INTERNATIONAL REFUGEE PROTECTION FRAMEWORK INFLUENCE ON HUMAN SECURITY IN NAIROBI COUNTY, KENYA

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April, 2018

DECLARATION AND CERTIFICATION

DECLARATION BY THE CANDIDATE

This thesis is my original work prepared with no other than the indicated sources and has not been presented in any university or any other award.

Signature........................... Date 17-05-2018

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DEDICATION

I would like to dedicate this thesis to all women and children refugees who bear the brunt of war with a lot of resilience and hope to protect life.

ACKNOWLEDGEMENT

ABSTRACT

This study examined Kenya's efforts to meet its international obligation of responsibility to protect refugees on the one hand, and its duty to secure its citizenry, security and sovereignty on the other. The Government of Kenya delivered a decision to end hosting of refugees clarifying that the country's national security interests were threatened by Al Shaabab. The general objective was to assess the international refugee protection framework on human security in Nairobi, Kenya. The specific objectives were (i) to evaluate the structure, nature and form of the international refugee protection framework operational in Nairobi, Kenya;(ii) assess the nature of human security in Nairobi County; (iii) identify challenges and opportunities in enforcing the refugee protection framework in relation to human security in Kenya. The main question was: what is the nature, structure and form of refugee protection framework operational in Nairobi, Kenya? The study employed the constructivist theoretical framework. This study used mixed research methods by employing both quantitative and qualitative techniques. The researcher obtained the list of registered refugees from relevant offices. From that list, 285 respondents were selected using the systematic random sampling. Data was collected using questionnaires, structured interviews and focus group discussions. A total of 3 FGDs and 8 key informant interviews were conducted. The validity and reliability of the questionnaire was determined through previous studies and guidance from experts. A total of 171 out of 285 questionnaire copies were returned and used for quantitative analysis. The data collected were analyzed using SPSS version 21 presented in tables, graphs, pie charts, and percentages. The qualitative findings were analyzed by content. The overall conclusion of this study was that the international refugee protection framework had a negative impact on human security in Nairobi, Kenya. The emphasis on the rights of refugees compromised Kenya's conventional security. Kenya's capacity for refugee response and management was inadequate. The protection framework also did not speak to violence instigated by refugees in the host state. More insecurity, more learning. Countries that have undergone more than 10 terror attacks have done better in subsequent insecurity, creating a culture of prevention, community and regional-building among international stakeholders. No generational change without institutional change. A new refugee protection framework without sound institutional anchorage in systems of control on security would merely inherit the institutional failures that had been witnessed. The state should consider Kenya for Kenyans first. Internal security policy must seek to increase the capacity of citizen response, recovery and adaptability while reducing the current sense of powerlessness through increased knowledge acquisition. Investing in human capital, development of physical infrastructure, and the technological advancement in preventing terrorism to maintain state power was recommended.

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LIST OF ABBREVIATIONS AND ACRONYMS

AU	African Union
UN	United Nations
UNHCR	United Nations High Commission on Refugees
USA	United Nations of America
R2P	Responsibility to Protect
DRA	Department of Refugee Affairs
HRW	Human Right Watch
IGAD	Intergovernmental Authority on Development
CSO	Civil Society Organisation
RCK	Refugee Consortium of Kenya
EAC	East African Community
FBOs	Faith-based Organisations
FGDs	Focus Groups Discussions
GoK	Government of Kenya
HPG	Humanitarian Policy Group
IRC	International Rescue Committee
JRS	Jesuit Refugee Services
MIRP	Ministry of State for Immigration and Registration of Persons
NARAP	Nairobi Archdiocese Refugee Assistance Programme
NGO	Non-Governmental Organisation
OLF	Oromo Liberation Front
RCK	Refugee Consortium of Kenya
RSD	Refugee Status Determination
SGBV	Sexual and Gender- Based Violence
TFG	Somali Transitional Federal Government
UAMs	Unaccompanied Refugee Minors
UNHCR	United Nations High Commissioner for Refugees

OPERATIONALIZATION OF CONCEPTS

Refugee

In this study the word 'refugee' will include any person owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside the country of his nationality and is in able or owing to such fear, unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the residence as a result of such events, is unable or owing to such fears, and in unwilling to return to it.

International Refugee Protection Framework

In this study the International Refugee Protection Framework will include: the body of law which governs the conduct of and relations between States. International law is derived primarily from two primary sources: international treaties and customary law. In addition Resolutions of the United Nations (UN) Security Council are also binding on States when adopted under Chapter VII of the UN Charter. Resolutions and declarations of States, such as those adopted in the UN General Assembly and the UN Human Rights Council, although non-binding, can be important normative statements and might even provide indication of emerging international custom.

Human Security

In this study security referred to the updated connotations of security to incorporate the absence of threats to individual and communities, socio-economic threats, political rights and interests.

Security

In this study security referred to a subjective state on either at individual level or collectively as a nation there was freedom from either perceived or real threats, danger and anxiety. Insecurity had been observed over time particularly in porous borders into Nairobi where government organs responsible had failed to act. Traditional state security meant the ability of a given nation to enforce territorial sovereignty.

Sovereignty

This was the legal identity of a nation as far as international law was concerned hence it was the basis on which stability, peace and predictability in sovereign states was based on. Sovereignty may also mean the supreme dominion, authority or rule. The essence of statehood was sovereignty where by each nation was answerable to its own order domestically and therefore not accountable to any other authority internationally except to the extent it had accepted to be answerable. Sovereignty States were thus conceived as hermetically sealed units, atoms that spin around an international orbit, sometimes colliding, sometimes cooperating, but always separated apart, the principle those states had the right to enjoy independence politically hence were free from any intervention by any other authorities.

National Interests

This term refers to the common material and spiritual needs of all the people of a nation state. In material terms a nation needs security and development. In spiritual terms, a nation needs respect and recognition from the international community. In the study of national interests refer to; national security, national economy, national ideology and

state culture (religion). Therefore, Kenya has its national interests defined in its foreign policy.

Responsibility to Protect

This is a norm or set of principles based on the idea that sovereignty is not a privilege, but a responsibility. First, the obligation of the state is to protect those living within its own borders was stressed. Proponents of responsibility to protect strongly underlined this point because the state itself holds primary responsibility for dealing with potential problems. The second part of responsibility to protect addressed the case in which a third-party sate fails to protect its own citizens from the threat of mass atrocities within its borders or represents the cause of the threat itself the first R2P pillar, is based on the idea that states have a responsibility to ensure that domestic tensions are addressed before they escalate. States also have to provide certain dimensions of good governance (transparency and rule of law), health, broad participation, and economic development. The failure by states to take action when mass violence occurs result in a transfer of responsibility to the international community.

Illegal Refugee

This is the movement of refugees that takes place outside the regulatory norms of the sending; transit and receiving countries. There is no clear or universal accepted definition of illegal refugee. From the perspective of destination countries it is entry, stay or work in a country without the necessary authorization or documents required under immigration regulations. From the perspective of the sending country, the irregularity is for example seen in cases in which a person crosses on international boundary without a valid

passport or travel document or does not fulfil the administrative requirements for leaving the country. There is however, a tendency to restrict the use of the term "illegal migration" to cases of smuggling of migrants and trafficking of persons.

Jurisdiction

Refers to the practical authority to interpret and apply the law, or to govern and legislate. Non-refoulement as articulated in the 1951 Convention on the Status of Refugees (1951) Convention sets forth in Article 33 (2) two potentially broad exceptions that the receiving State may exercise to protect the community or defend nationalsecurity.

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CHAPTER ONE

INTRODUCTION

1.0 Introduction

This chapter made a brief introduction to the study by looking at: background to the study; problem statement; study objectives; research questions, justification of the study and scope at large.
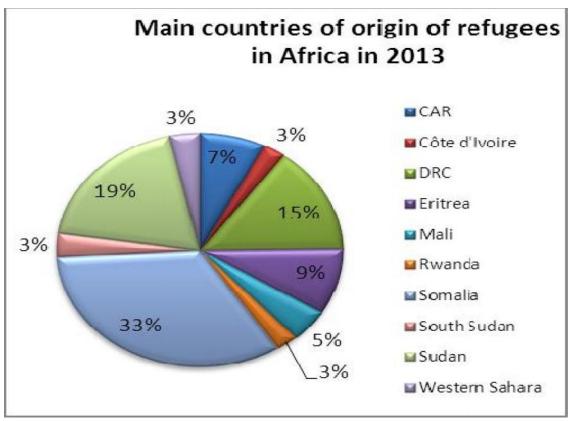
1.1 Background to the study

Hosting refugees came with numerous problems ranging from undermining state sovereignty, instability,besides perpetuation of international conflicts that at times had obstructed efforts to ensure a resolution. The above state presenteddifficulties as far as provision of humanitarian aid was concerned for affected people. Since the September 11, 2001 attacks on the US Trade Centre, securitization of asylum practices took center stage. Militants and terrorists in the pretext of asylum seekers had entered and remained in the US between 1993 and 2001 (Camerota, 2002) before they attacked. Similarly, the Westgate mall attack in Nairobi in 2013 was organized by a woman who owned a business within the premises. The idea of conflict situations brought about disruption of human life where people sought for safety.

The refugee issue was encouraged by most African culture that maintains open borders,the provision of essential protection, and the grant of asylum typically through *prima facie* recognition. Figure 1.1: Main countries origin of refugees in Africa illustrates the magnitude of the refugee hosting crisis in Africa.

Of the approximately 43 million people of concern to UNHCR at the end of 2013, nearly one-third were in Africa, with 13 million in the sub-Saharan region and over 400,000 in northern Africa. Within this population, the majority – 7.7 million, or 57 per cent – were internally displaced. Refugees accounted for 3.4 million, while the stateless population in Africa stood at an estimated 721,000, based upon countries with reliable data (Global Trends/UNHCR, 2013).

Among refugees, over 2.9 million were in sub-Saharan Africa, with approximately 400,000 in northern Africa.

Source: Global Trends/UNHCR: 2013

As reflected in Figure 1.2, the most significant populations of refugees as of 31 December 2013 were Somalis (1.1 million), top refugee-hosting countries were: Kenya (hosting 530,000 refugees), Ethiopia (434,000), Chad (430,000), South Sudan (230,000), Egypt (230,000) and Uganda (220,000) (Global Trends/UNHCR, 2013).
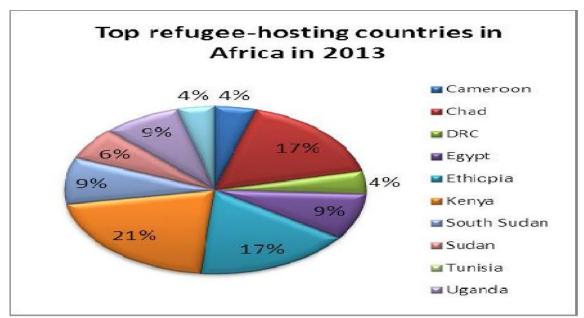
Figure 1.2:Top refugee-hosting countries in Africa in 2013

Source: Global Trends/UNHCR: 2013

The refugee influx in Kenya had a security implication both for from the refugee side as well as the citizens. This is because the nature of terrorism was like a disease, a crime or warfare. One cannot be identified as violent and ready to kill innocent people. Somali refugees had been suspected to conduits of terror networks in Kenya. Some of these refugees are a deliberate political group who mobilize through radicalizing the youth. These poses security threats by planting Improvised Explosive Devices (IED) on the roads in Northern part of Kenya especially Mandera, use of religion to intimidate non-Muslims working in Northern Kenya specifically teachers, stand-off attacks on buses, use

of fire arms like in the case of the West Gate Mall attack in Nairobi in 2013 and the Garissa University College massacre. All these had caused human insecurity in terms 'freedom from fear.'

Figure 1.3: Threats to National Security

Source: Field data, 2016

Apart from the insecurity that comes along with refugee influx, international crime also sets in such as human smuggling and human trafficking. Table 1: Basic Facts about illegal Refugees in Kenya.

Table 1.1: Basic Facts about illegal Refugees in Kenya

Category	Number	Source
Table 1: Basic facts about illegal refugees in Kenya		
The rate of refugees - population in Kenya (%)	2	UNPD, 2010
Number of females trafficked from Somalia to Nairobi weekly	50	RMMS, 2013
Number of Somalis and Ethiopians on transit to South Africa annually	20,000	Horwood,2009
Rate of Ethiopian illegal refugees witnessing violent death during transit (percent)	29.5	Kanko,2013
Average price for young female victims of Human Trafficking in Kenya (USD)	600	RMMS, 2013

Source: Kanko, 2013

The most significant new refugee shifts have stemmed from the crises in the Central African Republic, Mali, Nigeria, South Sudan, as well as the Syrian conflict, which has led to 163,000 refugees seeking asylum in northern Africa (UNHCR, 2013). The crisis that accompanied the overthrow of the government in the Central African Republic by the SELEKA rebel movement in March 2013, and the subsequent surge in ethnoreligious violence, displaced 490,000 people internally, while another 181,000 fled across borders into Cameroon, Chad, the Democratic Republic of Congo and the Republic of Congo (Global Trends, 2013). In the meantime, the Boko Haram insurgency in the Nigerian Federal States of Adamawa, Borno and Yobe has resulted in an estimated 650,000 IDPs

and some 50,000 refugees who have fled to Cameroon, Chad and Niger (Global Trends, 2013). Since December 2013, nearly half a million new South Sudanese refugees sought protection in Ethiopia, Kenya, Sudan and Uganda. This influx has resulted in Ethiopia becoming the largest refugee-hosting country in Africa, sheltering nearly 630,000 refugees as of 31 July 2014 (Al Jazeera, 2014). Meanwhile, the full impact on displacement of the Ebola crisis in West Africa, which has already led to a halt of the repatriation of Ivorian refugees from Liberia, remains to be seen(UNHCR, 2015). Al Shaabab insurgency in Somalia has led to over 400,000 Somali refugees to Kenya. This had been followed with various terror attacks in Kenya such as the 1998 US embassy bombings and 2013 West Gate Mall killings. For example, according to the UNHCR (2008) refugee statistics in Africa report stood as shown in Table 1.2:

Table 1.2: Refugee statistics in Africa

Angola	228,838
Burundi	485,764
Cameroon	7,629
CAR	31,069
Chad	52,663
Cote d'Ivoire	23,665
DRC	462,203
Eritrea	13,119
Ethiopia	63,105
Ghana	14,767
Liberia	335,467
Nigeria	23,888
Republic of the Congo	28,152
Rwanda	63,808
Senegal	8,332
Sierra Leone	41,801
Somalia	389,272
Togo	10,819
Uganda	31,963
Zimbabwe	9,568

Source: UNHCR: 2008

It was reported that more than two million people of Sudanese origin stayed in Egypt (GMRS 2006:5). There were also 6 million Afghanistan refugees hosted in Pakistan a title held for over 32 years. Africa alone had over 100 million refugees according to the International Organisation on Migration (IOM, 2016).

In this study the international refugee protection framework included international treaties and customary sources, the body of by-laws which governs the conduct of and relations between States, obtaining relevant respect for individual rights as perceived in the letter and spirit of the international agreements with different dimensions like protection as an objective and also protection as an activity.

The refugee agreement of 1951 and the 1967 Protocolnotes that refugees were people who were in another country due to a fear that was well-founded related to persecution for reasons ranging from race, nationality, religion or any other that included but not limited to membership of a given social group." (UNHCR, 2009). This meant that refugees were people in need of protection. Once the refugees had crossed a national border, it meant that they had lost state protection and, according to international protection framework, were entitled to protection according to the UN Charter of 1945 that appreciated and upheld that nothing was capable of impairing the inherent rights of any individual or group of people collectively in defending themselves from an armed attack. Protracted conflict situations like in Eastern and the Horn of Africa as well as the numerous violent conflicts in Central Africa Republic, South Sudan, Burundi, the 1994 Rwandan genocide, Somalia, South Sudan, Sudan in Darfur and internal strife that made a part of the population to seek for safety had a security implication. The refugee phenomenon was a global issue which the world organization like the United Nations (UN) took cognizance and formed an agency, the United Nations High Commission on Refugees (UNHCR) which was supported by the UN Security Council. UNHCR

frameworks were embedded in the 1951 Agreement and the subsequent Protocols of 1967 that sought countries to participate and oblige to treaties.

The global view of refugees as people who needed protection was not inappropriate, but it was not complete because as refugee situations were complex; they were not just about suffering and humanitarian aid. Refugees were a deliberate political group with links to the country of origin. The narratives recounted from refugees draw less toward seeing refugees through as a group that was armed. This was because they suffered violence, but were also able to perpetuate and organize violence. For example, following the fragmentation of state authority in Somalia in the 1990's, warlords could do piracy at the Indian Ocean and supply their clans with food and ammunition. This fueled the war in Somalia. Similarly, the clash between the two factions of Riak Machar and President Salva Kiir in South Sudan had spilt over to the Kakuma refugee camps and caused strained relationships between the South Sudanese refugees. And this had a security implication in the host nation.

In a statement to the media, the Government of Kenya delivered a decision to 'end hosting of refugees' clarifying that the country's national security interests were threatened by challenges posed by Al Shaabab and other terror groups (The Standard, 7 May, 2016). Refugees had been suspected to be conduits of terror networks in Nairobi, Kenya. In the wake of increased terrorist activities in Kenya, asylum had become a threat to national security (Mulatya, 2014:78). Mulatya argued that immigrants posed the highest threat to national security in Kenya.

The Government of Kenya issued a directive requiring all refugees of Somali origin to be relocated from urban areas to Daadab and those of other origins to Kakuma camp. In a letter dated 10/12/12by the Department for Refugee Affairs and addressed to refugee Officers in Daadab, Kakuma and other refugee registration centers, the Ministry of Special Programs was quoted contending that the decision for relocation had been reached due to a series of grenade attacks in Kenyan towns that killed and injured several people in churches, bus stations, streets and business premises. The letter further indicated that the situation was unbearable hence the government had devised a structured encampment policy and stopped registration and provision of services for asylum seekers in urban centers.

Through petition 115 and 19 of 2013 in the High Court of Kenya presented by *Kituo Cha Sheria*, the decision was quashed on claims of Constitutional violation of Articles 27, 28 and 39 of the Constitution of Kenya. Further, the Majanja ruling was reinforced with the argument that the government's decision violated the provisions of the 1951 Agreement to which Kenya had acceded. The decision was also a contravention of the Kenya Refugee Act of 2006 which domesticated the provisions of the 1951 UN Agreement. Wintero & Clapier (2015) contended that that decision by the state depicted "all the Somalis in Kenya as potential criminals" and that that notion was widely spreading across the country. In 2002, 2013 and 2014 there were attacks in Kenya that were attributed to refugees.

There had been shifts in the refugee protection framework which had seen the widening of self-defense parameters. In as much as most scholars focused on the protection of refugees and refugee interests by way of legal protection, they didn't put the interest of human security element with regard to challenges of refugee hosting state's human security and institutional agenda. These variations were very significant in the hosting of refugees, as they might find that they are under threat of retaliation from refugee-sending stated for cross-border attacked carried out by illegal refugees. Kenya Defense Forces (KDF) were part of the African Union Mission in Somalia (AMISOM) humanitarian intervention peacekeeping mission. KDF had sacrificed and contributed a lot to the stabilization of about 80% of Somalia using Kenya's own resources.

Past studies had given operational explanations for insecurity and related interests and politics related to the hosting of refuge. In conformity United Nations f 1951 relating to status of refugees, Kenya became host to refugees evading regional political instabilities and civil wars that had dominated the horn of Africa. The agreement, a status and rights based instrument required partner states to cooperate with the United Nations High Commission on Refugees (UNHCR) in various fields among them asylum and resettlement. The major principles in the Agreement included non-refoulment, non-penalization and non-discrimination of refugees (UN, 1958).

Kenya had also accented to the OAU Agreement whose main contents were anchored in Article 2(3) which provided that no person shall be subjected by member states to measures…which would compel him/her to return to or remain in a territory where

his/her life, physical integrity or liberty would be threatened (OAU, 1969). Kenya went ahead and drafted the 2006 Refugee Act which incorporated the provisions of the 1951 UN Agreement. Section 18 of the 2006 Refugee Act of Kenya per se incorporated the principle of non-refoulment which prohibited forceful repatriation of refugees (Refugee Act, 2006).

In conclusion, should states sit back and watch atrocities being conducted on their soil? As far as state responsibility was concerned, the nation may be held responsible for attacks originating from their country. For example, precedence had been set by the US invasion of Afghanistan which in one of the achievements killed the leader of Al Qaeda movement, Osama Bin Laden.

While much had been written on the protection of refugees from the legal point of view, the focus on its relationship with violence was minimal with regard to refugees. Additionally, as the UNHCR pushed for upholding the 1951 Agreement, we do not know whether resources were tied on the refugee protection framework in supporting the hosting state in terms refugees conforming to the rule of law of Kenya.

It was against this background that this research was geared towards assessing the refugee protection framework influence on human security in the study area. The findings of this study were undoubtedly going to help the Government of Kenya in offering refugee protection and national security to its citizenry. The findings of this study also helped in drawing up policies that: i) enhanced cooperation with the international

community on refugee protection; ii) stepping up capacities and capabilities with regard to Kenyan internal security in the wake of asymmetric warfare.

1.2 Statement of the Problem

This study points at the main gaps that existed in the international refugee protection that was under-resourced with humanitarian objectives that couldn't match current security trends in Kenya. The international refugee protection framework emphasis on the rights of refugees, led to the state failure compromising security of refugees and citizens.

Kenya is among the top refugee-hosting countries in Africa. Kenya hosted (530,000) refugees, Ethiopia (434,000), Chad (430,000), South Sudan (230,000), Egypt (230,000) and Uganda (220,000) according to Global Trends, 2013. While Kenyan government has established institutions to deal with refugees, the functions and responsibilities discharged differ significantly from government authorities with a comprehensive mandate including reception, protection management, assistance and programmatic coordination, to those entrusted with broad coordination functions but no major role in protection delivery or operational management.

The exoduses from Somalia in 2011 and more recently from the Central African Republic and South Sudan have experienced acute malnutrition leading to the deaths of refugees. Some of the Somali refugees have posed both indirect and direct threats to Kenya security and protection system. Refugees have been implicated in planting improvised explosive devices, small arms proliferation, stand-off attacks, attacks on teachers from

other parts of Kenya and abduction of tourists at the coast of Kenya. The understanding was that the refugee protection and migration management systems are not adequately suited to respond to this phenomenon in Kenya.Human trafficking and smuggling of persons occurring in the context of mixed migratory flows, recruitment of Kenyans into Al Shaabab terrorist group, posed challenges related to preserving and ensuring the civilian character of refugee camps and facilities, sexual violence and child-headed households.

This study, therefore, was an examination of Kenya's efforts to meet its international obligation of the responsibility to protect refugees on the one hand, and its duty to secure its citizenry, security and sovereignty on the other. The study, seeks to interrogate how the ever changing character of the refugee phenomenon has impacted and even transformed the Kenyan security and protection system. In 2002, 2013 and 2014 there have been attacks in Kenya that are attributed to refugees' terror networks with a Somali-based group called Al- Shaabab. Some refugees have been suspected to be conduits of terror networks in Nairobi, Kenya. In May 2016 Kenya announced that it was no longer going to host refugees (Standard, 7 May, 2016). A human security perspective focuses on causes and effects that pose for human beings a survival dilemma: stay/die, migrate, and/or protest/fight. The paper interrogated the security gaps in Kenya that emanate from state retreat and fragility leading to insecurity. The paper considered whether the state should advance/ enhance a security – first framework for both its citizens and refugees or consider whether modern refugee international framework offers refugees adequate protection. In this scenario, the paper examined options at hand of the state responsibility

to protect visa –a-vis the new challenge posed by refugee radicalization of the nation, terrorist attacks, safety and security of its citizenry. Such an examination, ultimately seeks to rethink through the international refugee protection framework which is operational in Kenya in terms of its own positive and negative impacts and influence on security. Out of 100%, 64% of those refugees were from Somalia (UNHCR, 2010). This was up from a total of 247, 281 refugees in Kenya in 2000, Kenya Law Report (2010); from 2010 to 2015 the number of refugees entering Kenya had increased to 600,000 (UNHCR, 2010).In 2002, 2013 and 2014 there were attacks in Kenya that were attributed to refugees' terror networks with a Somali-based group called Al Shaabab.

In May 2016 Kenya announced that it was no longer going to host refugees (Standard, 7 May, 2016).That had an impact on the frameworks governing refugees in Kenya as well as the security of refugees and citizens. Some refugees had been suspected to be conduits of terror networks in Nairobi, Kenya. Such an examination, ultimately sought to rethink through the international refugee protection framework which was operational in Kenya in terms of its own impacts and influence on security. The shifts in the international refugee protection framework had questionably augmented state duty and widened the parameters of defense due to terrorism. The major principles in the 1951 Agreement included non-refoulment, non-penalization and non-discrimination of refugees. The questions that this study sought to answer were; what is the nature and structure of the refugee protection framework operational in Kenya generally and Nairobi specifically? What is the nature of human security in Nairobi? What challenges does the refugee protection framework present in securing human security in Nairobi, and in what ways

does this framework present opportunities for enforcing human security in Nairobi County, Kenya?

1.3 Objectives of the Study

The general objective of this study was to evaluates the international refugee protection framework influence on human security in Nairobi County, Kenya.

The specific objectives of the study were to:

(i)   To evaluate the nature, scope and structure of refugee protection framework in relation to human security in Nairobi County, Kenya.

(ii)   Assess the nature of human security in Nairobi County, Kenya.

(iii)   Identify the challenges and opportunities in enforcing the refugee protection framework in relation to human security in Nairobi County, Kenya.

1.4 Research Questions

(i)   What is the nature, scope and structure of refugee protection framework operational in Kenya generally and Nairobi specifically?

(ii)   What is the nature of human security in Nairobi?

(iii)   What challenges does the refugee protection framework present in securing human security in Nairobi, and in what ways does this framework present opportunities for enforcing human security in Nairobi County, Kenya?

1.5 Justification of the Study

It had been noted that the global migration increased by 50% (UN Population Division, 2013) and this was expected to rise with the current climate change impact with regard to population dynamics. If refugee protection was poor then with current scenarios of

drought, violent conflicts and hunger in Eastern and the Horn of Africa, it could only get better. Refugee flows were anticipated in the next 20 years. This pointed at the main gaps that existed in the framework that was under resourced with humanitarian objectives that couldn't matchto the security times. Secondly, the study interrogated the security gaps in Nairobi Kenya that emanated from state retreat and fragility. Few nations could be willing to grant *prima facie* status to refugees looking for safety and security while running away from armed conflicts. While much had been written about the refugee protection and rights, there was minimal focus on violence instigated by refugees.

Buzan, Waever and Wilde (1998), observed that when threats to the state came from internal challenges, the principles of national security might be invoked to justify arbitrary measures to impose control and hegemony from the centre. Challenges to state security may be seen to emanate from pressures organized by internal groups as well as external powers. The state of the economy, ecological pressures and the dependence of the population on the resources of the physical environment were factors that could influence state security. Buzan observed that, all states existed in the hub of a whole universe of threats. This study investigated the validity of reservations and restrictive interpretations of the protection framework of hosting of refugees in the era of terrorism and radicalization. Refugees were not just about passive vulnerable group, but a controlled and cautious radical cluster.

Kenya had had increased terror attacks and casualties from 2011 to 2013. The US Embassy was attacked in 1998 and the 2013 devastating attack on Kenya's premier

shopping mall (Westgate) on Saturday 21st September 2013 which left 67 people dead (The Standard, 22 Sunday 2013)where the Somali-based terror group,Al Shaabab claimed responsibility.Shahbaz et al. (2013) did a study on the impact of terrorism on Foreign Direct Investment in Pakistan. They found that due to the increased number of terrorist attacks foreign investor showed negative interest to invest money in Pakistan. Economic growth also slowed down with the continued terrorist threat with Somalia being in the immediate geographic proximity. Growth in the Economy slowed down as attacks continued. And this violence was most significant in the relationship between the Kenyan Government, UNHCR and the Federal Government of Somalia.

The population was not comfortable with the status quo that attacks and counter-attacks were on their soil under the watch of their state. Should the recognition of the protection rights accorded to refugees in the United Nations (UN) 1951 Agreement and the subsequent 1967 Protocol substitute the state responsibility? Additionally, a human security perspective focused on causes and effects that posed for human beings a survival dilemma: stay/die, migrate, protest or fight according to a report of Human Security Commission (HSC) report (2003). On the other hand, the human security concept had underlying issues of security of people which was focused on individual rather than focus on territorial borders alone.

Although a number of studies had examined security implication of refugee influx in particular (Adamson, 2006; Lischer, 2005; Radoldph, 2003; Gledisch &Salesiyan, 2006), there had not been strong focus on the role of the host country's policy and the role of

international refugee protection framework. Previous work by Melander and Oberg (2006) presented the argument that refugees might serve as catalyst of war between warring states but unconsciously or deliberately ignored the impact of refugee influx in the host state. This research differed with other studies in international refugee and security studies in that rather than dwelling entirely on the causes of war and expulsion of people it explored the protection problems faced by refugees in light of international refugee protection framework.

The Kenya refugee Act of 2006 didn't fall within the indicators of the current Kenya Constitution (2010). The Act also determined the parameters for the Refugee Status Determination (RSD) through which all applications of refugee status are evaluated. Kenya didn't have a refugee policy that could empower the Department for Refugee Affairs (Elhawary, 2010). The Department was disbanded by the Government and formed a Secretariat in the Ministry of Interior (The Saturday Standard, 7th May, 2016, p.2).

Secondly, the study provideduseful knowledge in the area of refugee protection to the academic community and stakeholders as it highlighted the limitation of the refugee protection framework in solving a social –political matter, and, re-directed the thinking of policy makers towards the search for long term solutions to the problem of refugees. Thirdly, for scholars and researchers, the study added to the body of knowledge and formed the basis for further research.

1.6 The Scope of the Study

The scope of the study focused on the international refugee protection framework which was the body of Law that governed the conduct of and relations between states. International Law was derived primarily from two primary sources: international treaties and customary law. The international refugee protection framework and the Kenya Refugee Act of 2006 were complimentary. In addition Resolutions of the United Nations (UN) Security Council are also binding on States when adopted under Chapter VII of the UN Charter. Resolutions and declarations of States, such as those adopted in the UN General Assembly and the UN Human Rights Council, although non-binding, can be important normative statements and might even provide indication of emerging international custom.

In this study, human security referred to the updated connotations of security to incorporate the absence of socio-economic threats and political rights and state interests. Human security complements state security and vice-versa. A human security perspective focuses on causes and effects that pose for human beings a survival dilemma: stay/die, migrate, and/or protest/fight. The study interrogates the security gaps in Kenya that emanate from state retreat and fragility leading to human insecurity. Haman security has implications on state security.

The study explores both citizens' and refugees' security as they affect respect and recognition from the international community. Kenya had its national interests defined in its foreign policy. The presence of refugees affected the security of citizens, and on the other hand, the poor state capacity and corruption affect the security of both refugees and

citizens. Insecurity had been observed over time particularly in porous borders into Nairobi where government organs responsible had failed to act.

The Government of Kenya categorically detailed that the presence of Somali refugees was compromising state responsibility to protect. The state itself held primary responsibility for dealing with potential problems. When a state failed to protect its own citizens from the threat of mass atrocities within its borders or represented the cause of the threat itself the first responsibility to protect pillar, based on the idea that states had a responsibility to ensure that domestic tensions were addressed before they escalated. States also had to provide certain dimensions of good governance; transparency and rule of law, health, broad participation, and economic development. Failure by states to take action when mass violence occurred resulted in a transfer of responsibility to the international community. In a statement to the media, the Government of Kenya delivered a widely contentious decision to 'end hosting of refugees' clarifying that the country's national security interests were threatened by challenges posed by *Al Shaabab* and other terror groups as refugees were suspected to be conduits of terror networks in Kenya.

This research concentrated on key institutions relevant in refugee protection such as UNHCR, Refugee Consortium of Kenya (RCK) and the Government of Kenya. The study covered the period since 2013 to 2017 when Kenyan capital was attacked by terrorists at the Westgate Mall. The respondents in the study included: refugees, residents, County Commissioner's office (Nairobi), immigration officers, and police, Military Officers, Ministry of Internal Security, Judiciary and Ministry of Foreign Affairs

(Host Nation Staff). Kenya government decided to repatriate Somali refugees due to national interests who refer to; national security, national economy, national ideology and state culture (religion). In material terms a nation needs security and development. In spiritual terms, a nation needs

This study investigated the refugee protection framework in relation to people's security; the nature of human security; and challenges and opportunities in enforcing the refugee protection framework in relation to human security in Nairobi County, Kenya. The human security variable had areas of interest that pointed at state fragility in protecting refugees and citizens. Important areas included: poor governance, poor state capacity, corruption, social cleavages, land issues, violence between social groups. This study worked with poor state capacity, social cleavages and corruption as the dependent variables under human security. The study could not have had time, space or reasonable justification to discuss and pursue. Peter, C.B. (1994) was of the opinion that scope and limitations had to do with delimiting the study's area of research. The refugees, community and state officers' data was included. In this section, practical problems encountered in the field included data availability from state departments were a challenge and this was overcome by using qualitative method. It was an expensive venture and time consuming, this was overcome by using emailing questionnaires to respective respondents and also conducting telephone interviews. The study was valid because there was no scientific literature showing the interaction between the international refugee protection framework influences on human security in Nairobi, Kenya.

CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

This section presented vital background information on refugee protection framework in security contexts, theoretical foundations of the research, the gaps in relation to the independent, dependent and intervening variables. The independent variable was the refugee protection framework. The dependent variable was human security.

The purpose of this chapter was to delimit the research problem; distinguish what had been done from what needed to be done and to determine important variables relevant to this topic. Relevant published and unpublished literature including books, journals, dissertations, newspaper articles, policy statements, reports, conference speeches, magazines, and dissertations were condensed from global, regional and Kenyan perspectives. As Judith Bell, 1987 argues, "Any investigation, whatever the scale, will involve reading what other people have written about your area of interest—(refugee protection framework in security contexts of refugee hosting nations) — gathering information to support or refute your arguments and writing about your findings".

While literature review could take a theoretical, comparative, historical or thematic review, this study undertook a thematic review focusing on the following themes: (i)the nature, structure and norm of refugee protection as a problem within the UN framework (ii) framework from the rest of the world, Africa(iii) Authenticating refugee threats to national security in Africa (iv) the refugee protection framework in relation to human

security in Nairobi County, Kenya (iv) challenges refugee protection framework present in securing human security and opportunities for enforcing human security.

2.1 Nature, scope andstructure of refugee protection as a problem within the UN and OAU framework

The definition of a refugee remained a highly contentious subject. This was because depending on how one defined it, a refugee had access to political asylum, received aid and was granted international protection or was left without any officially recognized status or help at all. The most universally accepted definition of a refugee was found in the Article 1 A (2) of the 1951 Geneva Agreement. The OAU Agreement,which came into force on 20th June 1974, was divided into fifteen articles, which in details dealt with different aspects of refugee life. In its Article 1, the Agreement defined the term refugee. It was worth noting that, that definition was broader than the one provided by the 1951 Agreement and its 1967 protocol.

In Article VII member states undertook to give the OAU secretariat statistical data on the condition of refugees, measures undertaken to implement the covenant and all the laws and regulations in force relating to refugees. Member states were further enjoined to co-operate with UNHCR. As regards settlement of disputes, the Agreement provided that disputes may be mediated, conciliation could be done at the request of one of the parties to the dispute. The Agreement finally discussed signature and ratification, entry into force, amendment and denunciation. At adoption, forty – one African states, Kenya included ratified the Agreement. Therefore, the Agreement broke new ground in many ways in terms of its affirmation that taking in a refugee constituted a humanitarian and

not a political act. Contrary to this notion, it was a fact that some refugees had conducted political activities that had led to various factions in Somalia hit out through terrorist attacks in Nairobi, Kenya.

As new problems arose, the OAU formulated supporting instruments to tackle the situation. By 1993, for example, Africa was experiencing an outbreak of horrifying civil wars in the North, South, East and West, more than any other time in history. Again, the Gulf War – Iraqi invasion of   Kuwait (1991) Former Yugoslavia (1991-1999), Somalia (1992), Rwanda (1994), Afghanistan (2001-present), and US invasion of Iraq (2003-present) led to mass movement of persons. These were producing refugees.For the first time, more focus was placed on the refugee problems. The leaders resolved to find ways of reducing conflicts through formation of dispute settlement forums to try and negotiate peace accords. This was by the so-called "Cairo mechanism."The Khartoum declaration on the African refugee crisis was meant to implement the Cairo mechanism. The establishment of the Cairo mechanism was an act of historical significance and of self-empowerment as it was meant to develop a comprehensive refugee strategy, based on African values, designed to meet African needs and buttressed by international solidarity and humanitarian principles.

In addition, the OAU had a subsidiary organ of the ministers 'council and the commission of refugees, whose function was to regularly monitor and follow–up the refugee situation and make recommendations. In conformity with the Agreement, the OAU in 1968 established the Bureau for refugees, whose purpose was to inform member

states about refugee movements in Africa, their causes and consequence and to educate refugees on matters relating to the resettlement option. Africa has got one of the most comprehensive refugee legal regimes in the world. This notwithstanding Africa shares the greatest burden of refugees. By January 1995, Africa had 56% of the total displaced persons in the world and had the largest number of civil wars, and yet it was incapable of supporting the victims of the African continent, Rwanda alone produced in 1994 nearly 13 million refugees (UNHCR, 1995).

On global scale refugees were an issue, not only of humanitarian concern, but a security issue. According to the national security strategy of the United States, on September 2002 said that a distinction between terrorists and those that knowingly provide or even aid them. While policies had viewed refugees as a threat to peace, they were stillentitled to the fact that a refugee situation couldcause insecurity.Refugees should not be viewed as victims or perpetrators (David Turton, 2003). The researcher does not agree with this view, in that at the time of the refugee formulation Agreement in 1951, issues addressed the aftermath of the Second World War. The new dynamics of security call for objective measures by the state's responsibility to protect.

Analysis of refugees can take forms involving conflict and violence (Lischer, 2005). The common socio-economic explanations of violence experienced by refugees and thus explaining reasons for the spread of conflict were not a major cause of insecurity (Lischer, 2005). In a political context refugees provided a framework of flight from violence. Situational refugees were those that flee in order to avoid large-scale civil

warand hence not easy to organize military intervention. These ones were usually targeted in a genocide, or any other form of ethnic cleansing.

The UNHCR report on Global Trend (2015) of refugees shows that many poor countries were hosting many of the world's refugee populations. Pakistan, Iran and Syria all had large numbers of refugees. The anti-refugee feelings among were heard very loud in western nations except Germany, developing countries hosted up to 80% global refugees.By comparison, Germany, a developed nation with equally a large refugee population of up to 594,000 people. It was such a situation that called for an urgent solution that could address the refugee crisis from Syria and the Arab Spring countries like Libya.

The UN 2010 report presented needs for drastically changed protection environment as compared to 60 years ago when the UN formed a refugee agency. The 15,500 asylum applications by unaccompanied or separated children predominantly of Somali or Afghan origin leave a lot to be desired. The report failed to address the displacement of 2011 refugees ranging from Libya, Côte d'Ivoire and Syria respectively. The environment of operation for the aid agencies in Pakistan had also been fluid, with security being unpredictable besides access to social and economic amenities. In Syria over 4 million people had registered with the UNHCR with anti-government demonstrations that had been ongoing since 2011 as part of the Arab Spring that later escalated to a civil war.

The majority of refugees in Syria lived in Jordan and Lebanon. As of 11 November 2014, 1,128,125 million Syrian refugees were registered with the UNHCR, the equivalent to more than quarter of Lebanon's resident population (ALEF, 2014). More Syrians had continued to escape into neighbouring Iraq. With most of them now trapped in the insurgency besides the fact that even Iraq was struggling in its peace efforts. With other refugees from Syria fleeing to Turkey, thus making the global refugee crisis more and more complicated and overwhelming with the future looking more unpredictable.

2.1.1 Refugee threats to international security in Africa

In 2014, it was reported that Ethiopia officially overtook Kenya and became host country in Africa by sheltering close to 700, 0000 by 2015 (Al Jazeera, 2015). Kenya hosted575, 334 refugees (UNHCR, 2015).The nature of the Rwandan and Congo refugees had taken a new twist (Muggah, 2014). The ex-FAR and 'interahamwe' hadmade use of camps they were hosted into continued posture of insecurity hence making the refugee situation still fluid (Mthembu-Salter, 2014).

With camps in Kivu being destroyed by the Rwandan authorities and the Congoleseauthorities on the other hand launched a protracted war thatengulfed almost the whole of DRC,which subsequently led to the ouster of the Government of the day. Ten years later the same happened thus leading to another refugee crisis (Muggah, 2014).The case study of the United Republic of Tanzania was a paradox (Mogire, 2014). The case of Tanzania examined the phenomenon of refugee hosting with specific focus on Burundian refugees, exploring its complex dynamics and spatial distribution in north-western region

of the country, the factors that underpin it, and the relationship between the host community and proliferation of small arms and light weapons availability on host security were visible in the atrocities that were committed in Eastern Congo.

In addition to being home to the continent's largest refugee case load, Tanzania was also one of the poorest countries in the world. Its Gross National Income (GNI) per capita was estimated at USD 290 in 2003 by the World Bank. Tanzania qualified for full debt relief under the enhanced heavily indebted poor countries (HIPC) initiative in 2001. Because of its comparative political stability and geographic location in the conflict-prone Great Lakes Region (GLR), and what was widely perceived to be a generous refugee policy, refugees had long turned to Tanzania for asylum.

On the other hand, the main factor in the increased numbers was the conflict in South Sudan, which erupted in mid-December 2015 and had sent 188,000 refugees into Ethiopia since the beginning of 2014. There were 247,000 South Sudanese refugees in the country, making them the largest refugee population. They were followed by Somalis (245,000) and Eritreans (99,000). Over the last seven months, nearly 15,000 Eritreans and more than 3,000 Somalis also arrived in Ethiopia. South Sudan's crisis had caused massive displacement internally and into neighbouring countries. As of mid-August 2015, 1.861 million South Sudanese had been forcibly displaced, of whom almost 1.3 million were internally displaced and more than 575,000 were refugees in Kenya, Ethiopia and Uganda. South Sudan is also continuing to host some 243,000 refugees, the majority from Sudan.

According to the UNHCR (1995) refugee statistics in Africa report, Angola had 228,838, Burundi; 485,764, Cameroon (7,629), CAR (31,069), Chad (52,663), Cote d'voire (23,665), DRC (462,203), Eritrea (13,119), Ethiopia (63,105), Ghana (14,767), Liberia (335,467), Nigeria (23,888)Republic of the Congo (28,152), Rwanda (63,808), Senegal (8,332), Sierra Leone(41,801), Somalia (389,272), Togo (10,819), Uganda (31,963) and Zimbabwe (9,568). There were also Sudanese refugees in Egypt. They lived among a much longer population of Sudanese migrants in Egypt, more than two million people of Sudanese nationality (by most estimates, a full range was 750,000 to 4 million (GMRS 2006:5) who lived in Egypt. The US committee for refugees and immigrants believes many more of these migrants are uncast refugees, but saw little benefit in seeking recognition.

The controversies surrounding the law that governed how force was used in defense of oneself against aggression and countries that harbored them was far from clear (Allan,2010). Should Kenya as a country ask the Somalia government to take responsibility for Al-Shabaab actions on its soil? A remarkable event that would transform the local law was the deployment of Kenya Defence Forces (KDF) into Somalia and eventually to the African Union Mission in Somalia (AMISOM). The Kenya Defence Forces had become the game changer along with the Somali National Army. It was said that KDF had secured 80% of Somalia already. This was the reason why some of the Somali refugees were resettled through the Tripartite Agreement agenda. Somalis were meant to participate in the national building of their country.

In its chapter two, the agreement discussed the personal status of a refugee. The agreement stated in part; one's status as a refugee must be under the law of the country. No state was expected to expel a refugee in whatsoever to the borders of their home countries as this would endanger the refugees. This meant that all measures were to be taken to protect life and uphold the human dignity of refugees. It was worthwhile to note that in the 1951 Agreement, non-refoulement was interpreted to be inadequate to the refugees that had already entered the state territory. Subject to conditions applicable to aliens generally, states were called upon to make provisions for refugees to choose where they can stay within the hoist countries.

The chapter finally talks about how to ratify, and enter agreement into force. However, by Article 42 and 44, any contracting state was given the power to make reservations with regard to some articles of the agreement and to denounce altogether the agreement by notification to the Secretary General of the UN. Looking at the provision of the agreement, it could be noted that the agreement had some limitations which, with the lack of effective legal limitations that default states, as well as the principle of state and security could be ensured.

State sovereignty had also been interpreted in such a way that host governments would determine the standard of treatment to be accorded to aliens. Also excluded were persons who took flight out of personal convenience. The importance of someone falling within the ambit of the definition was that he was granted refugee status, which was a condition precedent for aid and protection and also entitlement to the pertinent rights or benefits.

As seen, the agreement provides for the freedom of religion, protection artistic rights and industrial property, access to legal protection in courts and legal assistance. The developed states of the west had argued that there existed an international minimum standard for the protection of aliens that must be upheld. The international minimum standard of refugee treatment had been resented as an instrument of Western economic domination. The 1951 agreement suffered from inadequacies. Article 1 limited the definition of the term refugee by reference not only to a well – founded fear or persecution but also to a dateline. Therefore, this offered states the option of further restricting their obligations to refugees resulting from events occurring in Europe before the critical date (1st January, 1951).

This was explained by the fact that the international refugee regime was created by the leading Western powers and was accepted only in so far as the systems served, did not run counter to their particular hard Eurocentric focus, which aimed to give priority in protection matters to persons whose flight was motivated by pro-western values. It was noteworthy that those states which had acceded to the 1951 agreement served in majority cases qualified its essential provision in an attempt to harmonize its provisions with the respective local laws. Moreover, some states like Kenya had formulated their own municipal refugee laws (Refugee Act, 2006).

Individual States had the right to take measures on grounds of national security against a particular person. This explains why refugees in Kenya for, example, were sometimes

rounded up in refugee centers, or Kasarani sports centre which had made it impossible for them to realize their rights under this Agreement - national security, public order and public interest- in Kenya and Tanzania. Generally, the 1951 Agreement lacked effective investigation, adjudication and enforcement procedures and could hardly be considered to offer the same opportunity for judicial or quasi-judicial solutions. In conclusion, practical results of the 1951 Agreement would take time to be fully achieved.

As new refugees emerged in Africa, Asia and Latin America, it is necessary to change the agreement to make practical to emerging refugee situations. While there were no guarantees on procedures and protocol those dealing with reducing discrimination based their facts on religion or any other factor. The protocol called state parties to co-operate with the UNHCR.

UNHCR was successful in the exercise of its duties, hence ensuring that supervision of the protocol applications and the cooperation envisaged includes providing. UNHCR had provided statistical data relating to refugees, monitored the implementation of the protocol and any regulations, and decrees relating to refugees, states parties were further expected to communicate any national laws and regulations adopted to ensure the application of the protocol. States parties were further expected to communicate any national laws and regulations in place to ensure that implementation of the protocol also provided for reservations to be made or for its total denunciation concerning nations.

The Agreement on stateless people persons was adopted by UN conference held in New York from 13th to 23rd September, 1954. The agreement took effect on 6th June 1960 as per Article 39. The agreement contains six chapters divided into forty – two articles. Subsequently,many states began adopting supporting instruments in an effort to reduce the number of refugees requiring protection. The UN adopted the declaration on territorial Asylum in 1967, recommending states to give asylum to refugees and stateless persons. The declaration echoed article 14 of human rights declaration.

The convention of Geneva regarding protection of citizens during violence was adopted on 12th August 1949 and entered into force on 21st October 1950. With regard to refugees, the agreement called upon states not to treat any foreigners as enemies based on nations of origin. Further, the protocol additional to this agreement called upon state parties to consider as protected persons any stateless persons and refugees.

At the inception of the OAU in 1964, there were thousands of refugees across the continent, owing mainly to civil strife caused by the decolonization process. The dissolution of colonial empires and the initiation of countries, with the consequent social and economic changes had been some of the major causes of instability and refugee movements in Asia and Africa. Many new states faced acute problems of ethnic minorities, regional discontent, religious hostilities, class conflicts and cultural separation. This situation was aggravated by the easy availability of low cost highly destructive weapons. This enabled such leaders as Siad Barre of Somalia, Mengistu Haile Mariam of Ethiopia to retain power and to suppress demands for self – determination among groups and repress other domestic opposition movements.

2.2 National Security in Nairobi, Kenya

In the wake of terrorism, how could Kenya reconcile its national interests and humanitarian objectives? Kenya lies in East Africa and shares borders with Somalia (682km), South Sudan (233km), Uganda (933km), Tanzania (769km), Ethiopia (861km) and the Indian Ocean. Total population was about 45million with about 80% living in the rural areas. Nairobi is the capital city, with a population of about 5million (GOK, 2015. Nairobi was also a host of diplomatic offices, with manufacturing companies and the political offices. The capital was the gateway to Africa with the Jomo Kenyatta International Airport (JKIA) and key government installations.

Figure 2.2: Nairobi City County
Source: CNN, 2017

Refugee protection on the one hand and security for the Kenyan citizenry became

paramount after the terror attacks from 2013 to 2014 intensified.

Buzan in his works stated that;

> '…security is taken to be about the pursuit of freedom from threat and the ability of states and societies to maintain their independent identity and their functional integrity against forces of change, which they see as hostile. The bottom line of security is survival, but it also reasonably includes a substantial range of concerns about the conditions of existence.' (Buzan, 1991)

Kenya needed an overall security strategy to counter the insurgency that had led to 'fear'

among its citizenry. When the Inspector General of Police Kimaiyo reported that Kenya

was under 'siege,' fear gripped everyone.

Posen (1983), conceptualized a grand strategy as "a state theory about how it can best

cause security in itself." This meant that a grand strategy was not solely a reaction to a

threat. This was a proactive posture intended to seize the initiative and influence the

international context to the state's benefit. That approach was integrated, not only for the

military, but also political, economic and social. Kissinger (1965), had earlier noted that

the grand strategy "…in its wildest sense, comprises every action by which a society

seeks to assure its survival or to realize its aspirations internationally."

Kenya's vision 2030 was incorporated as the point of reference with securitization as

hypothesized by Buzan was the model of analysis for national security interests. Every

state that made a claim for survival in the international or regional system did so, on the

basis of an existing overall strategy (NDC-Kenya, 2007). This would enable Kenya to

survive in an increasingly chaotic international environment. Kenya as a sovereign state

set its parameters demarcated by an appreciation of the national interest, objectives and elements of power.Kraser (1978) stated that national interests were the preferences of the nation's leaders' or its goals. Those preferences or set of objectives must be related to general societal goals, persistent over time, and had a consistent way of ranking of importance. The question from Kenyans would be: what are your interests? National interest was therefore, a country's goals and ambitions whether economic, military, or cultural. The national interest of a country was multifaceted. Also important was the pursuit for wealth, economic growth, national prestige, and power. According to Mogenthau (2001), the national elements of state power included: military preparedness; geography; natural resources; industrial capacity; national character; national morale; quality of government; and quality of diplomacy.

Kenya's national interest could be stated as; protection of Kenya's sovereignty and territorial integrity; promotion of economic prosperity and well-being of Kenyans; advancement of the values of unity; freedom; justice and equality; preservation of democratic from of government; peaceful co-existence, good neighbourliness and regional cooperation; solidarity and cooperation with the international community in pursuit of international peace; and the promotion of regional integration.

Musambayi and Ngunyi (2014), in their study on organized gangs in Kenya focused on 8 informal settelements in Nairobi, Kibera, Mathare, Githurai, Korogocho, Kawangware, Mukuru and Kiambiu as depicted in the figure where MungikiwasthemostpresentgroupinNairobiat38%,followedby   Talibanat16.9%

andthenKamjeshat9.0%. Siafu and Kamukunji Pressure Group were also significant players' at 5.5% and 3.4%. From these findings, it was clear that should any criminal element come to Nairobi, a number of scenarios could be drawn with regard to the support from organized gangs in Nairobi. This was occasioned by the apparent multiple entry points to Nairobi County motivated by the absence of adequate immigration personnel and police self-restraint. Should Kenya offer refuge to all aliens?

During the 1837 conflict between Canada against the Britain, Canadian rebels within the US used a ferry to launch a Successful blown attack assisted by US personnel. A number of people lost their lives as the Britons used the principle of self-defense. Thus the idea that a given country bore the burden and duty was defined in *Trail Smelter* case (U.S. v. Canada (1941), with the principle of arbitration in international law taking shape. It must be clear that The UN General Assembly couldn't legislate as what they resolved was based on custom. Thus the principle that sought to limit non-state stakeholders from the use of a national territory in launching attacks was purely based on custom (See *Armed Activities on the Territory of Congo* case).

Previous work by Melander and Oberg (2006) presented the argument that refugees might serve as catalyst of war between warring states but unconsciously or deliberately ignored the impact of refugee influx in the host state. This research differed with other studies in international refugee and security studies in that rather than dwelling entirely on the causes of war and expulsion of a population, it explores the protection problems faced by refugees in light of international refugee law framework.

Contrary to the findings of Wintero &Clapier(2015:84) that UNHCR as an international body was only subject to the law and that it had no authority to act except with the states' consent, this research endeavors to justify the argument that the laxity of UNHCR in enforcing the implementation of the 1951 agreement was indeed the result of a broad amalgam of disaggregated factors ranging from incompetency of UNHCR staff to lack of political will by states to use the available legal mechanisms optimally in protecting refugees (Lomo,2000). Kenya had also acceded to the OAU Convention whose main contents were anchored in Article 2(3) which provides that;

> "No person shall be subjected by member states to measures…which would compel him/her to return to or remain in a territory where his/her life, physical integrity or liberty would be threatened"(OAU, 1969).

The head of UNHCR said:

> "Government openly, systematically and internationally violate the most basic principles of refugee protection (of Somali refugees) with apparent impunity, the system itself is fundamentally weakened." (UNHCR, 2016).

Under President Moi, displaced people were liable to what Kagwanja and Juma (2008) alluded to as "relinquishment and control". Kenya reacted to the refugee problem by containing the outcasts in camps and surrendering duty to the UN High Commissioner for Refugees (UNHCR: 2015) and universal group. UNHCR eventually had supreme obligation over the organization of the camps, however, did not have the specialist or assets to guarantee the security of the displaced people. This was a dangerous move by the state, to leave aliens in hands of an international community. And we saw the results of insecurity. The UNHCR did not have the security mandate in Kenya.

In case a country took responsibility then it suffered the consequences of the same (Allen, 2010). The author argues that whether an attacked state may claim that it was defending itself by responding through application of force to stop such aggression originating from another country or in self-defence was governed by Article 51 of the UN Charter, under which member nations had the responsibility to protect its citizenry. A situation of defending against foreign aggression constitutes an armed attack which had become central in deciding when a state could legally rely on a claim of self-defence against a non-state actor. Any attack on an armed group was necessarily an attack on the state harboring terrorist or an armed group. Therefore, that matter question must be explored carefully.After the 9/11, the law was varied in interpretation in a wide manner,as some countries had moved to differentiate between armed groups and terrorists in relation to the country that hosts them.

States had a general obligation, erga omnes, to allow refugees to enter their territory, and not to send refugees back to a situation where they would risk persecution. This obligation of prohibiting refoulement is codified in the 1951 Refugee Agreement, but was widely considered to be customary international law, binding on all states. This seemed to conflict with state's territory. Butnon-refoulement is not absolute –combatants had never been considered eligible for refugee status.

The 1951 displaced persons incident and the 1967 Protocol made it reasonable that just the individuals with a "well-founded dread of constantly persecuted for motivations of race, religion, nationality, participation of a specific social gathering alternately political

opinion" qualified as a refugee. In a definition for inclusion, a few would be excluded starting with security.

Those 1969 association of the Organisation of the African Unity (OAU) understanding particular viewpoints about displaced persons issues in Africa further recognized the relationship between refugees and the individuals who escaped the procedure "for the sole motivation behind fomenting subversion from those outside. States didn't provide for everybody secured status. Similarly, as a refugee, they were obliged to be screened at the registration point. The idea of screening refugees was more of a theory than a practical exercise. Article 33 said that states might oust a displaced person on "grounds of national security."National security was a much more forcing motivation behind turning away refugees in an era of terrorism.

The Kenya refugee Act of 2006 did not fall within the parameters of the current Kenya Constitution (2010). Kenya did not have a refugee policy that could empower the Department for Refugee Affairs (Elhawary, 2010). In fact, the Department concerned with the affairs of refugee was disbanded by the state in May, 2016 (The Standard 16 May 2017). The security of the country might not be used as a reason that government breaks laws and agreements but rather should be a basis of establishing serious connections with refugees in both towns and rural areas to boost national security with the aim of minimizing criminal elements. In the international scene, courts had adjudicated on the matter of a State's responsibility for injuries suffered within its territory. The dominant approaches during the Cold War era was directed in making sure

that aspects like integrity and state sovereignty are maintained and preserved (King and Murray, 2001).

Issues like armaments set in where non-state actors emerged aligned on ethnic groups. Terrorist groups had targeted young boys and, girls known as 'Al-Shaabab brides'. These organized transnational criminal groups had infiltrated most of the African countries, of which a single resolution process would be difficult to study and measure and those other factors must be controlled for. With the emergence of cyber-crime, it has sophisticated maintenance of law and order in Kenya, therefore, the state couldn't point at only the refugees as a source of insecurity in Nairobi, Kenya. Some scholars had also questioned the interpretation of refugees constituting a threat to security of a state (Koser, 2005).

In winding up, the biggest threat could not be the illegal entry of organized criminal elements as to a more extent those that facilitated their entry and stayed were to blame. The Transnational Organized CrimeAssessment report (2010) notes that human trafficking was responsible for the rise of crimes and poor security.On the other hand Babha (2006) concurs that as widely agreed migrant trafficking and smuggling was usually very structuredbesides being tightly high end cartels and networks who even deal in the sale of essential human organs, arsenal and weapons besides drugs. The report further associates failed states had been under the influence of such cartels as there was no rule of law. There were two conflicting views among scholars; the perception of irregular migration as a threat to hence a fertile ground for such activities.

2.2.1 Emerging gaps in the knowledge

In the recent past, patterns of migration in the region and particularly in Kenya had been characterized by very worrying trends. For example, on human trafficking and smuggling. The refugee protection saw the need that could make thelife of refugees as complete as possible. Sight should not be lost to the possibility that refugees could use this right to wage war against countries they originated from, besides causing instability in the nations hosting them. Additionally, this was possible in third world countries which were themselves struggling on scarce resources. For purposes of preserving and championing national interests over those of aliens and refugees, countries in most cases had initiated strict process of identifying those to benefit from being refugee. Just treatment was subjected to Article 42 which provided for state parties with power to make reservations in relation to specified articles of the Agreement. It should not be forgotten that the Agreement had its origin in the Cold War climate of the late 1940's and early 1950's, when concern centered on refugees in Europe. Similarly, the very European flavor of many of the provisions couldbe readily understood when it was realized that the twenty six states which participated in the drafting and adopting of the Agreement, seventeen were from Europe and four more of a Western European/North American disposition. It was for this reason that organizing the refugees in their right status would grant them protected status that again posed danger to host nations that had made many countries not to be at ease when it came to accepting and maintaining refugees.

This was because the image of refugees as persons in need of protection was not wrong, but it was incomplete— refugee situations were not just about passive suffering and humanitarian aid according to Sarah Kenyon. The trends had changed since the end of the

Cold War where terrorists, illegal small arms and light weapons and refugees with political affiliations from the country of origin contribute to instability in the host state. It was not reasonable to demand so much from host nations more especially where the central government has limited controls in its borders. The definition of refugee protection was based on legal responsibility but did not put into consideration the human security aspects of socio-economic and political aspects. Some people even entre a country legally but would be exploited at some point hence the security trends.

2.3 The nature of human security in Nairobi County, Kenya

Human security was the protection of vital freedoms and also the protection from threats. It involved the creation of four vital systems namely the political, economic, cultural and social systems to ensure people used them as building blocks to survive and live dignified lives. (CHS: 2003). Kerr (2010) argues that human security had political implications of the security. As Barmutz (2010) argued, with the shift from a state centric view of human security to a people centered view, human security stands as the sub-structure for the doctrine of Responsibility to Protect.

International Refugee protection framework was part of a system of state's believe aimed at ensuring objectives of upholding humanity and state interests was achieved (Tadjbakhsh, 2005). According to the Global Protection Cluster Working Group (2007), protection was about ensuring that all people were able to enjoy their rights on an equal basis, in safety and dignity. In contrast, international refugee protection framework was a temporary government. Besides prisoners and criminals' exchange, there was still risk as

far as security was concerned due to issues related to refugee arrival at boarder point state (Tadjbakhsh, 2005). The consequent disregard for such interests could led to failure to comply as far as legal duties were concerned. There were contradictory trends between the state, the United Nations (UN) agency for refugees and the Federal Government of Somalia. In the turbulent context of the post-cold war world, the United Nations, countries that were and other agencies had failed to come up with adequate policies to deal with such displacements (McNamara, 1995). Self-defence against foreigners and other aliens had become more complex leave alone accommodating them (Allan: 2010). It must be clear that after 9/11 attacks   the law was even more mechanical (Allan: 2010).

Security could be traced to the 1994 United Nations Development Program Report, where human security was expressed as the freedom from fear and want. From the people centered and multi-sectoral perspective, the UNDP identified seven types of human security which included economic, and other social aspects like food, health among others (Shukre, 1999). This study focused on political security and community in Nairobi County, Kenya. 'Freedom from Fear' referred to violent threats such as hunger, disease and natural disasters (UNDP, 1994).

There was poor state capacity to deal with matters of governance and negative resilience in Nairobi County, Kenya. Public authorities and political offices lie at the heart of the human security problem. They have directly or indirectly contributed in the formation of new dynamics of human insecurity. They often contribute to incidences of criminal control. This had majorly been the result of corruption and misuse of public offices.

Failure of the state to address the problems emanating from vast tracts of informal settlements as observed in the case of Nairobi had provided grounds for negative resilience. Davis (2012) argued that the role of the police in many cases is frequently counterproductive. Police accommodated and reinforced informal order and they are in constant competition with leaders of such informal order to control illegal deals and local protection rackets. Criminals trading in precious commodities, smuggling and arms trafficking receive more protection from authorities than residents do. Cities where this relationship existed manifest the state`s toleration of such a state of affairs. This state of affairs was one prone to violence and crime as evidenced in the case of Nairobi. Human security in Nairobi was therefore highly influenced and determined by the state.

Initially, the notions of 'sovereignty as a responsibility' focused on the responsibilities of Government to protect their own people and thereby maintained the traditional perspective that the state is the last provider of security. This concept originated form Francis Deng and Boutros Boutros Ghali on the protection of Internally Displaced Persons (IDP) (See Bellamy, 2011). Protection focusses on safety and dignity besides all rights of the concerned population that had been affected by violence (Sphere Project, 2011). This study wouldfocus on how to maintain and uphold humanity and empowering all those affected.

The scholarly needed to understand the role of armed violence, nascent militia and criminal gangs in Kenya's political, security, economic, social and legal dimensions, in view of the youth-oriented armed violence that had beset the country, would be of critical

analysis in this study (Beleke –Thomas, 2014). The study would examine the inter-play between the orchestration of violence, key political figures and entrepreneurs and gangs in urban environments. Additionally, corruption, social cleavages and poor state capacity would be the dependent variables to be investigated.

Tobler, W (1970) discussed the First Principle of Geography. It explained why non-administered spaces, in which the state was virtually absent, were breeding grounds for private violence (Katumanga & Ngunyi, 2014). The researcher concurred with the scholars because the ethno-nationalist scheme of communities was relevant in motivating violence by refugees. Refugees mostly without proper papers stayed in Nairobi County, Kenya. The urban area offered opportunities to get an income by the refugees. Several terror attacks had increased from 2010 to 2014. According to J.O Wilson and G Kolling, in the surfacing of fortified groups was a result of an upshot of societal laxity. This study delved into matters of state fragility and insecurity. Specifically, the study would assess the dependent variables on issues of political violence and its link to the formation of social groups. Musambayi Katumanga (2008), Dr Othieno Nyanjom and Njeru Kirira (2010), assessed the rationale behind security service providers and administrative and fiscal consequences of Kenya's failure of the central government to deliver service to its citizens. This study would assess the correlation between the government agencies responsible for citizenry security and the presence of refugees as a security threat. The study would also assess the potential damage occasioned by the availability of illegal arms that were light in nature, and the negative effects of the emerging bandit economy operated by the various gangs in critical social and economic spaces (Katumanga, 2014).

In this regard, Ruggiero Vincenzo(2006), contended that groups excluded from mainstream society, tend to stick together for protection. And that those groups stick together on familiar lines, mainly ethnic.

This study pointed at the gaps of poor state capacity of security actors. Ngunyi and Katumanga (2014) argued that mishandled disarmament of the armed personnel could misfire. Sometimes large numbers of the force were deployed in areas where there were least needed. Katumanga (2010) stated that many companies of General Service Unit, Rapid Deployment Unit, retained in reserve urban areas to anticipate and contain riots. Therefore, the number that remained was not enabled with infrastructure to dominate space. It was also observed that there was a major gap in police training, employment and issues of command resulting in security gaps. The force lacked cohesion so that those who were left out engaged with social groups or militia in criminal activities. Failure by the under-funded, corrupt, ill-equipped, under-staffed police force to prevent and respond to insecurity had seen citizens opt to turn to vigilante and ethnic militias (Akinyele, 2001).

On the other hand, political violence in Kenya was a market 'commodity' that was used when need arose (Katumanga & Ngunyi, 2014). This was because the social groups especially in slum areas in Nairobi provided protection and the requirement for security but on the other end we had the supply and consumption of violence particularly in an election year like the 2007/2008. This should the responsibility of the government.

Therefore, there was a capacity gap to handle security issues effectively especially with the emergency of terrorism.

Many government bureaucrats put in place practices for prohibition and punishment for any corrupt activities, yet their associates were confident that there would be no liability. At times exemption seemed to emerge in relation to some types of illegal engagement, but not all forms of coercion and exploitation on irregularities. At other times, exemption existed alongside accountability, with members of security agencies more fearful of the consequences for corruption against genuine refugees. Indeed, there appeared to be variation across state officials as well as within the government. This variation indicated a rich research gap. The human security concept was relatively under-researched, and there was a need to develop a more concrete and differentiated way of observing it in the real world. The concept also spoke to tendencies for people to perceive risks and opportunities or to gauge the costs and benefits or the likelihood of being punished for a harmful act. This suggested a need to define human security pointedly in terms of a subject's confidence in the absence of negative consequences.

2.3.1 Emerging gap in the knowledge

The proposition that some state officers were led by authorities that do not punish culprits of corruption, social cleavages that favoured some people doubled with poor state capacity would develop exemption. This was a major gap. The claim was based on the notion that authorities (Ministry of Interior and National Coordination) were directly responsible for implementing punishment. Therefore, defined negligent authorities as a factor and as leaders who fail to execute punishment for crimes. Even in cases where

prohibitions were flawed, authorities at times play a critical role in the conditions leading to impunity hence insecurity. In situations where prohibitions are well-articulated and there exist systematic tools for justice, state officers and humanitarians may still find ways to violate laws through the exercise of their own power and authority. They might protect their allies or clients or shield their own culpability. Exercising undue influence, protection officers could send signals that refugee influx was not costly. And in the midst of terrorist activities, civilian and military officials may ignore or abrogate existing rules. In conclusion, nations must take a leading role in dealing with threats challenges and bringing about transformation through innovation and infrastructure to protect both refugees and citizens. This enabled a fine-grained differentiation of the two explanatory factors.

2.4 Challenges in enforcing the refugee protection framework in relation to human security in Nairobi County, Kenya

The fragility of African states had been expressed from both economic and political fronts. Most African states might claim juridical statehood but empirical statehood was lacking. Whereas the state existed and had a defined territory, it had no capacity to maintain its dominance across its territorial jurisdiction (Jackson & Roseberg, 1982). There existed internal insurgencies even within a state and thus challenging the state`s empirical statehood. Kenya had been facing the challenge of ensuring internal insecurity within its borders especially with the increased acts of terrorism. Border surveillance and migration control were core to securing of a state. Economically, empirical statehood was lacking in terms of self-sufficiency, volatile trade environments, and higher risks of

investments. The economic volatility was linked to the state of insecurity. Fewer investors would risk investing in an unstable environment and this often led to diversion of investments to other states. To enhance empirical statehood, states improved surveillance and established mechanisms of managing migrants so as to reduce vulnerability to agents of insecurity. The surveillance and management of migrants were to be expended in such a way that considered the responsibility to protect individuals seeking asylum.

The concept of irregular refugee influx and its relation with security is a subject of dissertation within the academia, policy makers and human rights activists. Irregular refugee influx has been percieved as a threat to national security. For example, the Kenyan government, following a series of terrorist attacks, launched a massive operation aimed at flushing out the illegal migrants. This was parallel to securitization of migration that various UN agencies as well as human rights activists were opposed to. The task of reconciling these two opposing views was rendered even harder given the little and scattered data on this type of migration. The lack of data can be attributed to various dynamics not least the clandestine nature of irregular refugee influx. While admitting that irregular refugee influx into Nairobi, Kenya is a particularly challenging field of research, there is little doubt that mgration as a whole is a significant influence in the social, economic and political landscape in Kenya as well as the region. For, example, the cross-border corridor between Somalia and Kenya is the sixth largest international migration route in the world, as illustrated in Figure 2.4:
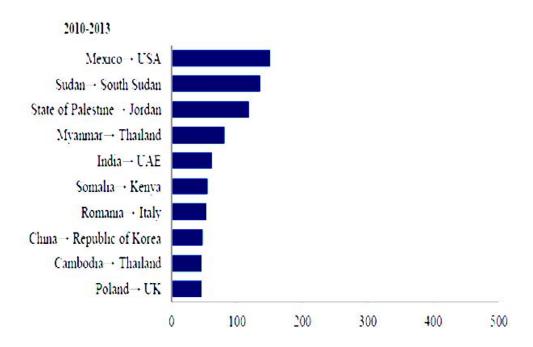
Figure 2.3: Sixth Largest International Migration Route in the World
Source: International Migration Report (2013:6)

Between 2010 and 2013 the migration from Somalia to Kenya was the 6th biggest cross border migration in the world (UN Population Division, 2013). This study focuses on the international refugee protection framework influencing human security in Nairobi, Kenya. The author argues that, the refugee movement has some influence on national security as other forms of international crimes set in like human trafficking and human Smuggling. Globally women and children make up to 80% of trafficked victims (US Gov, 2007). The number of refugees in Eastern region remains high, with Ethiopia being the sixth and Kenya seventh largest refugee hosting nations in the world (UNHCR, 2014). Although refugees are not part of illegal migrants, they do, however, play an important role in illegal migration; for example, refugee networks are often used by traffickers/smugglers to traffic/smuggle people.

2.5 Distinguishing between Human Trafficking and Human Smuggling

It is imperative to note the distinction between human trafficking and human smuggling. Conversely, in practice, it is often difficult to separate the two phenomena, especially before the final destination of the trafficked or smuggled person. Additionally, many smuggled refugees, due to their vulnerability, eventually become victims of human trafficking. The key differences between human trafficking and human smuggling are summarized in the Table 6.2below:

Table 2.1: Differences between human trafficking and human smuggling

	Human Trafficking	Human Smuggling
Activity	Trafficker's transport and transfer people from one place to another, internally or across borders.	Smugglers facilitate the transportation, attempted transportation or irregular crossing of person (s) across an international border.
Means	Traffickers use the means such as deception, fraud, abuse of power or coercion of one or more activities.	There is no element of distortion of the free will of the person through force, deception, coercion or other means.

Source: Liotta & Owen, 2006

2.6 Illegal Refugee Influx in Kenya

A study conducted under the auspices of IOM (Horwood, 2009) established three main routes for irregular refugee influx namely: 1) From Ethiopia via Moyale, Marsabit and Nairobi then to various destinations; 2) From Somalia Border to Garissa, Matuu, Nairobi and then to various destinations; 3) From Somalia, alongside the Coast to Tanzania. The three routes are depicted in Figure 2.4.
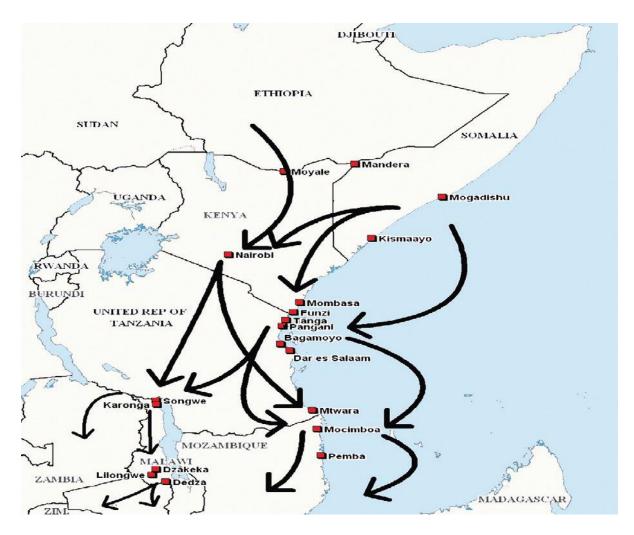
Figure 2.4: Main Routes for Irregular Migrants in the East & Horn of Africa
Source: Masinde Muliro University of Science and Technology Disaster
Management Department, 2016

A US government report on human trafficking points out possible incidents of the Al-shabaab recruiting and then trafficking young boys for terrorist purposes in Northern Kenya (Trafficking Persons Report, 2014). There are further sources that link the activities of the Al-shabaab with human trafficking (Howard & Traughber, 2013). Looking outside the region, there are reports of other terrorist groups engaging in the trafficking of people. For example, the Islamic State of Iraq and Syria (ISIS) are reported

to engage in organ removal for the purpose of illegal organ trade. The links between terrorism and illegal migration are not the only examples of the illegal migration-security correlation. Human smuggling and human trafficking are also correlated with corruption, poor state capacity, social cleavages, and drug and weapon proliferation.

In Kenya, a similar study was conducted by the IOM in 2010. The study established the main routes for irregular refugee influx as depicted in the table 2.2**:**

Table 2.2: Main Transit Routes for Irregular Migrants in Kenya (IOM, 2010)

Origin	Transit Points	Destination
Southern Somalia	Liboi, Fafi	Garissa
Garissa	Wajir	Kismayu
Dadaab	Ijara	Mombasa
Ijara	Ijarairobi, Dar es Salaam, Maputo	South Africa
Mogadishu	Liboi, Garissa, Nairobi	South Africa
Garissa	Nairobi, Sudan, Libya	Malta and Italy
Liboi	Dadaab, Garissa	Nairobi, North America
Liboi	Dadaab, Modagashe, Isiolo	Nairobi, Britain
Mandera	Dadaab, Modagashe, Isiolo	Nairobi, Europe
Fafi	Ijara, Garsen, Mombasa	Nairobi, Botswana
Moyale	Marsabit, Isiolo, Nanyuki	Nairobi, Botswana

Source: IOM (2010)

There was a correlation between irregular migration and criminal group activities and subsequently, organized crime, small arms, and human smuggling and trafficking. Massive quantities of small arms in the hands of civilians contributed to criminal violence (PSLAW, 2000). One and a half decades later, the problem had intensified and small arm trafficking hadbecome the basis of other trade such as smuggling of goods, drug trafficking, human trafficking and human smuggling.

It was imperative to note the distinction between human trafficking and human smuggling. Conversely, in practice, it was often difficult to separate the two phenomena, especially before the final destination of the trafficked or smuggled person. Additionally, many smuggled refugees, due to their vulnerability, eventually become victims of human

trafficking. The key differences between human trafficking and human smuggling were summarized in table

Table 2.3: Differences between human trafficking and human smuggling

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Activity	Trafficker's transport and transfer people from one place to another, internally or across borders.	Smugglers facilitate the transportation, attempted transportation or irregular crossing of person (s) across an international border.
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Source: Liotta & Owen, 2006

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correlated with corruption, poor state capacity, social cleavages, and drug and weapon proliferation. This leads to national insecurity.

A major survey conducted in 2002 indicated that about 10% of urban population in Nairobi possessed small arms and that about 14% could access small arms if they needed to (Stavrou, 2002). The 2002 Small arms Survey indicated that the inflation and availability of small arms was a constant threat to human security. The report estimated that in sub-Saharan Africa there were 30 million illegal arms in circulation by the end of 2002(SAS, 2002:7). Katumanga & Cliffe (2005), in their assessment of the effect of violence on development indicated that the need to survive in urban centres like Nairobi was a threat in itself to cities (Katumanga & Cliffe, 2005).This study by Katumanga and Cliffe exacerbated the gravity of small arms proliferation in Kenya and its negative impacts.

Bolesta (2005:27-28) argued that this effect had been extended to refugee population where there was intensity of refugees big role in stimulating violence and crime. Muggah & Mogire (2006:1) addressed the concerns of refugee camps mentioned by Bolesta. They stated that availability of arms was rampant. Further, they argued that access to arms by refugees was a security threat. In a more recent study, Mkutu (2008) pointed to the fact that weapons and arms were freely in circulation especially in urban centers. He pointed to the inability of the Kenyan government to control the inflow of small arms from neighboring countries to Nairobi. He also purported that the arms were also easily available in remote areas that bordered marginalized communities hence hard to regulate

due to absence of state authority in such areas. These areas become access points for fire arm traffickers and smugglers.

Gastrov (2011) has reiterated previous arguments by Muggah (2014) that there existed organized crime networks that facilitated trafficking of small arms to Nairobi. These networks and organized groups consisted of Somali nationals working with Kenyan smugglers. Gastrov (2011) indicated that other contraband activities perpetuated by such organized criminal gangs included sugar smuggling, drug trafficking, and smuggling of counterfeit goods (Gastrov, 2011). Under the same token, as Jackson and Roseberg argue, lack of empirical statehood had led to increase in arms that were small and light in African states` borders. This trend had in turn led to increased urban crime rates in Nairobi (Clapharm, 1996). Refugees were being associated with the increased inflow of such weapons especially in Nairobi. This had further made efforts to grant asylum impossible because it increased the possibility of sheltering potentially dangerous individuals and magnifies the risk of complicating national security.

In their work *transnational crime and fragile states,* Ochoa et.al.arguedthat the increased illegal trade practices dealing with weapons had had an negative effect on security and particularly to marginalized groups. Further, they posited the premise that violence caused by increasing small arms in Nairobi had in turn undermined governance besides endangering human and even making economic growth and development stall in areas where the intensity was high. Small arms, according to Muggah & Berman (2001) were

cheap and readily available, durable, portable and could easily be concealed during transportation.

Allen (2010) argued that the instability in Somalia had made it a gateway for illicit arms to enter the East African region. The UN monitoring group on Somalia noted that significant arm shipments had been transported to Somalia through the Gulf of Aden. Weak border controls in Kenya facilitated the flow of weapons from Somalia to the country and the region in general (Allen, 2010).Under the same token, Allen argues that corrupt government officials facilitated the trade in arms across the border. Clandestine military operations were often used for covert transfer of arms from Somalia to Northern Kenya.

There existed a connection between human trafficking and arms smuggling (UNODC, 2009). Human trafficking was the off-shoot of arms trafficking and was highly connected to the existence of organized crime gangs and access to illegal arms. Gastrov (2011) argued that a number of networks coordinatedbesides organized human trafficking through the Northern part of Kenya to Nairobi and other destinations. These networks were headed by well-known and respected figures that operated as normal businesses. With good connection with top security and government officials this has contributed easy of their business. Eastleigh suburb in Nairobi is now known for being a hub for human trafficking and smugglingbesides being a renowned centre for prostitution, and sex exploitation. Gastrov argues that weapon and arms dealers have strong, sophisticated systems of traffickers linking Daadabrefugees' camp to Nairobi (Gastrov, 2011).

There existed the popular "Southern route" (Moyale-Embu-Isiolo-Mwingi- Nairobi) of human smuggling and trafficking whose hub was Nairobi. According to RMMS (2012), refugees could obtain false identifications, change citizenship or obtain travel means to other countries in Nairobi. Most of Somali refugees who have travelled to Denmark, Canada and USA pass through Nairobi. As Horwood (2009) argues travel documentation was usually obtained from corrupt Kenyan officials in Kenya. Smugglers and human traffickers had deep connections with government officers and airport crew who facilitate entry and exit of refugees and illegal migrants. Horwood argues that the Southern Route involved movement from Somalia to Nairobi Eastleigh area then to South Africa. Refugees reported to have had paid public officers and police for escort from the Kenya-Somali border to Nairobi (RCK, 2012).

In 2000, the small arms and Light weapons problem was declared in the east and central African region as a menace was to find means of controlling access and trafficking of arms. Massive quantities of arms were in the hands of civilians that contributed to criminal violence (SALW, 2000). One and a half decades later, the problem had intensified and small arms trafficking had then become the basis of other trades such as smuggling of goods, drug trafficking and human smuggling. This had provided for the nexus between organized crime, illegal Small arms, and human trafficking.

In Eastleigh, smugglers, brokers and agents organized residence in safe houses. Immigration and registration of personnel offices had facilitated false documentation to facilitate movements (Horwood, 2009). Migrant smuggling was a lucrative business. For instance, it costedUSD 1100-1500 to get from Nairobi to South Africa. At least twenty five people left Eastleigh every day and were smuggled to South Africa. An estimated 5500-6500 Somalis left Eastleigh to South Africa each year (RMMS, 2013).

Kagwanja &Juma (2008: 219-220) argued that refugees living within a country played a great role in facilitating human smuggling and trafficking. Refugees working in a host country were used by traffickers and smugglers to traffic people and illicit goods to Kenya. Gettleman (2009) argued that it had become quite easy for refugees to travel from Somalia to Nairobi because there was lesser risk of detection. It was clear that migrant smuggling was a lucrative business.

Wintero andClapier (2015) observed that in 2012, the Department for Refugee Affairs directed that with the Somali dominated Al-Shabaab terrorist threats, all urban refugees were to be redirected to refugee camps. Further, they contended that this act by the state depicted "all the Somalis in Kenya as potential criminals" and that this notion was widely spreading across the country. As such, refugees were seen as the conduits of terror networks and this provoked Ngunyi and Katumanga(2014) to argue that agencies had to keep abreast of developments in terrorist networks. The dilemma indicated the knowledge gap on state fragility and its effects. It was indistinguishable with increased insecurity in Nairobi associated with the refugee influx or regular asylum seekers. The

Government of Kenya had so far disbanded the Department for Refugee Affairs (The Standard, 2016). This study focused on urban refugees in Nairobi County, Kenya.

Secondly, in contrast, refugees in Nairobi County were refugees whose situation wasn't dire, but instead were just in protracted state of refugees. One wonders when the war would end in Somalia because Somali refugees had been in Kenya for over twenty five years. Worldwide the refugees numbers were low but it should not be forgotten that protracted refugee situation may only worsen it(Trafficking in Persons Report, 2014).

Stedman and Tanner (2010) noted that at times the exemptions to refugee trends and crisis as legitimacy to claims of their status makes no sense in the midst of continued radicalization of the youth and other groups among the refugees hence all must be done to ensure that there was no apparent danger caused by the same people who were being protected (Andrews, 2003).

2.4.1 Emerging gap in the knowledge
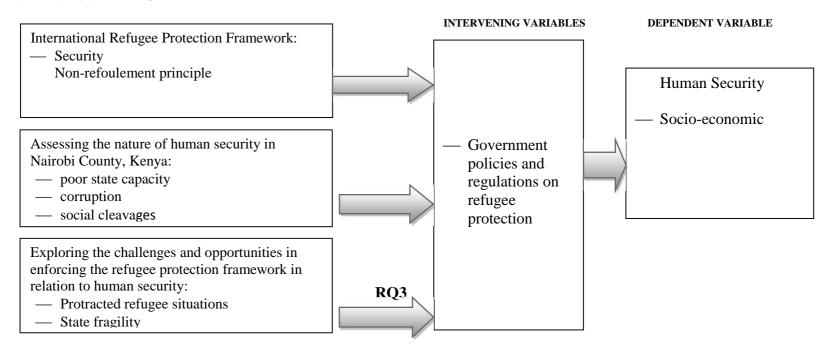
The previous section highlighted the gap in refugee protection framework of the African nations that focused on similar studies. It formulated the gap, the conditions leading to irregular refugee entry in relation to human insecurity. Refugees were seen as the conduits of terror networks and agencies had to keep abreast of developments in terrorist networks according to Ngunyi and Katumanga (2014). The dilemma indicated the knowledge gap on state fragility and its effects. The main gap that should was addressed was on how to secure the entry points into Nairobi, porous borders, citizens and refugees.

2.5 Conceptual Framework

The model took into account the relationship in governance between the state departments' stakeholders who had great interest in the effectiveness of the agreement, security as well as the sub-national aspects of public administration. The traditional approach to security could not be dismissed (Kerr, 2010). Adopting a human security concept to security meant that the flaws in the state-centric perspective become evident. In social science, human insecurity was understood as a political violence and was the dependent variable. The figure explains the relationships between the dependent and independent variables.

Figure 2.5: Conceptual model for international refugee framework influencing human security in Nairobi

INDEPENDENT VARIABLES

INTERVENING VARIABLES   DEPENDENT VARIABLE

International Refugee Protection Framework:
— Security
    Non-refoulement principle

Assessing the nature of human security in
Nairobi County, Kenya:
— poor state capacity
— corruption
— social cleavages

Exploring the challenges and opportunities in
enforcing the refugee protection framework in
relation to human security:
— Protracted refugee situations
— State fragility

RQ3

— Government
policies and
regulations on
refugee
protection

Human Security

— Socio-economic

Source: Researcher, 2016

The many reasons for insecurity were due to war and include under-development and these are the independent variables. This study assessed the international refugee framework influence on human security. This was because security could not be assessed alone if other factors were not controlled for.

2.5.1 Constructivism Theory

The proponents of this theory included Nicholas Onuf, Alexander Wendt (1995), and John Rugie (1995) among others. These scholars argued that the world, be it social, political or material was socially constructed. The phenomena in it, occurrences and events do not just appear naturally. They were the result of human interaction and development of shared ideas. Proper functioning of ideas could change the behaviour of individuals and impact on state policies (Finnemore, 1996:128). Alexander Wendt (1995: 73) argued that the behaviour of states, intergovernmental and non-governmental organizations was shaped by elite beliefs, identities and social norms. Norms, customs, and culture could change behaviour of individuals. The study asked: what were the objective security dangers and subjective security concerns: threats, challenges, vulnerabilities and risks for state and humankind?

The process of transnational politics altered other interests of the global system. It's the interaction between state entities that generates the shared interests and a common identity in the international system (Mercer, 1995:231-235, Katzenstein, 1996:2). The structure of the system depended majorly on the distribution of identities but not on military capabilities. It was only in the social context that material structures acquire meaning. The tenets of this theory matched aspects of the refugee protection framework

as the international community pushed for the interdependence between states on burden sharing on the one hand, while on the other, the host state took responsibility.

Inter-subjectivity is central to constructivist approach. Do individuals and states attach the same meaning to occurrences and ideas? Actors behave in a way that others can interpret according to shared criteria. A shared understanding of values is essential for a society to realize shared interests. The international stakeholders must come up with structures that encourage co-existence and friendship to enhance good relations.

2.5.2 Human security, international refugee framework and constructivism theory

Norms and social structures are critical for realization of human security. The behaviour of actors and agents in the international realm of strategic politics is shaped by the socio-cultural milieu in which the actors originate. This explained why international norms and beliefs had different effects and influences on different actors (Checal, 1998). International culture which constituted universal human rights and acknowledges international law had shaped national policies in both developing and developed nations. This culture was a creation of actors in the international system and was founded on shared values, norms and interest in human preservation.

A holistic conceptualization of human insecurity took into account: individual sources of human insecurity which included actions with immediate consequences directed towards other people. The major causes of violence were rooted in human behaviour. The society was a reflection of individuals and the individual was shaped by his/her socialization

background. In pursuance of personal endeavors individuals would engage in organized crime and create inter-societal strife. At the national level, elites pursuing selfish interests such as power occasionally created havoc and mayhem in their societies. Conflict of interests in African states especially over succession disputes had more than once erupted into violence which proliferated into civil wars leading to forceful expulsion of citizenry from their states or localities.

Institutions were a construction of humanity propelled by the urge to install and sustain societal order. Anarchy in a state of volatility led to social disorder (Wendt, 1992). Gilpin (1981, 15-49) contended that the state was responsible for provision of public goods such as security. State actions were determined by individuals in authority. The state, therefore, provided personal security for all citizens within its jurisdiction. Though there were other institutions within the state, the state reserved the monopoly of using violence in the interest of protecting its citizens and persons within its territory against internal and external aggressions (Weber, 1946). The state embodied the idea that everyone was under the law. The state defined and protected the rights of individuals within its borders. Accordingly, failure of the state`s functionality led to emergence of human security challenges. A failed state, as Russett, Starr & Kinsela (2004) argued, was one that was internationally recognized but it could not provide security to its citizenry as expected of all sovereign states. Sorensen and Jackson (2003: 284) posited that a failed state was as a result of more or less complete breakdown of domestic order. Robert Kaplan, (1994) in his most quoted work, "The coming anarchy" pointed to the rise of negative consequences overpopulation caused by people staying together as refugees as a

precipitated to the collapse or institutional order and governments in the West African prism.

In Somalia, the collapse of the state and its institutions resulted in more than two decades of civil war and unrestrained violence which led to fleeing of large sections of its population to other countries. Couloumbis &Wolfe (1990) argued that civil wars and internal civil unrest developed out of a failure of a national political system and its institutions to function effectively. In this condition of state collapse large segments of the population, including influential divisions of elite, no longer accorded legitimacy to those in powers or to the reigning regime. State systems must guarantee refugees within its territory the same public good of security enjoyed by its citizens. In recognition of this responsibility, Rwanda was putting into place arrangements to distribute Burundi refugees within its borders to other states arguing that "the proximity of refugees to their home made them prone to insecurity" (Daily Nation, 9th, February, 2016).

Establishing order in an anarchical society required the reconstruction of government and state apparatus. It also involved re-enactment of laws, revival of societal norms and rejuvenation of national values. In the realm of international politics, institutions such as the UN were mandated with the task of ensuring a transmission of shared values, norms and interests across the globe. Rights of refugees were protected under the UN Charter. The same Charter came about as a result of the desire to protect common interests. Its propagation across the globe and its adoption by distant societies reflected ideas, values

and norms in a system. Tadjbakhsh (2007) argued that creating sustainable human security would ensure a developed society.

Cultural sources of insecurity were composed of actions linked to perceptions, modes of thinking and cognition in society at large. Perception played a key role in decision making (Onuf, 1989). It wasagreed that distorted perceptions had been a cause of civil unrest, violence and even extermination of populations. The Rwanda genocide of 1994 was castigated by distorted knowledge of the Hutu and the Tutsi. The Tutsi were made to believe in the myth of ethnic superiority and they bought the perception of the existence of an inferior Hutu population. The aftermath culminated in the demise of close to one million people killed. Accordingly, hundreds of thousands sought refuge in neighbouring countries and a larger number died in refugee camps (Mamdani, 2001). In Kenya, the events following the 2007 election were evident of how the perceptions and mode of an individual`s thinking could be turned into a weapon of self-destruction. The root causes of the violence could be traced to cultural differences embedded in stereotypic cognitive systems.

2.5.3 The utility of constructivism as the main theory in this study

In this study, the researcher drew on the theory to demonstrate how ideas such as international refugee law and human security came into being, why they were conceptualized and how these ideas rose to prominence. The approach also helped explain how and when these ideas mattered in a particular circumstances (Sikkink and

Finnemore, 2001).The approach depicted the creation of international law as an attempt by the international system to construct a social fabric where rights of all are guaranteed.

The theorywas specifically useful to the researcher's analysis of conditions contributing to human insecurity and the major causes of human insecurity. Accordingly, the theory led to an analysis into the reasons why citizens of a country seek asylum in another country and how they were consequently recognized as refugees. To this end, one could understand the causes for the breakdown of social norms, and values. As such, the decay and disintegration of institutions which eventually led to violence and disorder could be explained and understood in the context of a social structure founded on culture, customs, perceptions and disparaging interests. Constructivism became the best approach to analyze both the causes and remedies for violence. Anarchy, violence, perceptions, and identities were socially constructed and could be modified with time (Karacasulu, Uzgoren, 2007, 37-8).

The conceptualization of constructivist units such as perceptions, culture and norms as building blocks of the social structure was generative for understanding the relationship and attitude of citizens of a country towards refugees. Further, the framework would assist in understanding the application of international refugee law by states. Drawing from this approach, one could explain why states for example were active or reluctant in implementation of refugee protection law.Furthermore, the framework was a valuable and powerful tool in describing how global norms embedded in international law related to human security and why states would comply with international law in spite of being

sovereign entities. Constructivism accounted for the contemporary pervasiveness of ideas, norms and values in the international system. It guided the understanding of human-centered security approach adopted as compared to the age old agreement of state-centric security interests.

2.5.4Conclusion

This theorywas relevant to this study as they indicated fragility and state fragmentation. As discussed above and in Chapter one, the constructivism theory equated failures in the rule of law with lack of accountability which depicted state fragility. Borrowing from this logic of the theoretical framework proposed that flaws or suspension of rules explained the variation in state officers' exemption for illegal entry. Concisely, weak enforcement and pardons caused state officers to develop confidence in the absence of negative consequences. This applied to the dilemma in which Kenya was facing the refugee crisis because it was held by the international refugee protection framework. Due to the weak administration and other economic effects of Kenya's shift from a unitary –state to devolution system, it was anticipated that institutional functioning would be efficient (Othieno and Kirira, 2010). But this was not the case. There was a major gap. The proponents of constructivism approach included Nicholas Onuf, Alexander Wendt, and John Rugie among others address the socio-economic and political aspects of a state through the social construct of human behavior, but did not address the security matters. According to Max Weber (1946), the state must have monopoly of force in order to win a given territory. Therefore, the constructivism theory provides the methodology in which the study took in subsequent chapters.

CHAPTER THREE

RESEARCH METHODOLOGY

3.0 Introduction

This chapter systematically provides the description of the research methodology that was used in the study. The sample size determination of the study population and the sample size used. The chapter further provides sampling procedures used to collect the data followed by data collection and administration of instruments for the various respondents of the study and the procedures used in ensuring reliability and validity of the data collection instruments. The chapter concluded with a discussion of the data analysis techniques used in the study and ethical issues which were observed in the course of the study.

3.1 Research Design

A research design refers to the framework, overall strategy or plan for a study, chosen to integrate the different components of the study in a coherent and logical way, thereby ensuring that the research problem is effectively addressed (De Vaus, 2006). It constitutes the blue print for the collection, measurement, and analysis of data (Kothari, 2007).

This study used a cross-section descriptive design which employed both quantitative (through semi-structured questionnaire) and qualitative techniques (the FGD and key informant interview). A cross section study was a type of observation study that involved analysis of data collected from a population, or representative subset, at one specific point in time (Jackson, 2007). The cross –sectional design enabled data collection on

different variables and at a single point in time which then was examines show they associate. This was because this study took the form of a survey where data was collected using questionnaires and also structured interviews. The design was more appropriate than longitudinal and comparative designs because of its reliability. The researcher had a clear procedure on selection of respondents, research administration and instruments with questionnaires and structured interviews besides analysis of data analysis. The study also counted on senior officials of those institutions that were selected (United Nations High Commission on Refugees (UNHCR), Refugee Consortium of Kenya (RCK), Refugee Secretariat, Immigration, Judiciary and Ministry of Interior and national Coordination, police, military) as key informants for the study. The key informants provided in-depth information that helped in exploring further the refugee protection framework influencing human security in Nairobi County, Kenya as well as triangulating quantitative data collected in the study. The data collected from the key informants were valuable due to the in-depth understanding, expertise and experience of the interviewees on challenges and opportunities in enforcing the refugee protection framework influence on human security in Nairobi, Kenya. The results of the study were inferred and generalized to the National Commission on Science, Innovation and Technology.

The adoption of cross-sectional design was also justified on grounds that data was collected and analyzed in more than one research method.

The need to conceptualize and effectively explain a cross-sectional design necessitated the inclusion of the Table 3.1:

T1
Obs 1
Obs 2
Obs 3
Obs 4
Obs 5
Obs 6
....
Obs n

Table 3.1: A cross-sectional design

T1 =one point in time data collection

Obs =observation made in relation to a variable.

Descriptive survey design determined the status of the international refugee framework in Nairobi County, Kenya and its municipal implementation. It answered the question: how do refugees get into Kenya? Descriptive survey designs were used in preliminary and exploratory studies to allow the researcher to gather information, summarize, present and interpret for the purpose of clarification (Orodho, 2002).

Borg and Gall, (1989) noted that descriptive survey research intended to produce statistical information about aspects of the population that interested policy makers without manipulating any variables. The choice of the descriptive survey research design was made based on the fact that in the study, the researcher would be interested in the state of affairs already existing in the field and no variable would be manipulated.

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Table 3.2: Research Design

Approaches to Quantitative Research Design

Purpose of Study	Research Question	Research Strategy	Data Collection Technique
Exploratory — Examine the refugee protection framework influence on human security in Nairobi County, Kenya.	— How does the refugee protection framework influence on human security in Nairobi County, Kenya?	— Field Study — Case Study — History	— In-depth interviewing — Survey Questionnaire — Document Analysis
Exploratory — Assess the nature of human security in Nairobi County, Kenya.	— What is the nature of human security in Nairobi County, Kenya?	— Field Study — Case Study — History	— In-depth interviewing — Survey Questionnaire — Document Analysis
Descriptive — Explore challenges besides opportunities in refugee protection enforcement in relation to human security in Nairobi County, Kenya.	— What are the challenges and opportunities in enforcing the refugee protection framework?	— Field Study — Case Study	— Participant Observation — Verbatim reports with reference to refugee community — Document Analysis

Source: Researcher, 2016

3.2 Study Area

Administratively, Nairobi County is divided into 8 sub-counties namely: Central, Langata, Makadara, Kasarani, Embakasi, Pumwani, Westlands and Dagoretti. Nairobi is both the political and commercial capital of Kenya and served as a major transit route for air traffic in Africa. This study focused on Pumwani and Langata sub-counties only. It was densely populated with a total population of about 4 million people according to the national census of 2009.

The area is densely populated due to the commercial activities the city offered in the area. Settlement was concentrated around low and middle class estates. Inadequate personnel and physical facilities in schools, health and other institutions affected the quality of service in those institutions. Lack of proper shelter and security arrangements affected the refugee protection (Government of Kenya, 2013). As of Nairobi, City County had about 46,000 urban refugees requiring protection (UNHCR, 2014). Institutions dealing with refugee protection such as the UNHCR, Government departments and the civil society were selected.

Competition for employment opportunities, proliferation of small arms and light weapons, high economic burden, human smuggling and human trafficking, the likelihood of facing terror attacks in the city and organized criminal groups were some of the important factors in selecting the above institutions in which the study was conducted. Urban refugees comprised of those from Somalia, the DRC, Rwanda, Ethiopia and South

Sudan. Out of all the refugees, 64% were Somalis and the study focused more on the Somali refugees.

The borders illustrated in the descriptive map of Kenya included the administrative boundaries of the 8 sub-counties namely: Westlands, Pumwani, Kasarani, Kibera, Embakasi, Dagorreti, Makadara and Central (Figure 3.1).
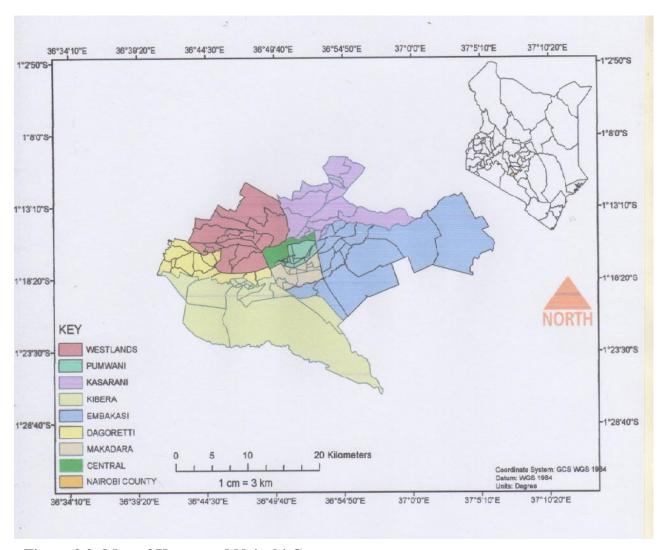
Figure 3.3: Map of Kenya and Nairobi County

Sources: Researcher, 2016

3.3 Study Population

According to Nachimias & Nachimias (1996), a population is the entire set of the relevant unit of analysis, or the data. The study population included various groups of people in Nairobi City County. Among them were the UNHCR officials, Refugee Consortium of Kenya officials, and the community in estates within and around the sub-counties, local administration, government officers and the refugees themselves. The unit of analysis was the refugee in Nairobi City County. The total number of refugees in these sub-counties was 285.

These institutions were purposively sampled due to the fact that their activities were directly linked to refugee protection influence on human security. The study concentrated on the refugee protection framework in relation to human security; the nature of human security; and challenges and opportunities in enforcing the refugee protection framework in relation to security. The study also concentrated on key institutions which were relevant agencies in refugee protection United Nations High Commission on Refugees and Refugee Consortium of Kenya. The study covered the period since 2013, the year Kenya experienced a major terrorist attacks in Nairobi city. The respondents in the study included: refugees, residents, County Commissioner's office (Nairobi), immigration officers, police, Ministry of Internal Security, Judiciary and Ministry of Foreign Affairs (Host Nation Staff).

The study also counted on senior officials of those institutions that were selected (United Nations High Commission on Refugees (UNHCR), Refugee Consortium of Kenya

(RCK), Refugee Secretariat, Immigration, Judiciary and Ministry of Interior and national Coordination, police, military) as key informants for the study. The key informants provided in-depth information that helped in exploring further the refugee protection framework influencing human security in Nairobi County, Kenya as well as triangulating quantitative data collected in the study. The data collected from the key informants were valuable due to the in-depth understanding, expertise and experience of the interviewees on challenges and opportunities in enforcing the refugee protection framework in relation to human security in Nairobi, Kenya. The results of the study were inferred and generalized to the National Commission on Science, Innovation and Technology.

The study population included: urban refugees, organizations dealing with refugees, state departments dealing with refugees and human security issues, host community households and households. Households were important social units of a nation and included clan elders, youths, women leaders, religious leaders, business personnel and household heads. Secondly, state officials were interviewed and included: intelligence/anti-terrorism operatives, chiefs, ward administrators, County Commissioner's office, immigration officers, teachers, police, military and District Peace Committees. Relevant organizations (associated with refugee welfare) were sampled such as field representatives of International Organization of Migration, United Nations High Commission on Refugees and representatives of humanitarian aid organizations (associated with Nairobi residents), civil society representatives. Inclusion of all entities in this sampling list eliminated sampling bias.

3.4 Sample Frame, Sample size and Techniques

3.4.1 Sample Frame

The first step in sampling was to specify the objects of the study. The refugee register was used as the main sampling frame. A list of registered refugees was obtained from the refugee registers and from this list the researcher was able to randomly select refugees from the register. A random sample procedure was done to select from the participants in the research. Out of the 46,000 refugees living in Nairobi, 285 were selected. This enabled them to exhaustively discuss the questions. Interview questions that needed in-depth information were selected from the questionnaire to facilitate the group discussions. The discussions were conducted in the room provided by community based organizations in the estates. The focus group discussions consisted of 8-12 respondents each. A total of 3 focus group discussion was done. This method enabled the researcher to obtain more in-depth information that could not be obtained from the questionnaire.

According to Kumar (2008), the size of the sample size was one that ensured that the principles of efficiency, representation besides reliability and flexibility for the research work. A sampling frame was a list of elements from which the sample was actually drawn and closely related to the population (Cooper, 2006). A representative sample was derived from the general population (Okoth, 2012). The sample frame was drawn from various key informants including those selected as state officials: Ministry of Interior and National Coordination, Immigration, County Commissioner, Ministry of Foreign Affairs, the Kenyan residents; and non-state actors: Print and Electronic media (The Standard,

TV, CITIZEN, KBC, K24 and KTN). A list of 46,000 urban refugees was obtained from relevant authorities.

3.4.2Sample Design

Probability sample adopted ensured that bias error was to be calculated to calculate in data collected (Fink, 2007). Purposive sampling was used for the office of the Attorney General, County Commissioner, media, police officers, immigration officers, Ministry of Foreign Affairs; purposive sampling is used for inclusion or exclusion criteria (Mualuko, 2011).

The remaining 285 participants were selected on random basis. The targeted population had an equal chance of being a respondent provided that they met the minimum participants' criteria. The researcher aimed at obtaining the list of registered refugees from relevant offices. From that list, 285 respondents were selected using the systematic random sampling. In that method, the first respondent from the list was picked randomly. Then, every ninth individual in a predetermined interval was selected until the number 285 was reached. The rest of the respondents were purposively sampled as shown in the table 3.1.In summary, the sample for the study included 171 refugee respondents from 2 sub-counties namely: Pumwani and Langata.

3.4.3 Sampling Techniques

Mason, (2006) maintained that sampling and selecting were principles and procedures used to identify, choose and gained access to relevant data sources from which to generate data using chosen methods. In this study, the population consisted of groups drawn from Nairobi's sub-counties namely, Pumwani and Langata in Nairobi, Kenya. The study used probability sampling techniques. While quantitative studies attempted for random sampling, qualitative studies often used purposeful or criterion-based sampling, which was, a sample that has the characteristics relevant to the research questions (Mason, 2006).

3.5 Sample selection and Sampling Procedures

3.5.1 Selection of refugees and the Nairobi households

The sample for the study included 171 out of the 285 questionnaires that were distributed. This represented 60% of the total sample size of 285 of the study and the rest (115; 40%) representing the Kenyan community or citizens. This sample was used for analysis. The sample represented 60% which was considered high (Table 3.5.1).

After arriving at a sample size of 171 refugees and 115 non-refugeecommunity respectively, the researcher obtained a list of all the urban refugees (46,000) and Nairobi residents. This was the sampling frame for purposes of this study. The first 171 refugees were selected and 115 residents. This was done to eliminate biasness in selecting the respondents.

To get the respondents, the researcher booked appointments for interviews through telephone calls. The time and venue of the interview was agreed between the researcher and the respondents according to the convenience of the later. The respondents who were present and willing to participate were interviewed as per control stations. Table 3.5.1 shows sampling distribution selection breakdown.

Table 3.5.1 Sample size selection breakdown

Category	Population	%	Sample Size	Response Rate
Refugees	285	60%	171	60%
Households	88	51%	45	51%
UNHCR	1	100%	1	100%
RCK	1	100%	1	100%
Chiefs	2	50%	1	50%
CC, Nairobi	1	100%	1	100%
Immigration	10	100%	10	100%
Police/Intelligence	10	100%	10	100%
Military	10	100%	10	100%
Min. Interior	1	100%	1	100%
Attorney General Office	1	100%	1	100%
MOFA	1	100%	1	10%
Total	410	100	253	80%

Source: Field Data, 2016

3.5.2 Sampling of Key Informants

Key informants were often people occupying influential positions in the local community (Mugenda and Mugenda, 2003). 8 key informants were interviewed. For the purposes of this research, eight key informants were identified and interviewed on their knowledge about refugee protection issues in Nairobi. The key informants were not subjected to questionnaire interviews. They were instead subjected to a structured informal interview on some key areas of the research.

Table 3.5.2: Distribution of key informants in the study

Category	No. Interviewed
County Administration	3
Security Officers (police/intelligence)	10
Judiciary	3
Stakeholders	7
Total	**23**

Source: Field Data, 2016

The entry points of refugees were also mapped out as shown in Table 3.5.2a. This was to help explain why the government said that refugees were a threat to security. Purposive sampling was also utilized in selecting participants for focus group discussion. The study conducted focus group discussion with refugees, residents and key personnel in the institutions selected for the study to help gain in-depth understanding on the issues studied and raised in the course of the study. Each FGD should have 6-12 persons (Megenda & Mugenda, 2003). In this study, FGDs consisted of 6-12 participants. A total of FGDs were done. The participants for the FGDs included management staff of the institutions enlisted in the study (Table 3.5.3b) below. Respondents who were difficult to reach were substituted using snowballing sampling design according to Beauchemin and Gonzalez-Ferrer (2011) who stated that difficult respondents could be substituted through additional contacts. Some of the state officials function under arrangements of oaths and secrecy. This design was employed successfully.

3.6 Data Collection Instruments and Data Collection Process

3.6.1 Survey process

This section represents the data collection process followed in the study and research instruments used. Data collection was both interactive and non-interactive (interviews

and focus group discussions). The data collection methods used in this study were: administration of questionnaires, interviews, focus group discussions and content analysis. This triangulation enabled the researcher to obtain a variety of information on the international refugee protection framework influencing human security in Nairobi, Kenya.

3.6.2 Focus Group Discussion (FGD) Participants

Focus group discussions were done with staff of selected state departments including the Nairobi county administration to explore further the results of key informants and survey as a way of validating the findings and gathering more intuition and understanding on the subject under study. The main researcher obtained state permission from the Ministry of Higher Education: National Commission for Science, Technology and Innovation letter and a permit to conduct research. Respondents who participated had the consent read to them prior to their participation. The venues were private where the participants were comfortable, without fear. The researcher established a friendly air prior to conducting the discussion (Mugenda & Mugenda, 2003). The senior management introduced the main researcher to the personnel participating. Discussions took 30-40 minutes. A total of 3 focus group discussions took place. Throughout the discussions, there was note-taking or voice recording depending on the respondent's consent. Some did not consent to photography especially the Somali refugees. FGD is as shown in Table 3.5.2

3.5.3: Distribution of Focus Group Discussion (FGD) participants

FGD No.	Category of participants	No. of participants
1	Refugees	8
2	Nairobi residents	11
3	Security officers	6

Source: Field Data, 2016

3.6.4 Validity of Research Instruments

According to McMillan (2006:324), validity of the phenomena match the truths of the world. The study's instruments were tested for validity through consultations and discussions with supervisors and experts in the department of Peace and Conflict studies of Masinde Muliro University of Science and Technology for validation. Their valuable comments, corrections, suggestions, enabled the validation of the instruments.

3.6.5 Reliability of the Research Instruments

Reliability to ensure research instrument yields consistent results or data after repeated trials (Mugenda & Mugenda, 1999). Split half reliability test was done to verify reliability of the instrument. This was by randomly dividing a few selected urban refugees and residents into equivalent halves. Then a questionnaire was administered to the two groups of refugees and residents at the same time on the same occasion. During the debriefing, respondents were asked what they thought each questionnaire was asking. The respondents excluded some questions and included other questions. Later, the research instruments were reviewed to reflect the corrections prepared. The Statistical Product and Services Solutions (SPSS) version 21 was used based on the responses to indicate worthy reliability. The reliability of the questionnaires was determined through the calculation of a correlation coefficient between the refugees and residents. The

computed correlation coefficient obtained was used to measure reliability of the instruments.

3.7 Data Analysis and Presentation

To measure and establish causal relationships that existed in relation to the study's objectives, data analysis was conducted according to Kothari, (2004). Patterns of association and correlation were investigated using data analysis techniques. Two major phases which characterized data analysis:

Quantitative data analysis: Statistical measures are used to summarize the research data. This included among others measures of central tendency, measures of dispersion, measures of association, and measures of asymmetry.

Qualitative data analysis: Qualitative analysis was done by looking at the consistencies and inconsistencies in the responses. The study, therefore, captured practical experiences and insights. The advantage with a descriptive study was that it allowed people who were not competent in statistics to understand the results of the study to gain insights into the position of the refugee protection and behavior that articulate the attitude. Qualitative analysis begun with data coding and then the text was divided into small units (paragraphs and phrases) and a label were assigned to each unit. The label used was a concept defined in this study.

In this study, the researcher analysed the collected data depending on the technique used to collect it (qualitative and quantitative) as discussed below:

3.7.1 Quantitative data analysis

Quantitative data collected from closed ended survey questions were compiled and coded. In coding, variables were assigned unique codes depending on the nature of responses and their similarities. The number of codes depended on the responses given. The entire filled in questionnaire from the respondent is examined based on the quality checks put in place for data collection like variables. Questionnaires which did not meet quality checks criteria such as those with fields not completely filled or with missing data were castoff.

Data entry screen was prepared in statistical packages for social sciences (SPSS) Version 21 after which the coded data was entered into the computer electronically. After data entry, the data was cleaned and analysed using (SPSS) Version 21. In cleaning, wrong entries were tracked using the original questionnaire and corrected. Proper matching and deleting of unnecessary variables was done. The variables in the data screen were organized, labeled and identified depending on the type of variables before data analysis commenced.

Descriptive analysis was done in order to describe key rudiments of the study findings for the variables being studied and the relations between variables. Descriptive analysis comprised of calculation of percentages, and frequency distribution. The results of the analysis were presented in tables, graphs, charts and percentages underlining the international refugee protection framework influencing human security and challenges and opportunities enforcing the refugee protection framework in Nairobi, Kenya.

3.7.2 Qualitative data analysis

Qualitative data was collected from key informant interviews, focus group discussions and desk review (secondary data sources) of pertinent documents, reports and publications in the field of study. The data was categorized, summarized and discussed using findings from the quantitative survey. Citations from the data were used to reinforce the narrative report by quoting the participants' statements. The qualitative survey findings were integrated with the qualitative findings for complementary purposes to produce deeper intuition in the study (Okoth, 2012).

3.8 Limitations of the study

The researcher experienced some challenges that threatened data collection. For example, some respondents were suspicious of the research, refugee repatriation being the current issue, to be a government official on a mission may be to facilitate the refugee ouster.

The refugee debate is an emotive subject in Kenya today; hence negative attitudes and therefore there was reluctance from some respondents to provide information. Most government officers and agencies were reluctant especially from the Ministry of Interior and National Coordination. It was difficult to access current government records and secondary published works. This explains why newspaper reports were partly used as references in this study.

In addition, some of the data required for the study were confidential and sensitive. These are hardly found. The researcher overcame this limitation by seeking permission from

relevant authorities and presented the same to the respondents beforehand. Further the researcher assured the respondents about the principle of confidentiality and the strength of relying on mixed method eliminated this limitation.

The challenge on non-response to the self-administered tools among the study respondents was experienced in the course of the study. The limitation was overcome by follow ups with the respondents. This helped reduce the non-response rate.

3.9 Ethical Considerations

Ethics has been defined as that branch of philosophy which deals with one's conduct and serves as a guide to one's behavior (Mugenda & Mugenda, 2003). According to Okoth (2012), the nexus between research and quality assurance lies in the provisions of quality and its control. In addition, Okoth, (2012) observes that this involves evaluation of research quality in regard to the type of research, particularly applied research, taking into consideration ethical concerns that must be carefully guarded (Okoth, 2012:53).

The researcher obtained a research permit from the National Council for Science and Technology (NACOSTI), Ministry for Higher Education. Records of all research activities were held in confidence; comprising records of data collection, expenditures and correspondents. The researcher respected and fulfilled obligations to the academic community. All findings were incorporated in the final report without omissions and disclosed as expected. Attached, herewith, see appendix I for a copy of the consent form.

3.10 Conclusion

The chapter described research methodology including the research design. The study employed an exploratory research design. Mixed methods research techniques (qualitative and quantitative) were used. The study also sought to cover Nairobi County (Sub-counties covered- Langata, and Pumwani). The total sample sizefor the study was 253 respondents. The study used probability sampling techniques, and purposive sampling to determine the settings and units of the study. Reliability of the research instruments was done through the guidance of experts and by comparing with previous literature in refugee research. The chapter showed how data was collected, analysed as well as limitations to the study which were overcome. The ethical issues for the study were also presented. The next chapter would be the first step in presenting the empirical material; the association between international refugee protection framework influence on human security in Nairobi, Kenya.

CHAPTER FOUR

REFUGEE PROTECTION FRAMEWORK INFLUENCE ON HUMAN

SECURITY IN NAIROBI, KENYA

4.0 Introduction

This chapter presents and discussed findings on the international refugee protection framework influence on human security in Nairobi, Kenya under the following sub-headings: the refugee protection framework, refugees as a security threat to Kenya, the dilemma of non-refoulement principle on refugee repatriation vis-à-vis human security.

4.1 Background Characteristics of the study respondents

This chapter presented and discussed findings on the international refugee protection framework influence on human security in Nairobi, Kenya under the following sub-headings: the refugee protection framework nature and structure, Kenya's efforts to comply with the international regime, its achievements and security challenges, the dilemma of non-refoulement principle on refugee repatriation vis-à-vis security challenges in Nairobi, Kenya.

4.1.1 Demographic Information

The demographic information sought in this section included variables such as gender, current position in employment, professional qualifications, and education. This was important in comprehending various   perceptions and understanding of concepts or sharing realistic experiences or views.

4.1.2 Gender of the Respondents

The study sought to identify the gender of the respondents. An understanding of gender is fundamental to making sense of the dynamics of flight, violent conflict and addressing displacement constructively. Identifying differing perceptions of various refugee groups had implications of these differences for actions to address violence and to mitigate the effects of violence. Gender is a contentious subject as it raises aspects of power dynamics between men and women. Gender is an emotional subject as it touches on our very being male or female. Gender is a political subject because it affects government structures and access to opportunities. Gender is often classified as women's issues, but this is wrong, it is for men and women, boys and girls in the society. Gender is a serious issue. It has far-reaching implications before, during and after displacement. Gender is a cultural subject where the society determines the roles for men and women and participation in public communication. Culture provides people with a sense of belonging, an identity. But in conflict, people's sense of who they are can change and become fuel for escalation. The researcher had to interview men separately and women separately to mitigate these dynamics.

The summary of the findings was as shown in Table 4.1.

Table 4.1 Gender of the Respondents

	Frequency	**Percent%**
Male	210	52.5
Female	190	47.5
Total	**400**	**100.0**

Source: Field Data, 2016

An understanding of gender was fundamental to making sense of the dynamics of flight and addressing refugee protection constructively. It helped to identify differing perceptions and the implications of these differences the study aimed to address and mitigate the effects of migration. It was noted that gender was a contentious, emotional and serious issue. From the study findings, 210 (52.5%) of the respondents were male and 190 (47.5%) were females. This showed that most of the respondents were males. For whatever reason, women were shy to speak about their experiences. The experience of African women had been that of silence, exclusion and that women did not have security to speak in public. Men were socialized to speak in public. Most of the women interviewed were much older too experienced in handling strangers.

It was revealed that the female gender was shy to respond because of the various types of violence especially sexual violence they had undergone during their flight. Security was not only about freedom from war and violence but included all aspects of human security of food, health, speech, natural resources, association and assembly, education and civil authority that protected them. The researcher listened to the magnitude of the refugees' health and social effects, the risk and protective factors, and the types of prevention

efforts the department of refugee affairs had been initiated.In the vacuum created by an absence of law and order, organized crime flourished, particularly the trafficking of women. Increased poverty and the need for survival led to trafficking, drugs and arms. International institutions often exclude women by not applying a gender analysis and not realizing that without specific, targeted efforts, women were likely to be excluded from such opportunities as society settled into a status quo mode. The status quo may not be in women's best interest.

4.1.3 Religion of Respondents

Religion was linked to culture. Culture did much to determine the way people think and act. They honoured their own culture, and often sought to maintain it in the face of outside influences. It was important to ascertain the religion of respondents in order to establish the respondent's cultural, moral and religious influences towards security.

Table 4.2 Religious affiliation

	Frequency	Percent	Valid Percent	Cumulative Percent
Muslim	50	12.5	12.5	12.5
Christian	340	85.0	85.0	97.5
Buddhist	10	2.5	2.5	100.0
Total	**400**	**100.0**	**100.0**	

Source: Field Data, 2016

Majority 340, (85.0%) of the respondents were Christians while 50, (12.5%) are Muslim and 10, (2.5%) were Buddhist as summarized in table 4.2. The relationship between religion and refugee protection was that religion provided people with a sense of belonging, a belief system, an identity. The Islamic or Christian belief systems were normally kept out of deliberations for reasons of freedom of worship in Kenya

Constitution (2010).The religious fundamentalists were desperate for legitimacy in the name of religion.There was a general attitude in Kenya towards terrorist groups' Islamic ideology.Al Qaeda and ISIL depicted themselves as religious leaders in defence of lslam and that's why it alleged to call itself 'Islamic State'. Far from this, it had been noted that even Christians were radicalized and had participated in the terrorist activities.

In this study, refugee protection in relation to human security implied that fear and anxiety were components of terrorism, as they heightened the effectiveness of communication and increased its impact upon a target population. The creation of fear and anxiety in a larger population was a byproduct of all violence, stemming from an inherent tendency of most of human beings to personalize violence against others and empathize with the victims of the violence. As such, this study highlighted the negative externalities contributed by refugees in host countries and how these externalities fuel conflict with domestic actors in Nairobi County, Kenya. From the discussions with the youth in Langata sub-County, neither Christian nor Islamic religion did matter so much in getting involved in criminal activities in Nairobi, Kenya.

In Nairobi, Kenya, the primary target of terrorism had consistently been private property and citizens. The Improvised Explosive Devices (IEDs) also known as the use of low-level technology or what is fabricated in homes and used to kill innocent civilians in the public were on the rise. 85% of Kenyans were Christians, therefore, these findings ruled out the fact that only Muslims could be involved in terrorism depending on the motivation of an individual and objective and may differ from case to case. One such

measure had been taken under the Kenya Security Act of 2014 where security agents could enter the Mosques and search for any equipment that could indicate a threat to human security. In 2017, the attacks had scaled down to some degree in Nairobi County, Kenya.

4.1.4 Occupation of Respondents

It is important to know the occupation of the respondents in order to obtain an indication of their contribution to society. Experience matters a lot in explaining the current trends in security in Kenya, hence the occupation of respondents. The distribution was as follows: 2.5% religious leaders, 52.5% refugee hosts or resident, 10.0% police officers, 12.0% immigration officials, 2.5% anti-terrorism officer, 12.0% agents, and 2.5% Local administrator. The summary of the findings is as shown in Table 4.3.

Table 4.3 Occupation of the respondents

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Religious leader	10	2.5	2.5	2.5
	host residents	210	52.5	52.5	55.0
	police officer	40	10.0	10.0	65.0
	Agents	48	12.0	12.0	77.0
	immigration officer	10	2.5	2.5	79.5
	Anti-terrorism officer	40	10.0	10.0	89.5
	Youths	32	8.0	8.0	97.5
	Local administrator	10	2.5	2.5	100.0
	Total	**400**	**100.0**	**100.0**	

Source: Field Data, 2016

4.1.5 Education level of the Respondents

The role of education as an agent or instrument of social change and social development was widely recognized. Education is central in comprehending issues in discussion. Education is seen as a major vector in society, but that it was largely allocated a conservative role, since its main function was in the socialization of the young and the maintenance of the social order (Patil, 2012). It was important to establish the education level held by the study respondents in order to ascertain if they were equipped with relevant knowledge on international refugee protection framework influencing human security in Nairobi County, Kenya. Majority 60, (60%) of the respondents had attained

undergraduate level of education while 2.50% of the respondents had attained master's level of education. 30, (30%) had diplomas, 5% of the respondents had polytechnic certificate while 2.50% had attained secondary school education. As presented in figure 4.1:
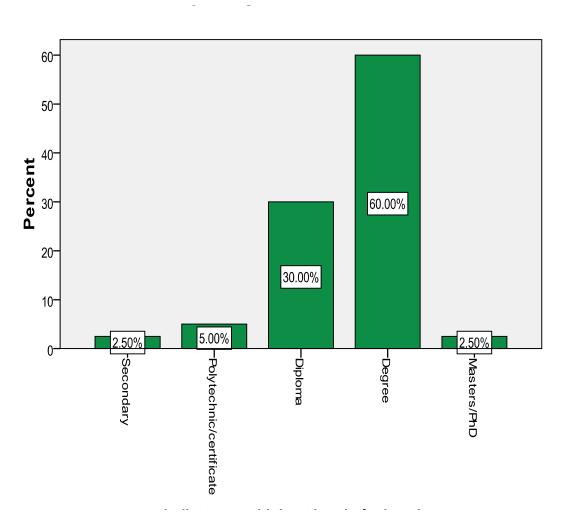
Figure 4.1 Education levels of the respondents
Source: Field Data, 2016

This study concurred with Joppe (2000) that during research process, respondents with technical knowledge on the study problem assist in gathering reliable and accurate data on the problem under investigation. This demonstrated that most of the organizational

employees were professionals with technical knowledge and skills on the study problem and thus provided the study with reliable information on the international refugee protection framework influencing human security in Nairobi County, Kenya. Respondents with technical knowledge on the study problem assisted in gathering reliable and accurate data on the problem under investigation.

4.1.6 Duration in Kenya

The study sought to establish the duration the refugee respondents had been in Kenya. Table 4.4 shows that 170, (42.5%) of the refugee respondents had been in the country for 4-6 years, 90,(22.5%) had been in Kenya for over 10 years, 87, (21.7%) for the last 1-3 years, and 53, (13.3%) for the last 7-10 years.

The summary of the findings is as shown in Table 4.4.

Table 4.4 Duration of the refugees in Kenya

	Frequency	Percent	Valid Percent	Cumulative Percent
1-3 Years	87	21.7	21.7	21.7
4-6 Years	170	42.5	42.5	54.2
7-10 Years	53	13.3	13.3	67.5
above 10 years	90	22.5	22.5	100.0
Total	**120**	**100.0**	**100.0**	

Source: Field Data, 2016

Respondents were asked about the duration they had stayed in Kenya as shown in table 4.4:

Out of the over 25 years of the Somalis stay, 87, (21.7%) had stayed between 1-3 years, 170, (54.2%) had stayed between 4-6 years, 53, (67.5%) had stayed between 7-10 years, and 90, (22.5%) had stayed above 10 years. The refugees were conversant with the surroundings and conduct of the residents. The duration tested predictability across individuals, time and space on their conduct. Should they wish to support an attack, it was possible that they had built confidence among residents not to suspect them.

4.2.1 The nature, scope and structure of the refugee protection framework in relation to human security in Nairobi County, Kenya.

The Government of Kenya (2017) official from the Refugee Secretariat reported that; the Kenyan Government had established a Refugee Affairs Secretariat. It was the body that had the sole mandate of coordinating all refugee matters. The Refugee Affairs Secretariat descended from the Department of Refugee Affairs Act (Refugee Act 2006 rev.2012).The Refugee Affairs Secretariat had the following structure that assisted in the smooth operation of its functions. It had three (3) reception centers namely: Eldoret, Mombasa and Nakuru. It had designated areas set aside for refugee settlement too. Currently there were two (2) such areas; Dadaab and Kakuma camps.Reception centres were the points of registration and documentation of all refugees and asylum seekers.

The GOK (2017)respondent also reported on the objectives of the refugee protection framework was to: the GOK to act as liaison with United Nations agencies and other institutions on provision of adequate facilities and services for protection and care of refugees. The second objective was to also ensure the registration of all refugees in the country and their placements and lastly to enhance the promotion of peaceful and harmonious co-existence between the host communities and refugees.

The GOK (2017) reported that there were three legally identified forms on the investment of a refugee or asylum seeker who had been registered in Kenya; local integration, voluntary repatriation –back to his/her country of origin. This was done when it was believed that the conditions prevalent and those that precipitated the refugee or asylum seeker to flee his/her country of origin was minimized and totally inexistent and that the country could provide protection from harm and settlement in a third country – this was also called placement. A third country was neither the country of origin nor the country the refugee or asylum seeker was.

4.2.2 What measures the Kenyan Government has put in place to protect its citizens on one hand and meet its international obligations of protecting refugees?

The Refugee Secretariat Affairs official in response to the question reported that; the Kenyan Government recognized and appreciated refugees as people escaping from persecution, civil strife, war, assassinations, genocide and ethnic tension. It should be recalled that Kenya had hosted probably the largest refugee population in the world and for close to three decades.Those refugees and asylum seekers had enjoyed peace,

development and security with no threats to their lives and livelihoods. Kenya had hosted over 500,000 refugees and asylum seekers since 1990s.

Kenya was a signatory to many conventions protocols and treaties that defines who a refugee and asylum seeker. It set out their rights and obligations. The responsibility of the state/nation granting asylum was also clearly set out. Article 7 of the 1951 Convention, which provided for just treatment for refugee was subjected to Article 42 which provided state parties with power to make reservations in relation to specified articles of the Convention (GOK, 2017). The Government had also domesticated the 1917 UN Convention by enacting the Refugee Act 2006 in 2012 and the Refugee Bill 2017. This Act spells out the rights of refugees and asylum seekers. Refugees enjoyed the same rights as citizens but with a few conditions.

The GOK respondent (2017) also reported that continuous registration and documentation of refugees ensured that foreigners/aliens in the country were identified. Citizen couldn't, therefore,feel that they were unfairly competing with them on National resources that were entitlement of citizens.The policy of escarpment also ensured that refugees were in designated areas at all times. This not only protected their livelihoods; way of life but insulated them from vulgarizes and "contamination" if they so wish – the host communities.The encampment policy assisted the local population to continue with the normal business of life without necessarily feeling like the refugees were competing with them for resources.

The Government respondent reported that it screened all refugees and asylum seekers arriving into the host country. Screening wastwofold. Refugees and asylum seekers were screened to ensure that they did not carry infectious diseases and epidemics. Since some diseases can be transmitted transnationally, the government ensured that initial screening at the reception centers, camps and border points took place. Physical, security screening of all foreigners, aliens, refugees and asylum seekers is also undertaken. This ensures that foreigners with ill-intent against the local population are deterred. The government had ensured the overall protection of all refugees and citizens by increasing security officers, coordinators and government employees.

The respondents were asked how the ever changing character of the refugee phenomenon had impacted and transformed Kenyan security and protection system. The Government of Kenya had provided for the encampment policy for all refugees and secondly the strict security documentation for all refugees. It should not be forgotten that the convention had its origin in the Cold War climate of the 1940's and early 1950's with a euro-centric disposition.In conclusion, the power to take provisional measures on grounds of national security was provided for under Article 9 of the 1951 Convention.

4.2.3 What are the achievements the GOK attained in implementing the 1951 Convention?

The Refugee Secretariat Affairs official reported that;

> '…it was the basis of the creation of the refugee law (2006) as a legal framework in refugee management. The government was aware of its obligations in protecting refugees. The GOK had been able to bring in measures to streamline the refugee regime including; encampment policy, refugee Act 2006(a new bill is currently on 3rd reading in parliament to repeal the act).GoK had been able to implement the structure of the Refugee Affairs Secretariat to manage refugees and asylum seekers in Kenya. It had enabled the government to be able to distinguish who a refugee was, their obligations and their rights.'(GOK, 2017).

4.2.4As an agency with a supervisory (UNHCR) role over the 1951 Convention relating to Status of Refugees, do you think Kenya has met its obligations under the Convention?

The United Nations High Commission on Refugees (UHCR) respondents was asked to indicate degree of compliance of Kenya's obligation under the Convention. The UNHCR official said re-affirmed Kenya's commitment to the refugee regime in the following statements, that;

Kenya was a signatory to the 1951 convention, and had achieved enormously in adopting the convention statutes therein. Most of the rights under the convention had been implemented including domestication of the 1951 convention by drafting and ratifying the Kenya Refugees Act (2006), which had borrowed greatly from the 1951 convention and its 1967 protocol. The UNHCR official gave examples as follows:

Article 3 non-discrimination '…the Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.' Kenya had granted asylum to all nationalities that had sought asylum in Kenya including Ethiopians, Somalis, Burundians, Rwandese, and refugees from the Democratique Republic of the Congo (DRC).

Article 4 religion '…the Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practice their religion and freedom as regards the religious education of their children.' Refugees in Kenya were free to practice their religious beliefs and traditions without intimidation and interference by the state.

Article 16 access to courts '…a refugee shall have free access to the courts of law on the territory of all Contracting States. Secondly, a refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the Courts, including legal assistance and exemption from *cautio judicatum solvi*.' All refugees in Kenya had access to the courts and were accorded the same rights as nationals with this regard, as well as exemption from excess fees or bonds.

Article 17 wage-earning employment '…the Contracting State shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage earning

employment. Refugees in Kenya had a right to work through obtaining of a work permit class M from the immigration department.

Article 22 public education '…the Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education. Secondly, the Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.' Refugees in Kenya had access to primary education just like Kenya nationals.

Article 26 freedom of movement '…each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.' Refugees in Kenya had freedom of movement by obtaining a movement pass from the refugee affairs secretariat.

Article 27 identity papers '…the Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document. The Kenya government issued refugees with refugee identity cards (IDs) which facilitate their identification.

Article 28 travel documents '…the Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence. Secondly, travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.' Refugees in Kenya were issued Convention Travel Documents (CTDs) that facilitate their travel outside the country.

Article 31 refugees unlawfully in the country of refugee '…the Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.' Kenya granted 45 days within entry into the territory for a refugee to be registered as an asylum seeker.

Article 34 naturalization '…the Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.' By virtue of marriages, refugees could obtain Kenyan nationality if married to a Kenyan spouse.

Article 35 co-operation of the national authorities with the United Nations '…the Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.' The Kenya government cooperated with the UNHCR in the management and administration of refugee affairs in the country.

4.2.5How would you rate Kenya compliance with respect to standard of treatment set out under the Convention?

The UNHCR officer reported that 95% as most rights explained above had been implemented by the government which was high and good. The RCK civil society officer differed to some extent with UNHCR official as he reported as follows:

> '…On a scale of 1-5, 1 being very bad and 5 being excellent, I would give Kenya a 3. Whereas Kenya tolerated the presence of refugees in the country since independence, their rights had not been entirely protected. Refugees' freedom of movement was restricted to refugee camps in the farthest corners of the country. The Refugees Act, 2006 that was meant to domesticate the UN convention had been poorly implemented: as at now,

the Government of Kenya had not fully taken over the process of refugee management in the country. Finally there was the manner in which refugees are currently being handled in the war against terror. The Government of Kenya had posited that Dadaab refugee camp is the source of the problem when it comes to terror related attacks. Despite the fact that the Convention allows for removal of a refugee deemed problematic to national security after due process, the government had yet to bring any cogent evidence against any refugees to effect this clause in the convention.' (RCK, 2017).

4.2.6 Have the Constitution of Kenya and the Refugees Act 2006 domesticated the standards set out in the 1951 Convention?

The GOK respondent reported that; the refugees act had borrowed greatly from the 1959 convention as well as the 1969 OAU convention relating to the status of refugees, with most articles being replicated in the refugees act. This included but was not limited to the refugee definition, the rights of refugees and minimum standards of treatment accorded to refugees. The constitution of Kenya under chapter 4 the bill of rights protected refugees from any form of discrimination on the basis of their nationality or place of origin "The State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth."

4.2.7 UNHCR has a global mandate in refugee protection, given the threats

of terrorism and in some cases militarization of refugees, how does UNHCR help governments to maintain the civilian character of asylum?

Under the security partnership programme, UNHCR had assisted the Kenya government maintain the civil character of asylum by providing resources for police officers to screen any combatants from the camps, as well as monitor the security situation in the refugee camps. It should be noted that refugees were not allowed to stay in Nairobi County under the encampment policy.

4.2.8Is there any ideal model that has been developed by a country in refugeemanagement that is able to mitigate the competing concepts of refugee protection and national security?

According to the Refugee Consortium of Kenya (RCK) respondent,

> '…refugee advocates found the Uganda model for out of camp solutions. The refugee experience in Kenya was not the same as that of Uganda and therefore making such a comparison would be comparing apples to oranges.' (RCK, 2017).

National security and refugee management was the responsibility of the state, and the state should invest resources in protecting its citizens as well as provide protection for refugees within its territory.

4.2.9 How do you see the future of the international refugee protection framework vis-a-vis security concerns of host states?

Host states were keen on protecting their citizens from terrorism, and the refugee situation revealed emerging challenges that states needed to address jointly, including the proliferation of terrorist elements within the refugee populations. International refugee protection therefore needed to evolve and re-examine admission criteria for immigrants and asylum seekers, who claim to be seeking refugee status, but not all of them were genuine asylum seekers. Stringent screening mechanisms needed to be put in place across border points and armed elements quarantined and denied access to the territory within acceptable security processes.

Given the current trend in security in Kenya generally and Nairobi specifically, there was apparent evidence that the admission criteria which needed to be revised. The revision of the act was on-going in parliament right from March, 2017.

Table 4.5: Do you feel safe about the Somali refugee presence? Do you perceive them to take up your jobs?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Insecurity	30	75.0	75.0	75.0
	Job competition	10	25.0	25.0	100.0
	Total	**40**	**100.0**	**100.0**	

Source: Field Data, 2016

Respondents were asked whether they felt safe with the Somali refugees or not. They were also asked if the refugees competed for the same jobs as residents in Nairobi County. Majority 30, (75%) of the residents felt insecure about the presence of the Somali refugees (mostly Muslim) while 10, (25%) were not comfortable with the refugees over job competition. The question posed further was; do the refugees have work permits? Do they pay tax to the Government of Kenya? In conclusion, it was clear that the residents had fear of some refugees particularly the Somali refugees because of suspicion to be linked to Al Qaeda backed group in Somalia, Al Shaabab. Common practice with cross-border relationships.

For instance, the Kenyan Somalis had similar clans, culture and religion with the ones in Somalia during a focus group discussion the youths specifically boys said,

> 'We are in touch with our family members in Mogadisho. One of our sisters is married to a Kenyan Somali in Wajir. Our father stays in Mogadisho while our mother is in Wajir. We stay in Nairobi. I do not work but is ok.'(FGD, 2016).

As such, this study endeavored to bring to light not only the loopholes in the security system but also to present a broader perspective on the incompatibility of international refugee protection framework with national interests in the advent of security challenges. The researcher asked one of the immigration officers, if they actually could tell how many foreigners entered the city daily. He said that he couldn't tell because they did not have the capacity to do that. There inadequate personnel, and entry points into Nairobi were porous.

Summarizing trends in terrorism over time, in Nairobi, one would observe that there had been different in patterns and geographically as methods of attack and involvement changed. 10% attributed that there was competition on refugees taking up their jobs and businesses. An interview with the Assistant Director for Security Compliance and Disaster Response, categorically said that the security mandate had not been devolved to the County Government of Nairobi. Therefore, they could not tell on any aliens who entered into Nairobi daily.

Table 4.6: Community response on the presence of refugees in their area

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	32	80.0	80.0	80.0
	No	8	20.0	20.0	100.0
	Total	**40**	**100.0**	**100.0**	

Source: Field Data, 2016

When results were cross-tabulated with the community response on the presence of refugees in their area as shown in table 4.5, out of 32, (80.0%) said that refugees were present in their area while 8, (20.0%) said that refugees were not present in their area of residence.

Thefavorite destination of refugees in Nairobi County is Eastleigh and Dagoreti as mentioned by 67.5% and 32.5% the community respondents respectively. Campbel (2006) argues that Eastleigh had attracted refugees from other countries including Eritrea, Sudan and even from Central and South Africa (UNHCR, 2009b).

Significantly, poverty and numerous other financial variables had minimal logical power on the onset of psychological oppression. The solid connection of psychological warfare and different types of brutality underlines how the steady focusing of police powers and unsteadiness produced fearful action which undermined the run of law and prompted increments in different types of savagery.

Table 4.7: Favourite destination of the refugees

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Eastleigh	27	67.5	67.5	67.5
	Dagoretti	13	32.5	32.5	100.0
	Total	**40**	**100.0**	**100.0**	

Source: Field Data, 2016

Respondents were asked on destinations of refugees as shown in table 4.6 above, out of (27; 67.5%) said Eastleigh whereas (13; 32.5%) said Dagoretti. Though the Human Rights Report (2009:160) indicated that 88% of refugees are in Daadab and Kakuma large populations had migrated to the city for many reasons. Five major factors seemed to have pushed the refugees and asylum seekers from the camps to Nairobi and its environs. To begin with, there was high insecurity in the camps and women and children were often victims of rape and murder. IRIN (2009) reported that cases of sexual violence and homicides had risen from 103 in 2007 to 219 in 2008 with 79 cases of rape. The situation was intolerable. Therefore, the refugees sneaked into Nairobi County for security reasons.

Eastleigh was majorly inhabited by Somalis who had relatives in the larger Somalia. It was therefore easy for Somalis in the camps to find their way to join their relatives in

Eastleigh. Some refugees and asylum seekers did not stay in camps but instead travelled

direct from the border to Eastleigh in Nairobi. Furthermore, Eastleigh was also strategic

because it provided security compared to camps. Amnesty International (2014) reported

that in the camps the level of insecurity was high and that there were arbitrary arrests of

refugees and asylum seekers. Eastleigh would therefore provide a veil where the refugees

could live anonymously. Despite the high crime rate in Nairobi, refugees felt safer living

behind this veil of anonymity. They would also integrate with locals making it difficult

for authorities to recognize them. Some even learnt Swahili to ensure they are no longer

recognized due to their inability to communicate in Swahili, a yardstick used by local

police to find illegal Somali refugees.

Table 4.8: Do you think refugees should be repatriated back home?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	30	75.0	75.0	75.0
	No	10	25.0	25.0	100.0
	Total	**40**	**100.0**	**100.0**	

Source: Field Data, 2016

Respondents were asked whether Somali refugees should be repatriated back home. On

repatriation, majority 30, (75.0%) said that refugees should be repatriated back home

while 10, (25.0%) said that refugees should not be repatriated back home. This followed

the terrorist attacks from 2010 to 2013 fear gripped the population. Specifically, the

scenes that were projected by the media of the West Gate mall traumatized the

population. The perception of the Somali refugees was negative from the community as shown in the responses.

A discussant in focus group discussion on the above was very categorical as one member of the group remarked:

> "...these people (refugees) have made us to develop fear while going to the markets, our children going to school or town. I support the government decision." (FGD, 2016).

Table: 4.9: Who is responsible for refugee's status determination?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	immigration officers	4	40.0	40.0	40.0
	Kenya National Police Service	1	10.0	10.0	50.0
	Agents(UNHCR)	4	40.0	40.0	90.0
	Other(specify)	1	10.0	10.0	100.0
Total		10	100.0		

Source: Field Data, 2016

When the results were cross-tabulated on who was responsible for refugee's determination, 4, (40.0%) of the respondents said that it was the department of immigration while 4 (40.0%) of the respondents said it was the United Nations High Commission on Refugees, 1 (10.0%) said that it was the police and others 1 (10.0%) did not know. The results showed lack of sensitization of the population on where aliens should be reporting. It also indicated that UNHCR, had taken up the mantle of the Refugee Determination of Status and this had a security implication. According to the

constructivism theory, the international system was socially constructed as conflict or war is big business for the western countries.

The United Nations Secretary General Antonio Guterres was in Kenya for talks over Kenya's plans to repatriate at least half a million Somali refugees from the Dadaab camp (The Standard, 17 May 2016). Accompanied by the Africa Bureau Director Valentine Tapsoba, he was expected to hold meetings with President Uhuru Kenyatta and the Foreign Affairs Cabinet Secretary Amina Mohamed. UNHCR Kenya spokesperson Emmanuel Nyabera said:

> "Top on the agenda will be discussions with the government on voluntary repatriation of Somali refugees and how to ensure security is maintained in the refugee camps." (UNHCR, 2016).

Guterres held discussions with the donor community on resource mobilisation to improve the living conditions in Somalia and support to the refugee hosting communities in Kenya. Guterres also visited Somalia the following day before leaving for Dadaab refugee camp on Friday to assess the situation. Kenyan authorities reported that Al-Shabab militants had carried out numerous attacks in Kenya since October 2011, when the country deployed its troops to Somalia to fight the militants. Al-Shaabab claimed responsibility for the September 2013 attack on Nairobi's Westgate Mall that killed 67 people and the April 2 Garissa attack. Government forces also reported that most of Somalia was then peaceful due to military operations by the African Union troops against the extremist group Al-shaabab. According to the U.N. refugee agency, about 2,048 Somali refugees had been repatriated voluntarily since December (The Standard May 17, 2016).

The researcher also used case reports from law courts to also illustrate the importance of refugee protection and the arguments surrounding non-refoulement principle which meant non-discrimination and non-penalization:

Okunda and Another v. Republic (1970) E.A.L.R 453:

In this case, what was in question was a conflict between provisions of the Constitution of the Republic of Kenya and provisions of the East African Community, which Kenya was a signatory. The Court held that, the laws of the East African Community were void as to the extent of any inconsistency with the Kenyan Constitution. The subsequent appeal to the Court of Appeal was struck out as incompetent as the High Court of Kenya was the final court of Appeal on a constitutional reference to it in criminal proceedings. Nevertheless, the Court of Appeal expressed, obiter, the view that "the Constitution of Kenya or of the Community or any other country which had been applied in Kenya, which was in conflict with the Constitution was void to the extent of the conflict. Elsewhere, the Court of Appeal delivered a widely acclaimed decision clarifying the jurisdiction of Kenyan courts to determine international crimes even if committed outside Kenya.

Although Kenya was a signatory to the 1951 Agreement, it lacked a refugee policy guideline. The disbandment of the Department for Refugee Affairs led to the establishment of a Refugee Secretariat within the Office of the President which had the executive direction of the State. Additionally, the Kenya Refugee Act of 2006 was not in tandem with the reviewed new Constitution of Kenya of 2010. This created a lacuna in

the refugee protection framework to protect refugees. A number of Community Based Organizations based in Nairobi workers also raised concerns.

States obligation to safeguard Rights of Refugees:

Kituo cha Sheria & 7 Others Nairobi Petition No. 19 of 2013 (2013) eKLR Consolidated with Petition No. 115 of 2013

The issue raised in these consolidated petitions concerns the nature and extent of the rights and fundamental freedoms of refugees residing in urban areas in Kenya.The two consolidated petitions were brought by refugees living in Kenya's urban areas and a separate petition was filed by Kituo cha Sheria. The petitioners were opposed to the government's policy of removing refugees from the urban centers to designated camps and the close down of registration centers in urban areas.

The Court held that the policy was unreasonable and a breach of Article 47 (1) of the Constitution in as far as it did not make provision for examination of individual circumstances and anticipated exceptions. The Court noted that the directive was unfair and unreasonable within the meaning of Article 47 (1) of the Constitution in so far as it did not provide for application of due process in adjudicating the rights of persons with refugee status. The Constitution requires the State to respect, protect, promote, and fulfill the rights in the Bill of Rights. Where state policy was challenged as inconsistent with the Constitution, courts have to consider whether in formulating and implementing such a policy the state had given effect to its constitutional obligations. If it should hold in any given case that the state has failed to do so, it is obliged by the Constitution to say so. In

so far as that constitutes an intrusion into the domain of the executive, that was an intrusion mandated by the Constitution itself.

The Court also observed that implementation of the Government directive would violate State international refugee protection obligations as an aggressive pursuit of such a policy could have the negative effect of constructively repatriating urban refugees back to their country of origin, hence violating the international law principle of non-refoulment.

The Court also stated that the burden of justifying a limitation to the Bill of Rights lay on the State to prove that the restriction was in harmony with the limitation clause set out under Article 24 of the Constitution. National security could no longer be used to camouflage the State's transgressions and the burden was on the State to establish a real connection that the presence of the refugees in the urban areas was a threat to national security as opposed to painting the entire urban population with a brand brush of criminality.In the international scene, courts had adjudicated on the matter of a State's responsibility for injuries suffered within its territory.

The rationale behind the protection of refugeeframework was to bring forth the debate of the state's party's obligation to protect refugees. The standard of non-refoulement in Article 33(1) and (2) including non-punishment and non-segregation of evacuees. Despite the fact that Kenya had acquiesced to both the 1951 UN Agreement and the consequent 1969 OAU understanding that came into compel in 1974, ordered the Refugee Act (2006), Kenya was confronting another security test to fit in with the global administration. The significant standards in the Agreement incorporate non-refoulment, non-punishment and non-segregation of displaced people (UN, 1958). The author agreed

with the above explanation as a result of the obligation of a state's responsibility to protect.

This view was likewise bolstered by Buzan, Waever and Wilde, 1998… 'States that when dangers to the state originated from inside difficulties, the standards of national security might be conjured to legitimize subjective measures to force control and dominion from the middle.' I bolster this in light of the fact that a state ought to have the capacity to characterize its weakness and the plan of national security as an arrangement issue.'A strong state was able to exercise considerable or great control over its territory while a weak state had limited or little control over its territory (Easterly & Freschi, 2010). Few would seemed to dispute this characterization. On the *Failed State Index* Kenya is already ranked 17th and was sandwiched between Nigeria and Niger (Fund for Peace, 2013). Number one on that list was its eastern neighbor Somalia and number four was another neighbour to the north, the Republic of South Sudan. As Wagner (2014) observes, Kenya was in a rotten neighbourhood.

In the global scene, courts had arbitrated on the matter of a State's duty regarding wounds endured inside its region. A perception made was that the psychological militant's biggerly affect the financial and political energy of the state. Once the dread assault happened, there were various tourism warnings from remote international safe havens that hurt the tourism area of Kenya, henceforth contributing to human insecurity. This was better illustrated in the accompanying case reports:

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The Exchange of Greek and Turkish Populations P.C.I.J. Arrangement B. No. 10:

Over the span of the arrangements for the foundation of peace with Turkey, directed at Lausanne amid 1922 and 1923, among other strategic instruments, was finished up the 1923 Agreement concerning the trading of Greek and Turkish populaces. It included around 2 million individuals, the vast majority of who were coercively made outcasts and by law denaturalized from their countries. Amid the pre-winter of 1922, around 900,000 Greeks had touched base in Greece. The populace trade was imagined by Turkey as an approach to formalize, and make perpetual, this departure of fewer Muslims from Greece to supply pioneers for possessing the recently terminated locales of Turkey, while Greece considered it to be an approach to supply its masses of new property less Greek exiles from turkey with grounds to settle from the traded Muslims of Greece. The Population trade amongst Greece and Turkey depended on religious personality, and included the common trade of those having a place with the Greek Orthodox Church in Anatolia and those characterized as "Turks" essentially from Northern Greece. The part of religion in separating "Greeks" and "Turks" for the reasons for trade implied that next to no if any record was given to real ethnic or phonetic starting point, since a large portion of the alleged Turks were just Bulgarian or Greek Muslims whose progenitors had changed over to Turkish Islam in the Ottoman time frame. The assertion amongst Greece and Turkey involved what was basically a noteworthy necessary populace trade, or concurred shared removal. Due to the consistent choice by the Greek and Turkish governments that minority assurance would not suffice to enhance ethnic strains after the First World War, populace trade was advanced as the main feasible alternative. From this reports, the

decisions have been clear cut in support of the worldwide evacuee insurance system with the exception of in situations where an exile needs to confront a court martial.

Article 2 of the Agreement, which gave hence:

"The accompanying people might not be incorporated into the trade accommodated in Article 1:

a)   The Greek tenants of Constantinople.

b)   The Moslem tenants of Western Thrace.

All Greeks who are as of now settled before the 30th October, 1918, inside the ranges under the Prefecture of the city of Constantinople, as characterized by the Law of 1912, might be considered as Greek tenants of Constantinople. All Moslems set up in the area toward the east of the boondocks line set down in 1913 by the Treaty of Bucharest should be considered as Moslem occupants of Western Thrace."

Difficulties arose between the Greek and Turkish delegations, chiefly related to the meaning and scope of the expression "established" as contained in Article 2 of the Agreement; and, the conditions to be fulfilled by the persons described in that article as "Greek inhabitants of Constantinople", in order that they may be considered as "established" and exempt from compulsory exchange.

In a meeting with one key witness verbatim;

> '… Refugees facilitating is extremely testing, as you found in the West-Gate Mall assault, families lost their kin. Ought to Kenya look as we lose lives and our organizations?'

The presence of the refugees in Nairobi County had led to the development of human insecurity. This made them feel like they were part of the Kenyan community, although the Kenyan authorities issued a statement on repatriation of Somali refugees back to their countries of origin. On assessment on whether the refugees should be repatriated, 75.0% of the respondents accepted that the refugees should be repatriated.

Taking everything into account, the specialist tried to build up the connection between the refugee protectionframework on human security in Nairobi, Kenya. The evacuee wonder has changed the insurance system in Kenya taking after the dread assaults that have seethed Nairobi. In such manner, the state stand had been that of no surrender to repatriate the Somali exiles back to Somalia.

CHAPTERFIVE

THE NATURE OF HUMAN SECURITY IN NAIROBI COUNTY, KENYA

5.0 Introduction

The chapter presented results and discussions on: the nature of human security, dynamics that contribute to human insecurity in Nairobi; causes of human insecurity; and Kenya's state fragility.

5.1 Nature of human security in Nairobi County, Kenya

Deputy Director Security Compliance and Disaster Response Department of the Nairobi County Government stated that refugees were off the County government functions because security was not a devolved function from the National Government according to the 2010 Constitution. The County Government had laws and bylaws adopted that dealt with traffic movement, traders, lighting of streets and estates, illegal structures, safety of buildings and general development. The Nairobi County had uniformed personnel who worked with the National Police Service on security matters (NCC, 2017).

5.1.2 What are Kenya's efforts to meet its international obligation of responsibility to protect refugees?

The researcher also interviewed the Ministry of Interior and National Coordination Officer on matters of security with regard to Kenya's efforts to meet its international obligation of responsibility to protect refugees. The Government of Kenya security responded said that in recognition of the refugee crisis in the Eastern and Central African region and in adherence with the international conventions relating to the protection of

refugees, Kenya had permitted and assisted the UNHCR to operate freely in the country in order to manage the influx, control and protection of refugees. This statement was in resonating with the Kenya Government's view of Somali refugee with suspicion; that they could be a security threat. This concurred with sentiments echoed in previous research that under President Moi (1978-2002), refugees were subject to what Kagwanja and Juma (2008) referred to as "abdication and containment." The respondent also said that the protection of individuals and their property and their ability to access basic needs such as food and shelter was provided by the government (GOK, 2017). For purposes of preserving and championing national interests over those of aliens and refugees, States have insisted on fairly restrictive criteria for identifying those who are to benefit from refugee status.

Table 5.1: How would you describe the protection provided to refugees?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Good	70	58.3	58.3	58.3
	Bad	50	41.7	41.7	100.0
	Total	**120**	**100.0**	**100.0**	

Source: Field Data, 2016

Refugee respondents were asked whether the protection provided to refugees was good or bad. Majority, 70, (58.3%) said it was good whereas 50, (41.7%) said it was bad as shown in table 5.3.

The underlying argument in this study was that the United Nations discursive and practical response to the Kenyan refugee crisis doubled with insecurity was influenced by

UN's understanding of security and responsibility. The question was: what logic of security was at work in the context of the Kenyan refugee crisis in the various terror attacks? And if that logic of protection of refugee was not wholly effective due to terrorism, why should states be compelled to take a decision? The reality of protection and security, the situation was complex and required cooperation from the international community to have states well-resourced to deal with refugees.

Table 5.2: Are refugees a security threat to Nairobi County in Kenya?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	7	87.5	87.5	87.5
	No	1	12.5	12.5	100.0
	Total	**8**	**100.0**	**100.0**	

Source: Field Data, 2016

Respondents were asked whether refugees were a security threat on Nairobi City County residents. On the perception of security threats, majority of respondents 7 (87.5%) of the respondents said refugees affect their security while 1 (12.5%) said it does not affect their daily living (Table 5.5).

Findings from the County Commissioner's office, Nairobi County made it clear that the government was obliged to provide security to all people within its jurisdiction. The County Commissioner noted that the Government had achieved greatly in terms of the refugee protection in relation to human security since it embarked on an exercise of re-identifying the refugee status. For example, all Somali refugees in Nairobi were encamped in Kasarani Stadium, from that exercise; those who were in the country illegally were repatriated back to Mogadishu.

The bomb attacks around Kamukunji area had also gone down. The challenges the Commissioner's office cited included;

> '…the media and civil society organizations are undermining government efforts on security. See for example, when there is a terrorist attack, security personnel like the police are killed; when the police gun down a terrorist, civil society and the media are up in arms with allegations of extra-judicial killings by the Government security arm. How do you spare a more armed person than yourself? How can one challenge a presidential directive? See for example how the media conceals terrorist attacks when they occur in the US, Britain, France and Britain…it is not the way the West Gate Mall incident was covered. Apart from that, there are insensitive social media comments that project negative ethnicity" (GOK, 2017).

In the reinforcement of the above views about the refugee regime in Kenya generally and Nairobi specifically, while the researcher was at the Refugee Secretariat Field Office in Shauri Moyo, Nairobi, a police officer and other operatives were on high alert because there were two suspected Al Shaabab terrorists who had posed as refugees within the offices. Both of them were male. One claimed that he had lost his alien card in 2013, while another had an expired alien card. The anti-terrorism personnel had been called in to arrest and interrogate them. The threat was real. Ever since their initial arrival in 1991, the Kenyan government had viewed Somali refugees with suspicion, concerned that they could become a security threat. While the government had established a National Refugee Secretariat formerly known as the Department of Refugee Affairs to deal with the massive influx of refugees, the system was weak and unable to deal with insecure elements of the migrants and asylum seekers. Remember UNHCR did not have the ability to endure the security and protection of refugees. The researcher faced the threat at the registration office.

The Department of Migration Training and Research Director's office that the Government had made efforts through a system that captured data of all persons entering into Kenya and Nairobi County specifically (GOK, 2017). Migration worked closely with the United Nations High commission on Refugees, the DPA and National security on the issuance of travel documents for those who could be resettled elsewhere. It also had sensitization programme of foreigners on the importance to register as aliens. Through that system, the department was able to identify and advice prospective asylum seekers or refugees on the correct process of the Refugee Status Determination (RSD). The department was also able to facilitate the resettlement of refugees to a third country. The main challenges faced by the department were the porous migratory entry points to Nairobi where some refugees dodged their ways into Nairobi, therefore difficult to control. Secondly, there were inadequate migration personnel when it came to registration and sensitization of asylum seekers and refugees. According to the Kenya Refugee Act (2006), any asylum seeker was given thirty days to report to immigration control and management of foreigners, but some do not report. There are posts on the Southern flight corridor from Embu-Mwingi-Nairobi-Namanga to Tanzania-South Africa to the rest of Africa where crimes like human smuggling and human trafficking took place.

Globalization had influenced discourses on international peace and security in the post-cold war period, emerging concepts of multilateralism and new security and new security threats have led to shift in the perception of security. Terrorism and weapons of mass destruction could be viewed in the same way that poverty becomes a strong contributing

factor to internal strife and conflict, so terrorism breeds in environments of despair, oppression and underdevelopment. It profited from the existence of weak states that lack the capacity to enforce law and order, and it flourishes in contexts of foreign occupation and regional instability. The terrorist attacks on US soil on 11 September 2001 highlighted the failure of states and security institutions to accompany and identify the global changes in the nature of threats.

Technological advances that changed the way people communicate, the speed of information-sharing, rapid transportation and the erosion of borders have come to expose a larger amount of people to the great danger of terror campaigns. These innovations, designed to improve daily life, also mean that small groups of people without the support of a state or territory can inflict greater amounts of damage by transforming them into sophisticated instruments of aggression. Globalization and economic integration have levelled the playing fields for the developed and developing world as both are equally vulnerable to attacks and equally affected by attacks in other parts of the world. It is estimated by the World Bank that the 9/11 attacks alone increased by 10 million the number of people living in poverty.

5.2 What has been Kenya's effort to protect refugees on the one hand and secure its citizenry on the other?

The Government official from the Ministry of Interior and National Coordination reported that; Kenya had designated certain areas in the country as refugee camps where the government spent its own funds in the provision of security to refugees and staff in those camps, prominent among them was Dadaab and Kakuma. In the process the citizenry was protected from them. Control measures by Government included designated entry and reception points. Therefore, any refugees who stayed in Nairobi were illegally doing so.

The lack of a clear policy for clarifying and implementing the Refugee Act (2006); which did not also comply with the Kenya Constitution (2010) had created confusion over the legal status of refugees, their documentation and their associated rights. An interview with the protection officer based at the refugee secretariat or formerly the Department of Refugee Affairs based in Shauri Moyo, Nairobi revealed that;

> The Government of Kenya provides land for refugees, temporary shelter, water, food and also offers police officers for security, medical card, and access to schools for children, and protection officers who are also human rights lawyers. The registration captures new arrivals into the database, household details, allocation of individual number, ration number. The most vulnerable like children, pregnant women, and the sick and aged are given priority (DPA, 2017).

The Department for Refugee Affairs coordinated with the immigration department and National Police Service too with regard to registration of persons and passport issuance for refugee resettlement. The refugee card enabled refugees to conduct business in Kenya. Refugees paid tax to the Government. The Government encampment policy was

enforced still. All refugees were to be send to refugee camps because Nairobi, City County is too expensive. The main challenge was that the registration center had inadequate facilities for medical screening. The government personnel were not also sure if the border points had Ebola disease screening facilities.

5.2.1 Is there a relationship between security and sovereignty?

On the relationship between security and sovereignty, the Government officer from the Ministry of Interior and National Coordination reported that '…the sovereignty of a country must be protected. When security of a country and its citizens is impaired by factors such as uncontrolled influx and activities of refugees, sovereignty is likely to be lost as it may become impossible to remain in control of all parts and systems of the state.

5.2.2 How has the ever changing character of the refugee phenomenon impacted and transformed the Kenyan security and protection system?

The government official from the Ministry of Interior and National Coordination reported that the changing character of the refugee phenomenon had made the security system more prepared to respond to asymmetric threat emanating from undesirable activities of refugees. It was thenknown that not all refugees were innocent and could include terrorists who might use the camps as recruiting and training grounds on their way to Nairobi (GOK, 2017).

As stated in the Refugee Act, refugees should have an Asylum Seeker Certificate if they were going through the Refugee Status Determination (RSD) process, a Refugee Identification Pass if they have been granted asylum and a Movement Pass if they have permission to leave the camps. In practice, however, refugees may also have a range of other documents: Alien Cards, issued by the Department of Immigration, where they gave refugees the same status as other aliens, but did not confer refugee protection.

These were issued by UNHCR to people with appointments to begin the Refugee Status Determination (RSD) process. The State was hands off in the 1990s and that where the insecurity elements started creeping into Kenya. Appointment Letters in theory provide temporary legal status, but they do not explicitly state that the holder was protected until the vetting procedure had been concluded; UNHCR Mandate Refugee Certificates, These are issued by UNHCR to people who had been granted asylum through the RSD process. They provide the necessary legal status for refugees; in addition, the Immigration Act grants class M work permits to refugees who had fled to Kenya because of well-founded fears of persecution at home. Permits were renewable every two years according to Overseas Development Institute (2010).

On the contrary, most refugees entering Nairobi were not registered upon entering Kenya and therefore had no official documents. Refugees interviewed with no documentation claimed that they did not register due to a lack of information on the process, concerns that they might be deported if they were unsuccessful, the cost of repeatedly travelling to UNHCR offices and feared arrest. Many were also put off by the length of time the RSD

process entails. Others do not register because they have acquired fabricated documentation, particularly Alien Cards and Kenyan identity cards.

5.3 Police attitudes towards refugees in Nairobi and implications for refugees' protection

Effort should be put in for Command and Control of all security agencies in order to prevent and respond to crime as elaborated by the Table 5.3.

Table 5.3: What are the factors influencing security framework in Nairobi County, Kenya?

	YES		NO	
Condition	**Frequency**	**Percentage (%)**	**Frequency**	**Percentage (%)**
Do refugees fuel corruption	31	77.5	9	22.5
Are refugees/immigrants forced to pay bribes	33	82.5	7	17.5
Do refugees commit crime	31	77.5	9	22.5
Are refugees victims of crime	25	62.5	15	37.5
Are refugees assisted by criminal groups to commit crimes	23	57.5	17	42.5
Are refugees abused by criminals	21	52.5	19	47.5
Are irregular refugees facilitated by organized criminal groups	19	47.5	21	52.5

Source: Field Data, 2016

Respondents are asked on factors influencing the security framework for refugees' vis-avis residents and how the refugees interact with the population as well as the security agents in Nairobi County.

On whether refugees fuel corruption 31, (77.5%) of the respondents said refugees fueled corruption whereas 9, (22.5%) said refugees did not fuel corruption. In terms of whether refugees/immigrants were forced to pay bribes, majority 33 (82.5%) said that refugees were forced to pay bribes specifically to the police, however, 7 (17.5%) said that refugees/migrants were not forced to pay bribes. In addition, majority 31 (77.5%) of the respondents said refugees commit crimes in Nairobi while (9; 22.5%) said refugees do not commit crime. When the results were tabulated as shown in table 5.4 above, out of 25 (62.5%) majority of them said refugees were victims of crime while 15 (37.5%) said were not victims of crime. On the other hand, 23 (57.5%) of the respondents said that refugees were assisted by criminal groups to commit crimes whereas 17 (42.5%) said they were not assisted by criminal groups to commit crimes. In addition, 21 (52.5%) of the respondents said that refugees were abused by criminals while 19 (47.5%) of the respondents said refugees were not abused by criminals. Lastly, most 19 (47.5%) were irregular refugees facilitated by organized criminal groups while 21 (52.5%) said there were regular refugees not facilitated by organized criminal groups.

Interviews and focus group discussions with refugees in Nairobi attested to deep-rooted suspicions and negative perceptions of refugees among police officers in the city. There was a belief within the police that refugees were to be restricted to camps, and there

waslittle understanding of the reasons why they would reside permanently in Nairobi. Police officers also assumed that refugees were criminally minded, while Somali refugees in particular were suspected of links with terrorist organisations.

Further, the findings indicated that police officers, particularly in the junior ranks, seem unfamiliar with refugee documentation and were usually highly suspicious of the validity and authenticity of refugees' documents. Although UNHCR routinely passes copies of its documents to police stations in Nairobi, staff turnover and a lack of training mean that many officers do not had the necessary knowledge and awareness to properly police areas with large refugee populations. According to a commander interviewed in Kasarani police station, there had been instances when refugees had been arrested and taken to court, only to find that they were in fact in Kenya legally and had valid documents.

Language barriers, lack of knowledge of their rights and how to uphold them, fears of exposure and previous traumatic encounters with police authorities in their countries of origin or in Kenya all made refugees very nervous around the police. This, coupled with a lack of familiarity with the legal system makes them prone to seek on-the- spot solutions with individual officers, rather than taking matters up with higher authorities. The focus group discussions indicated that newcomers are particularly vulnerable as they are less familiar with police encounters in Kenya, might be less fluent in Kiswahili or English and are in general disoriented by their recent displacement experience.

Focus group discussions with refugee communities in Eastleigh revealed widespread patterns of abuse and extortion, with refugees being routinely stopped, arrested and charged with 'idling with intent of committing a crime' or being an 'unlawful presence'. Arrests are almost always made with a view to extorting money from detainees, who are usually released once a bribe had been paid. Allegedly, so lucrative is extortion in Eastleigh (a legal advisor we spoke to called it a 'green pasture' for the police) that officers not based in the district often come to 'work' there specifically to extort money from refugees. This practice intensifies on Fridays, as more police officers were lured to Eastleigh to look for extra money for the weekend.

According to all the refugees interviewed in Eastleigh, patrols and searches were deliberately arranged to maximise bribe-taking. For example, men are mostly targeted during the day, while women were usually targeted at night, because police officers know that families and communities fear the possibility of sexual abuse and are willing to pay substantial amounts of cash to release a woman.

A Somali man said that some police officers demanded around 2,000 KES ($28) for a woman and around 1,000 KES ($14) for a man. If refugees refuse or cannot pay the bribe, they are jailed. If they are still unable to pay they are taken to court. As the case escalates, higher and higher bribes are demanded. There were also allegations of officers stealing valuables such as jewellery and mobile phones, and respondents of both sexes reported violence during identity checks and arrests, including kicking, slaps, beatings and verbal and sexual abuse. The majority of Oromo and Somali refugees said that, when

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stopped or arrested, they did not confront the police because doing so would only make matters worse. Many do not report police abuses because they do not know how, and are afraid that doing so would further jeopardise their precarious legal status.

The five police officers interviewed admitted that extortion of refugees was a problem within the force, but maintained that the situation was improving and that the police were working to tackle corruption. One told us that the police were trying to find creative solutions, including allowing refugees to carry photocopies of documents to prevent corrupt officers from destroying the originals. It was also worth noting that refugees from the Great Lakes region we interviewed told us that police harassment and extortion had significantly decreased with the end of the Moi regime in 2003, to the extent that they were now rarely stopped. It should also be said that extortionwas a problem for many Kenyans as well, albeit the bribes they pay seem to be much lower than the rates in Eastleigh, and their more straightforward documentation (in most cases all they need to produce was a valid Kenyan ID card) makes them less vulnerable to accusations that their papers are invalid or fake.

A senior officer we interviewed refuted many of the accusations made by refugees, claiming that, if they had the appropriate documents, most police officers would not harass them and they should therefore have nothing to fear. Even in cases where refugees were arrested and brought to the station, the officer claimed that their documents would always be verified for authenticity and, if the documents were deemed valid, they would be released. Refugees without valid documents were taken to court and either deported to

their country of origin or returned to the camps. Other officers, however, told us that in most instances cases were resolved on the spot, and refugees were only rarely taken to a station. More broadly, while several senior officers told us that they were well aware of the Refugee Act and knew how to treat a refugee, an officer at Kenyatta International Conference Centre police station admitted that neither he nor most of his colleagues understood how to handle refugee cases, and were unclear about the laws governing refugee affairs. He added that he had not received proper training on refugee issues.

Although police harassment seemed to affect different groups in different ways, it is clear that fear of the police was restricting refugees' freedom of movement around Nairobi. Many refugees in Eastleigh rarely travel outside of the neighbourhood, and refugees without documentation minimise traveled both outside and within Eastleigh, preferring to remain at home as much as possible. In the words of one elderly Somali man, 'not documents but only money saved us from suffering in Eastleigh'. While Sudanese and Anuak refugees we spoke to seemed confident walking around Ruiru and Githurai, and reported little harassment by the police, even these groups do not travel around Nairobi as much as they would like. Respondents from all nationalities reported feeling exposed when travelling to and from UNHCR offices in Nairobi, with several saying they had been harassed and arrested by the police. Somalis, Ethiopians and Sudanese felt especially at risk because of their physical appearance. This problem was compounded by the length of time administrative functions such as the RSD process or mandate renewal take to complete, which often requires numerous journeys to UNHCR offices over an extended period.

Clarifying on the influence of space dynamics to crime, Clifford R Shaw refutes the existence of differences between delinquents and non-delinquents in terms of personality traits (Katumanga & Ngunyi, 2014). Crime here was attributed to the levels of social disorganization, not personality disorder. This 'organisation' was in turn expressed through community, family and state presence. Social disorganization produces criminality. The author concurred with these scholars, in that human behavior is affected by the environment in which one lives and what they may perceive of their rights from the state.

With reverence to the 'Principle of Mass and Economy of Force',large numbers of the police force are deployed in areas where they are least needed (Katumanga & Ngunyi, 2014). Additionally, the limited coordination and deficient of Centralized Command, security gaps exist even where numbers may be present. It was being said by residents that the police engage with bandit groups sub-letting arms, and munitions, selling intelligence, and withdrawing from sites of deployment. This was observed during the West-Gate terror attack in 2013.

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5.4 Other protection threats affecting refugees in Nairobi County, Kenya

Table 5.4: Activities done by the refugees that make them unnoticed

	YES		NO	
Condition	Frequency	Percentage	Frequency	Percentage
Are refugees entrepreneurs in the County?	16	40.0	24	60.0
Are there any economic motivation opportunities for the refugees	8	80.0	32	20.0
Does the government offer any skills training to the refugees or host community to facilitate economic integration	9	22.5	31	77.5
Do refugees run any business in the community and pay taxes	27	67.5	13	32.5

Source: Field Data, 2016

When results for activities done by the refugees that make them unnoticed were tabulated, as shown in table 5.6:

Out of the 16 (40.0%) of the respondents said that refugees were entrepreneurs in Nairobi while majority 24 (60.0%) disagreed that refugees were also entrepreneurs. On the other hand, respondents were asked whether there were any economic motivation opportunities for the refugees where 8 (80.0%) agreed that there were economic motivation opportunities for the refugees in Nairobi whereas 32 (20.0%) disagreed that there were economic motivation opportunities for the refugees. Respondents were also asked if the

government offered any skills training to the refugees or host community to facilitate economic integration and out of 9 (22.5) agreed that the government offered some skills training to the refugees or host community to facilitate economic integration whereas majority 31 (77.5%) disagreed that the government offered any skills training to the refugees or host community to facilitate economic integration. In addition, 27 (67.5%) said that the refugees ran business in the community and paid taxes while 13 (32.5%) said that neither did the refugees run any business in the community nor pay taxes.

They often contribute to incidences of criminal control. This has majorly been the result of corruption and misuse of public offices. Failure of the state to address the problems emanating from vast tracts of informal settlements as observed in the case of Nairobi has provided grounds for negative resilience.

The presence of the refugees in Kenya has negatively affected the local community in references to security '…the security was left in indeterminate state and the security lapses affect the economy.'These activities by the refugees have led to the Kenyan authorities to protect both citizens and refugees as they also support the Kenyan economy by paying taxes.

Refugees in Eastleigh complained that, while the police were the main culprits of violence in the community, robbers and armed criminal groups also posed significant threats to their personal safety. On the contrary, the majority of respondents from the DRC, Burundi and Rwanda reported that, while police harassment and detention did not pose serious threats, they lived in constant fear of violent crime. In Kawangware,

Sudanese refugees felt particularly vulnerable because of the general perception among Kenyans that they are especially wealthy thanks to their access to remittances and relief aid. Ethiopian Anuak refugees indicated that robbery and criminal violence posed a constant threat to their personal safety because of their strong resemblance to the Sudanese, and added that violence also affected their Kenyan neighbours. Interviews with Oromo refugees living in Nairobi pointed to an additional source of insecurity and threats. While there is no documented evidence, these refugees reported living in fear of being abducted, forcibly repatriated, injured and killed by Ethiopian intelligence officials.

5.5 Access to livelihoods opportunities and basic services

The livelihoods of urban refugees are diverse, and include work in the informal sector as labourers, running small businesses and reliance on overseas remittances and community support networks (RCK, 2010). The great majority of refugees who had access to work were engaged in the informal economy. Semi-skilled and unskilled refugees were involved in the same type of work, mostly casual labour and petty trade. This included jobs as shoe shiners, shop attendants, mechanics, waiters, car washers and herdsmen in peri-urban areas. Labourers were paid between $50 and $150 per month, but they have to work every day and have no days off. For example, several Somali refugees in Eastleigh had roadside stands where they sold fabrics, undergarments, scarves, shoes, toiletries, crockery, music tapes, fruit and vegetables and electronics. Many were engaged in the lucrative business of selling mira'a (Campbell, 2006), a herbal stimulant (khat) that was widely grown and used in East Africa and the Arabian Peninsula.

A small number of refugees were involved in small businesses, such as kiosks and restaurants, driving taxis and matatus or local buses and running hairdressing salons and camera shops. Hairdressing appeared to be a particularly popular trade amongst Congolese refugees, both women and men. Congolese were also popular as musicians and tailors, both amongst refugees and with local communities. Ethiopian refugees, particularly Amhara, seemed to have been more successful than others in the catering and beauty business, as well as in running matatus. Eastleigh was also home to many Somali-owned telephone call centres and internet cafes (Campbell, 2006).

One refugee woman reported that women mainly engaged in petty trade, domestic labour and tea and coffee making. They generally lacked access to capital or credit to acquire business licences and formalise their businesses, and have to rely on men to borrow cash and/or material on their behalf. Women also tended to lack marketing, management and organisational skills (RCK, 2008), although some have received training and start-up capital from NGOs or faith-based associations (especially the Catholic Church), and had been able to start dress-making businesses. Several women's groups had been supported through revolving funds, as discussed below.

Access to employment was often determined by refugee status. Prima facie refugees had traditionally been considered as irregular migrants, and were largely confined to the informal economy. The Refugee Act subjects refugees to the same wage-earning employment restrictions as other foreigners, and calls upon the Commissioner to ensure that refugees' economic activities do not have a negative impact on host communities.

Refugees are required to obtain work permits, which cost KES 50,000 ($700) and are valid for two years (World Refugee Survey, 2009). (Rwandans are exempted from the need for work permits following a reciprocal agreement between Rwanda and Kenya in November 2008.) The Immigration Act grants class M work permits to refugees recognized by the Kenyan government prior to 1990. The Department of Immigration stopped issuing these permits in following the disbandment of the Department for Refugee Affairs and the subsequent opening of a Refugee Secretariat in the Office of the President, but announced that it would repatriate refugees in the most humane and dignified manner in an attempt to stop the proliferation of forged documents. However, at the time of writing class M work permits were still not being issued.

A major constraint for many refugees is that they lack the official documents they need to obtain work permits. One way around this problem for new arrivals is to find work with family or community networks, which are usually flexible about paperwork. In Eastleigh, Somalis control most businesses, making it very difficult for other nationalities to find jobs. In other cases, however, work is not necessarily confined to kindred groups: Ethiopian refugees involved in small businesses, for example, hire Kenyans as well as Ethiopians to cater to the different needs and expectations of prospective customers. A number of Congolese refugee businessmen interviewed noted that hiring Kenyans can be a way of gaining a better understanding of local markets. They added that refugees tend to accept any level of payment or salary, even if they know that their work is worth more. Refugees working in the informal sector often rely on Kenyan partners to register small businesses (World Refugee Survey, 2009).

Apart from the right to exchange serious criminals and persons who posed a security risk, the duty to avoid the return of any and all refugees that arrive at a state's frontier takes no account of the potential impact of refugee flows on the receiving state (Tadjbakhsh, 2005). This apparent disregard for their interests had provided states with a pretext to avoid international legal obligation altogether. There were contradictory trends between the state, the United Nations (UN) agency for refugees and the government of Somalia. In the turbulent context of the post-cold war world, the United Nations, its member states and specialized agencies had found it difficult to develop coherent and consistent policies in relation to mass population displacements (McNamara, 1995). Not surprisingly as discussed from the field data below.

5.6 Governance and negative resilience in Nairobi County, Kenya

The West-gate attack in Nairobi left 67 dead and others injured. The summary of the Kenyan's priorities was as shown in **Figure 5.2** below.
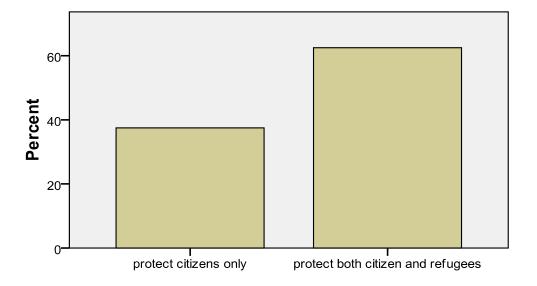
Figure 5.2: Kenyan's Priorities
Source: Field Data, 2016

Respondents were asked about whether the government should protect citizens only or should offer protection to both citizens and refugees as shown in figure 5.2:

Out of 40 (40.0%) said the government should offer security to citizens only while majority 60 (60.0%) said that government should offer protection to both citizens and the refugees. These results pointed at the state's responsibility. The state was accountable to know of any alien that had entry into Nairobi, County daily. Unfortunately, during the interview with the immigration officer, he said the following:

> "….we have inadequate staff in the registration department and capturing data is a challenge. Additionally, public sensitization programme is under-funded therefore; most people are unaware of our procedures. The porous entry into Nairobi makes it hard to detect alien entry and that contributed to dangerous elements getting to the city.'(GOK, 2016).

Table 5.6: The relationship between refugee influx and security

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Proliferation (SALW)	10	10.0	11.1	11.1
	general insecurity	50	50.0	55.6	66.7
	Radicalization	20	20.0	22.2	88.9
	resource competition	10	10.0	11.1	100.0
Total		**100**	**100.0**		

Respondents were asked about the relationship between refugee influx and security.

As noted by one of the residents in Eastleigh;

> "The large entry of refugees in Nairobi has led to smuggling of commodities to Kenya as it passes through the borders without taxation hence resulting in competition on resources. Likewise it has led to insecurity due to unclear screening of persons seeking refuge and radicalization of members from the communities in Kenya".(FGD, 2016).

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An observation made by the researcher, was that inadequate planning to secure the Nairobi, was lacking on the side of the government. The entry point for community policing failed to a large extent. The re-designing of the 'Nyumba kumi 'meaning security for 'ten houses' initiative was long overdue.

Davis (2012) argued that the role of the police in many cases was frequently counterproductive. Police accommodate and reinforce informal order and they were in constant competition with leaders of such informal order to control illegal deals and local protection rackets. Criminals trading in precious commodities, smuggling and arms trafficking receive more protection from authorities than residents do. Cities where this relationship existed manifest the state`s toleration of such a state of affairs. This state of affairs was one prone to violence and crime as evidenced in the case of Nairobi. Human security in Nairobi was, therefore, highly influenced and determined by the state.

Though the Human Rights Report (2009:160) indicated that 88% of refugees were in Daadab and Kakuma large populations had migrated to the city for many reasons. Five major factors seemed to have pushed the refugees and asylum seekers from the camps to Nairobi and its environs. To begin with, there was high insecurity in the camps and women and children were often victims of rape and murder. IRIN (2009) reported that cases of sexual violence and homicides had risen from 103 in 2007 to 219 in 2008 with 79 cases of rape. The situation was intolerable. Under the same token of insecurity, Al - Shabaab was accused of recruiting youths in the camps. The Kenyan government was

also accused of recruiting youths on behalf of the then Transitional Federal Government of Somalia (HRW, 2009a). During police raids in the camps, there were also cases of arbitrary arrests and detention by Kenyan police and these factor pushed youths and men out of the camps. Abitrary arrests were also taking place in Nairobi where the police were accused of extorting money from aliens for temporary arrest.

The second major factor was lack of adequate income and high level of unemployment. Men had to leave camps and travel to Nairobi in search of employment. The findings of a World Refugee survey indicated that refugees in camps received between Kshs1000 to Sh 5000per month. There were limited livelihood opportunities in camps and the food provided was inadequate. The situation was demanding and therefore most youths and men escaped the camps to Nairobi.

Thirdly, large numbers of refugees especially the youth sought wanted to further their education. They had no access to higher education in the camps. About 15 % of the population in Daadab was estimated to be of school dropouts (DANIDA& MIRP, 2009). Also, the camps were highly congested and the poor living conditions led to health issues. Medical provisions offered in the camps were inadequate for thousands of refugees in the camps. This was also a driving factor in the movement of refugees to Nairobi (OCHA, 2009).

Fourth, there was the constant fear of returning to Somalia and most refugees wished to be as far as possible from Somalia. They wanted to integrate with local population and

remain invisible among the locals. This would shield them from the possibility of repatriation. The obvious question that arose was why refugees targeted Eastleigh and concentrated there in large numbers was that there were a number of things that attracted refugees and asylum seekers to Eastleigh in Nairobi. One, Eastleigh was majorly inhabited by Somalis who had relatives in the larger Somalia. It was therefore, easy for Somalis in the camps to find their way to their relatives in Eastleigh. Some refugees and asylum seekers did not stay in camps but instead travelled direct from the border to Eastleigh in Nairobi.Also, Eastleigh had a booming economy and therefore offers a wide variety of income opportunities ranging from petty trade and employment to business. This was a guaranteed source of livelihood. Its proximity to "Gikomba" market and to the Central Business District enabled asylum seekers and refugees to operate small to medium sized businesses. The economy of Eastleigh was so much thriving such that it provided casual jobs and petty-trade opportunities for   locals from Kariobangi and Mathare.

There was an emerging consensus among policy makers that effective states were the key to global security and prosperity. The UN High-Level Panel on Threats, Challenges and Change, for instance, argues that 'states were still the front-line respondents to today's threats'. Successful international actions to battle poverty, disease, transnational crime, to rebuild after civil war, reduce terrorism and halt the spread of dangerous materials all require capable, responsible states as partners " (UN, 2005). The notions of state and statehood were closely related to the concepts of nation1, state, nation-state and sovereignty. In the international system, nation-states agree to satisfy specific conditions

of statehood that include: the acceptance of only one authority on a defined territory; exclusive power to make and enforce laws; and to ensure a match between authority and territory. These conditions confer upon states independence from other states and also allow them to engage with other states on equal terms. There are generally two theories that explain the constitution of statehood: the constitutive and the declarative theories. The constitutive theory treats a state as an entity of international law only if it is recognized as a sovereign state by other states. Therefore, the decision of state recognition is left to the subjective interest of other states. There have been several instances where the international community has refused to recognize states despite the presence of most of the ingredients of statehood. Examples of such 'states' include the Irish Republic, Biafra in Nigeria, and Somaliland in the Eastern Africa region.

Failure of the state`s functionality led to emergence of human security challenges. A failed state, as Russett, Starr & Kinsela (2004) argue, is one that is internationally recognized but it cannot provide security to its citizenry as expected of all sovereign states. Sorensen and Jackson (2003: 284) posit that a failed state as a result of more or less complete breakdown of domestic order. Public authorities and political offices lie at the heart of the human security problem. They had directly or indirectly contributed in the formation of new dynamics of human insecurity.

Kagwanja & Juma (2008) argued that refugees living within a country played a great role in facilitating human smuggling and trafficking. Refugees working in a host country are used by traffickers and smugglers to traffic people and illicit goods to Kenya. Most of the

community household respondents (77.5%) consider refugees to fuel corruption, while 82.5% consider that the Kenyan authority forces the refugees/immigrants to pay bribes. This made security framework to be compromised. The author coincides with Kagwanja and Juma's argument on the abstinence and abdication of refugees' influx into Kenya.

Further, a report by the Danish Refugee Council (2012) geared towards promoting livelihood and towards building self-reliance of urban refugees indicates that Eastleigh had education and health facilities. There were five public primary schools where enrolment for refugee children was free. The report further indicates that Eastleigh Airport Primary schools enrolls the highest number of refugee and asylum seeker children in Nairobi. Additionally, there was the informal learning provided in *madrasa*religious classes in Eastleigh Mosques and most parents opt for *madras*a classes instead of the formal Kenyan education.

5.6.1 Poor state capacity

The principle of non-interference in affairs that were within the domestic jurisdiction of states was the anchor to state sovereignty within the system of international relations and obligations. Jurisdiction broadly refers to the power, authority, and competence of a state to govern persons and property within its territory. Jurisdiction is *prima facie* exclusive over a state's territory and population, and the general duty of non-intervention in domestic affairs protects both the territorial sovereignty and the domestic jurisdiction of states on an equal basis.

According to 'The Standard of 7 May 2016',

> 'Refugees and asylum seekers detained in Kenya risk multiple convictions and protracted detention due to poor coordination between immigration officials, police and prison officers, coupled with lack of interpreters and low levels of knowledge among government officers and law enforcement officers.'

An official at the Refugee Consortium of Kenya (RCK) stated,

> 'Kenya plays host to large numbers of refugees, stateless persons, economic migrants and victims of human trafficking and smuggling. The Refugee Consortium of Kenya (RCK) runs a detention monitoring scheme comprising ten detention monitors stationed in prisons along key migration routes and in urban centres hosting asylum seekers and other migrants. These detention monitors monitor refugee rights violations and asylum-related cases in prisons, police stations and courts of law and in this way play a core protection role in that they not only form a critical link with the criminal justice system but can also provide immediate intervention and assistance to migrants in detention. In 2012 alone, RCK provided legal representation to 727 asylum seekers and refugees held in various detention centres across the country.'(RCK, 2016)

One of the challenges in mixed migration and refugee protection in Kenya had been the failure by law enforcement officers and other actors to draw a distinction between criminals, illegal immigrants and asylum seekers. All categories of persons are detained in the same prisons and subjected to the same standards of confinement; asylum seekers end up being treated as criminals, an issue that clearly goes against the concept of asylum being of a civil character. Prison conditions expose asylum seekers and refugees to assault, sexual abuse, torture, ill-health, lack of counseling support, limited legal assistance and a poor diet. The situation is often made worse by lack of translation services in the prisons which means that asylum seekers are not able to talk about the challenges they are facing or report any violations to authorities.

One female refugee stated,

> "I am a registered refugee from Somalia residing at the Kakuma camp. I travelled to Nairobi in search for employment. Allah Akubar, l have a job in one of the hotels here and at least I get my own money. When the police saw me, they arrested me. I was told to call my relatives and tell them to bring with them, Ksh.20,000 in order for me to be released. . They brought the Ksh 20,000 and gave it to one of the policeman around 11pm the money. l was released immediately. I am afraid of the police now. I keep on hiding whenever l see them."

Under Kenya's Refugee Act 2006, all asylum seekers had 30 days upon entering Kenya to travel to the nearest refugee authorities to register as refugees, regardless of how or where they entered the country. The law also stipulates that such a refugee be accorded a fair hearing and given the chance to defend himself/herself before a court of law. Law enforcement officers routinely ignored these rights and more often than not refugees ended up being prosecuted because law enforcement officers tended to lack proper knowledge of how to handle asylum seekers and because of language barriers and a shortage of interpreters.

Asylum seekers have been made more vulnerable since the issuance of a directive on 18 December 2012 by the Government of Kenya, through the Department for Refugee Affairs, requiring all refugees in urban centres to move to camps. The directive also issued a notice to stop registration of all refugees and asylum seekers in urban areas and accordingly directed that all agencies including UNHCR should stop providing direct services to refugees. This clearly opened serious protection gaps, limiting access to services for refugees and exposing them to arrest, detention and deportation. It is worth noting that since the issuance of the directive, harassment of refugees by law-

enforcement officers in Nairobi and other urban areas has dramatically increased. Instances of arbitrary arrests and illegal detention of refugees have been reported; furthermore, detainees are not arraigned in court within the constitutionally sanctioned time of 24 hours after arrest, thus denying them their rights.

During one of its protection monitoring missions in the Nairobi City, RCK visited Langata prison in Nairobi County to follow up on detention cases. The Nairobi was a transit route used for human trafficking of persons from the Horn of Africa through Tanzania to South Africa. At the prison, we met and interviewed eight Somalia who had served four-month sentences for unlawful presence and were being held as they awaited deportation. We also managed to interview the officers and listen to their concerns and were able deduce certain of their challenges, namely that asylum seekers were often mixed in with those being trafficked and that the authorities were not always able to distinguish between the two groups and provide the necessary assistance to the asylum seekers. This was due to lack or limited knowledge with regard to asylum so that any person without a document was treated as an unlawful immigrant and detained. This was worsened by the officers' limited knowledge of and access to the Department of Refugee Affairs which could intervene or vet asylum seekers.Of concern also was the uncoordinated way in which deportation of migrants was conducted across the region. Officers normally return migrants to the nearest point of entry, usually without handing them to the proper authorities at border points. This exposed migrants to multiple convictions and protracted periods of detention by authorities in each country where they are returned, which was clearly an abuse of their rights.

Sovereignty, therefore, carries with it primary responsibilities for States to protect persons and property and to discharge the functions of government adequately within their territories. The quality and range of responsibilities of governance have brought about significant changes in State sovereignty since 1945 (signing of the Charter). Sovereignty was incapable, then, of completely shielding internal violations of human rights that contradict international obligations.

Similarly, Article 2 (7) of the Charter was also subject to widely accepted limits. The words "*essentially* within the jurisdiction of States" refer to those matters that are not regulated by international law. As the ICJ concluded, "The question whether a certain matter is or is not solely within the domestically jurisdiction of a State was an essentially relative question; it depends on the development of international relations." Terms like "domestic jurisdiction" could be having a fixed content.

There were emerging challenges to States. The broadening interpretation of threats to international peace and security, the Charter enshrined licensed to override the principle of non-intervention. The controversy of certain States to effectively exercise authority over their territories and populations. In some cases, sovereignty was a legal fiction not matched by an actual political capacity. They were, "quasi-states." The display of actual control over a territory is a prominent dimension of sovereignty status. Therefore, fragile States violate the substantive UN membership requirement in Charter Article 4 that they are able to carry out "their obligations." This perspective was important in light of the growing awareness that state capacity and authority were essential conditions for

protection of fundamental rights. State authority and capacity, therefore, was a prerequisite for the maintenance of domestic and international order and justice.

Some of the Somali refugees had links to their country of origin where they do provide vital information on which targets could be attacked in order for Al Shaabab to gain poltical milestione. The researcher concurs with this view that some refugees can pose a threat to the internal security of a country due to the political engagements with their country of origin as elaborated by the example below.

The Kivu camps were destroyed by the Rwanda Defense Force (RDF) and its Congolese allies launching a war that engulfed the whole of the Democratic Republic of the Congo and culminated with the fall of President Mobutu Sese Seko. A decade later, the wheel turned again. Almost all Rwandan refugees have left DRC, mainly from which FDLR (Forces Democratiques pour la Liberation du Rwanda is drawn but now there are tens of thousands of Congolese refugees in Rwanda (Muggah, 2014).

This was the opposite of the Somali refugees in Kenya. When Kenyan security suffered a socio-economic blow following the foreign advisories to Europeans not to visit Kenya as a tourist destination. The Kenya Defence Forces (KDF), declared war in Somalia under the auspices of the African Union Mission in Somalia (AMISOM), and up-to-date they are still in Somalia, but then the leader of Al-Shaabab promised to litter Kenya with blood. The KDF were still fighting in Somalia today. The Somali culture was that they are one even if they're Kenyan and should never reveal about another Somali who may

be a security threat to her country.This sentiment was captured by Algerian President Boueteflika, who, as Presidnet of OAU, addressed the UN General Assembly in 1999, immediately after the Secretary General and called Sovereignty: our final defence against the rules of an unjust world.

In conclusion, Kenya's economy was weak with high inflation rates. This leads to poverty in families and unemployment by the youth draws the youth to engage in activities that may jeopardize the security of our country.

CHAPTER SIX

CHALLENGES AND OPPORTUNITIES IN ENFORCING THE REFUGEE PROTECTION FRAMEWORK INFLUENMCE ON HUMAN SECURITY IN NAIROBI, KENYA

6.0 Introduction

The chapter presented findings and discussions on: migration as a human experience, illegal entry, reasons for illegal entry of refugees, current situation on entry to Nairobi County, irregular refugee influx and Organised Criminal Groups (OCG), relationship between refugee influx and security, refugee involvement in terrorism, refugees as violators and victims of crime, irregular migration and number of insecurity incidents, corruption, people involved in asylum system, unemployment, human smuggling and human trafficking and opportunities in enforcing refugee protection.

6.1 Migration as part of human experience

Migration was a part of human experience because between 1990 and 2013 the number of migrants rose by 50% (UN Population Division, 2013) as shown in the figure 6.1:
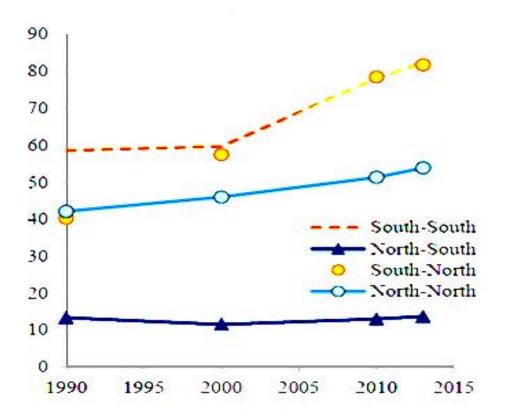
Figure 6.1: Number of Migrants in the World
Source:UN Population Division, 2013

6.2 What challenges does the refugee protection framework present in securing human security and what opportunities does it provide?

The respondent from the Refugee Consortium of Kenya (RCK) reported that;

> '…encampment policy was a challenge. The Refugees Act, 2006 provides that refugees and asylum seekers must reside in the camps. Should they want to move out of the camps then they need to apply for the movement passes. The grounds for applying for the movement pass are not clear as it is not enumerated in policy. This limits the refugees' right to freedom of movement. Connected thereto is access to work permits. The process of getting a work permit for refugees in inordinately long and quite amorphous. Decisions for rejections are rarely provided for refugees leading some to work without them exposing them to legal penalties.' (RCK, 2017).

A Government of Kenya official in the Department for Refugee Affairs (DPA) said that the opportunities the refugee framework provided were employment of many Kenyans in government and civil society organizations, international recognition of the country as a hospitable nation and there had been more funding for security in refugee hosting areas thus benefiting even host communities in terms spurring business and social amenities development (GOK, 2017).

Contrary to the opportunities, the refugees posed a grave challenge to the Government through infiltration of the refugee space by terrorist elements in the urban areas of Nairobi County. Contraband business in Nairobi's Eastleigh area had led to the loss of revenue and lives the official reported.

Discussions on the above findings show that the asymmetric threat posed by some of the refugees meant that the concept of security around the refugee management was to be broadened. While out of camp, there was need to monitor their movements and activities throughout areas where they may need to go. The burden of security was heavier and more costly. Opportunities were limited to increase of economic activities and hence job creation that might be enjoyed by the local communities. There existed remote opportunities to bring elements of adversaries from home countries together to negotiated over their differences and avoided destabilizing their country from abroad as happened with the Somali refugees in Kenya.

The concept of irregular refugee influx and its relation with security was a subject of dissertation within the academia, policy makers and human rights activists. Irregular refugee influx has been percieved as a threat to national security. For example, the Kenyan government, following a series of terrorist attacks, launched a massive operation aimed at flushing out the Somali illegal migrants. They were assembled at the Kasarani Sports Stadium where many were repatriated back to Mogadishu due to this was parallel to securitization of migration that various UN agencies as well as human rights activists were opposed to. The task of reconciling these two opposing views was rendered even harder given the little and scattered data on this type of migration. The lack of data could be attributed to various dynamics not least the clandestine nature of irregular refugee influx. While admitting that irregular refugee influx into Nairobi, Kenya was a particularly challenging field of research, there was little doubt that it had a significant influence on the social, economic and political landscape in Kenya and the Eastern region.

6.3 Challenges of refugee hosting in Nairobi, Kenya

Refugee hosting can have problematic outcomes. They can undermine the sovereignty of a state, cause conflict between states and undermine the international humanitarian efforts. Management of refugees has challenges see table 6.3:

Table 6.4: Challenges encountered in refugee management

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Corruption	4	40.0	10.0	10.0
	porous border	1	10.0	20.0	30.0
	collusion with organised criminal groups	3	30.0	50.0	80.0
	data management	1	10.0	10.0	90.0
	Coordination	1	10.0	10.0	100.0
	Total	**10**	**100.0**	**100.0**	

Source: Field Data, 2016

When results were tabulated, majority 4 (40%) said that they were directly involved in corruption while 10 (10%) said that the managers of refugees were not involved in corruption. On the other hand, 3, (30%) said that the managers colluded with organized criminal groups while 50 (80%) said there was no collusion, 1(10%) blamed the long porous borders with poor capacity to patrol while 1 (10%) said there was inadequate data management and 1 (10%) said there was poor coordination between the refugee management agencies. Allen (2010) argues that the instability in Somalia has made it a gateway for illicit arms to enter the East African region. The UN monitoring group on Somalia noted that significant arm shipments have been transported to Somalia through the Gulf of Aden. The findings indicated that corruption and collusion with organized criminal groups played a big role in detecting the refugees who were in Nairobi illegally.

Table 6.5: Agents and institutions involved in illegal refugee influx

Actor	Yes (%)	No (%)
Police	81.2	18.8
Immigration	79.9	20.1
Job Agencies	72.3	27.7
Organized Criminal Groups	70.2	29.8
Ethnic leaders	69.1	30.9
Religious leaders	49.3	50.7

Field Data, 2016

Respondents were asked about agents and institutions in Nairobi, Kenya who were involved in irregular refugee influx. On police, majority, and 18.8 (81.2%) the respondents identified the following players: Police, immigration officers 20.1(79.9%), job agencies 27.7(72.3), organized criminal groups 29.8 (70.2%), ethnic leaders 30.9(69.1%), and to lesser extent religious leaders 50 (49.3%). Table 6.4 presents respondents' perceptions on who was associated with irregular migration.

When results were tabulated, both the police and immigration officials scored highest on intensities of involvement in assisting irregular influx of refugees. The police were said to play all kinds of characters when dealing with refugees. Many respondents observed that the police usually knew about the irregular refugees.

For example, during a focus group discussion one young man said:

> "Government officials especially police abuse the refugees when they fail to offer bribes for protection and freedom. Their movement is coordinated at night where conveyance is done by trucks or in their police vehicles. The first thing you're told is to call members of your family to inform them of your getting arrested. They do not take M-pesa. You tell them to solicit at least Ksh.20, 000. Sometimes my sister was arrested and we paid Ksh.5, 000. Young men are the most vulnerable; therefore they have to stay indoors. If one of them is arrested and they fail to pay the police, they're branded Al-Shaaabab." (Host community, 2016).

It was also reported that on a number of incidents, the police protected irregular refugees from being discovered by other security agencies. Respondents also indicated that the police treated the refugees as an additional source of income and thus they expected money in exchange for not arresting them or setting them free after arrest. One of the men respondent said that some of the clans had made monthly payment arrangements with the police.

On the other hand, ethnic leaders appeared to play a precarious title role. They were often associated with irregular migration where they assisted the refugees, of the same ethnic background (Clan), arriving in Nairobi, Kenya to either acquire Kenyan identification documents or by simply not reporting their presence to the relevant authorities. This was evident while the field study was being conducted where the team entered a community Based Organization dealing with refugees, conducted focus group discussions the whole afternoon uninterrupted. The question that ran in my mind was whether the community policing aspect of 'Nyumba Kumi' meaning community policing through the ten houses monitoring was in business.

Horwood (2009) argues, for a price, tickets, visas and other documents can be obtained in Kenya. Smugglers and human traffickers have deep connections with government officers and airport crew who facilitate entry and exit of refugees and illegal migrants. Horwood argues that the Southern Route involves movement from Somalia to Nairobi Eastleigh area then to South Africa. Refugees reported to have paid public officers and police for escort from the Kenya-Somali border to Nairobi (RCK, 2012).
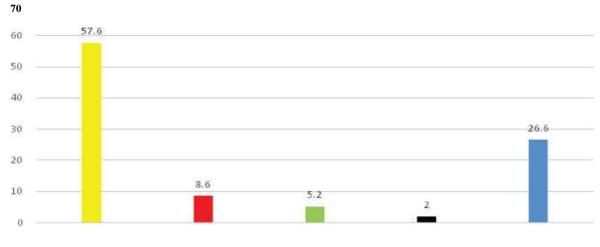
In Eastleigh, smugglers, brokers and agents organize residence in safe houses. Clandestine offices where forged documents are made are found either in Eastleigh or in the city. Migrant smuggling is a lucrative business. At least twenty five people leave Eastleigh every day and are smuggled to South Africa.

6.4 What conditions lead to illegal refugee influx?

Figure 6.4 shows what is pushing refugees to Nairobi County.

What is pushing refugees to migrate to Nairobi County? (%)

Figure 6.4: Push Factors in Irregular Migration

Socioeconomic reasons Conflict   Violation of human rights   Insecurity   Mixed causes

Source: Field Data, 2016

Respondents were asked what would be pushing or pulling refugees to engage in irregular migration. Figure 6.4 shows the variables that led people to migrate. Majority, (60; 57.6%) of the respondents said that it was the socio-economic reasons, 10 (8.6%) said that they migrated to Nairobi because of conflict, 7 (5.2%) said that they migrated because of violations of human rights, 2 (2.0%) said that they migrated to Nairobi because of insecurity and 26 (26.6%) said that they migrated because of mixed causes. Socioeconomic reasons appeared to be the key push factor. Respondents mentioned poverty and lack of economic opportunities as the main reason for migration to Nairobi County. This push factor corresponds with the variables that attracted refugees such as the need for availability of social amenities such as schools, safe water and sanitation and

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hospitals cheap labour force, economic opportunities, in destination States. One of Ethiopian woman interviewed said that:

> 'I wouldn't return home at all. Here l am peaceful with my baby. All members of my family were killed. I am working in a hotel and earning some little money. That is enough.'(Refugee, 2016).

The push factors from respondents from South Sudan, Democratic Republic of Congo and Somalia attributed their flight to violent conflict in their countries of origin while Ethiopians condemned violations of human rights. Figure 6.5 shows the relationship between irregular migration and security in Nairobi County.
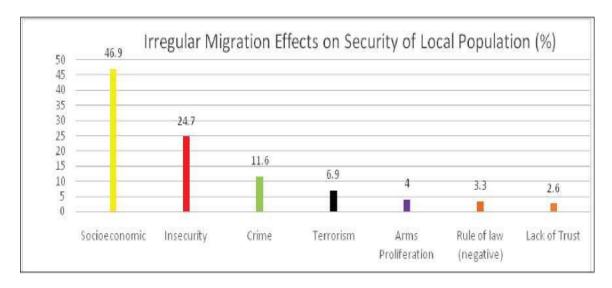
Figure 6.5: Illegal Refugee Influx and Security in Nairobi County, Kenya
Source: Field Data, 2016

Respondents were asked whether there was any relationship between irregular migrations of refugees on security of the local population. Out of 46 (46.9%) attributed to pressure on socio-economic activities, 25 (24.7%) said that they are affected with insecurity, 11 (11.6%) said that there was increased crime rate, 7 (6.9%) said that there were increased incidents of terrorism, 9 (4%) said that there were increased arms proliferation, 6 (3.3%) said negatively on the status of the rule of law offices and 4 (2.6%) said of the

respondents lacked trust. The socioeconomic reasons top the list of negative effects of refugees on security. Respondents attributed refugees for taking economic opportunities, increasing of house rents, crowding limited social amenities, making the job market most competitive. Such grievances were not distinctive to Kenya as immigrants around the world are similarly attributed to xenophobic attacks in South Africa in 2015. The next reason was insecurity. Refugees were suspect of creating fear, which then fueled insecurity. This can be associated with suspicions and misapprehensions. Slightly above 10% pointed out that refugees involved in crime and less than 7% associated refugees with terrorism. As for the criminal activities, refugees were associated with the local types of crime. During the focus group discussion, one respondent in Eastleigh confirmed that: "some of the female refugees are more susceptible to this form of manipulation as they are lured into sex trade and crime."

First, human security is needed in response to the complexity and the interrelatedness of both old and new security threats – from chronic and persistent poverty to ethnic violence, human trafficking, climate change, health pandemics, international terrorism, and sudden economic and financial downturns. Such threats tend to acquire transnational dimensions and move beyond traditional notions of security that focus on external military aggressions alone. Secondly, human security is required as a comprehensive approach that utilizes the wide range of new opportunities to tackle such threats in an integrated manner. Human security threats cannot be tackled through conventional mechanisms alone. Instead, they require a new consensus that acknowledges the linkages and the interdependencies between development, human rights and national security.

Figure 6.6shows the link between refugees and terrorism:

Figure 6.6: Refugee Involvement in Terrorism.

Are refugees involved in terrorism (%)?

Source: Field Data, 2016

Respondents were asked about the link between irregular refugee migration and terrorism. Respondents were asked if according to their knowledge the refugees were associating with terrorism. On associations with terrorism, 45 (45.3 %) said that refugees associated with terrorism whereas 54 (54.7%) said refugees did not associate with terrorism. There was a generalization or perception that Somali refugees were associated with terrorism. The findings also meant that most refugees in Nairobi were not engaged in terrorism. When the respondents were asked if they knew of any number of refugees joining terrorist organisations, respondents (64.2%) did not know of refugees that joined terrorist groups.

<div align="center">If YES: Specify the number</div>
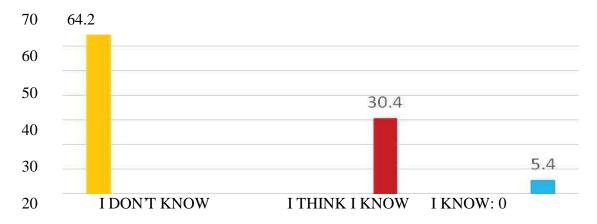
Figure 6.7: Number of Refugees Joining Terrorist Organisations
Source: Field Data, 2016

When the results were cross-tabulated on who had joined terrorist groups in figure 6.7 above, majority 64 (64.2%) were unable to provide any statistics, 30 (30.4%) thought they knew and 5 (5.4%) said that none of the refugees they knew was associated with a terrorist organization pointing out that perpetration of terrorism played a marginal role in refugee influx. The probable justification for the remaining 30% of the respondents who appeared to associate refugees with terrorism living in Nairobi, Kenya. Most respondents linked Somali refugees with terror groups like Al-Shaabab.In addition, incidents where Al Shabaab engaged in human trafficking and human smuggling may have given the impression that migrants were linked to terrorism. However, there were several respondents who, while lacking any substantial evidence, linked the immigrants with terror groups like the Somali-based group called Al Shabaab.

Refugees fuel   Refugees are

 Corruption   forced to pay

YES   NO   bribes
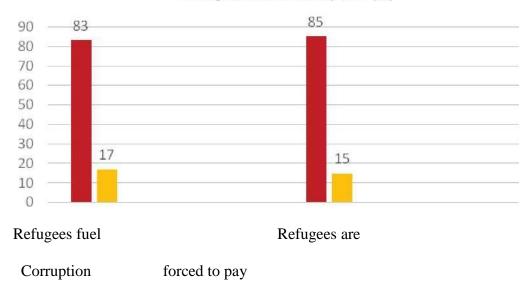
Figure 6.8: Refugees and Corruption
Source: Field Data, 2016

Respondents were asked whether refugees fueled corruption. On fueling corruption,

majority 90 (83%) said that refugees fueled corruption while 15 (17%) said refugees did

not fuel corruption. In terms of whether refugees were forced to pay bribes, most 12

(15%) said that refugees were not forced to pay bribes for their entry or stay in Nairobi.

In one of the focused groups, a respondent during the focus discussion had this to say;

> "Migration officials are bribed so that they can allow refugees to enter into our
> borders. Some even come while they are armed and yet the officers can't restrict
> them. This makes it hard for the security framework to be enforced as the officials
> connected in this bribery are in key positions (FGD, 2016)"

Table 6.6: Relationship between refugee influx and security

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Proliferation	1	10.0	12.5	12.5
	General insecurity	4	40.0	50.0	62.5
	Radicalization	2	20.0	25.0	87.5
	resource competition	3	30.0	12.5	100.0
	Total	8	80.0	100.0	
Total		10	100.0		

Source: Field Data, 2016

Respondents were asked whether there was any relationship between refugee's influx and security. Majority 4 (40.0%), said that there was general insecurity in Nairobi County while 3 (30.0%) said that there was resource competition, 2 (20.0%) said that it was due to radicalization of the population, and 1 (10%) is due to valid proliferation.

The corruption along the Kenyan borders has led to radicalization of the youth and continuous proliferation of the Kenyan borders 1 (10.0%). Weak entry controls and lack of technology in Nairobi County, Kenya facilitate the flow of weapons from Somalia to the country and the region in general (Allen, 2010). Corrupt government officials facilitate the trade in arms across the border. Clandestine military operations are often used for covert transfer of arms from Somalia to Northern Kenya. Human trafficking was the off-shoot of arms trafficking and is highly connected to the existence of organized crime gangs and access to illegal arms. Gastrov (2011) argues that at least five to ten networks coordinate and organize human smuggling through Northern Kenya to Nairobi

and other destinations. These networks are headed by well-known and respected figures that operate legitimate businesses. Their connections with top government officials and politics contribute to relatively low risk environment in which the trafficking and smuggling takes place. Eastleigh in Nairobi constitutes East Africa`s hub for smuggling of migrants as well as for trafficking of women and children for prostitution, the sex industry and other forms of illegitimate forced labour. Gastrov argues that arms traffickers have strong, sophisticated smuggling systems that link Somalia with UN refugee Camp of Daadab and then to Nairobi (Gastrov, 2011).
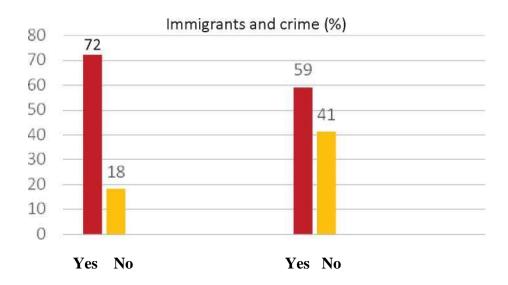
Figure 6.9: IllegalRefugee Infux and Organized Criminal Groups (OCG)
Source: Field Data, 2016

The above three graphs show that refugees/migrants were both perpetrators and victims of different types of insecurity. Respondents were asked whether there was a correlation between irregular migration and organized criminal groups in Nairobi. On the correlation between irregular migration and organized criminal groups, majority of respondents 70 (72%) of the respondents said irregular migration were helped by organized criminal groups in Nairobi County as shown in Figure 6.9 above. They bribed willingly but were

also forced to bribe. They engaged in crime though they were also victims of crime and finally, where they were assisted by organized groups, they were at the same time abused by the same criminals. The patterns presented above were confirmed during the key informant interviews. Refugees were found to commit petty thefts, evade paying tax or not obtaining proper work permits, robberies or joined local gangs. Refugees were also associated in the international web of drug trafficking and human smuggling, and illegal weapons across borders.

They observe that the misuse of arms promotes a culture of violence and destabilizes societies by creating a propitious or potential environment for criminal and contraband activities. Further, they posit the premise that violence caused by increasing small arms in Nairobi has in turn undermined governance, jeopardized fundamental rights and even hindered economic development in areas where the intensity is high. Small arms, according to Muggah & Berman (2001) are cheap and readily available, durable, portable and can easily be concealed during transportation. In their report to the UN Inter agency Standing Committee, Muggah& Berman indicated that small arms have magnified crime in urban areas.

6.5 Illegal refugees

The ever increasing large number of refugees makes it hard to enforce refugee protection framework. One main challenge raised by a key informant was:

> 'The entry points of immigrants like at the JKIA airport and other points require high technology to detect threats from some immigrants who pose a security risk. The security personnel are exposed to danger and most of them have lost their lives for lack of non-protective gear as well as limited defense tools.' (GOK, 2016).

Lack of peace and essential commodities in the neighboring countries pushes Somali refugees to flee their origin to seek better services in Kenya. For instance, 11.7% considered to migrate to Kenya for health reasons, 20.8% for food, 29.2% for shelter, 26.7% for water, and 9.2% for education. The lack of these essential commodities in the neighbouring countries made it easy for illegal migrants to enter Kenya, hence move to Nairobi County. The entry of illegal refugees created a security threat as terrorists used that avenue to enter into Eastleigh which was the main haven of most of the refugees. One participant in the focus group discussion said;

> 'In most cases, Ethiopians are the most trafficked with Nairobi being the largest or main trafficking point. Eastleigh is their main destination when they come to live in Nairobi. They are a threat to our security following the recent attacks on the Westgate Mall, Gikomba market, and Ngara church. I think they should go back home.' (FGD, 2016).

Most of Somali refugees who had travelled to Denmark, Canada and USA pass through Nairobi. Authorities were complicit to irregular migration and accept bribes to facilitate movement of people. As Horwood (2009) argues, for a price, tickets, visas and other documents could be obtained in Kenya. Smugglers and human traffickers have deep connections with government officers and airport crew who facilitate entry and exit of refugees and illegal migrants. Horwood argues that the Southern Route involves movement from Somalia to Nairobi, Eastleigh area then to South Africa. Refugees reported to have paid public officers and police for escort from the Kenya-Somali border to Nairobi (RCK, 2012).

In pursuit of an answer, a set of two formulations is presented in the Table 6.3 below.

Table 6.7: Illegal Refugee Influx and Organized Criminal Groups (OCG)

Place	Illegal Refugee (migrants) are facilitated by Organized Criminal Groups (OCG)				
	No. OCG	Low	Moderate	High	Total
Ethiopian Border	14.2% (51)	4.7% (17)	4.7% (17)	5.6% (20)	29.2% (105)
Somalia Border	4.7% (17)	8.9% (32)	3.9% (18)	2.8% (10)	18.7% (67)
Coast	2.8% (10)	2.2%	6.4% (8)	7.2% (26)	18.7% (67)
Nairobi and Namanga	7.8% (28)	4.2% (15)	8.6% (31)	11.1% (40)	31.8% (114)
Total	29.5% (**106**)	20.1% (72)	23.7% (85)	26.7% (96)	100% (371)

Source: Field data, 2016

From the above results, it appears that the distribution of percentages compare favorably especially along the Ethiopian Border and Nairobi and Namanga (row-wise). While along the Ethiopian Border the highest score is at No. OCG (14.2%), in the case of Nairobi as shown in the figure above.

6.6 Unemployment of youths

Table 6.8: Number of youths who have joined terrorist organizations

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	over 100	2	20.0	20.0	20.0
	50-100	5	50.0	50.0	70.0
	30-50	2	20.0	20.0	90.0
	Less than 30	1	10.0	10.0	100.0
Total		**10**	**100.0**	**100.0**	

Source: Field Data, 2016

Respondents were asked whether youths had joined terrorist groups. On joining terrorist groups respondents said that 2 (20%) had joined terrorist groups, while 5 (50%), said that they had joined 2 (20%) and 1 (10%) consequently. This is a major concern for the unemployed youths as they are enticed to join terrorist organizations which in turn results in insecurity.

Most of the youths interviewed said that their future I bleak. One youth said, "…the police are always hunting them down." Under the same token of insecurity, Al -shaabab was accused of recruiting youths in the camps. The Kenyan government was also accused of recruiting youths on behalf of the then Transitional Federal Government of Somalia (HRW, 2009a). The second major factor is lack of adequate income and high level of unemployment. Men had to leave camps and travel to Nairobi to seek employment. The findings of a World Refugee survey indicated that refugees in camps received between Kshs1000 to 5000per month. There are limited livelihood opportunities in camps and the

food provided is inadequate. The situation was demanding and therefore most youths and men escaped the camps to Nairobi.

6.7 Opportunities in enforcing the refugee protection framework

As stated, sovereignty was not a privilege, but a responsibility. First, the obligation of the state was to protect those living within its own borders was stressed. The precise scope of the Article 33 (2) exceptions was a particularly pressing issue in light of the potential for States to rely heavily on these exceptions in enacting anti-terrorism measures. In partial response to the attacks of September 11, 2001, the United States in particular has relied on the language in Article 33(2) to enact legislation and policies that prioritize anti-terrorism measures above refugee protection (Legomsky, 2005). Legomsky, gave a detailed overview of security-related initiatives that the United States has taken in relation to immigration and non-citizens since September 11, 2011. Measures that limit the applicability of refugee law to non-citizens who are thought to have links to terrorism –even if those measures are overbroad-are deeply appealing to States under pressure to respond to the threat of global terrorism.

The opportunities to enhance protection in Nairobi County include; Reducing physical vulnerability: shelters, dams etc.; Early Warning; Disaster preparedness and rapid response. The empowerment of the community and the youth in area through; Reducing social vulnerability, e.g.habitats in hazard prone regions; Local knowledge; Citizens' participation; and Training and preparedness of residents, enhance the security of the locals from the ever increasing refugees.

As mention by one of the military officers, the opportunities that should be put in place include;

> "...use technology to enhance efficiency in border management such as cameras, drones, and detectors. Identify cooperative communication as source of information/ intelligence. Develop multi-agency approach-build work teams drawn from all the relevant departments." (GOK, 2016).

There is need for total political will for the elimination of organized criminals. There is need to combat threats posed by the refugees and other immigrants; public awareness to the host community, education and employment of the youth, and creation of tough action against poor leaders.

Kenya as a state does not have the power to institute and undertake criminal proceedings against any refugee person before any court (other than a court-martial) in respect of "any offence." (Olando and Another: 2010). Violence, as we have argued above, has become liberalised. And this liberalisation is most significant in the relationship between the formal security organs and the emerging 'bandit state'. I show that a single resolution process would be difficult to study and measure and those other factors must be controlled for. The author argues that the host states should analyze refugee flows for potential security threats on a case-by-case basis, rather than automatically applying a security–first-framework.

The argument could be made that Kenya was not technically committing refoulement because they were not returning refugees to "the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership or

a particular social group or political opinion." (UN High Commissioner for Refugees, Article 33) They were not returning the refugees because they did not allow them entrance in the first place. However, whether or not refusing entry was significantly different from returning is a contentious notion.

CHAPTER SEVEN

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

7.0 Introduction

The study aimed at examining Kenya's efforts to meet its international obligation of the responsibility to protect refugees on the one hand, and its duty to secure its citizenry, security and sovereignty on the other. The study, further sought to interrogate how the ever changing character of the refugee phenomenon had impacted and even transformed the Kenyan security and protection system. In achieving this broad objective, the study examined the nature, structure and form of refugee framework operational in Kenya generally and Nairobi specifically; assessed the nature of human security in Nairobi County, Kenya and identified the challenges and opportunities in enforcing the refugee protection framework in relation to human security in Nairobi County, Kenya. In this final concluding chapter, the author began by summarizing the study's main conclusions and recommendations. The chapter then turns to some potential areas for future research. The final section of the chapter addressed the implications of the findings for policymakers.

7.1 The summary of study findings

This study was an enquiry into the nature, structure and form of refugee framework operational in Kenya. The study findings established that Kenyan Government recognized and appreciated that refugees were people escaping from persecution, civil strife, war, assassinations, genocide and ethnic tension. It had hosted probably the largest refugee population in the world and for close to three decades. Refugees and asylum

seekers had enjoyed peace, development and security with no threats to their lives and livelihoods. Kenya had hosted over 500,000 refugees and asylum seekers.

The Government ofKenyan had established a Refugee Affairs Secretariat which descended from Department of Refugee Affairs Act (Refugee Act 2006 rev.2012) with the sole mandate of coordinating all refugee matters. Kenya's efforts to meet its international obligation on the one hand and the refugee protection on the other had been achieved to a large extent as liaison of United Nations agencies and other institutions on provision of adequate facilities and services for protection and care of refugees; ensured the registration of all refugees in the country and their placements and promotion of peaceful and harmonious co-existence between the host communities and refugees. The government had ensured the overall protection of all refugees and citizens by increasing security officers, coordinators and government employees.

The ever changing character of the refugee phenomenon had impacted and transformed Kenyan security and protection system from 2013 to 2017. This had led to the Government review of the refugee policy on encampment policy and strict security documentation. Refugees in Nairobi, were only allowed on medical grounds, otherwise, they were to stay in two designated areas: Dadaab camp and Kakuma. The research revealed that there were about 67,000 refugees living in Nairobi and its surbubs.

Secondly, the study delved into the nature of human security in Nairobi, Kenya. On this objective, insecurity was caused by state retreat and fragility.The West-gate attack in Nairobi which left 67 dead and others injured was an example that raised many questions

on the security information of my country, Kenya. Failure of the state`s functionality led to emergence of human security challenges. A failed state, as Russet, Starr & Kinsela (2004) argue, was one that was internationally recognized but it could not provide security to its citizenry as expected of all sovereign states. Sorensen and Jackson (2003: 284) posited that a failed state as a result of more or less complete breakdown of domestic order. Public authorities and political offices lied at the heart of the human security problem. They had directly or indirectly contributed in the formation of new dynamics of human insecurity. The author argued that security dynamics had changed with the emergence of Unexploded Ordinances (UXO) and Improvised Explosive Devices (IEDs) by terrorists.

Additionally, the challenges of enforcing the refugee protection framework included some of the 'refugees' posing a security threat to the host nation. This made the individualistic character of human rights and the global concern to protect the individual whose rights might have been violated by his state of nationality which then could not be entrusted with the enforcement of such rights or their guarantee account to a great extent for these developments like in the case of Somali refugees. The opportunity provided by the framework was to ensure that both refugees and citizenry enjoyed protection and durable solutions for refugees were being pursued.

7.1.1 The nature, structure and form of refugee framework operational in Nairobi, Kenya

The first objective of the study was to examine the nature, structure and form of refugee framework operational in Kenya generally and Nairobi specifically. Majority, 210 (52.5%) from the study findings were males. Majority 340, (85.0%) of the respondents were Christians who viewed religion as a leading ideology that has increased terrorismin the recent years and threatened the refugee regime protection. Prior to 2000 nationalist separatist agendas. Majority 60, (60%) of the respondents had attained undergraduate level of education while 2.50% of the respondents had attained master's level of education. 30, (30%) had diplomas, 5% of the respondents had polytechnic certificate while 2.50% had attained secondary school education. The study further revealed that majority 170, (42.5%) of the refugee respondents have been in the country for 4-6 years, 90,(22.5%) have been in Kenya for over 10 years, 87, (21.7%) for the last 1-3 years, and 53, (13.3%) for the last 7-10 years.

Further still, findings revealed that refugees were indistinguishably linked to flight from persecution and therefore in they were in need of international humanitarian assistance. The findings further revealed that majority 30, (75%) of the residents felt insecure about the presence of the Somali refugees while 10, (25%) were not comfortable with the refugees because of job competition.

The study findings revealed that 32, (80.0%) said that refugees were present in their area. Refugee favourite destination in Nairobi County is Eastleigh and Dagoreti were

mentioned by majority 67.5%. Other findings argued that Eastleigh had attracted refugees from other countries including Eritrea, Sudan and even from Central and South Africa. Majority of refugees were Oromos and Amhara living in Eastleigh.The findings showed that refugee protection aimed to ensure full and equal respect for the rights of all individuals.

Findings from the focus discussion group revealed that majority of refugees were afraid of returning to Somalia as alluded to by a respondent that refugees were forced back anyway. It was also clear from the findings that respondents were not sure whether they will be left to stay anylonger in case they dint want to go as directed. The findings revealed that the favorite destination of majority (27; 67.5%) refugees was Eastleigh inhabited by Somalis who have relatives in the larger Somalia. The presence of Somali refugees in Nairobi has led to the development of human insecurity. The findings 75.0% of the respondents revealed further revealed that refugees should be repatriated back to Somalia. The local residents said had developed fear while going to the markets, children going to school or town and therefore the fings showed that majority supported the government decision.

The findings showed that 4 (40.0%) the department of immigration was responsible for refugee's determination, while other findings showed that 4, (40.0%) of the United Nations High Commission on Refugees.

7.1.2 The nature of human security in Nairobi County, Kenya

The second objective was to assess the nature of human security in Nairobi County, Kenya. The results of the study revealed that majority said protection provided to refugees was good. Observation made specifically by the Somali refugee description of their protection being good was out of fear following government statement that all refugees of Somali origin were to be repatriated back to Somalia. The underlying argument in this study is that the United Nations discursive and practical response to the Kenyan refugee crisis doubled with insecurity is influenced by UN's understanding of security and responsibility. Other findings of this study indicated Kenya's poor economic records implications for human security with the overall inflation rate stood at 6.34 per cent in September 2016.The results revealed that refugees were a security threat to Nairobi residents in Kenya. The study further indicated from other findings that it had become quite easy for refugees to travel from Somalia to Nairobi because there is lesser risk of detection.

The findings showed that police attitudes towards refugees in Nairobi refugees were characterised with many reasons. The findings further indicated from other sources that limited coordination and deficient of Centralized Command, security gaps existed even where numbers were present. It was being said by residents that the police engaged with bandit groups sub-letting arms, and munitions, selling intelligence, and withdrawing from sites of deployment.

Respondents were asked on factors influencing the security framework for refugees' vis-a-vis residents and how the refugees interacted with the population as well as the security agents in Nairobi County. Majority said that refugees fueled corruption 31 (77.5%). The findings showed that majority 33 (82.5%) refugees were forced to pay bribes, said that refugees were forced to pay bribes specifically to the police. In addition, majority 31 (77.5%) of the respondents said refugees committed crimes in Nairobi. The findings showed further that 25 (62.5%) majority of them said refugees were victims of crime. Additionally, 23 (57.5%) of the respondents said that refugees were assisted by criminal groups to commit crimes. The findings indicated that 21 (52.5%) of the respondents said that refugees were abused by criminals and lastly most 19 (47.5%) were irregular refugees facilitated by organized criminal groups.

Findings from the targeted group indicated that there was widespread exploitation of refugees as bribes; arbitrary arrests and charging of refugees for being disorderly were rampant. It is such tendencies that make life for refugees hard especially at the end of the week when police were reported to be intense with more police officers are lured to Eastleigh to look for extra money for the weekend. Other findings showed that the role of the police in many cases is frequently counterproductive. Police accommodate and reinforce informal order and they are in constant competition with leaders of such informal order to control illegal deals and local protection rackets. Human security in Nairobi is, therefore, highly influenced and determined by the state.

On the other hand, the findings of the study indicated that refugees were motivated by economic opportunities. The findings showed further that there were activities. Majority 31 (77.5%) disagreed that the government offered any skills training to the refugees or host community to facilitate economic integration. In addition, 27 (67.5%) said that the refugees ran business in the community and paid taxes. These activities by the refugees have led to the Kenyan authorities to protect both citizens and refugees as they also support the Kenyan economy by paying taxes. The findings showed that the refugees living within a country play a great role in facilitating human smuggling and trafficking. Refugees working in a host country are used by traffickers and smugglers to traffic people and illicit goods to Nairobi, Kenya.

The study findings majority 60 (60.0%) showed that the government should offer protection to both citizens and the refugees in Nairobi County. The study revealed that the government should be in-charge of borders and the influx of any aliens. Although some of the residents argued that the government should offer protection to citizens alone as they perceived refugees of Somali origin to be associated with terrorist groups. Findings from the focus group discussion showed that the large entry of refugees in Nairobi had led to smuggling of commodities to Kenya as it passed through the borders without taxation hence resulting in competition of the market prices. Findings showed that the relationship between refugee influx and security led to general insecurity. Other findings indicate that refugees from the refugee camps to Nairobi get a job.

7.1.3 Challenges in enforcing the international refugee protection framework in Nairobi County, Kenya

Another objective was to identify the challenges in enforcing the refugee protection framework in relation to human security in Nairobi County, Kenya. The study findings showed that irregular refugee migration had to a large extent seen to be a threat to Kenyan security. Additionally, the findings showed that the policy of refugee encampment was impeding the rights of movement of the refugees.

The study findings further revealed that there were links between terrorism and migration. Human trafficking was also correlated with corruption, poor state capacity, social cleavages and drug and weapon proliferation. The study findings also showed that both police and immigration official scored highest on intensities of involvement in assisting irregular influx of refugees. This is because the police were said to be doing all they can to secure bribes from refugees.

The study findings also showed that ethnic leaders always played a role in securing identification documents. This was attributed to refugees taking economic opportunities, increasing of house rents and hence stretchingavailable resources. The next reason was insecurity. Refugees of Somali origin were suspected of creating fear and misapprehensions.

The study findings also showed that the residents could not provide any statistics of the number of refugees joining terrorist organizations. Justification provided by the

respondents who associated refugees with terrorism activities after posing as genuine refugees. Again study findings show that refugees fueled corruption. It was difficult for the security framework to be enforced as the officials connected in the bribery syndicate were in key positions. Corrupt government officials facilitate the trade.

The study findings further showed that inadequate employment of the youth had driven youths and the refugees to engage in terrorist leading security concerns in Nairobi County. As such, it had led to lack of adequate income and high level of unemployment. Men had to leave camps and travel to Nairobi to seek employment. The study findings explained that there were limited livelihood opportunities in camps and the food provided is inadequate. The situation was demanding and therefore most youths and men escaped the camps to Nairobi. This is a major concern for the unemployed youths as they are enticed to join terrorist organizations which in turn results in insecurity.

7.2 Conclusions

This study pointed at the main gaps that existed in the international refugee protection that was under-resourced with humanitarian objectives that couldn't match current security trends in Kenya. The international refugee protection framework emphasis on the rights of refugees, led to the state compromising security of refugees and citizens. This study was an examination of Kenya's efforts to meet its international obligation of the responsibility to protect refugees on the one hand, and its duty to secure its citizenry, security and sovereignty on the other. The study, further sought to interrogate how the

ever changing character of the refugee phenomenon had impacted and even transformed the Kenyan security and protection system.

The study was struck by the significant progress and large degree of the gaps that existed between the assumptions on the implementation of the refugee protection framework and the articulation of the Kenya Government Vision 2030 security strategy. The shifts in the international refugee protection framework had questionably augmented state duty and widened the parameters of defense due to terrorism. The Kenya Government was facing a new security challenge that involved the Somali refugees' networks to the country of origin with a militant group known as Al Shaabab. Previously, Kenya did not have institutional capacity to anticipate and respond to terrorism instigated by some refugees. The major principles in the 1951 Agreement included non-refoulement, non-penalization and non-discrimination of refugees. Kenya had put in a lot of effort to protect refugees for about three decades.

Kenya's national interest reigned supreme with regard to Kenya's sovereignty and territorial integrity. This was articulated to the UN Security Council members and the UN Secretary General on their fact finding mission in Kenya who then agreed with Kenya's decision on encampment policy of all refugees to designated areas. The bottom line of security was survival, but it also reasonably included a substantial range of concerns about the conditions of existence of refugee protection framework.

The questions that this study sought to answer were; what is the nature and structure of the refugee protection framework operational in Kenya generally and Nairobi specifically? What is the nature of human security in Nairobi? What challenges does the refugee protection framework present in securing human security in Nairobi, and in what ways does this framework present opportunities for enforcing human security in Nairobi County, Kenya?

This study used constructivist theoretical framework whose tenets were to examine whether Kenya met its international obligation to protect refugees and provided security to its citizens. The main tenets of the constructivist theory were that proper functioning of ideas could change the behaviour of individuals and impact on state policies. Those tenets matched aspects of the refugee protection framework as the international community pushed for the interdependence between states on burden sharing on the one hand, while on the other, the host state's responsibility to protect both citizens and refugees within their borders. The study interrogated objective security dangers and subjective security concerns such as threats, challenges, vulnerabilities and risks for the state and humankind with reference to the refugee protection framework.

The study used cross-section descriptive design on grounds that data was collected and analyzed in more than one research method. Purposive sampling was used to select key informants in the judiciary, ministry of interior and national coordination, ministry of foreign affairs, immigration, Refugee Consortium of Kenya and UNHCR. The researcher obtained the list of registered refugees from relevant offices. Using a sample of 285

respondents was selected using the systematic random sampling. A total of 171 out of 285 questionnaire copies was returned and used for qualitative and quantitative analysis. The findings revealed that that refugees in Nairobi needed more protection, which states needed to cooperate on refugee issues and that institutional frameworks for refugees needed to be reviewed in light of emerging protection challenges.

7.2.1 Thenature, structure and form of refugee protection framework operational in Nairobi Kenya.

The structure of the refugee protection framework. Rethinking through the international refugee protection framework operational in Kenya in terms of its own negative or positive impacts and influence on security meant that Kenya engaged the international community. The United Nations Security Council officials and the Secretary General of the United Nations visit to Kenya was a testimony that the situation was grave.

Kenya had made remarkable progress in the refugee protection framework implementation since 2006, enacted the Refugee Act, and learnt the game of refugee's mischief despite the persistence of violence instigated by Somali refugees who are suspected to be conduits of terror networks in Kenya. The context for the interrogation was the prerequisite in the definition of a refugee and whether the fear of persecution was well founded, and as such, it was not an independent element of the definition. Therefore, it was difficult to measure the well-founded fear of a refugee. In Kenya, the law allowed anyone to acquire refugee status easily compared to the western countries

where they were referred to as migrants, and therefore, not bound by the international treaty. State protection was to be considered in context. This was because many factors required determination. The Government of Kenya had made in-roads with the assistance of the Supreme Council of Imams and Preachers of Kenya (SUPKEM) in dealing with radicalization of the population. The current Refugee Bill (2017) in parliament review may deepen these trends.

More insecurity, more learning. Countries that had undergone more than 10 terror attacks had done better in subsequent insecurity, creating a culture of prevention and community and regional-building among international stakeholders. The asymmetric threat posed by some of the refugees meant that the concept of security around the refugee hosting was to be broadened. There was need to monitor their movements and activities throughout areas of operation. The burden of security was heavier and most costly. The security system was more prepared to respond to asymmetric threat emanating from undesirable activities of refugees than before. It was known that not all refugees were blameless and could include terrorists who might use the camps or sneaking into Nairobi as recruiting and training grounds. Although the 'Nyumba Kumi' initiative was still young in Kenya,but its existence spoke to the importance of collective responsibility to security.

Setbacks, Setbacks. Building institutions was not a uni-linear process, there were going to be setbacks; but unlike in the past where the pattern was one step forward, two steps backwards, Kenya was on the institutional trajectory of two steps forward, one step backward. The emergency of using Unexploded Ordinances by terrorists in the North

Eastern Kenya was a setback, but the investment the Government had made in the Rural Border Patrol Unit (RBPU), would do most of the work to beef up security for Nairobi to be safe. Peace, stability, drought and famine seemed elusive in the Eastern and Horn of Africa.

No Generational Change without Institutional Change. There were no short-cuts to real regeneration via institutions. A new refugee protection framework without sound institutional anchorage in systems of control on security would merely inherit the institutional failures that had been witnessed. A new refugee protection framework was inevitable, new institutions like the Refugee Secretariat were not. As old laws die, new institutions emerged; the quest for new refugee protection framework was thus misguided as a policy priority.

According to Section 21(1) subject to 18(1) and subsection (2) of this section, the minister may, after consultation with the minister responsible for matters relating to immigration and internal security, order the expulsion from Kenya of any refugee or member of his family if the minister considers the expulsion to be necessary on the grounds of national security or public order. Before ordering the expulsion from Kenya of any refugee or member of his family in terms of subsection (1) of section 18, the minister shall act in accordance with the due process of regulation. This means that the minister should adhere to the principles of international law regarding non-refoulement and non-penalization of asylum seekers as they make part of Kenyan regulation.

Kituo Cha Sheria & 8 others v Attorney General [2013] eKLR: Kituo Cha Sheria challenged a Government Directive made in December 2012, compelling all refugees inhabiting urban areas to relocate to border camps. The directive was also designed to shut down all registration and provision of services to refugees in the urban centres of Nairobi, Isiolo and Mombasa on the basis that it violated the basic freedoms enshrined within the Kenyan Constitution, the Refugee Act, 2006, and a range of international human rights instruments. Finally, the GOK had tabled the Refugee Bill in parliament for amendments in order to operate within the context of its responsibility.

7.2.2 Challenges and Opportunities in enforcing the international refugee protection framework in Nairobi County, Kenya

Effective and efficient cooperation and collaboration between actors of refugee protection may provide a good opportunity for both the residents as well as refugees. The international community could contribute towards this through resource mobilization and technical assistance. At the end of the day, Kenya was a sovereign state with a Constitution, and therefore could make its own judgment on refugees.

7.2.3 Overall Conclusion

The overall conclusion of this study was that the international refugee protection framework had a negative impact on human security in Nairobi County, Kenya. The emphasis on the rights of refugees compromised Kenya's conventional security. Kenya's capacity for refugee response and management was inadequate. The protection framework also did not speak to violence instigated by refugees in the host state.On the

other hand, the picture of refugees as people in need of protection were not wrong, but incomplete. It did not speak to emerging security challenges of the host state. Additionally the study identified social and structural gaps arising from state retreat and fragility as key to answering to the study problem. The researcher concludes that refugee problem does not end with encampment policy and repatriation alone, but more often continues in Countries of Origin.

Human Security was threatened by underdevelopment (freedom from want), violent conflict (freedom from fear), and societal and natural hazards (freedom from hazard impacts). A consensus must be reached on how the terrorist nature of insecurity could be handled. The concept of security had for too long been interpreted narrowly: as security of territory from external aggression, or as protection of national interests in foreign policy or as global security from the threat of nuclear holocaust. Forgotten were the legitimate concerns of ordinary people who sought security in their daily lives. For many of them, security symbolized protection from the threat of disease, hunger, unemployment, crime or terrorism, social conflict, political repression and environmental hazards.

In conclusion, states were responsible for actions affecting other states that refugees originate from their territory, including incursions by non-state actors. States may not be subject to the attacked state's use of force in self-defense, unless the incursion by the non-state actors amounted to an armed attack. An armed attack, answerable with force as self-defense under Article 51, only occurs when there is effective control of the non- state

actor by the state. In this interpretive framework, if a state becomes the unwitting, passive, or non-controlling haven of an aggressive armed group that proceeds to carry out extra-territorial attacks on another state, the harboring state bears responsibility, but punitive actions against them cannot amount to forcible measures.

7.3 Recommendations

The study made the following two broad recommendations based on the three specific objectives:

There was need for Kenya and other African states to continue cooperation with the international community. Based on the findings, the host state was to control the flow of refugees and their movements regulated to ensure safety for all concerned. It was also recommended that the Kenyan refugee Act be reviewed to strengthen management of refugees and security of its citizenry. The government, through the Parliament should establish a law engage all security agencies including the military component who may determine combatants or illegal weapons at border points or points of entry. Along with the refugee law, other laws that should be reviewed were the anti-corruption law especially on the enforcement side and promotion of patriotism among Kenyans that share cultural backgrounds across borders.

7.3.1 Recommendationsfor policy actions

Based on the findings and conclusions in relation to objective one, which was to evaluate the nature, structure, and form of the international refugee protection framework in relation to human security in Nairobi, Kenya, the following recommendation for policy

action was made: establish the validity of reservations and restrictive interpretations of the protection framework of refugee hosting in the era of terrorism be conducted. The intensity of threats to Kenya through terror attacks highlighted security gaps as a function of state fragility at economic, political and social levels. Internal Security Policy: must seek to increase the capacity of citizen response, recovery and adaptability while reducing the current sense of powerlessness through increased knowledge acquisition. It was imperative that parallel to enhancing resilience in State institutions and people, efforts and capabilities to be employed.

The persistent failure of refugee protection coupled with ongoing attacks including against the international community, leaves scant confidence that the parties to the protection framework were working in good faith toward its resolution. On the one hand there had been too much diplomacy in managing political relations, while on the other there was not enough mediation to resolve those situations that could be addressed on the ground. The government should establish a fair training policy by investing in systems to combat trans-national organized crimes need to go hand in hand with investing in the people that are entrusted with the assets and systems in these organisations. As had been experienced time and again, destruction of property and loss of lives had been witnessed. New threats presented by digital communication and hazy regulation with respect to cybercrime in an increasingly integrated world means organizations had to come up with more innovative ways to deal with these threats rather than focusing on refugees alone. Additionally, international institutions (UN, EASF, IGAD, IGLRC).The "Nyumba Kumi" initiative seemed to lack the political buy-in by the residents as in the case of

Pumwani sub-county where there were many refugees of Somali origin, we entered there, held a meeting unnoticed by the area administration.

The second objective which was the nature of human security in Nairobi, Kenya, the following recommendation for policy action was made: the government should elevate the ordinary people living in the midst of political violence who naturally want security. The findings indicate that 'the biggest problems faced by the Nairobi residents as a whole are security (36%), economic issues including unemployment (32%), high prices (22%), and poor economy (17%).

The third objective which was to assess challenges and opportunities in enforcing the international refugee protection framework influencing human security in Nairobi, Kenya, the following recommendation for policy action: invest in human capital, develop physical infrastructure, cooperation with other agencies in government, human resource and the use of technological advancement in preventing terrorism in order to maintain the state's power. The various agencies with their own mandates should enhance collaboration and the employment of resources to prevent and respond to emergencies. There was an important need for the government to re-structure community policing because it was not working well with the Nairobi residents who do not bother with any stranger that operates in their area.

7.3.2 Suggestions for Further Research

This study focused on the international refugee protection framework influencing human security in Kenya. Protection of both citizens and refugees was one of the duties of state by the Ministry of Interiror and National Coordination, Ministry of Foreign Affairs and the Department of Immigration; the Department for Refugee Affairs has long been disbanded by the government (The Standard 17 May, 2016). There were other important areas of refugee protection that this study would wish recommend for further research, because they had significant impact on the effectiveness of refugee protection strategies, not only in Kenya but also within the Eastern Africa region. It would be a valuable venture to examine the following:

Cross disciplinary triangular relationship between security, governance, and development; on the further development of the concept to highlight the principle of interdependence. This would contribute to the challenges of globalization hence the needed for cooperation and collaboration in the approach to the issuance of immigration documents such as visas and passports.

Secondly, it would be useful to also research on connections between the schools human security: the narrow school that looks at political violence and the broad school that looks at the broad underdevelopment aspects as a source of conflict.

Lastly, cross-border challenges, registration and the threat of terrorism in Kenya. The ethnic nations across borders possess dual citizenship. Therefore, research should be

conducted on how aliens will be denied access of these security documents   by foreign

criminals who use them to pass through security checks like in the case of the West Gate

Mall attack in 2013.

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APPENDICES

Appendix I: Introduction letter from the researcher

Ms Leah N. Barasa

CPC/H/218/12

Masinde Muliro University of Science and Technology

Department of Peace and Conflict Studies

P.O Box 190-50100

KAKAMEGA.

The County Commissioner,

———————————————————

Dear Madam/Sir,

PERMISSION TO UNDERTAKE RESEARCH

I am requesting for permission to undertake research in your County institutions/organizations in order to gather data towards developing my PhD thesis.

I am a PhD student at the Masinde Muliro University of Science and Technology, Department of Peace and Conflict Studies. My study topic is, "International Refugee Protection Framework Influencing Human Security in Nairobi County, Kenya."

The findings of this study are not only of importance to research analysis: they are also of benefit to stakeholders in government public administration.

The study will develop guidelines that the government administration, border management officers, department of refugee affairs, County Government of Nairobi, security operatives, development workers and policy makers could use to build local capacities, capabilities by reducing local vulnerabilities to political violence.

The study instruments for data collection will be questionnaires, interview guides and focus group discussions. Attached, please, find copies of the instruments for your perusal. I look forward to your positive response at our earliest convenience.

Thanking you in advance.

Yours faithfully,

Leah N. Barasa

RESEARCHER

Appendix II: Questionnaire for Refugees

This questionnaire is on international refugee protection framework influenicng human security in Kenya with a focus on Nairobi County. Article 14 (1948) of the Universal Declaration on Human Rights states that: *"Everyone has the right to seek and to enjoy in other countries asylum from persecution."* The human security concept highlights the point that the relationship between the people and the state and the role of sovereignty is at the centre of understandings about security. It attempts to address options at hand of the state responsibility to Protect (R2P) visa –a-vis the new challenge posed by terrorist attacks, safety and security of its citizenry.

INSTRUCTIONS

The researcher requests for your voluntary consent to answer each question according to the instructions given. Do not write your name. Your responses are necessary for research purposes only and will be treated with strict confidence by the researcher. Answer as truthfully as you can.

Part I: Demographic Information

1. Indicate your gender   Male   [ ]   Female   [ ]

2. Indicate the Sub-County you reside in?

   Pumwani   [ ]

   Central   [ ]

   Langata   [ ]

   Dagorreti   [ ]

   Kibera   [ ]

   Any other………………………………..

3. Indicate your religious affiliation

   Muslim   [ ]

   Christian   [ ]

   Budhi   [ ]

   Traditionalists   [ ]

4. Indicate your highest level of education

   Primary school level   [ ]

   Secondary school level   [ ]

   Polytechnic/certificate   [ ]

   Diploma   [ ]

   Degree   [ ]

   Masters/PhD   [ ]

5. What is your nationality? …………………………………………………..

6. Indicate your occupation

   Religious leader   [ ]

   Refugee   [ ]

   Host resident (residents) [ ]

   Police Officer   [ ]

   Anti-terrorism officer   [ ]

   Youth   [ ]

   Immigration officer   [ ]

   County administrator   [ ]

Student/ pupil   [ ]

Any other ………………………………………………………………

Part II: The refugee protection framework in relation to human security in Nairobi County, Kenya

7. How long have you lived in Nairobi?

8. How would you describe the protection provided to you as a refugee?

9. Are you aware of the refugee protection framework? Yes/No

10. Do you feel safe about the Somali refugee presence? Do you perceive them to take up the locals jobs?

11. To what extent has Kenya provided the following regarding refugees?

	Very great extent	Great extent	Moderate extent	Low extent	No extent at all
Piece of land for settlement					
Granting full asylum					
Security in the camps					
Economic empowerment					
Education support					
Crisis support such as famine relief food, flood					
Voluntary repatriation					
Given actual status					
Good reception by the host communities					
Inclusion in governance					

12. Any other comment on Kenya's response to Somali refugees.

13. Do you think Kenya has complied with the international refugee protection of giving asylum to refugees from other countries particularly Somalia?

14. What are the favourite destinations of refugees from Kenya?

15. Do you think refugees should be repatriated back home to Somalia?

16. Who is responsible for refugee status determination?

17. What are the challenges of the refugee protection framework? Please, elaborate.

18. What opportunities does the framework provide in enforcing the refugee protection framework?

19. Any other comment on Kenya's response to Somali refugees.

Part III: The nature of human security in Nairobi County, Kenya

1. How would you describe the protection provided to refugees?

2. Are refugees a security threat to Nairobi County residents in Kenya? Yes/No

3. What are the factors influencing the security framework in Nairobi County?

4. What undetected activities are done by the refugees? How come security agents cannot notice that they are Somali immigrants?

5. Should the Government of Kenya protect Kenyan citizens only? Yes/No. Please, elaborate……………………………………………………………………

6. Should the Government of Kenya protect both citizens and refugees?

7. What is the relationship between refugee influx, socio-economic impact and security?

Part IV: Challenges and opportunities in enforcing the refugee protection framework in relation to human security in Nairobi County, Kenya

1. What are the challenges encountered in refugee management?

2. Who is involved in irregular migration?

3. What conditions lead to irregular refugee migration?

4. What is the relationship between migration and security in Nairobi County, Kenya?

5. Do you agree that there is a link between migrants and terrorism?

6. Do you know any refugees joining terrorist organizations?

7. Do migrants fuel corruption?

8. Are refugees forced to pay bribes?

9. Is there a relationship between irregular migration and Organised Criminal Groups in Nairobi?

10. Are you aware of any Somali or Ethiopian refugee living in your area?

11. Which is their preferred destination when from Nairobi?

12. How does this affect the local community?

13. Have refugee youths joined terrorist organisations in Nairobi?

Appendix III: Key Informant Interview Schedule

The following is a list of questions associated with the international refugee protection framework influencing human security in Nairobi, Kenya. The answers received from you are to be used for doctoral research purposes at the Department of Peace and Conflict Studies of Masinde Muliro University of Science and Technology. Your honest contribution to this study will result successful completion of this research project whose aim is to add value to the refugee protection influencing human security in Nairobi, Kenya. Your participation in this exercise is voluntary and it is my sincere assurance that your responses will be handled confidentially and not be used for any other purposes other than the academic for which l sought them.

The following is a list of questions associated with refugee protection influencing human security in Nairobi, Kenya. The answers received will be used for doctoral research purposes only.

UNHCR

1. As an agency with a supervisory role over the 1951 Agreement relating to Status of Refugees, do you think Kenya has met its obligations under the Agreement?

2. How would you rate Kenya compliance with respect to standard of treatment set out under the Agreement?

3. Has the Constitution of Kenya and the Refugees Act 2006 domesticated the standards set out in the 1951 Agreement?

4. UNHCR has a global mandate in refugee protection, given the threats of terrorism and in some cases militarization of refugees, how does UNHCR help governments to maintain the civilian character of asylum?

5. Is there any ideal model that has been developed by a country in refugee management that is able to mitigate the competing concepts of refugee protection and national security?

6. Any other comment on the refugee management and national security?

7. How do you see the future of the international refugee protection framework vis-a-vis security concerns of host states?

Key Informant Guide: The Refugee Secretariat, Office of the President

1. Does the government have a national asylum policy on refugee management?

2. As a lead government agency in refugee protection, how do you execute your mandate under the Ministry of Interior and Coordination which is in charge of internal security?

3. How do you reconcile the competing interest of national security and refugee protection?

4. Do you have any form of coordination with other government departments such as the Immigration and the National Police Service in refugee management?

5. Does the government of Kenya have a mechanism for reception and registration of refugees and asylum seekers?

6. The asylum space in Kenya seems to have drastically shrunk and the government is currently pursuing an encampment policy under which all refugees are supposed to reside in designated refugee camps.

7. What informed the government actions above? In your view has it achieved its objectives?

8. What challenges are you facing as an office in connection with the security of both the country and the refugees?

Thank you.

Appendix IV: Focus Group Discussion Guide (FGD)

This questionnaire is on International Refugee Protection Framework Influencing Human Security in Nairobi County, Kenya. Article 14 of the Universal Declaration on Human Rights states that: *"Everyone has the right to seek and to enjoy in other countries asylum from persecution."* The human security concept highlights the point that the relationship between the people and the state and the role of sovereignty is at the centre of understandings about security. It attempts to address options at hand of the state responsibility to Protect (R2P) visa –a-vis the new challenge posed by terrorist attacks, safety and security of its citizenry.

INSTRUCTIONS

The researcher requests for your voluntary consent to answer each question according to the instructions given. Do not write your name. Your responses are necessary for research purposes only and will be treated with strict confidence by the researcher. Answer as truthfully as you can.

1. To what extent is the refugee protection in Nairobi influenced by the following factors? (i) Local politics (ii) national politics (iii) access to opportunities (iv) Any other factor.

2. Which of the following has the strongest influence on the tension between the government, UNHCR and refugees: (i) Religious differences, (ii) Absence of state security, (iii) ethnic differences, (iv) access to opportunities (v) Corruption of law enforcement officers.

3. What role does perception of the government towards the refugees play in enhancing insecurity?

4. Is there a noticeable pattern or trend of the refugee influx? Do you think there has been cordial or worsening?

5. Who are the players in Nairobi tensions between the Somali refugees and residents on whether refugees' flight or stay would resolve the insecurity in Nairobi.

6. What interests do the players represent in the urban refugees of Somali origin repatriation back to Somalia?

7. Do you have any other perspective about the nature of human security?

8. Do you have any other perspective about the nature of this protection of refugees?

End thank you for your time and response.

Appendix V: Consent Form

Title of the Research

'*International Refugee Protection Framework Influencing Human Security in Nairobi County, Kenya*'

You are asked to participate in a research study conducted by Leah Nasimiyu Barasa ADM NO. CPC/H/218/12 – Centre for Disaster Management and Humanitarian Assistance, Peace & Conflict Department of Masinde Muliro University of Science and Technology. The results will contribute to the award of PhD degree in Peace and Conflict Studies.

Purpose

To explore the international refugee protection framework influence on human security in Nairobi.

Procedures

If you volunteer to participate in this study, we would ask you to do the following:

1. To fill a questionnaire that will take about half an hour

2. Attend a debriefing session that will take about one half hours

Potential Benefits to Participants and/or to society

The study will come up with recommendations for interventions on protection of both citizens and refugees in order to live productive lives.

Payment for Participation

There will be no payment for participating in the study.

Confidentiality

Every effort will be made to ensure confidentiality of any identifying information that is obtained in connection with this study. Identity of the participants will be kept confidential, and at the end of the study, any information that could reveal the identity of the participant will be excluded in the final report.

Potential Risks and Discomforts

There may be some emotional discomforts because of past distressing experiences. These will be managed through debriefing sessions by the researcher who is a trained humanitarian to offer psycho-social support.