people living with disabilities representative argued that Kenya's foreign policy had been instrumental in refugee management. Kenya having two key displaced person camps, Kakuma Refugee Camp in northwestern Kenya host millions of evacuees. Assistance from organizations such as WFP and UNHCR has been very helpful thus an indication that Kenya's foreign policy has been effective and instrumental in ensuring a process like repatriation is carried out in accordance to the prevailing law. However, the UNHCR official argued saying:

Kenya's refugee policy appears generally less progressive than its neighbors like Uganda as conditions in the refugee camps are far from ideal with overcrowding common and a strict encampment policy. In most cases displacement is protracted and refugees remain in the camps for years without freedom of movement and without the opportunity to access higher education, employment or to start businesses.

When asked about how they would describe the situation / context around refugees' management, the male youth representative stated that refugees were not managed well. One of the camp leaders stated

Despite Kenya's long history of hosting of refugees, until recently, it had no strong policies relating to the control and management of refugees. Apart from signing and ratifying the various international conventions on refugees, Kenya did not have a uniform national refugee law governing refugees until 2006 when it adopted its Refugee Act.

Another camp leader said

With no law in Kenya governing refugee management, hundreds of thousands of refugees living in Kenya have no legal status. The absence of the Government's Refugee Eligibility committee has rendered refugee protection ineffective.

Further, the researcher asked the interviewees to state the major policy gaps that affect the refugee community in Kenya. One woman representative reported that there appeared to be no policies, guidelines or strategies that explicitly address refugee health. However, the government was generally not discriminating against refugees seeking health services. One of the camp leaders added

There are unique barriers like discrepancies in healthcare cost between refugees and local Kenyan clients, requirements for documentation before service, threat of harassment, and language barriers.

The female people living with disabilities representative indicated that the Kenya Citizenship and Immigration Act (2011) does not offer some prospects for refugees

to locally integrate into communities in Kenya. However, it is fair to say that *de jure* and *de facto* local integration of refugees into the Kenyan community is extremely limited. This is owing to the restrictions on their movement and the lack of authorization for refugees to engage in gainful employment or other forms of self-reliance as work permits are not issued to refugees.

The IOM official added that the current encampment policy has a number of disturbing features, which affect the enjoyment of rights by refugees. First, it represents a determination to resist the integration of refugees into the economic and social life of the country. Secondly, it has led to the maintenance of large refugee camps in remote areas that are close to the refugees' countries of origin. For instance, Dadaab is located in Turkana County, while Kakuma is located in Garissa County which is close to the Somali border for the Somali refugees. Thirdly, Kenya maintains the assumption that it is the responsibility of the UNHCR and other stakeholders in the international community to care for the refugees, pending their repatriation. This creates an immense burden on all stakeholders to ensure that refugees enjoy their rights. Fourthly, the policy does not provide a conducive environment for the maintenance of refugee protection and security. The refugees are obliged to remain in areas, which have traditionally been insecure, where the rule of law is weak, and where the perpetrators of violence can act with a high degree of impunity.

The youth representatives mentioned that the encampment policy affects youths such that because of it, organisations engage the services of refugee workers and to pay them very little wages. The UNHCR and IOM officials added that this policy resulted into refugee workers being paid disproportionately less wages compared to their national counterparts.

The female youth representative stated that although the Refugee Act sets out the

legal framework governing refugees and establishes the institutions and procedures to implement it, in practice there is inadequate capacity and will to ensure its effective implementation. The Department for Refugee Affairs (DRA) has a limited number of staff, many of whom are just starting to gain operational experience in dealing with refugee issues. More broadly, there is no national refugee and asylum policy to assist with the implementation of the Refugee Act, and there is some confusion about the government's official position.

The researcher also asked the interviewees to indicate whether there were policies in regards to refugees owning businesses operated in Kenya. The UNHCR official indicated that the right to work is a requirement of the Convention Section 15 stipulating that employment opportunities at the rate prevailing in the host be offered to refugees. Refugee policies in Kenya have restrictive implications on the socio-economic entitlements of concerned populations, compared to, for example, neighboring Uganda, with restrictions on the freedom of movement and right to work. However most of the refugees working in the factories or at the homes of host countries Kenya are rarely rewarded with good salaries if they are allowed to work. For instance, in the Kakuma refugee camp, a refugee assisting a medical officer is paid Kenya shillings 3000 a month (about US dollars 38). It is not termed as pay since he is working without a permit from the Kenya government. It is an allowance. Most of them are deprived of their salaries and since they are regarded as aliens their ability to seek legal representation is largely reduced. One women representative responded:

I do not think that there are policies for refugees owning businesses in Kenya because the government does not stop them from doing their business. However, there are those that engage in criminal activities or not willing to abide by the laws of the land. Law and order is to be

maintained by everyone, so if they are willing to stay or wish to stay, they must be ready to follow the rules of the country.

Table 4. 6: Summary of Gaps Existing in Policy Frameworks for Refugee Management in Kenya

Legislation	Purpose and Key Features	Gaps
Constitution, 2010	<ul style="list-style-type: none"> • Article 27: Prohibits discrimination on all grounds, including race, sex, health status, ethnic or social origin, language or birth • Article 43: “Every person has the right to the highest attainable standard of health” 	<ul style="list-style-type: none"> • Recognizes related rights, which serve as determinants of health, including basic nutrition, shelter, infrastructure, water and an adequate standard of living • No direct reference to refugees, but rather “minorities,” “marginalized groups,” “every person” and “any persons”
Kenya Citizenship and Immigration Act (2011)	<ul style="list-style-type: none"> • Regulates matters relating to citizenship and immigration • Recognizes various categories of migrants, including foreign nationals and stateless 	<ul style="list-style-type: none"> • Does not offer some prospects for refugees to locally integrate into communities in Kenya

persons, and stipulates procedures and requirements necessary for such persons to obtain citizenship

- Defines a prohibited immigrant and inadmissible person, which includes a person who refuses to submit for examination by a medical practitioner after being required to do so. While the current version no longer specifies mental disorders as a basis for inadmissibility, “anyone who has been judicially declared incompetent” is inadmissible.

Encampment policy

- Requires all refugees to reside in camps located in the semi-arid northern part of the country.
- Affects the enjoyment of rights by refugees

**Refugee Act, 2006
(revised 2012)**

- Provides for the recognition, protection and management of refugees
- Special protection for refugees and asylum seekers with disabilities, trauma, etc.
- Accelerates asylum in medical emergencies
- Stipulates that refugee camps and transit centers must be maintained in an environmentally sound manner

**Mental Health
Care Act, 2012**

- Governs the care and treatment of individuals suffering from mental illness, guaranteeing basic rights, including access to care
- Repeals its predecessor Act, which prohibited hospital treatment for individuals from other countries without prior written approval
- Directly applicable to a particular vulnerable group of migrants that is asylum seekers and refugees
- No direct reference to refugees but applies to all persons with mental illness
- Repeals former law that provided for treatment based on nationality
- Does not recognize any particular vulnerability or needs experienced by

**HIV and AIDS
Prevention and
Control Act, 2006
(revised 2012)**

- Provides for the prevention and management of HIV and AIDS, including treatment and support for people living with the disease
- Article 33: Prohibits discrimination, deportation, quarantine and refusal of entry into Kenya based on HIV status

**Persons with
Disabilities Act,
2003 (revised 2010)**

- Provides for the rights, rehabilitation and equality of opportunity for persons with disabilities
- Establishes the National Council for Persons with Disabilities

refugees

- Applies to all persons with HIV and AIDS
- Includes direct reference to non-discrimination of refugees based on HIV status
- Does not recognize any particular vulnerability or needs experienced by refugees
- No direct reference to refugees but applies to “persons with disabilities in Kenya”
- Does not recognize any particular vulnerability or needs experienced by refugees

CHAPTER FIVE:

DISCUSSIONS, CONCLUSIONS & RECOMMENDATIONS

5.1 Introduction

This chapter discusses the data findings, draws conclusions from the findings highlighted, and makes recommendations. The conclusions and recommendations are aimed at achieving the study's goal.

5.2 Discussions of the Findings

This section includes more literature reviews on the findings of each variable. This section discusses the challenges facing refugee management in Kenya, the gaps that exist in the current policy framework, and the recommendations for policy best practices. Discussion of the findings is aligned with the literature discussed in chapter two.

5.2.1 Challenges Facing Refugee Management in Kenya

The study found that refugee management is highly politicized as Kakuma and Kalobeyei camps therefore seem to have freehand on refugees in their soils regardless of the general provisions of the conventions. Politics in Kakuma and Kalobeyei camps determine legislations governing refugees including regulations on repatriation and when to cease refugee status. The findings are in line with Nyangweso (2014) who stated that in the last few decades, the world has witnessed a rise in refugees and displaced persons. This increase has resulted from factors such as political instability, increasing human conflicts and climatic change-related disasters. Crisp (2013) added that the government of Kenya enacted the Refugee Act in 2006. This established a support program that would handle all

refugee affairs on behalf of the government. The Department of Refugee Affairs (DRA), later renamed RAS (Refugee Affairs Secretariat), would enhance reception, two registrations and repatriation of refugees in 2010. However, it has raised concern about the growing population, which the camps can no longer accommodate.

The study also found that there is inadequate protection space for asylum seekers and refugees. This was seen by the limited capacity of authorities in key areas like child protection, female police officers, gender officers, magistrate and civil registry. Echterhoff, Hellmann, Back, Esses, and Wagner (2019) argued that the large-scale displacement of refugees creates significant and urgent challenges for the refugees themselves and governments and residents of the receiving societies.

The study found that the specific needs by the refugees are a challenge. Some of refugees were noted to be highly vulnerable with limited access to health and livelihood; they are exposed to limited mobility, stigma and discrimination. These include LGBTQI persons, elderly, and persons living with disabilities, women and children at risk, survivors of violence and gender-based violence (GBV), as well as individuals suffering from mental disabilities or disorders. The findings are supported by Rygiel (2016) who stated that the current refugee crisis facing Turkey and Greece from an influx of refugees escaping the ongoing Syrian conflict further elucidates the problem of refugee management in the 21st century. The study found that there is lack of community participation and peaceful co-existence. These included: limited economic opportunities, freedom of movement within the County, legal challenges and a complex lengthy process exacerbated by administrative procedures for local integration. Hynie (2008) found out that policies can support or impede refugee integration. These would be at the political level, social institutions and organizations.

The study found that the Kenyan Government issued directives such as closing the Dadaab camp, Operation Linda Nchi (OLN), Operation Usalama Watch, and Operation Linda Boni to counter effects of refugees in the country. The study also established that forceful encampment and repatriation of refugees by the Kenyan government was necessary in order for the country to do protect its citizens first. These results are largely justified by Pearlman (2017) who affirms that the problem of refugees and asylumseekers in Kenya has escalated with huge influxes of new arrivals being witnessed. Since independence, Kenya has been host to fleeing refugees from neighboring countries due to civil war, political unrest and upheavals. In 1990 Kenya became host to the largest refugee population in East and Central Africa. This triggered the rise of refugee support programs spearheaded firstly by private actors then by the government.

5.2.2 Gaps Existing in Policy Frameworks for Refugee Management in Kenya

The study found that the foreign policies were more effective than the local ones judging from the state of camps and hardships undergone in the area. This is in accordance with Crisp (2013) who asserts that fundamental flaws have been witnessed in refugee administration. Despite having many local and international bodies involved in humanitarian work, numerous instances are when refugees' rights are violated. The scope of refugee's protection has been limited due to a lack of clarity on issues that require protection which is explicit as spelt out in the mandate bestowed on the UNHCR.

The study also found that there were gaps in policies such as there appeared to be no policies, guidelines or strategies that explicitly address refugee health. Hayes and Endale (2018) found out that perceptions of the refugees by the host nations have a negative effect on the identity of the refugees, especially when the risk factors are viewed from an individual level as opposed to the higher societal level.

They argue that this is a result of a lack of policy on proper integration. Moreover, the study found that although the Refugee Act sets out the legal framework governing refugees and establishes the institutions and procedures to implement it, in practice there is inadequate capacity and will to ensure its effective implementation. Integration in host communities, maintenance of large refugee camps in remote areas that are close to the refugees' countries of origin, and maintenance of refugee protection and security. UNHCR (2012) concurred that in Kenya, an information gap exists as to how the assistance provided by the state through the RAS has influenced refugee service delivery. However, the Kenyan government had not developed any policy framework under which refugee affairs would be dealt with. In the absence of specific laws and policies dealing with refugees, recommendations to establish an authority that would handle all matters relating to refugees would be laid. Additionally, there was the need for the domestication of legislation recognized in the constitution in line with the 1951 U.N Convention and OAU Convention on refugees. Further, the International Commission of Jurists also proposed that the government establish a body to oversee refugee affairs in the camps. Available evidence shows that successful refugee reception depends on programs that enable refugees to acculturate in the new society by enabling their skills to fit in their new environment. Additionally, education and vocational and vocational skills are crucial aspects of survival in new situations.

The study also established that the current encampment policy has a number of disturbing features, which affect the enjoyment of rights by refugees. The outcomes correlate with Hosseini (2019) who stated that despite all efforts and measures taken by UNHCR and ILO and other organisations, refugees still are economically weak, and two-thirds of them do not have access to informal employment and even low skilled work. Most refugees labour in the informal

segment, but under much less satisfactory and more exploitative circumstances than nationals.

5.3 Conclusion

Today's refugee policy mainly consists of responding to crises as they happen rather than trying to prevent them and this does not make much sense as the refugee problem in Africa is indeed grave and appears to be worsening and, in practical terms a lot needs to be done. Underdeveloped and burdened with the precarious task of welding numerous heterogeneous groups into viable modern states and confronted with both internal and external destabilizing forces, Africa is likely to have to deal with larger numbers of refugees unless urgent preventive and curative measures are taken. More often than not it is observed in Africa that root causes of refugee flows are actually a major part of refugee problems.

Regarding the policy, the research was able to discover that the policy was not refugee- friendly. Using the findings, the study concluded that the harassment of Somali refugees has been rampant to the extent that making ends meet or earning their livelihoods is challenging.

Kenya mainly adopted new refugee policies in order to address the changing security dynamics, which are not connected to refugees in Kenya. The new policies and programs like encampment, repatriation, and the closure of borders are intended to reduce the number of refugees in Kenya and confine the rest in camps in order to address the security challenges. The new policies and programs have not addressed the security challenges, however, because they targeted refugees instead of addressing the real issues within the Kenyan society, especially inequalities that are related to ethnicity, where they treat all Kenyan Somalis as foreigners. In fact, the successful terrorist attacks by al-Shabaab may indicate

failure of Kenya's new policies and highlight the terrorists' ability to exploit the existing inequalities within Kenyan communities.

5.4 Contribution to Knowledge

The challenges, gaps, and options of policy framework for refugee management in Kenya were explored in this study. The majority of the empirical studies examined focused mostly on more developed countries, with different policies as compared to Kenya. Furthermore, the government policies and other stakeholders are informed on the policy framework for refugee management in Kenya. As such, the policymakers will be enlightened of the loopholes in policies that need to be addressed to enhance refugee management.

This study adds to the body of empirical literature by expanding the conceptualization of the link between policy framework and refugee management. This integrated model has important policy implications for improving refugee management.

5.5 Recommendations

The research recommends that the bill must establish a more lenient basis for granting movement passes to Kenyan refugees. The right to work is a fundamental part of life, and while it might be too dramatic and unfeasible to immediately do away with refugee camp hosting in Kenya, allowing them the right to travel in order to seek work permits will increase refugee employment in country along with their ability to achieve permanent residency.

To become a permanent resident, refugees must already have held work permits for seven years, so it can be assumed that they have already made a substantive contribution to Kenya through over seven years of formal employment.

The research recommends that the Kenya government must administer services uniformly to refugees across the country. Suspension of food aid, health services, and government assistance to refugees in Nairobi does not comply with international guidelines and they must receive equal support as those living in camps and settlements.

Moreover, the research recommends that the government must include provisions for improved education to refugees in camps. Most Somali and South Sudanese refugees do not speak Kiswahili upon entrance to camps and phasing in Kiswahili Language Learner (KLL) programs will allow refugees to attain a legitimate chance at Kenyan citizenship. Furthermore, camps should establish access to secondary education that does not require refugees seeking movement passes and forfeiting access to aid.

Also, the Kenyan government should establish more settlements like Kalobeyei within the country to allow the economic participation and gender equality of refugees in Kenya. Including zones similar to special economic zones (SEZs) within the country will lead to the gradual expansion of economic participation within the country and greater integration of refugees.

In addition, the policies adopted must encourage refugee departments of the Kenyan government to work more closely with the UNHCR, NGOs, and local refugee networks to develop a more comprehensive system of data collection for refugees within the country. Establishing accurate numbers for refugee registration, refugee income and education levels, and identifying the needs of Kenya's refugee population will help to build trust with the international community and assist all parties to better identify the distribution of Kenyan refugee aid.

The study suggested that Kenya's modified 2017 Refugee Bill should be passed to significantly strengthen the country's refugee program. The Refugee Bill should be adopted so that it does not override with any other legislation such that issues arising from the Bill favor refugee rights, that is, a Bill that is customized to the refugee situation in Kenya. In addition, creating a favorable political environment can facilitate the integration of refugee and host country systems. An important step towards this is the generation of local evidence to highlight the positive effects and impacts of such integration on say, health, economy and so on for refugees and host communities.

The study recommends that the Kenya government should revise and adopt the current Proposed Refugee Bill but first, the Kenya Draft constitution's Chapter Five which addresses the issue of Refugees and Asylum Seeker has to be aligned as well. Further, Kenya could also adopt the open border policy to protect refugees by allowing them entry to other countries as they flee protection. This policy has been widely praised in Ethiopia, making it one of the foremost countries in refugee protection. The current universal primary education policy in Kenya does not apply to refugees since it is for nationals. Therefore, the government should consider having a more inclusive policy in line with this sector irrespective of nationality. Also, domestic policies should parallel the principles of international treaties, thus providing refugees with Convention---stipulated rights. These rights should be accessible to refugees regardless of where they reside and should transcend national policy.

The study also recommended that the Kenya government should be mainly considering refugees as an asset, that is, they lead to economic growth rather than being labeled as security threats to the country. This could tap into sectors in which the refugees thrive such as shipping (offering shipping services for

individuals who purchase goods outside the country and seek cheaper options of bringing their goods into Kenya).

5.5.1 Policy Recommendations for refugee management in Kenya

To mitigate the policy challenges, the Government of Kenya could modify the 2017 Refugee Bill which should significantly strengthen the country's refugee program. A better Refugee Bill should be adopted that does not override with any other legislation such that issues arising from the Bill favor refugee rights, that is, a Bill that is customized to the refugee situation in Kenya.

Further, by creating a favorable political environment to facilitate the integration of refugee and host country systems. An important step towards this would be the generation of local evidence to highlight the positive effects and impacts of such integration on say, health, economy and so on for refugees and host communities.

The study recommended that the Kenyan government should revise and adopt the current Proposed Refugee Bill but first, the Kenya Draft constitution's Chapter Five which addresses the issue of Refugees and Asylum Seeker has to be aligned as well. Further, the Kenyan government could also adopt the open border policy to protect refugees by allowing them entry to other countries as they flee protection. This policy has been widely praised in Ethiopia, making it one of the foremost countries in refugee protection. Moreover, the current universal primary education policy in Kenya does not apply to refugees since it is for nationals. Therefore, the Kenyan government should consider having a more inclusive policy in line with this sector irrespective of nationality.

Also, domestic policies should parallel the principles of international treaties, thus providing refugees with Convention--stipulated rights. These rights should be accessible to refugees regardless of where they reside and should transcend

national policy.

The study also recommended that the Kenya government should be mainly considering refugees as an asset, that is, they lead to economic growth rather than being labeled as security threats to the country. This could tap into sectors in which the refugees thrive such as shipping (offering shipping services for individuals who purchase goods outside the country and seek cheaper options of bringing their goods into Kenya).

5.6 Suggestions for Further Studies

Since this study focused only on the assessment of the policy framework for refugee management in Kenya, there is also a need for the study to examine how the policies influence national security. Moreover, studies should consider looking at other factors affecting refugee management in Kenya. A comparative study may also be carried out to examine the policy framework for refugee management in Kenya and the neighboring countries such as Tanzania, Uganda and Somalia.

5.7 Limitations of the Study

The study ran into numerous obstacles that made it difficult to get the information it needed. The respondents in this study were hesitant to provide information, thinking that the information might be used to intimidate them or portray them in a poor light. The researcher managed this by bringing an introduction letter from the university, which assured them that the information they provided would be kept private and utilized solely for scholarly purposes.

Furthermore, the study's findings were constrained by the respondents' willingness to offer accurate, objective, and trustworthy data. The researcher double-checked the data for consistency and tested its trustworthiness.



REFERENCES

Abdihafid, B. M. (2016). *Factors influencing management of refugee camps in Kenya* (Doctoral dissertation, University of Nairobi).

Noell, E. R. (2014). *Slipping Through the Cracks: A Kenyan Case Example of Refugeeism, International Norms, and Gender-Based Violence* (Doctoral dissertation, Ohio University).

Muiru, M. P. (2018). *The impact of security policies on refugee repatriation of Somali Refugees from Dadaab refugee camp, Kenya* (Doctoral dissertation, Moi University).

Rook, M. (2020). Identifying Better Refugee Policies for an Evolving Crisis.

Addo, I. Y. (2016). Refugees' expectations of durable solutions to their problems: deliberations from the Buduburam camp in Ghana. *GeoJournal*, 81, 427–441.

Ahimbisibwe, F. (2013). The Effect of Land Conflicts on the Livelihoods of Refugees: Implications for Refugee Protection in Uganda. *Research Journal of Social Science and Management*, 3(6), 19-28.

Alefesha, H. M. N., & Al-Jamal, D. A. H. (2019). Syrian Refugees' Challenges and Problems of Learning and Teaching English as a Foreign Language (EFL): Jordanas an Example. *Journal of Ethnic and Cultural Studies*, 6(1), 117-129.

Allar, S. W. (2017). Global and Local Challenges to Refugee Protection. *International Journal of Legal Information*, 46(1), 45–52.

Betts, A. (2004). The international relations of the “new” extraterritorial approaches to refugee protection: Explaining the policy initiatives of the UK

government and UNHCR. *Refuge: Canada's Journal on Refugees*, 22(1), 58-70.

Bidandi, F. (2018). Understanding refugee durable solutions by international players: Does dialogue form a missing link? *Cogent Social Sciences*, 4(1), 1-15.

Braman, S. (2011). Defining Information Policy. *Journal of Information Policy*, 1, 1-5.

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

Chaulia, S. S. (2003). *The Politics of Refugee Hosting in Tanzania: From Open Door to Unsustainability, Insecurity and Receding Receptivity*. Unpublished thesis. Linköping University. Linköping, Sweden.

Cheva, C. (2019). *Impact of The Self-Integration of Somali Refugees in Nairobi on Kenya-Somalia Relations*. Unpublished research project, University of Nairobi. Nairobi. Kenya.

Crisp, J., & Long, K. (2016). Safe and Voluntary Refugee Repatriation: From Principle to Practice. *Journal on migration and human security*, 4(3), 141-147.

Dako-Gyeke, M., & Adu, E. (2015). Challenges and coping strategies of refugees: Exploring residual Liberian refugees' experiences in Ghana. *Qualitative Social Work*, 16(1), 96-112.

de Bruin, N., & Becker, P. (2019). Encampment and Cash-Based Transfer: Concord and Controversy in the World Food Programme's Pilot Project in Nyarugusu Refugee Camp in Tanzania, *Journal of Immigrant & Refugee Studies*, 17(4), 492-508,

de Graauw, E. (2016). *Making Immigrant Rights Real: Nonprofits and the Politics of Integration in San Francisco*. Ithaca: Cornell University Press

de Graauw, E., & Bloemraad, I. (2017). Working Together: Building Successful Policy and Program Partnerships for Immigrant Integration. *Journal on Migration and Human Security*, 5(1), 105-123.

Dempster, H., & Hargrave, K. (2017). *Understanding public attitudes towards refugees and migrants*. London: Overseas Development Institute

Dempster, H., & Hargrave, K. (2017). *Understanding public attitudes towards refugees and migrants*. London: Overseas Development Institute.

Echterhoff, G., Hellmann, J. H., Back, M., Esses, V., & Wagner, U. (2019). The Social Psychology of Forced Migration and Refugee Integration. *European Journal of Social Psychology*, 49, 1337–1343.

Effeney, L. & Mansouri, F. (2014). Deterrence policies and asylum seekers: the case of Australia. *International Journal of Migration and Border Studies*, 1(2), 217– 230.

Gammeltoft-Hansen, T. (2014). International Refugee Law and Refugee Policy: The Case of Deterrence Policies. *Journal of Refugee Studies*, 27(4), 574–595,

Gammeltoft-Hansen, T., & Tan, F. N. (2017). The End of the Deterrence Paradigm? Future Directions for Global Refugee Policy. *Journal of Migration and Human Studies*, 5(1), 28-56.

Gemeda, A. G. (2019). Essentials of the Right to Voluntary Return: The Case of Refugees. *Elixir Law*, 133, 53524-53528.

Gerver, M. (2018). Refugee Repatriation and the Problem of Consent. *British Journal of Political Science*, 48(4), 855-875.

Goodwin-Gill, G. S. (2008). The Politics of Refugee Protection. *Refugee Survey Quarterly*, 7(1), 8–23.

Guiu, R., & Siddiqui, N. (2019). Cities as a Refuge, Cities as a Home: The Relationship between Place and Perceptions of Integration among Urban Displaced Populations in Iraq. Retrieved from <http://www.internal-displacement.org/global-report/grid2019/>

Gumisiriza, P. (2018). Challenges and Emerging Issues Affecting the Management of Refugees in Uganda. *The Ugandan Journal Of Management And Public Policy Studies*, 40-54.

Habeeb-Silva, R. J. (2017). *Resettlement challenges for refugees in the United States*. unpublished research project. California State University. San Bernardino. California.

Harufa, A. H. (2017). *Social integration of refugees: a case study of Kenya*. Unpublished research project. University of Nairobi. Nairobi. Kenya.

Hemaadri, S. R. (2017). Understanding the Politics of Refugee and A Way Forward. *Journal of Political Sciences & Public Affairs*, 5(3), 2-5.

Hosseini, S. B. (2019). Rights To Work's Challenges For Refugees, UNHCR And ILO Responses, With Special References To Refugees And Asylum Seekers From War-Torn In The Middle East. *EPRA International Journal of Economic and Business Review*, 7(10), 5-13.

Hynie, M. (2018). Refugee Integration: Research and Policy. *Peace and Conflict*

Journal of Peace Psychology, 24(3), 265-276.

Iversen, V. C., Berg, J. E., & Vaaler, A. E. (2010). Expectations of the future: Immigrant, asylum seeker, or refugee does it matter? *Journal of Psychiatric Intensive Care*, 26(1), 23-30.

Jacobsen, K. (2012). The Economic Security of Refugees: Social Capital, Remittances, and Humanitarian Assistance. In: Khory K.R. (eds) *Global Migration*. Palgrave Macmillan, New York.
<https://doi.org/10.1057/9781137007124>

Jaji, R.. (2012). Social technology and refugee encampment in Kenya. *Journal of Refugee Studies*, 25(20), 221-238.

Jiménez, T. R. (2011). *Immigrants in the United States: How Well Are They Integrating into Society?* Washington, DC: Migration Policy Institute.

Kamau, K. V. (2014). *Factors Influencing Integration of Refugees into the Local Community in Dadaab, Garissa County, Kenya*. Unpublished research project, University of Nairobi.

Kanyoro-Muaura, J. N. (2004). *Comparative Study of Refugee Management: Case Study of Kenya and Tanzania*. Unpublished research project, University of Nairobi.

Kirui, P. K., Wanyonyi, H. S., & Kutto, N. (2020). Somali Refugee Solutions in Kenya: Challenges of Repatriation and Prospects of Local Integration. *Advances in Social Sciences Research Journal*, 7(3), 120-129.

Knappert, L., Kornau, A., & Figengül, M. (2017). Refugees' exclusion at work and the intersection with gender: Insights from the Turkish-Syrian border. *Journal of Vocational Behaviour*. <https://doi.org/10.1016/j.jvb.2017.11.002>

Kuhlman, T. (1990). *Burden or boon? A study of Eritrean refugees in the Sudan*. VU University Press.

Lal, R. (2017). Durable solutions for protection of refugees and their correlation with social and economic rights. *International Journal of Law*, 3(1), 40-44.

Lea-Maria, L. (2020). Family separation and refugee mental health—A network perspective. *Social Networks*, 61, 20-33.

Mencütek, Z. S., & Nashwan, A. J. J. (2020). Employment of Syrian refugees in Jordan: challenges and opportunities. *Journal of Ethnic & Cultural Diversity in Social Work*. *Journal of Ethnic & Cultural Diversity in Social Work*. doi.org/10.1080/15313204.2020.1753614

Mendenhall, M., Dryden-Peterson, S., Bartlett, L., Ndirangu, C., Imonje, R.,... Tangelder, M. (2015). Quality education for refugees in Kenya: pedagogy in urban Nairobi and Kakuma refugee camp settings. *Journal on Education in Emergencies*, 1(1), 92–130.

Morfor, M. K. (2012). *Forced Migration: Socio-economic Implications for Hosts Communities in Southern and Northern Ghana*. A published thesis for Master in International Social Welfare and Health Policy, Oslo University College.

Moussaoud, C. C. (2019). The International Legal Framework Of Refugee Protection. *International Journal of Law, Humanities & Social Science*, 3(2), 23-48.

Nanima, R. D. (2017). An evaluation of Kenya's parallel legal regime on refugees, and the courts' guarantee of their rights. *Law, Democracy & Development*, 21, 42-67.

Newman, A., Bimrose, J., Nielsen, I., & Zacher, H. (2018). Vocational behavior of refugees: How do refugees seek employment, overcome work-related challenges, and navigate their careers? *Journal of Vocational Behavior, 105*, 1-5.

O'Callaghan, S., & Sturge, G. (2018). *Against the odds: Refugee integration in Kenya*. London: Overseas Development Institute.

Odhiambo, E. (2007). Past reflections, future insights: African asylum law and policy in historical perspective. *International Journal of Refugee Law, 19*(1), 51-59.

Olaiya, T. O. (2020). Migration and Employment Policy and Their Impact on Social Integration: Evidence From Nigeria. *Journal of Public Administration and Governance, 10*(2), 63-84.

Papapostolou, A., Manoli, P., & Mouti, A. (2020). Challenges and Needs in the Context of Formal Language Education to Refugee Children and Adolescents in Greece. *Journal of Teacher Education and Educators, 9*(1), 1-22.

Pavanello, S., Elhawary S., & Pantuliano, S. (2010). *Hidden and exposed: urban refugees in Nairobi*. Kenya. London: Overseas Development Institute.

Pearlman, W. (2017). Culture or Bureaucracy? Challenges in Syrian Refugees' Initial Settlement in Germany. *Middle East law and governance, 9*, 313-327

Radhakrishna, R. B., Yoder, E. P., & Ewing, J. C. (2007). *Strategies for linking theoretical framework and research types*. Proceedings of the 2007 American Association for Agricultural Education (AAAE) Research Conference, 16-18 May 2007, Minneapolis, Minnesota.

Refugee Consortium of Kenya (2016). *The Status of Legal Integration of Refugees*

in Kenya: A Nairobi Case Study. Nairobi: Refugee Consortium of Kenya.

Rozakou, K. (2017). Nonrecording the “European refugee crisis” in Greece Navigating through irregular bureaucracy. *Focaal—Journal of Global and Historical Anthropology*, 77, 36–49

Rygiel, K., Baban, F., & Ilcan, S. (2016). The Syrian refugee crisis: The EU-Turkey ‘deal’ and temporary protection. *Global Social Policy*, 16(3), 315-320.

Schmid, C. T. (2016). *Germany’s “Open-Door” Policy in Light of the Recent Refugee Crisis: An Interpretive Thematic Content Analysis of Possible Reasons and Underlying Motivations*.

Schweitzer, R., Melville, F., Steel, Z., & Lacherez, P. (2006). Trauma, Post-Migration Living Difficulties, and Social Support as Predictors of Psychological Adjustment in Resettled Sudanese Refugees. *Australian and New Zealand Journal of Psychiatry*, 40(2), 179-187.

Shrestha, C. (2011). *New Issues In Refugee Research: Power and politics in resettlement: a case study of Bhutanese refugees in the USA*. Research Paper No. 208. Geneva: United Nations High Commissioner for Refugees.

Tuckett, A. (2015). Strategies of navigation: migrants' everyday encounters with Italian immigration bureaucracy. *The Cambridge Journal of Anthropology*, 33(1), 113- 128.

UNCHR (31 January, 2020). *KENYA: Registered refugees and asylum-seekers*. Retrieved <https://www.unhcr.org/ke/wp-content/uploads/sites/2/2020/04/Kenya-Infographics-31-Mar-2020.pdf>

UNCHR (31 January, 2020). *Statistical Summary: Refugees and Asylum Seekers in*

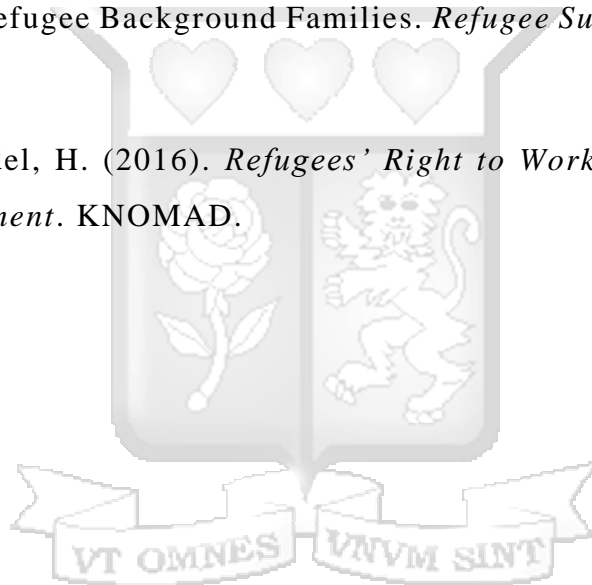
Kenya. Retrieved <https://www.unhcr.org/ke/wp-content/uploads/sites/2/2020/02/Kenya-Statistics-Package-31-January-2020.pdf>

UNHCR Kenya (2019). *Kenya: Registered refugees and asylum-seekers*. Retrieved from <https://www.unhcr.org/ke/wp-content/uploads/sites/2/2019/11/Kenya-Infographics-31-October-2019.pdf>

Weima, Y. (2017). Refugee repatriation and ongoing transnationalism. *Transnational Social Review - A Social Work Journal*, 7(1), 1-5.

Wilmsen, B. (2011). Family Separation: The Policies, Procedures, And Consequences For Refugee Background Families. *Refugee Survey Quarterly*, 30(1), 45-64.

Zetter, R., & Ruaudel, H. (2016). *Refugees' Right to Work and Access to Labor Markets—An Assessment*. KNOMAD.



APPENDICES

Appendix I: Interview Guide

This interview guide is to collect data for purely academic purposes. All information will be treated with strict confidence. Do not put any name or identification on this guide.

BACKGROUND INFORMATION

1. What gender are you?
2. How long have you been working on refugee issues?

RESEARCH QUESTION ONE

RQ1: What are the Challenges Facing Refugee Management in Kenya?

1. Which government policies on refugees do you know?
2. What challenges do you think the government has in implementing these policies?
3. What are the various directives by the Government intended to evaluate its use of security concerns as the basis of its policies?
4. What are your thoughts on forceful encampment and repatriation of refugees being a contravention of refugee rights according to United Nations regulations?

RESEARCH QUESTION TWO

RQ2: What are the Gaps that Exist in Policy Frameworks for Refugee Management in Kenya?

1. How effective are the policies on the refugees in Kenya?
2. Generally speaking, what are the major policy gaps that affect the refugee community in Kenya?
3. Are there policies in regards to refugees owning businesses operated in Kenya?
4. How would you describe the situation/ context around refugees' management?



Appendix II: Ethical Review

RHInnO Ethics - SU-IERC1066/21 - 1 of 1

Final Decision

This document certifies that the study:

\\\"Policy Framework for refugee management in Kenya, an analysis of challenges of challenges, gaps, and options\\\"

Principal Investigator: Ms. Mwaluko, Judy Mboya

Reference number: SU-IERC1066/21

Was reviewed and received the following status:

\\\"approved\\\"



Appendix III: Nacosti License

The screenshot shows a web browser window with the URL `research-portal.nacosti.go.ke/researcher/ApplicationsList/application/11604`. The page header includes the text "NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY & INNOVATION" and navigation links for "My Profile" and "Log Out". Below the header, there is a navigation menu with "Licence Application", "My Licences", and "Invoices". A yellow notification banner states: "Congratulations Judy, Your NACOSTI LICENCE Ref# 372767 is now Ready." followed by a redacted area and a link to "Receipt 14106".

Stage	Approved	Comments
Registry	✓ Approved	5 months ago
Accounts	✓ Approved	5 months ago
Departmental	✓ Approved	5 months ago
Granting Office - Deputy Director LM&E	✓ Approved	5 months ago

Copyright © 2021 NACOSTI. All Rights Reserved

NB: Nacosti site has challenges opening my license

