

**THE IMPACT OF SECURITY POLICIES ON REFUGEE
REPATRIATION OF SOMALI REFUGEES FROM DADAAB
REFUGEE CAMP, KENYA**

BY

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DECLARATION AND CERTIFICATION

This Research Project is my original work prepared with no other than the indicated sources and support and has not been presented elsewhere for a degree or any other award

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DEDICATION

I dedicate this project to my family and especially my wife. Without their patience, understanding, support and above all their love it would not have been possible. I thank them for their great support, guidance and encouragement throughout my academic journey.

ABSTRACT

This study analyses the role of Kenya's security policy on refugee repatriation from Dadaab refugee camp since 2016. The UNHCR and the governments of Somalia and Kenya signed a tripartite agreement in 2016 to facilitate voluntary repatriation of the more than 400 000 Somali refugees in Kenya. Although Kenya has hosted refugees since the 1970s, the case of Somali refugees has been protracted and intricate. This was worsened by the spread of Islamic extremism, which espoused militancy, and violence. It is in this regard that the study sought to analyze the effects of foreign policy on Somali refugee repatriation in Kenya. This study took a qualitative, desk research approach and it was predominantly premised on review and critical analysis of literature and state practice to help in analyzing the foreign policy behavior of Kenya towards Somali refugee repatriation. 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 accordance to the prevailing law. The findings also showed that refugee security has been the center of focus during repatriation. The return process has ensured that all international protection standards are observed, especially with regard to the protection of children, older persons, persons with disabilities and other categories of persons with special needs. Accordingly, it has been highly recommended that the UNHCR help enhance the provision of information, counseling and legal services on housing, Land and Property Rights (HLP) of returnees. Also, the Kenyan government needs to publicly assure all Somali refugees and asylum seekers still fearing return that they will be allowed to stay in dignity in Kenya until they decide to return home.

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ABBREVIATIONS AND ACRONYMS

AMISOM: African Union Mission in Somalia

AU: African Union

FGS: Federal Government of Somalia

IGAD: Intergovernmental Authority on Development

PSOs: Peace Support Operations

NGOs: Non-Governmental Organization

NSR: National Secretariat of Refugees

SALW: Small Arms, And Light Weapons

SNAF: Somali National Armed Forces

UNASOM: United Nations Assistance Mission in Somalia

UIC: Union of Islamic Courts

UN: United Nations

UNHCR: United Nations High Commissioner for Refugees

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

The nexus between forced migration and the role of the state is not difficult to comprehend. Were international diplomacy to be deployed prudently and in a timely manner probably the enduring effects of displacement would be minimized. Can diplomacy help in finding durable solutions for refugees? Conflict driven forced migration has characterized many parts of the world and is essentially of political or ethnic character. Globally the number of forcibly displaced people increased steeply in the last 20 years. While in 1997 there were 33.9 million displaced persons, in 2016 the number stood at 65.9 million almost 100% increment (UNHCR, Global trends 2016). This dashed the optimism most people had that forced displacement around the world will dissipate and eventually cease to an issue in international relations. While holistic figures indicate the scope of displacement they often conceal the great regional and localized realities and differences of displacement. For example data from UNHCR indicate that displacement and the concomitant difficulties are concentrated in few specific spots of the world map. These areas include sub-Saharan Africa, Syria, Afghanistan, parts of the Middle East including Palestine, Yemen and some countries of Latin America (ibid).

Often, the international community is more concerned with refugees and asylum seekers due to the fact that such people move across international boundaries and therefore impact international diplomacy, however data of those displaced globally indicate that they are not the majority. Most of those displaced remain as internally displaced

persons in their own country. For example of the 65.9 million forced migrants in 2016, 22.5 million were classified as refugees of whom 17.2 million were directly under UNHCR mandate while 5.3 million Palestinians were under United Nations Rehabilitations and Works Agency for Palestinian refugees (UNWAR). The majority of those displaced are referred to internally displaced persons (IDPs) partially in recognition of the state-centric nature of international movement. In 2016, there were 40.3 million IDPs and 2.8million asylum seekers. Given the number of those displaced and cross international borders as asylum seekers or become refugee it is possible to conclude that displacement is internationally significant and impacts diplomacy and international relations in a number of ways.

As mentioned above global figures hide regional realities and country specific tragedies. For example, global trends estimate that in 2016, 12 million people were displaced in Syria alone of who 6.3 million were IDPs while 5.5million crossed borders as refugees. On the other hand, in Colombia in the same year 7.7 million people were displaced but most of them remained as IDPs. In Afghanistan, a total of 4.7 million people were displaced with 2.9 million becoming refugees and 1.8 million remaining as IDPs. Similarly Iraq 4.2 million people were displaced.

The Sub Sahara Africa, where Kenya is located has also experienced a great deal of displacement due to conflicts, natural disasters and environmental stress. South Sudan which just gained independence in2011, slid into civil war just 3 years later and by 2016, 3.3 million were already displaced with majority of them fleeing to Ethiopia, Uganda and Kenya. Sudan similarly has faced internal insurgencies that have displaced 2.9 million people. The protracted conflict in Somalia has displaced more than, 2.6million people

who are hosted mostly by Kenya and Ethiopia. Kenya then is right in the middle of this displacement vortex. Although the region has less numbers in absolute terms displacement is considered high in relations to populations.

While there is a tendency to focus only on the number of people being displaced and their increasing numbers, it is often forgotten that at the same time some situations improve allowing refugees and asylum seekers to repatriate back to their countries. Some are unable to return and are offered opportunities to resettle in other countries. For example in 2017, the refugees numbers declined to 19.68 million because 552 000 repatriated while 189 300 were resettled in countries other their own. Voluntary repatriation is the subject matter of this study

Given the above picture, it is prudent to situate Kenya as a refugee hosting country as well as a regional hub of humanitarian diplomacy. Although Kenya's refugee policy and practice has been severely scrutinized and criticized, the country remains a significant cog in the refugee hosting diplomacy. For example Kenya is ranked 10th of the top refugee hosting countries with over 450 00 refugees. In the region Uganda tops the list with 940 000 refugees while Ethiopia has 791 000 forced migrants. The question then would be why has refugee numbers declined in Kenya and increased in the neighboring countries.

Refugees in Kenyan Context

The partial explanation why Kenya is becoming less attractive to refugees from neighbouring countries is the encampment policy and general treatment of refugees. Confinement in camps is both unpopular and burdensome in prolonged situations. To a large extent encampment policy has also contributed to the limitation of choices of durable solutions available to refugees. Since 1991, when the advent of the current

refugee hosting started, the Kenya government maintains that local integration is not an available option to refugees even if there are those who would have seriously considered it. Indeed as Jacobsen (2001) demonstrates, Kenya is one of the countries which have eschewed local integration as an option of durable solutions. The refugee Act 2006 does not contemplate any progression from refugee status to naturalization as happens in other countries. The government has not been involved in the reception, screening and Refugee Status determination process since 1990 due to the hands off policy (Abuya, 2004). This critical process in refugee hosting has instead been left to the United Nations High Commission for Refugees. Because of this reason Kenya has been variously portrayed as a reluctant host because it neither wants to expel asylum seekers nor does it want to take full responsibilities (Jacobsen, 2001; Campbell, 2006). The government policy not only precludes any other option of durable solution except voluntary repatriation but also makes it difficult to engage with other international bodies on refugee rights.

By insisting on the encampment policy, the government of Kenya made as the only solution available to the vast majority who cannot access the third country resettlement route which by its very own nature is practically limited. Of the 90 000 refugees eligible for resettlement from Kakuma camp in 2011, only 1825 have been successfully resettled excluding the Somali Bantus who were transferred from Dadaab refugee camp on transit for resettlement. The Somali Bantu refugees were treated as a special group who deserved special attention.

Dadaab Refugee Camp

The Dadaab refugee camp is actually a complex of five camps set up in 1991 to house Somali refugees fleeing conflict following the collapse of the Said Barre regime in

Somalia. Situated in Garissa County in North Eastern Kenya, the complex is constituted by Dagahaley, Hagadere, Ifo, IfoII and Kembios. The complex is about 89 Kilometres from Garissa town. At its peak in 2011; the complex housed 486 913 refugees and asylum seekers, mostly Somali citizens. By February 2018, the UNHCR, states that there has been a significant reduction in the total of refugees at 235 269 (UNHCR, 2018). The host community is mostly co-ethnic Somalis although they are Kenyan citizens.

In 2016, the government of Kenya announced that it was closing Dadaab refugee camp in North Eastern part of the country (Kibichio, 2016). To midwife the repatriation process the Kenya government signed a tripartite agreement with UNHCR and the federal government of Somalia in 2013. While the process of repatriation was to take place voluntarily, the terrorist attacks of Garissa University on April 16, 2015, where 147 students were massacred by Al-Shabaab terror organization, based in Somalia that prompted the Kenyan government to announce its intention to close refugee camps. With immediate effect, the Kenyan government ordered UNHCR to close Dadaab camps and commence repatriation of Somali refugees in the camp and urban centers. The decision by the Kenyan government based on investigative allegations that terrorist attacks are planned in the refugee camps. In the eyes of many including the international community the decision of the Kenyan government was undiplomatic and jeopardized the countries reputation among countries in the region. It was argued that Kenya was on the brink of engaging on non-refoulement (Vopen, 2017).

1.2 Statement of the Problem

Given the millions of people displaced in different parts of the world, the search for durable solutions is a continuous and collective effort by international community. Overtime three options have been identified and implemented with various degree of success. The first is voluntary resettlement; the second is local integration and finally third country resettlement. By far voluntary repatriation has become the most widespread practice. Under international law, repatriation should be voluntary which means both countries of origin and host country must engage in some sort of diplomacy that guarantees the rights of refugees while at the same time gaining international support. It also means that refugees should have a choice and feel safe enough to repatriate. The return should be voluntary and dignified situation. However, the conduct of voluntary repatriation in several parts of the world has raised several concerns.

The Kenya government's unilateral pronouncement that it was closing Dadaab refugee camps in 2016, even in the backdrop of security concerns, was seen as a direct affront to the concept of voluntary repatriation as envisaged in international law and good practice. For all practical purposes the repatriation as pronounced was going to be forced return or direct refoulement where refugees were being compelled to return where their lives are in danger. Several issues arise out of this pronouncement. First, what were the considerations that forced the Kenya government to consider unilaterally closing the camps? Secondly what are foreign policy implications for Kenya and finally why did Kenya not consider more diplomatic channels.

1.3 Main Objective

The main objective was to analyze the impact of foreign policy on repatriation of Somali refugees in Daadab, Kenya.

1.3.1 Specific Objectives

The specific objectives were to:

- i. Analyse the justification of Kenya government on closing Dadaab refugee camp and repatriation of Somali Refugees in Kenya
- ii. Assess how repatriation of Somali refugees from the camp impacts Kenya's foreign policy
- iii. Evaluate diplomatic efforts which have contributed to voluntary repatriation of Somali refugees

1.4 Research Questions

The study was guided by the following research question:

- i. What are the reasons advanced by the Kenya government in closing Dadaab refugee camp and repatriation of Somali refugee from Kenya?
- ii. What is the impact of closing Dadaab refugee camp and repatriation of Somali refugees on Kenya's foreign policy?
- iii. What are the diplomatic efforts that have been used in preventing the closure of the camp and repatriation of Somali refugees

1.5 Justification for the study

As hypothesized in the current work, the process of repatriation is a controversial concept, which frequently fails to serve its purpose forcing the victims to return to less than ideal situations. However, the urgency of repatriating Somali refugees from Kenya is justifiable due to the security threat their presence poses to the host nation. Despite availability of literature on refugees and specifically refugees from Somalia in Kenya, the impact of their presence, urgency of repatriation, and methodology employed attracted attention to the study. More so, studies on refugee issues have been in development, emphasizes on their welfare in host nations with less interest in its social consequences. Moreover, the phenomenon of the Somali refugees presents a unique case of study as the subjects have been deemed as a security threat to the entire nation. Therefore, the objective of this study is to evaluate the situation critically by use of the existing literature on foreign policy and repatriation. Notably, the study will aim at inquiring the Kenya's foreign policy and implications on the refugee repatriation.

1.7 Significance of the Study

While concentrating on the existing literature, the current research project aims at demonstrating that while the return of refugees is sought, intentions are grounded on solid grounds of social wellbeing of the host nation. Despite the enormous scholarly contributions on refugee crisis globally, a lot of emphasis has been laid on wellbeing of subjects neglecting adverse effects host nations incur. Thus, this study provides more understanding by international bodies about the decision by Kenyan government to return the refugees.

The research project is an analysis document, which will rely on secondary sources such as reports from external actors and government statistics from the national database, scholarly works, gray material, and Non-Governmental-Organizations reports. However, due to the limited academic literature about the repatriation of Somali refugees after the tripartite agreement, and the current terror attacks, which prompted Kenya to opt for immediate return, the work will rely on historical trends of urban repatriation to situate the case within the broader scenario of involuntary repatriation.

1.9 Scope and Limitations

Collection of the necessary information and sampling the facts was limited by time. In addition, since some of the Somali refugees have difficulty in communicating in either English, Kiswahili, or French, the language barrier might cause problems in data collection.

CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

This chapter gives literature review on Kenya's foreign policy and how it relates to refugee protection based on the various international instruments dealing with refugees. It also focuses on the literature on foreign policy of the asylum state and how it has promoted refugee protection and the rights, especially during repatriation process.

2.1 Kenya's Refugee Policy and Practice

Refugees are an integral part of the international community hence they are guaranteed rights and freedoms. However, the international refugee protection regime continues to face a challenge since most states tend to focus more on state sovereignty than providing refugees with the necessary protection through limiting their rights and developing policies to prevent entry of asylum seekers into their countries. The significant problem is individuals who face the predicament in diverse forms at societal, governmental and international levels. As a result, the issue of refugees is a moral, developmental, and humanitarian dilemma. Indeed, as Hakovirta points out, the general scope is broad enough to have a vital bearing on natural resources, environment, and security (Hakovirta 2008).

As one of the East African countries which border the horn of Africa to the North East and Southern Sudan to the North West, Kenya has been inextricably linked to the political events occurring in these neighbouring countries. Due its relative political stability, Kenya has played host to hundreds of thousands of refugees from the region including

South Sudanese, Somalis, Rwandese, Ugandans, Ethiopians and Congolese. By the end of 2017 UNHCR estimated that Kenya hosts about 1.05 million people of concern with refugees constituting 485 000¹. While for a long time the Kenya government's attitude towards refugees was fairly ambivalent, the rise of international terrorism has necessitated a change in thinking and the government is now actively engaging the UNHCR in registration and Status determination of refugees. For more than two decades beginning around 1991, the Kenya government was neither involved in refugee registration nor status determination. All these including issuing of travel documents were left to the UNHCR (Abuya, 2004). However acts of terrorism associated with the Somali based *al shabaab* in and out of refugee camps obligated the government to pay closer attention (Nyaoro, 2014).

Nyaoro argues that refugees in Kenya can be divided into three categories based on their residence and legal status (Nyaoro, 2014); the first and by the largest number are camp refugees. According to the UNHCR this category constitutes about 450-500 000. In 2012 registered refugees numbered 630 097 (Hough, 2013). Dadaab refugee camp alone hosts approximately 235 269 while the rest are in Kakuma refugee camps to the North West of the country there are 186 000 refugees. . The second category is the urban refugees which are estimated between 70 000 in number (UNHCR, Statistical Summary 2018). However even this number is not entirely exact. The third category is the unregistered refugees²

1

This figure is always subject to intense controversy which simply underscores the difficulties of counting 'moving targets'.

2

Although such categorization does not fall under the normal definition of refugees, field experience has shown that their number is substantial enough to be ignored.

from the refugee producing countries. This is a group that prefers to remain anonymous or hidden which is partly attributed to the Kenya government long standing policy that requires all refugees to be in the designated refugee camps.

The Kenyan government resolved to the policy of confinement since early in 1991 shifting from the reintegration process it had previously embraced. On the other hand, due to the political instability and insecurity in Somalia, repatriation was not considered a possibility for the refugees. The Kenyan government, Somalia government and UNHCR signed a tripartite agreement¹⁶ aimed at overseeing voluntary repatriation of exiled individuals.

Kenya like many other African countries faces increasingly diverse, differentiated and fragmented security challenges. Although conflicts in Kenya are of many different kinds, Juma (2000) classifies them into four main categories: (a) conflicts among pastoral communities, (b) conflicts linked to presence of refugees, (c) conflicts between pastoralists and crop farming communities and (d) ethnic clashes. He observes that current environmental pressures have changed conflict dynamics. Kenya has been an active international actor since independence and hosts one of the four largest UN duty stations worldwide. Kenya's foreign policy expresses the country's commitment to world peace and security, national and regional security and development.

2.2 Voluntary Repatriation as a durable Solution

The United Nations Convention on the Status of Refugees of 28 July 1951 has been universally accepted as a legal and international instrument, which defines how refugees should be treated. Article V of the 1969 Convention in Geneva addresses voluntary

repatriation. Paragraph one of the article explains the center rule (UN 2000). The basic character of repatriation might be regarded in all cases and no displaced person should be repatriated without their consent. Pronouncements on voluntary repatriations presume that conditions for safe repatriation have been met and definite obligations of both country of exile and origin are clearly stipulated.. The states that repatriate refugees and asylum seekers ought to work hand in hand with state of origin to ensure those returning are adequately catered for in secure and dignified conditions (Summers 2009). The state of origin must 'make satisfactory plans for safe return of evacuees who ask for repatriation. In addition the state of origin must 'encourage their resettlement and allow them to access full rights and benefits due to all citizens, and subject them to same obligations and responsibilities (Bailay, 2004).

The 1969 OAU convention governing the status of refugees in Africa and the 1951 Geneva Convention acknowledge the role of both the host country and the country of origin's responsibilities in making return voluntary and dignified. Together with international community and inter-governmental organizations they should help refugees with the procedure of return, including publicizing the conditions of returns by emphasizing the voluntary nature of repatriation (Chimni, 1999; 2002). Article V gives that upon return, displaced people must not be punished for having fled. The OAU Convention just like the Geneva Convention therefore envisages that all diplomatic and peaceful efforts would be engaged in repatriating refugees. Kenya, being a member of the International community therefore accepts this collective responsibility.

Kenya is a signatory to the 1969 OAU convention whose pronouncement on voluntary repatriation is considered much clearer than that of 1951 Convention. Voluntary

repatriation is only clarified in United Nations High Commissioner for Refugees' (UNHCR) statute, rather than in the convention even though the Convention was written and adopted 19 years earlier. Its creativity aside, article V (1) is a 'serious clarification of rule which is hailed as addressing an early verbalization of a desire that proceeded to address an establishment of the overall organization for protection of refugees and asylum seekers. Although repatriation is important in the search for durable solution it is by no means the only solutions (Landau and Jacobsen 2004).

The process of returning refugees back home is globally accepted as the most appropriate. Notably, in 2004, 3.5 million Afghanistan refugees returned home from Pakistan after the overthrow of the Taliban in 2001. On the same year, 107, 000 Iraq refugees who had been in Iran since 1975 were repatriated home despite the unstable governance in the country (UN 2006). Further, in 2009 more Iraq refugees in Syria, Lebanon, were repatriated.¹¹ In Africa, the process of repatriation has been ongoing for many decades as depicted in the return of Ethiopian returnees from Djibouti in 1983, the repatriation of Namibians in 1989, and the case of Mozambique in 1994.

On the same note, Somali refugees in Kenya were voluntarily repatriated in 1993-1994 (UN 2000). In the recent past, the Liberian refugees in Ghana were repatriated in 2008 after two decades of exile. However, while the process is not a new undertaking by the Kenyan government, the current course of repatriating Somali refugees in Kenya especially the urban refugees who have established themselves presents a challenge (UNHCR 2015). Most of them have economically integrated into the local societies as well as played a vital role in economic growth of the state through entrepreneurship.

Refugees continue to move between the camps and the cities unofficially, risking police harassment and arrest. In November 2013, UNHCR, the Government of the Federal Republic of Somalia and the Government of Kenya signed a tripartite agreement governing the voluntary repatriation of Somali refugees living in Kenya and outlining the respective responsibilities of the three parties. This agreement is the first step in a process that recognizes the voluntary nature of the gradual and phased approach to repatriation of Somali refugees and underscores the need to put in place favorable conditions for their successful repatriation and reintegration

2.2 Kenya's Foreign Policy

Kenya's long struggle for national liberation from colonialism set a strong foundation for its foreign policy orientation. The architects of the republic underscored the inextricable link between national independence and humanity's larger freedom, equity and the inalienable right to a shared heritage. Kenya assumed its place as a sovereign state and actor in international relations upon independence in December 1963. Since then, Kenya's foreign policy has been guided by a strong belief that our own future is inseparable from the stability and security of our environment as the basic source of national survival and prosperity (Okoth 2000).

The benchmarks guiding the country's relations with the world were set by the imperative to re-align its goals at the international level to the turbulent and shifting dynamics of a divided world during the Cold War era (1945-1989). Even though Kenya's liberation struggle enhanced the country's international image and stature, paradoxically, this heroic history also risked playing into the East-West ideological divide (Okoth 2000).

In order to strategically place the country in the international arena, the architects of Kenya's foreign policy charted a pragmatic approach, informed by several principles, which have stood the test of time. This approach has ensured that Kenya successfully forges mutually beneficial alliances with the West while constructively engaging the East through its policy of positive economic and political non-alignment (Oloo, 2015).

2.2.1 Peace building

The government is looking to put flesh on the bones of this framework and, as part of its peace pillar, is actively playing up its role as a force for reconciliation and stability in the region. Indeed, President Uhuru Kenyatta has been taking an active role in trying to reignite the moribund peace process in its northern neighbour, South Sudan. In June 2015 Kenyatta announced his plans to resuscitate the peace process and end a 17-month civil war that has killed as many as 50,000 people and left more than 2m displaced.

The government was pushing for the consolidation of two long-standing peace efforts carried out by the Intergovernmental Authority on Development (IGAD) in Addis Ababa and by the Tanzanians in Arusha. Kenya is also encouraging the return of 10 prominent exiled politicians residing in Nairobi. After 25 years of vicious conflict that has cost countless lives and displaced millions of people, peace has finally broken out in south-central Somalia at least that's what Kenya says. And the UN refugee agency, the United Nations High Commission for Refugees (UNHCR) has joined Kenya to tell the world it should now focus on helping as many refugees as possible to return home (Oloo 2015). Forced repatriation would be seen as undermining Kenya's outstanding role in peace and conflict resolutions in the region.

2.2.2 Regional Cooperation

Kenya's diplomatic manoeuvring plays into a broader effort by the Ministry of Foreign Affairs and International Trade to improve regional integration and cooperation. This is not only as a means of creating peace and stability, but also as a way of fostering economic growth in Kenya and the wider African community.

The policy notes that, "Kenya continues to play a lead role in fast-tracking regional and continental integration so as to boost intra-African trade as part of the efforts to reduce economic marginalization of Africa in the global economy. The overarching objective is the improvement of Kenya's competitiveness for foreign direct investments and that of its export products, increase of market access and developing its attractiveness as a leading tourist destination."

To this end, it is hardly surprising that Nairobi is pushing hard for the goals of regional bodies such as IGAD, COMESA and the EAC. COMESA, the 19-member regional trading bloc, which is the largest in Africa, has had a positive impact on Kenya's trade situation. The bloc accounted for almost 11% of the country's total trade in 2013 and provided a market of more than 480m people for its goods (Oloo 2015).

Kenya exported around \$1.6bn worth of goods to COMESA members in 2013. The country has a healthy trade surplus of \$1.1bn with COMESA, while it runs a trade deficit of \$8.96bn globally. Following the signature of the EAC economic partnership agreement with the EU, and the rollout of the Tripartite Free Trade Area with the EAC, COMESA and the Southern African Development Community, the potential benefits for Kenya's participation in these forums is likely to increase exponentially. Regional trade is contingent on good neighbourliness, political stability and peace. While Somali has not

actively participated in these bodies for the last 20 years, it is expected that in due course they will want to fully participate. The perception that Kenya is using its economic and military muscle to get her way may complicate relations.

2.2.3 Boosting Trade

These regional communities are a key means of bolstering export-led growth in Kenya – something that is increasingly helping to drive the country’s foreign policy. The foreign policy framework, which is set out by the Ministry of Foreign Affairs and International Trade, states that, “Kenya seeks to diversify its economic relationships and partnerships with increased focus on the emerging economies and economic zones. These efforts collectively have sown the seeds of Kenya’s new era of economic diplomacy which seeks to promote a pragmatic approach that best illustrates commitment to strengthen relations with all countries and regions based on shared mutual interests.” This policy is important at regional level because the biggest trading partners for Kenya remains Uganda and Tanzania who also face similar challenges with refugees from the Great Lake regions. The need for regional stability and common approach to refugee issues is therefore of mutual interest.

2.2.4 European Partners

Kenya also maintains strong ties with Western countries, including the EU. The country has a long history with the UK, its former colonial power, while the EU on the whole serves as a long-standing strategic ally and a major trade partner. Eurostat data published in January 2013 shows that trade with Europe represents approximately 17% of Kenya’s overall trade. Trade volumes are also likely increase in coming years, following the signing of the EAC Economic Partnership Agreement.

2.3 The role of Kenya's foreign Policy on Refugee

To restore lasting peace in the world, all the countries in the world have realized that the fight against terrorism cannot be won by one country in isolation but rather to as a combined effort. This understanding has had a great impact on the way foreign policies have been shaped (United Nations 2000). A case in point is the Africa Union's (A.U.) whose approach to security involves both military and non-military factors which are to a greater extent influenced by the recommendations of the 2000 Brahimi report. This report argued for a broader approach to United Nations (U.N.) peacekeeping with bigger and better equipped missions (Vogt 2005).

Through this report, the A.U. deployed Peace Support Operations (PSOs), which is a multidimensional approach to conflict. This therefore necessitated concerted efforts by all the member countries to fight the common enemy and which to a great extent has been shaping the foreign policies of the A.U. member countries (United Nations 2003).

Foreign policy is often influenced by the domestic political situation and by those who have power in domestic politics. When foreign policy depends on domestic policy, it is harmful to the State's role in the international community and its external relations; however, the impact of domestic policies and conditions within a country on foreign policy is important (Schmid, 2004).

The relation between the two policy fields is in practice a continuous and bi-directional process of mutual influence to the extent that the consequences of domestic policies on foreign policy is normally evident both on the choice of foreign policy goals and on the maintenance of the national interest. In democratic countries, for example the United States, change of regime hardly leads to drastic changes in foreign policy.

Foreign policy which is mainly consistent and stable is usually affected by the ever changing domestic political ongoing and the political balance of power within a country.

To understand better the current foreign policy and where it is headed to, the study of internal political relations and policies within a country is important (Waltzer, 2002).

Soft power approaches such as diplomacy which uses persuasions is a strategy of foreign policy used by democratically governed countries among many other strategies. Whilst dictatorships and totalitarian regimes lean towards methods such as hard power, threats, actual use of force and pressure in foreign policy (Okware and Odhiambo, 2010).

Foreign policy must deal with diverse and digressing interests of sovereign states and the decisions that may arise may not only cause reactions in the country for which they are intended, but may affect a number of countries which also have their own interests. These decisions are likely to trigger off varied reactions in the international community.

Foreign policy of any state is actor specific and reactive since it is formed not as an initiative but rather a response to emerging issues and usually it is shaped by global and regional conditions and circumstances, although underlying principles and issues may be in the play. Foreign Policy tend to have a bipartisan support because decisions reached may affect a country's relationship with a number of countries, thereby making these decisions a delicate balancing act (Okware and Odhiambo 2010).

2.5 Theoretical Review

This study was premised on two major theories. When dealing with the issue of national interest as a justification for state actions, the study shall adopt the Realism school of thought. As regards refugee protection and the institutions in place to safeguard the rights

of refugees and the international obligations of a state, the study also adopted English theory.

2.5.1 Realism Theory

Waltz (1979) argues about how features of the overall state's system affect their interactions in the international arena. Realists consider the world anarchic in nature hence classical realists, according to Wohlforth (2012) argue that anarchy is the principal underlying cause of war since it renders the security of states problematic and potentially conflictual. Cox and Stokes (2012) argue that principal actors in the international system are sovereign states who regard themselves as the highest authority and have control over its domestic affairs according to how it deems fit. They subscribe to the realist assumption of the nation state as a rational actor pursuing its national interests within an anarchical system, and an international system of self-help in which the primary concern is security otherwise defined as survival (Cox & Stokes, 2012).

The realist school of thought is based on three assumptions: statism, survival, and self-help. Statism recognizes states as the major players in the international system and they view other players such as the United Nations on a secondary basis as to whether or not they are useful for the national interest and to which extent. The state being the central actor in the international system aims at ensuring its survival and that of its citizens. In achieving this, the state elevates the defense of the national interest as primary and takes precedence over the national interest of other countries.

Since this tends to be the pursuit of all states, international politics tends thus to be characterized by distrust and competition hence self-help becomes a critical tool for survival. Thus according to the realists, they will call upon international cooperation and

international law only when it serves to advance their national interests. Kenya's responses could be perceived as the state acting in its defense of national security as 'self-help' and hence the policies it adopts are meant to ensure its survival and hence the protection of its national interest. According to realists, the promotion of national interests is the iron law of necessity for states.

2.5.2 English Theory

The English school proponents such as Bull (1977) consider the modern international system as an international society comprising of individual states. They posit that the international society is a society where states have established common rules, values and institutions, such as mutual recognition of sovereignty, and international law for their inter-state relations through dialogue and consent and they recognize their shared interests in maintaining these arrangements (Bull & Watson, 1984). The English school posits that actors can tell between right and wrong and hence the state acts as a moral international agent in its pursuit of survival as an independent political entity, hence justifying humanitarian intervention and use of force, though they caution against this being viewed as a cloak for power politics.

However, they do not deny that national interests and power politics play a significant role in the international society. They agree with the realists on one hand where they see the foreign policies of state leaders addressing the concern of the state and its citizens (Haddad, 2008). They consider that the morality of states is based on the responsibility of the *raison d'etator* the national interest, the *raison de systeme* or the international system interest and the *raison de justice* or the global justice interest (Knudsen, 2002).

Basically, priority is given to the pursuit of national interests by states, however, there is always a dilemma when states try to combine these concerns and hard choices have to be made. Placing Kenya into context, there is a dilemma when the question of precedence between international law and states' interest and its moral obligation when formulating repatriation policies.

2.6 Summary and Gaps to be filled by the Study

Based on the literature analysis above, it takes cognizance of the fact that much focus is placed on the protection of the refugees. Little or no mention has been made to the security of the states facing the heaviest burdens of refugees in their territories despite this being an issue of primary concern. Further, notwithstanding the principle of international solidarity and burden-sharing being provided for, the actors involved are not compliant thus leaving the burden to the host country.

It is clear that refugee protection is an international obligation under international law and international refugee law, however, the question that arises is whether a host state facing the heaviest burden and threat of hosting the refugees entitled to compromise its national interests for the sake of abiding by its international obligations? Kenya's responses to the Somali refugee influx have been more vocal following various terrorist attacks in the country. It is thus unclear whether the responses are based on protection of national interests or not considering how recent the situation is. Repatriation exercise was reached after long consultation with concerned bodies. Kenya felt necessary to repatriate the refugees in accordance to the International laws and regulations.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

The previous chapters have established the correlation between the influx of Somali refugees and the Kenyan concerns on insecurity and social development. Chapter two, in particular, has portrayed the complexity of encamping all the Somali refugees on the designated sites namely Dadaab, due to the protracted situations many have moved to other parts of the country. Refugee centers have turn to be breeding zones for terrorists and therefore, Kenyan government has taken measures to curb terrorism measures. This part of the study elaborates methodology that was used to carry out the research.

3.2 Research design

This study took a qualitative, desk research approach and it was predominantly premise on review and critical analysis of literature and state practice to help in analyzing the foreign policy behavior of Kenya towards Somali refugee repatriation and particularly taking into consideration the influx of Somali refugees in Kenya and how the same is influencing Kenya's pursuit of its national interests.

This research focused majorly on secondary sources of data which include published books, printed and online journals, field research reports such as the UNHCR and other

NGOs reports especially those dealing with refugee issues, policy documents such as the Kenya Foreign Policy Document, UNHCR policy documents, Conventions and treaties to mention but a few, and reports from state and non-state actors, such as international organizations, intergovernmental organizations and experts in the field among others. Unpublished Thesis and projects were also used to guide the research identify gaps and also provided valuable insights. This study focuses on the effect of foreign policy on repatriation of Somali refugees. This study will investigate this question using Kenya as an empirical setting. Employing a mixed research methodology, this study will present an assessment of Kenya's foreign policy and its influence towards refugee's repatriation and its implications for national and regional peace and security.

3.3 Data Analysis

While analyzing the data obtained from the primary and secondary sources, qualitative information analysis was employed to achieve the accurate information necessary for the principle objective. Accordingly, the analyzed data was edited, coded, and correctly interpreted. Further, the study was carried out in Dadaab and Nairobi where the affected urban refugees are mostly found. Besides, the other national institutions such as the Ministry of defense, internal security, and UNHCR are also situated in the same locality making the process of data collection easier.

3.4 Ethical considerations

Ethical research standards was followed to avoid plagiarism and to ensure validity and reliability of the research content.

CHAPTER FOUR

REPATRIATION OF SOMALI REFUGEES FROM DADAAB CAMP: CRITICAL ANALYSIS

4.0 Introduction

This chapter assesses the justifications that Kenya government made in seeking to close Dadaab camps and repatriate only Somali refugees while there other Non-Somali refugees in the camp. The second part analyses how the decisions to close the camp affected Kenya's foreign policy and relations with regional states. Finally, despite the strong pronouncements the camp was not closed although repatriation has been going on albeit in staggered and slow process

4.1 Justification of closing Dadaab Refugee camps

The decision to close the Dadaab camp was first hatched in 2013 when a tripartite agreement was signed binding Kenya, Somalia and the UNHCR on joint effort in repatriating Somali refugees (UNHCR, 2013). Kenya had approached the UNHCR and expressed the desire to have the Somali refugees repatriated back to Somalia. Kenya was responding to the growing number of Somali refugees. The three parties agreed to cooperate to ensure that the process of repatriation was done in a smooth manner and in accordance with Article 33 of the 1951 UN Convention Relating to the status of Refugees taking into account refugee rights and protection against forceful relocation. More recently, however, Kenya's decision to relocate the refugees into Somalia has been precipitated by the security challenges. The government has threatened to force the Somali refugees out of the country. This is against Article 33 of the UN Convention on

Non-refoulement (UNHCR, 2013). While the UNHCR allows for repatriation, it has to be done in a manner that will not lead to persecution of the refugees.

Repatriation is also supposed to be voluntary. The refugees have to decide whether they feel safe moving to another location back in their country of origin. In a move to repatriate the Somali refugees and close the Dadaab refugee camp, the government went ahead to disband the Department of Refugee Affairs, the government body tasked with refugee management in Kenya.

Kenya has received condemnation internationally over plans to repatriate refugees. According to a report by the Amnesty International (2015), close to 350,000 Somali refugees will be affected. According to the report by the UNHCR on repatriation, one of the primary goals is to focus on the reintegration process of the refugees (UNHCR, 2013). This is aimed at preventing any conflict between the refugees and the host communities. This means that prior to the relocation; the host community has to be prepared to receive the refugees. Although the decision to close the camp will be not be violation of any known international laws, forcefully removing refugees would be especially the rights to non-refoulement.

The country's encampment policy and measures to restrict refugees' movements significantly curtails opportunities for local integration. However, the frequent Al shabaab terrorists attacks in Kenya have complicated the good will on Somali refugee hosting hence leading to repatriation. Repatriation of refugees as the appropriate measure to curb the increase of refugees worldwide in addition to the incidences of protracted situations poses a significant challenge to the operations of international refugee regime.

As mentioned earlier, the Kenyan decision to close Dadaab camp is not only aimed at curbing the current humanitarian crisis and the influx of refugees, but also as a security measure. It is alleged that the camp has been used as a training ground for Al-Shabaab recruits (Goldman, 2015). However, the government is yet to release any tangible evidence about the number of Al Shabaab members arrested at the Dadaab camp. The Amnesty International (2015) does not support the government's efforts to close the camp indicating that the allegations of terrorism are unjustified. The government is accused of using the current security challenges in the country as a justification for closing Dadaab (Human Rights Watch, 2015). This will not just affect the Somali refugees, but other refugees from Southern Sudan, Burundi and Ethiopia who also reside at the camp. Further, with the disbandment of the Department of Refugee Affairs, the government leaves a grey area as regards refugee management in the country.

The bottom line is that Kenya can use other strategies to address the challenges the Dadaab camp. The decision to close the camp will have negative implications that will include physical and emotional harm to the refugees. This does not, however, mean that Kenya has no obligation to control the influx of Somali refugees. Kenya should work closely with the Somali government in an effort to share intelligence. With peace gradually being experienced in Somalia, many refugees will begin returning to their country. Kenya should work with the UNHCR and the Somali government in an effort to make necessary preparations for humane repatriation. The camp should remain open for those who are not yet ready to leave, or they should be relocated to another country.

The response by UNHCR indicated that the intention of Kenya abruptly closing the camp would lead to practical and humanitarian crisis. The Kenyan government claimed that Al-

Shabaab terror group uses the refugee camps hosting Somalis to pose a national security threat to the state since the complexes are the recruitment and planning grounds for the attacks. Additionally, the state contends that the cost of maintaining the refugees has been enormous for the government with little help from the international stakeholders.

Nonetheless, the human rights watch activist contends that the allegations by the government cannot be substantiated with empirical evidence of the same. Furthermore, the political and social situations in Somalia are not yet favorable to receive the returnees. On the contrary, the international community understood presence of Somalia refugees as a security threat and as a result, the United State of America offered to assist in repatriation.

Operation *Linda Inchi*³2011 and other security operations

Although Kenya has played a critical role in the search for peaceful resolution to the Somalia conflict, in 2011 it took unprecedented step by sending its troops into Somalia. While this move was not a declaration of war in the classical sense, it was fraught with many dangers for the Kenya Defence Force was going to face an invisible enemy in the name of alshabaab. Those opposed to incursion pointed out the African Union already had peacekeeping forces in Somalia and that the incursion would lead to increased attacks from the terrorists.

In Dadaab the issue of security is actively exploited to prepare refugees for forceful return (HRW, 2013). First, there was some apparent contradiction. While declaring the camp as insecure, yet the government attempted to return all Somali refugees to this very camp. The explanation for this contradiction was that all Somali

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Kiswahili word for protecting the country

refugees should relocate to the camp as they await repatriation. Although occasionally the government raids refugee inhabited residences in urban areas and forcefully return some them to the camps, the Operation *Usalama* watch, conducted in 2014 was the biggest and most brutal (Amnesty International, 2014; Human Rights Watch, 2015). Using the terrorist attacks on Garris University College and other parts of the coastal region as the reason, government ordered a crackdown on urban refugees especially the Somalis. Thousands were surrounded and forced into Kasarani Sports Centre which was then used as a transit camp for those identified for return to the camp (UNHCR, 2014; Tippens, 2016). Besides providing the government an opportunity to demonstrate to the world its coercive ability, the verification invariably included Kenyans of Somali origin. This act also demonstrated to refugees that the government has the ability to return them home and the international community can do very little about it. Indeed apart from protests from civil society about the use of unjustified force and extortions by police and migration officers, no protests was recorded from the envoys of Western Countries.

These strategies did go down well with the civil society and international community which challenged the Kenya governments standing a pillar of regional peace and stability. Indeed the threat of closing the camp forced the UN to send the UNCHR commissioner to Kenya.

The prelude to repatriation

Judicial rulings

While the repatriation process from Kakuma of South Sudanese in 2006 did not attract the attention of the civil society as much, the Dadaab case and Somali refugees attract

constant public attention. When the government ordered all urban refugees (meaning those in Nairobi), to return back to the camps, the order was successfully challenged in court (Noor, 2014; Amnesty International, 2014). The judge held that the order was an infringement on the right of refugees and amounted to breaching the principle of non refoulement. A year later the same judge presiding over the same case overturned his own ruling, baffling both refugees and the litigants from civil society (HRW, 2014).

In Dadaab there were apparent attempts to conflate the issues of security and repatriation. While in Dadaab there is an open and official linkage between refugees and terrorism, in Kakuma the issue was more subtle and only involved conflicts between host communities and refugees (HWR, 2010). The perceived future consequence of repatriation on the social and economic fabrics in Kakuma was deemed to be the source of insecurity between refugees and the host community. Having been in existence for close to 18 years, Kakuma has become an urban Centre in a largely remote part of Kenya. With the presence of aid workers, relief services and goods, the camp has attracted traders from other parts of the country and has enabled the host community to easily access modern medical services, education and housing (Jansen, 2014). Indeed, Kakuma has enabled the local community to get integrated into the cash economy of the country. There is fear that with repatriation these services will no longer be available and this fear has created insecurity especially for refugees. Economic prospects for both the host communities and the refugees from other nationalities who will be forced to remain look bleak.

In the recent past, Al-Shabaab militants have launched several attacks in Kenya. The most disastrous was an attack on the University College of Garissa in Kenya, killing 148 students. In the aftermath of the attack, the political leaders of Kenya's North Eastern Region called for the closure of the Dadaab camps, and a number of senior Government officials called for UNHCR to repatriate all Somali refugees in Dadaab to Somalia.

However, after a series of demarches reaffirming the voluntariness of the repatriation process, Kenya, Somalia and UNHCR jointly reaffirmed their commitment to a coordinated and humane return process in accordance with the Tripartite Agreement.

To this end, the Tripartite Commission was formally launched on 21 April 2015 to oversee the implementation of the Agreement. In addition, the Government of Kenya reiterated its continued commitment to provide international protection to refugees, including Somalis, in Kenya. The generosity of the Government of Kenya towards refugees, and the combination of the efforts mentioned above, have helped to preserve the asylum space in Kenya and allowed for the continuation of voluntary returns of Somali refugees to their country of origin, in conditions of safety and dignity.

In Somalia, all districts of Somaliland and Puntland are areas where internally displaced persons (IDPs) have been returning with the support of humanitarian actors. In South Central regions, there has been a progressive emergence of areas of relative stability as the Peace Building and State Building Goals (PSGs) of the Somali Compact take hold.

This strategy identifies nine such areas as where humanitarian access exists (Afgooye, Baidoa, Balcad/Balad, Belet Weyne, Jowar, Kismayo, Luuq, Mogadishu and Wanla Weyn). However, conditions in some parts of South Central regions are still not

conducive for immediate mass returns, particularly as Al-Shabaab continues to exercise effective control over significant parts of the territory.

The extremist group also uses a strategy of asymmetric attacks on major urban centres against the Federal Government of Somalia (FGS) as well as the targeting of political, military and humanitarian actors. In this regard, the fundamental factors in creating conditions for safe and dignified refugee and IDP returns in more areas of South Central regions are, in part, reliant on the ability of the African Union Mission in Somalia (AMISOM) and the Somali National Armed Forces (SNAF) to establish FGS control in areas now controlled by Al-Shabaab, as well as the ability of the FGS to establish and maintain effective rule of law and administration in these areas.

Despite these challenges, the United Nations Assistance Mission in Somalia (UNSOM) is providing robust support and encouragement to the FGS and the regions as they progress with constitutional reform and the organization of elections in 2016. In parallel, a broad coalition of humanitarian, resilience and development actors are actively supporting early recovery, political and socio-economic stabilization and progress. However, further commitment by the international community is urgently needed to better channel, coordinate and focus these efforts for maximum impact on the absorption capacities in areas of return.

Refocusing these efforts will also contribute to the sustainable return and reintegration of refugees. In the immediate aftermath of the attack on the Garissa university college, UNHCR outlined a set of approaches in Kenya and Somalia to strengthen the voluntary return process and support the development of conditions that will be conducive for sustainable reintegration.

As presented in above the arrival of Somali refugees in Kenya created a dilemma for the country. Being a signatory of the international conventions, the Kenyan government was obligated to accommodate the exiles; on the other hand, the government has a duty to protect its people from external forces which aim at destabilizing the state. In these regards, it has been established that the occurrence of Somali immigrants in Kenya has been actively involved with the Al-Shabaab terror group and entry of small arms. Therefore, the call to repatriate the Somali immigrants has been the long lasting solution. However, while the security of citizens is paramount to any given state, respect for international conventions about refugees is equally significant.

4.2 Role of foreign Policy on Repatriation of Somali Refugees in Kenya

Kenya is proceeding with its repatriation policy on the basis that Somali refugees at Dadaab are returning voluntarily to Somalia. Voluntary repatriation is permitted under international refugee law and protection frameworks but, the frameworks place onerous responsibilities on the countries of asylum and origin, and on the UNHCR to ensure that return is voluntary, safe and dignified, and within a framework of sustainable reintegration. Kenya's foreign policy has played a very vital role in ensuring that there is a smooth process in ensuring voluntary repatriation of Somali refugees takes place. Due to the international attention towards the closure of Dadaab and Kenya's government awareness of her strategic role in the region, officials changed tactic that embraced diplomatic strategies and adhered to international laws. The following return modalities have been put in place by UNHCR in Kenya:

Confirmation of the voluntariness of the decision to return: UNHCR and its partners emphasize the voluntary nature of return to refugees during a counseling process

undertaken at Integrated Return Help Desks located in the refugee camps in Dadaab. These Help Desks are staffed by UNHCR, the Department of Refugee Affairs (DRA) and Norwegian Refugee Council (NRC). The UNHCR Help Desk informs refugees that it will support return to any part of Somalia provided the decision by refugees to return is taken freely and voluntarily in the exercise of an informed decision. UNHCR confirms and verifies this voluntariness and all adult returning refugees complete and sign a Voluntary Repatriation Form (VRF). The NRC Return Help Desk provides refugees with country of origin information relevant to conditions in designated return areas, including available assistance and services. The refugees also receive initial mine risk education. In addition, NRC during departure procedures distributes the core relief items, hygiene kits and high energy biscuits to returning refugees.

Ensuring a safe and dignified return journey: After the confirmation of the voluntariness of the decision to return, UNHCR provided return assistance comprising pre-paid transportation, a cash grant of USD 120 per individual (USD 150 for persons with special needs) to refugees travelling by road or USD 60 per individual (75 USD for persons with special needs) to those travelling by air from Dadaab and Kakuma. Urban-based refugees travelling through Nairobi receive USD 80 (USD 100 for persons with special needs). Refugees also receive a package of core relief items and a hygiene kit for their journey. This approach aims at ensuring that UNHCR supports the right of return for refugees who decide to go back to Somalia and ameliorates the associated logistical and financial burden on returning refugees, thereby ensuring that the decision is realised and does not render them destitute. Had the Kenya government not created the urgency for

repatriation it would have probably taken the UNHCR much longer to raise the funds given that the world attention was riveted towards the Syrian refugee crises. Though the number who have repatriated is still small, there is growing optimism that a steady movement will follow as stability returns in many parts of Somalia.

Ensuring protection safeguards: In accordance with the Tripartite Agreement as well as UNHCR's guidelines and policies, the voluntary nature of the return has been strictly observed. In addition, the return process has ensured that all international protection standards are observed, especially with regard to the protection of children, older persons, persons with disabilities and other categories of persons with special needs. To this end, inter-agency protection working groups have developed action-oriented standard operating procedures for the protection of refugees deciding to return to Somalia. Specifically, cross-border protection, repatriation and reintegration coordination mechanisms have been established to support a sustainable return and reintegration process in an orderly and humane manner.

Standard operating procedures: UNHCR and Kenyan government developed standard operating procedures and modalities for the provision of return support packages to returning refugees to ensure that ineligible persons, including returnees who come back to Kenya to seek asylum (recyclers) do not have access to such assistance. Whereas Somalis are granted *prima facie* refugee status, recyclers are required to undergo individual refugee status determination and a needs assessment before facilitating their re-registration. These mechanisms have been designed to ensure that eligible refugees only collect the support package one time.

In conclusion, repatriation of Somali refugees in Kenya was established under the Tripartite Agreement and it has been structured so as to provide multiple opportunities to provide information and to confirm the voluntary nature of the return. The Tripartite Agreement has been adhered, and its principles continue to be followed and all parties have respected their obligations under the Tripartite Agreement to ensure that return is voluntary, safe and dignified. The Tripartite Commission and Technical Committees and Kenyan Government have combined efforts to ensure Tripartite Agreement is utilized to ensure refugee protection in accordance with international law.

4.3 Effectiveness of Kenya's foreign Policy on the Repatriation of Somali refugees

Kenya's foreign policy has been instrumental in refugee management. Kenya has two key displaced person camps, Kakuma Refugee Camp in northwestern Kenya and Dadaab in northeastern Kenya. Dadaab Refugee Complex is the greatest and most congested that has been in the spotlight over the repatriation strategy. Dadaab has around an a huge bit of a million evacuees in a general sense from Somalia since the common war in 1991 and in October 2011 that saw kidnappings of help staff, something that, in some measure, added to military intervention by Kenya in Somalia. It is assessed that there are around 500,000 other unregistered Somali evacuees in Kenya.

The Dadaab displaced person camp has been connected with the exercises of the Al-Qaida connected Al-Shabab dread gathering. Kenya's decision to rightly pursue its security interests and protect its people from terrorist attacks and threats is in line with relevant international standards on repatriation process. Existence of contrasts amongst Kenyan and UNHCR with previous suggesting procedure was unavoidable. Kenya, keeps

up that arrival of the evacuees would just be done on an intentional premise according to the tripartite agreement.

Through a sound foreign policy frameworks, Kenya as a state has partnered with International community and other states on issues relating to Somali refugee repatriation. Kenya through partnership with UNHCR has established strategic partnerships with the Danish Refugee Council (DRC), the International Rescue Committee (IRC), the Norwegian Refugee Council (NRC), the Refugee Consortium of Kenya (RCK), Kenya Red Cross Society (KRCS), Islamic Relief Kenya (IRK), the International Organization for Migration (IOM) and the World Food Programme (WFP). DRC provides refugees with the cash grant.

NRC provides core relief items, country of origin information and initial mine-risk education. IRC, KRCS and IRK provide pre-departure health screening to all departing refugees. RCK provides an independent and objective monitoring capacity of the return process in Kenya. IOM supports participatory assessments processes. WFP provides high energy biscuits and assists UNHCR with the arrangements of return air transportation. This therefore is an indication that Kenya's foreign policy has been effective and instrumental in ensuring repatriation process is carried out in accordance to the prevailing law.

4.4 The role of Kenya's foreign Policy in relation to bilateral security assistance from other States

To ensure adequate resources for the strengthened voluntary return process as well as to address resilience and security concerns in Kenya, UNHCR and the Governments of Kenya and Somalia have come up with the operational strategy, plan and a portfolio of

projects or plan of action in Kenya and Somalia. There has been a good working relation between the two states and support agencies on issues of refugee welfare. The Somali residents of Dadaab benefit from considerable protection against involuntary repatriation as a result of their refugee status. It is possible that certain refugees may be legally repatriated against their will under an exception to the non-refoulement principle or may see their refugee status cease, but such cases must be individually considered and the evidential burden on the Kenyan Government is onerous.

In any case, given the nature of the individual actions required for their application, these provisions are of very limited assistance to the Kenyan Government in the context of closing Dadaab generally. Where an individual is subject to cessation of refugee status or an exception to the non-refoulement principle, complementary protections may apply to prevent their refoulement. In any event, the success or failure of repatriation hinges on what happens to refugees once they have returned home. According to UNHCR official:

“UNHCR is aware that south-central Somalia is in no way conducive to large-scale refugee returns,” he said. “UNHCR should not facilitate any returns until Kenya says those afraid to go home can stay in Kenya and UNHCR provides refugees with accurate information about what they will face when they go home.”⁴

The above account shows that security and welfare of the refugees is always put first during repatriation process. It is of course possible that, the dangers presented by the drought and ongoing civil war in Somalia notwithstanding, certain refugees are making

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fully informed, voluntary decisions to return to Somalia. From one of the returnees, he said:

“I had received information that Belet Hawa was safe, but when I returned, I saw that nothing had changed. There the young and the old carry guns, there is no peace... There were three bouts of fighting between two sub-clans of the Marehan...My husband who has a mental health condition was very affected by the fighting. It’s hard to know how to protect yourself”⁵.

In this regard, refugee security has been the centre of focus when they are being repatriated. The return process has ensured that all international protection standards are observed, especially with regard to the protection of children, older persons, persons with disabilities and other categories of persons with special needs. To this end, inter-agency protection working groups have developed action-oriented standard operating procedures for the protection of refugees deciding to return to Somalia. Protection standards are also mainstreamed in the provision of assistance to ensure that the support that UNHCR provides is delivered according to the individual’s needs.

Kenya has come up with strategies to provide security to refugees as they return home. Through UNHCR it has established strategic partnerships with the Danish Refugee Council (DRC), the International Rescue Committee (IRC), the Norwegian Refugee Council (NRC), the Refugee Consortium of Kenya (RCK), Kenya Red Cross Society (KRCS), Islamic Relief Kenya (IRK), the International Organization for Migration (IOM) and the World Food Programme (WFP). DRC provides refugees with the cash grant. NRC provides core relief items, country of origin information and initial mine-risk

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education. IRC, KRCS and IRK provide pre-departure health screening to all departing refugees. RCK provides an independent and objective monitoring capacity of the return process in Kenya. IOM supports participatory assessments processes. WFP provides high energy biscuits and assists UNHCR with the arrangements of return air transportation.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.0 Introduction

This part of the study provides summary of the findings, conclusion and recommendations of the study.

5.1 Summary of the findings

Kenya has been a host to a large number of refugees from mainly the Horn of Africa and Great Lakes Region. These refugees are primarily in Kakuma refugee Camp in the north-western part of the country and Dadaab refugee camp in the North Eastern part of Kenya. As a result of these security concerns and the threat to its citizens, Kenya saw it imperative to respond so as to protect its national interests and national security.

5.2 Justification of closing Dadaab refugee camp

While it is true that Dadaab camp had elements of Islamic radicalization, the initial lack of government involvement in refugee management in the country is partly the cause. The absence of government security officers and other public officers in area with a population of 500 000 was a costly oversight by the government which made the camp not only insecure but also spawned other social ills. The attempt cite Dadaab as a destabilizing factor in the security landscape of the country to warrant the abrupt closer was however not well supported. That the government quietly rescinded or climbed down from the tough rhetoric is probably a testimony to the unrealistic demands. It is also true that the negative criticism from the international community and civil society groups in

the country influenced Kenya's decision not press more aggressively the closure of the camp. Kenya is now caught in a dilemma as to whether to obey its international obligations or whether to defend and pursue its national interests for the sake of protection of the homeland. While considering internal security situation is vital, Kenya complicated her case by first ordering refugees to go back to the camp and then declaring the camp unsafe. Indeed the demand to close the camp was seen as a continuation of harassment of Somali refugees from the Usalama watch operation in Nairobi. On the face of it the closure of the camp was not justified unless the Kenya government was calling international attention to the protracted situation of Dadaab refugee camp, which it duly received albeit in a roundabout manner.

5.3 Impact of repatriation on Kenya's foreign Policy

By slowing down on total closure of the camp and allowing UNHCR and other agencies to conduct orderly repatriation process, Kenya did not damage its foreign policy in the long run. While the initial incursion by KDF in Somalia was perceived as out of character of Kenya's foreign policy of regional cooperation and peaceful conflict resolution, it helped stabilize the AU peacekeeping forces in the country. This assertion is made in view of the fact that Kenya stepped back from breaching international law on voluntary repatriation and got the UN to speed the repatriation process. By February 2018, 73 860 refugees had already repatriated to Somalia through UNHCR help desk (UNHCR, 2018) Kenya's foreign policy has provided two main principles that have been used to guide the parameters of repatriation. First the refugees are not supposed to be subjected to fear of persecution. Secondly, they should not be refouled to a location where they may be in any

danger or harm. As a result, voluntary nature of repatriation has been the only option for Kenya. On the contrary, compulsory return of refugees is similar to forced migration which created the refugees at the first place. According to international customs and Refugee Conventions, expulsion of refugee is a breach of the international laws, therefore, foreign policy in Kenya has provided viable strategies to repatriate Somali refugees in accordance to the stipulated Treaties and agreements.

5.4

First, national security interests are vital for any country as a means of ensuring its survival. Among Kenya's vital national security interests is the preservation of territorial integrity and establishing peace, security, law and order. It was evident that most states, and not only Kenya, tend to respond in various ways to refugee influxes for different reasons but it was clear that some especially in the global North react in a bid to safeguard the homeland, protect its citizens and pursue their national interests.

The study established that Kenya's response by sending its forces to Somalia was in a basis of self-help and they acted within the realm of international law. The response did not bore any positive outcome. Instead, the Al-Shabab terrorist attacks in Kenya have escalated leaving scores of citizens dead.

The study further established that instability and insecurity in Somalia threatened Kenya's territorial integrity. Further, Kenya continues to receive new asylum seekers from Somalia who are fleeing the conflict escalated by the Al-shabaab in the country.

The study hence establishes that Kenya's political decision to close Dadaab camp and repatriation of the Somali refugees into Somalia places the lives of the thousands of the

refugees at risk. However, repatriation has been carried out in accordance to the International laws and Treaties.

5.3 Conclusion

In 2007, the UNHCR decided that the majority of 11.4 million refugees in the globe at the time would be repatriated to their home countries. Moreover, the process has been used as a tool of stabilizing communities after conflicts such as the Somalia. Anthropologist Feld Basso contends that the sense of belonging to a particular place regardless of the situation plays a vital role in creating the driving force for refugees to return home.

By definition, refugees are individuals who live in depleted situations where they cannot establish their existence with the environment. The interweaving of practices, identity, and place which create a suitable place for habitation in a given landscape are necessary ingredients of creating survival tactics in the foreign land while the land of origin remains the inextricably linked.

Globally, the international human rights promote repatriation of refugees as the most appropriate long lasting solution. Specifically, it states that all persons have rights of returning home. Nonetheless, even though defined as voluntary, repatriation is not portrayed as so in the annals of the United Nations. But rather as vague provisions which try to prevent refolement of the immigrants as found in the 1951 Convention Article 33, which states that refugees should not in any way be exposed to persecution of any kind. Moreover, the restriction towards refolement depends on subjective sentiments of the refugees.

5.4 Recommendations

Given the impact of the prolonged conflict in Somalia, the following recommendations are given:

- a) The Kenyan government needs to publicly assure all Somali refugees and asylum seekers still fearing return that they will be allowed to stay in dignity in Kenya until they decide to return home. The government needs to reinstate procedures recognizing Somali refugees on a *prima facie* basis or establish fair, transparent, and effective asylum procedures across the country; and continue to recognize as refugees those who were unable to re-establish themselves in Somalia after repatriating and coming back to Kenya.
- b) The Protection and Returns Monitoring Network (PRNM) system should be strengthened and expanded. Monitoring activities should be conducted in partnership with NRC on a nation-wide basis; whereby Somali national GOs jointly identified by UNHCR and NRC collect, compile and report on protection incidents and population movements. This will be an essential tool to enhance protection and to inform programming for more effective reintegration.
- c) UNHCR should not facilitate any refugee returns to Somalia until Kenya confirms that all refugees have a genuinely free choice to stay in Kenya or return to Somalia and to ensure that refugees are provided with accurate and up-to-date information about conditions in Somalia, including security conditions and the social welfare.
- d) UNHCR should enhance the provision of information, counseling and legal services on housing, Land and Property Rights (HLP) of returnees and IDPs. HLP

working groups need to be established in Somalia under the co-leadership of NRC and UN Habitat.

e) UNHCR and Somali government need to establish and strengthen the quality and access to basic services in areas of return. Health, education, water and sanitation services must be strengthened. UNHCR need to plan for vocational skills training and livelihood opportunities to promote self-reliance and increase capacities for reintegration;

f) UNHCR's partners are required to provide information and counseling services to refugees on mine-risk awareness in areas of return. This is an effective and complementary operational partnership which enhances the protection of returnees;

g) During return movements from Kenya, UNHCR Somalia need to maintain effective coordination with UNHCR Kenya to identify persons with special needs and to make appropriate arrangements for their care, wellbeing at the border and at way stations, and during the reintegration process. Persons with special needs include those with disabilities, children at risk including unaccompanied and separated children, older persons including those without care, and survivors of violence. Measures to enhance their wellbeing will range from providing adapted foods and sanitation services at way stations, to strengthening community-based protection in districts and villages of return.

h) It is advisable that refugees remaining in Dadaab receive adequate aid and opportunities for other durable solutions, including greater use of resettlement to countries outside the region, for as long as they have well-founded fears of return

to persecution or other serious abuses in Somalia; and Insist that any organized returns of refugees from Dadaab fully comply with standards for voluntary repatriation and refuse to fund or otherwise support involuntary refugee returns to Somalia.

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