

ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES
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DEPARTMENT OF HUMAN RIGHTS LAW

THE PROTECTION OF RIGHTS OF REFUGEES IN PROTRACTED
SITUATIONS IN ETHIOPIA:

THE CASE OF WOMEN/GIRLS REFUGEES IN KEBRIBEYAH CAMP OF
ETHIOPIA

By

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IDNO. GSR/2931/00



Submitted in partial fulfillment of Master of laws (LLM)

In Human rights law

April 2011

Addis Ababa



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DECLARATION

I, the undersigned, declare that this thesis is original work and has not been presented for a degree in any other University and that all sources of the material used for the thesis have been duly acknowledged

Declared by _____

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DEDICATION

I would like to dedicate this research report to My Father Yeshak Tesfay Eyakem and My Mother Ethiopia Solomon Markos for their love, encouragement, and support.

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Acknowledgment

I will like to first thank God and his mother whose graciousness and blessing has enabled me to do this research. I would also like to thank the University for giving me the opportunity and the financial means to prepare the research report and also my advisor Ato Wondwossen Demissie for his guidance, critical remarks and suggestions.

I will like to especially thank Ato Haile Selassie Gebreselassie Senior Legal Officer of ARRA (Administration of Refugee and Returnee Affairs) who has granted me his guidance and support from the inception to the finalization of this report.

I will also like to extend my deepest gratitude to the different officers of ARRA, UNHCR, IRC, GIAIA and police officers of the kebribeyah Woreda Police station who have been very helpful in giving me and facilitating the availability of information needed for the study.

I would particularly like to thank Ato Yohannes Assefa Gebreyohannes of ARRA who is the Head Administrator of the camp, MR Ibrahim Bokh of UNHCR, W/ro Yewerkua Mengistu of IRC, for their invaluable contribution in providing me with the information needed for this study. I will also like to thank the members of the Refugee Central Committee of the camp for providing me with information and also capable enumerators for conducting the survey.

I will also like to thank generally the administrators of ARRA both at the JiJiga and Kebribeyah camp for providing me Logistical support in conducting the qualitative study part of the research. I will also like to thank the university and IRC (international Red Cross) librarians for their cooperation in acquiring the materials needed for the research.

Last but not least I would like to thank my family, my mother Ethiopia Solomon Markos, my Brother Ardamis Yeshak Tesfay and My Father Yeshak Tesfay Eyakem and my friends for their encouragement and support which was indispensable for the finalization of the report.

Maedot Yeshak

April 2011

List of Abbreviations and Acronyms

ARRA	Administration for Refugee and Retunee Affairs
CPA	Comprehensive plan of Action
DAR	Development Assistance for refugees
FDRE	Federal Democratic Republic of Ethiopia
FGD	Focus Group Discussions
HRC	Human rights Committee
ICARA	International Conferences on Assistance to Refugees in Africa
ICCPR	International Covenant on Economic Social and Cultural Rights
ICESR	International Covenant on Economic Social and Cultural rights
IRC	International Rescue Committee
IPs	Implementing Partners
JVA	Joint Venture Assessment
MoLSA	Ministry of Labour and Social Affairs
MCDO	Mother and child Development Organization
NISS	National Intelligence and Security Service
OAU	Organization of African Union
PRs	Protracted Refugee Situations
RCC	Refugee Central Committee
RAD	Refugee Aid and Development
UNHCR	United Nation High Commissioner for Refugees
UDHR	Universal Declaration of Human Rights
WFP	World Food Program
ZOA	Zoud Oust Asia (in Dutch meaning South East Asia)

Abstract

The unfurling display of mass flow of refugees from the neighbouring countries including Somalia desperately requiring protection has been met with an equally legitimate concern of states to tender to the socio – economic and security concern of the public. The international legal frame work has thus recognized for the protection of refugees by also allowing states to make reservation in accordance with their interest on those rights under the convention, where in Ethiopia the refugee proclamation provides for the protection of their rights with the exception on those regarding freedom of movement, right to work and self-reliance, and the right to education. In this study, the Kebribeyah camp found in the Somali Regional State of Ethiopia consists of refugees, where the restriction of such rights have created a negative impact on the physical, social and economic condition on those living in protracted situations and particularly on women and girls who are vulnerable groups consisting of the majority of refugees in the camp and who are also bearing the social responsibility to tender to the day to day living needs of their families, to be victims of various violations.

There fore it was crucial to examine, assess and evaluate the positive and negative effects of the situations of refugees particularly on those women / girls living in protracted situations it the camp, the nexus between such effects and the policy options, take lessons to similar refugee settlements with the ultimate goal of studying the possible means of enhancing the protection scheme in upholding the rights of such refugees by reconciling their interests with that of the locals

In order to achieve the objectives, both primary and secondary sources were used. Primary sources include primary international and national legal legislations as well as policy documents. Others include data obtained from formal and informal survey procedure which includes interview, focus group discussions, open ended questionnaires etc. Secondary source of the research include literature review of writings of prominent scholars and data collected from secondary sources.

The lack of in concordance between the current realities of the situation of refugees in protracted situations and the legal framework both at the international and national level has led such refugees particularly that of women to live in situations detrimental to their physical ,social and economic well being. The findings of the research show that despite the fact that some positive results have been obtained in providing basic assistance and protection to refugees in the areas of food , education and health services, many of those women and girls have been victimized by the refugees them selves and the locals resulting in the various violations of their moral ,physical and social well being and other fundamental rights because of their low living standards caused by the cumulative effects of restrictions on their rights particularly freedom of movement , education , right to self –reliance and work opportunities. Some of the challenges faced those women / girls refugees include Poverty, Rape, Domestic violence, SGBV, caused by the refugees who are in distress and also those populations that prey on their vulnerability due to the absence adequate legal protection, various violations of their rights in irregular secondary movements, the limitations in the access to courts and also the negative impacts in the maintenance of effective education for such refugees. This has thus necessitated the adoption of a more comprehensive legal frame work both at the national and international level that is directed in the protection of the rights of refugees in protracted situations in the camp as suggested by this research. The limitations or restrictions should be made to exclude refugees living in protracted refugees for more than five years. Such actions should also be met with a synergetic framework at the international and national level where the assistance provided to refugees by the international community goes beyond providing basic assistance and goes towards providing development assistance, legal migration opportunities to refugees to third countries. The development assistance provided to refugees should also be made to include the local populations in kind of providing training, market opportunities to local products and those activities that are within the limits and prospects of the country's programs which will have a tremendous impact in the eventual removal of legitimate concern of the state towards refugees regarding their negative impact in the socio- economic life of the public. The time legal period of five years also provides for the protection of refugees in protracted situations while at the same time allowing the state to have the appropriate time and spcce in removing threats to national security and order.

Chapter One

Introduction

1.1 Back ground of the Research

Civil conflict and state fragmentation which has characterized the last decade of the twentieth century speeding on to the twenty first century has resulted in grave consequences of violations of human rights and the crack down in the stability of states where particularly in Africa, have led many to flee their homes to save their lives and the lives of their families.¹ The majority of these refugees consist of women, children and other vulnerable groups who have been and still are targets of various war attacks and are victims of conflict.² For example, in 2005 an estimated 40-50 million people around the world were uprooted, among which 75- 80 % of the displaced were women and children³. The flow of these refugees in large numbers culminating in thousands has become a burden to host countries particularly the developing ones. In this case, these situations and realities have caused the conflicting standards of international order between state sovereignty and individual Sovereignty to magnify particularly as to the status and protection of refugees.⁴

Developed countries took measures to limit the over flow of refugees by adopting strict procedures and limitation to access asylum in their countries by integrating them with

¹ Gary G. Troller, Refugees and human displacement in contemporary international relations: reconciling state and individual sovereignty. In : Refugees and forced displacement international security , human vulnerability and the state , united nations university press , 2003 pp. 51-53

² ibid

³ Julie Mertus, sovereignty, gender and displacement; In: on the margins of the world, the refugee experience today, Michel Agier translated by David Fern Bach. the English edition polity press , 2008 , pp.250- 273

⁴ Edward Newman, Refugees, international security and human vulnerability: introduction and survey In: Refugees and forced displacement international security, human vulnerability and the state, united nations university press, 2003 pp.73-85

immigration policies and laws and devising measures of 'safe third country' and long term detention systems, in avoiding the responsibility towards these refugees and the possible effect of such inflow in their respective countries⁵. Other developing countries like those in Africa have opted for adopting temporary protection regimes that provide for limited rights for refugees until their flight and refugee status ceases by reason of their return or repatriation to their country of origin.⁶

Ethiopia is one of such countries in Africa which has and is generously been dealing with the large influx of refugees from Somalia, Sudan and recently Eritrea.⁷ In this, thousands of refugees in such situations live in protracted refugee camp settlements but even more tens of thousands are urban refugees living with out recognition and access to the basic protection provided by the international and national organizations and authorities.⁸ The country is one of the least developed countries in the world, where in spite of the fact that it has scored a remarkable 8.6% GDP growth in the year 2009/2010, the annual GDP per capita remains at \$344 where there is a low income level with a poverty ratio of 44.2% in the year 2009/2010⁹ and a high population density of 82.8 million¹⁰. The country is led by an Agriculture-led industrialization where the economy is centered in the production of Agricultural goods and products. The poverty reduction strategic program envisaged under the PASDEP (the accelerated poverty reduction strategic paper) and other capacity building strategies were developed that focus on providing basic health and education services and the eradication of

⁵ See for example UN High Commissioner for Refugees, *Background Information on the Situation in Belarus in the Context of the "Safe Third Country" Concept*, 1 March 1997, available at: <http://www.unhcr.org/refworld/docid/3ae6b33210.html> [Last accessed 23 November 2009]

⁶ See infra note 17, p. 125- 130

⁷ See for example infra note 313

⁸ See for example infra note 313

⁹ See World Bank-Ethiopia country profile, Activities by country available at <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/ETHIOPIAEXTN/0,,menuPK:295935~pagePK:141159~piPK:141110~theSitePK:295930,00.html> last accessed 2/4/2010

¹⁰ *ibid*

poverty¹¹. The national strategies adopted however being depend on the utilization of all the limited resources of capital and land to be used for agricultural production (which have recently become scarce with the increase in population). This has further legitimized the action of the policy makers to incline to adopting temporary protection regimes in order avoid the possibilities of adverse effects that may be created by the activities of refugees on the national security, socio-economic and the natural environment that are vital in realizing such strategies. They have also been adopted for the purpose of creating a convenient leeway for the international community to grant protection by transferring the responsibility of providing basic assistance to the internationally based organizations and particularly to that of the UNHCR that tender to the overwhelming needs of refugees and asylum seekers arriving in large numbers.

1.2 Statement of the Problem International governance and world order is designed to grant society of states the responsibility towards their citizens, as particularly inculcated under the United Nations Charter adopted in the 1950s, which accords states the sovereign right to adopt policies and measures that benefit their own citizens within their defined territory¹². Because of this, the extra-territorial obligations of states particularly enshrined under the various international human rights instruments applied to all with in the territory of states and that of the international refugee law has however progressively been met with unwavering limitations as seen in the context of Ethiopia. In this, the temporary protection measure as stated under the international legal frame work for the protection of refugees and adopted by the country under the various national and legal measures have accounted for restrictions in the fundamental rights and freedoms. The national scheme for the protection of refugees in

¹¹ Ibid

¹² One of the fundamental principles of international relations as envisaged under the UN charter is sovereignty and sovereign right of states that are primarily responsible to their own citizens as defined by the fixed territory and population.

Ethiopia dwells only in providing humanitarian emergency assistance for refugees and asylum seekers the same standards of protection envisaged for refugees who are at the initial stage of asylum, i.e., that have not been regularly admitted to stay in the country where their identity and status have not been verified. Even though various researches and measures have been adopted by the country to avert the negative effect of settlement of refugees up on the host country, few have been conducted that portray the impact on the rights of refugees which is practically represented by devastations to humanity and human security of such refugees. It has also caused debilitating effects in the already functioning scheme of providing basic assistance. In this regard, the experience of flight and displacement has different implications for male and female members of populations largely according to the roles they are expected to play in the society. The human rights dimension leading to flight thus are gendered an example which can be the genocide in Rwanda 5000 women were subjected to sexual used as means of committing genocide against the Tutsis.¹³ . The consequences of human rights violations are like wise gender specific sexual violence directed against women, for example may lead to pregnancy and as a consequence of pregnancy, ostracism from the community. The uprooting of elderly people and persons with disabilities can lead to greater responsibilities for women of the community, as most likely to become care takers.¹⁴ As a result protracted refugee situations have had the potential of creating greater problems to women and girls refugees especially regarding on those issues that are gender specific resulting from their vulnerability.

More importantly gender related social and economic circumstances make women to have lack of information and unable to demand accountability for human rights abuses in countries of asylum.

¹³ See supra note 4, p. 250-273

¹⁴ See supra note 4, p. 255-269

The national protection regime for refugees, however effective it is to provide for the needs of refugees in emergency situations living in different camp settlements which also includes the Kebribeyah camp, has become pragmatically unfit to properly address the needs of recognized refugees staying in the country in what are called protracted refugee situation particularly women, where it has become a consequence of restricted rights and devastations of human rights and dignity of such groups particularly living under these situations. Such national protection measures have also become one of the contributing factors that caused protracted refugee situations by discouraging the possibilities of durable solutions ending the flight of refugees.

In this, the gaps in the international and national standards in the protection of the rights of refugees in the exercise of their fundamental rights have rendered the protection provided to such refugees particularly that of women/ girls, who are vulnerable groups to be inadequate. It has become insufficient in guaranteeing their socio-economic welfare and physical protection among others, creating the challenge on the host state to guarantee the rights of refugees while at the same time staying committed to the needs of its own nationals.

1.3 Objectives of the Study/ Research

The general objective of this research is to study and assess the current state of dimensions, effectiveness and credibility of legal framework for the protection of women /girls refugees in Ethiopia and particularly in the kebribeyah camp located in the Somali regional state of Ethiopia. The study also provides for solutions that can render better protection to refugees in compliance with the international constitution of state power and governance.



The specific objectives of the research include:

1. To study the scope and limitations of international legal frame work for the protection of the rights of refugees generally and that of the national frame work of protection of the fundamental human rights of refugees particularly.
2. To identify the characteristics of protracted refugee situations as well as limitations in the national protection scheme in adequately addressing the rights and needs of women / girls refugees in protracted refugee situations as reflected under the national law , policy and administrative framework
3. To identify and assess the impact and challenges posed by such policy and legal measures on the lives of refugees in protracted situations particularly women and girls.
4. To provide for feasible policy measures to be taken be taken and implementation strategies to be adopted both at the national and international level that could alleviate the problems caused by the existing gaps of protection within the limits of world governance.

1.4 Significance of the Research

This research helps to establish , extend and concertize the various international and national efforts that identify the negative impact of such policy measures on the lives of refugees in protracted refugee situations particularly women in Ethiopia. It also provides new perspectives and specific implementation strategies to be adopted to avert the current adverse effect on the refugees by providing for pragmatic solutions to be availed by the different stake holders at the international and national level in providing adequate protection to the

refugees in protracted refugee situations. Therefore the study is particularly relevant to the interest of different researchers, concerned refugee protection of both governmental and non-governmental actors both at the international and national level.

1.5 Research Methodology

Both primary and secondary sources have been used in this research. The primary sources include primary international and national legislations, treaties as well as policy documents. Others include data obtained from formal and informal survey procedure which includes interview, focus group discussions, open ended questionnaires etc. Secondary source of the research include literature review of writings of prominent scholars and data collected from secondary sources.

1.5.1 Data Source of the Study

The data source of the study employed both data obtained from the quantitative and qualitative sources. The qualitative study employed formal and informal survey procedure. The formal procedure involved data collected through the questionnaires of survey conducted among refugees. The informal survey procedure involved the use of structured interview and focus group discussions with members and representatives of the refugee central committee and major stake holders in the camp. Direct observation of the lives of the refugees is the other tool used in the research.

1.5.2 Instruments for Data Collection

The data collection employed different sampling techniques and procedures. The informal procedure involved a total of 4 focus group discussions (FGDs) with the refugees with persons from the number 8- 13 and 1 focus group discussion with the different stake holders working in the camp i.e. representatives of the different departments in ARRA

particularly officers representing legal protection, health and rationing sections, the UNHCR and representatives of five other IPs working in the camp. Different PRA tools and techniques were employed to facilitate the discussions by promoting the participation of every one involved by ensuring the understanding of the important issues with respondents. Each focus group discussions held with refugees was composed of 8- 13 people.

An in depth structured interview with the different stake holders particularly with that of ARRA, UNHCR and IRC was also held.

The formal survey procedure employed open ended questionnaire that was conducted among randomly selected 150 refugees in which 130 of them are women living inside the camp. The results of the questionnaires were also employed as a means of counter checking the information gathered through the informal survey procedure. The characteristics of the survey by ethnic group, personal status, education level, and age group are shown in the following tables.

Table 1: Ethnic group by clan federation and sub-clans of the survey

Tribal by clan federations and sub clans	Number of refugees (n)	%
Darod (Harti, Majertein Dulbahante , Ogaden Marrahan, Awalian)	107	71.3%
Hawiye	31	20.6%
Dirr	2	1.33%

Shekhal	2	1.33%
Gaboye /midgan	2	1.33%
Cawloyte	3	2%
Ashraf	1	0.66%
Sharif	2	1.33%

Source: Survey

The majority of the Population of the survey consists of refugees from Darod, Meheron, Majerten, Harti. Hawiye represent 31% of the survey which is followed by Cawloyte, Dirr, Shekhal, Asharaf and Sharif.

Table 2: Age, martial status and education level of the respondents of the survey

Age group	N	%	Marital status	N	%
18-24	8	5.33%	Married	127	84.6%
25-40	65	43.3%	Unmarried / single	5	3.33%
41-64	72	48%	Divorced	17	11.33%
64 and above	5	3.33%			
Total	150	100%		150	100%

Source: survey

1.6 Scope and Limitations of the Study

The impact assessment of protracted refugee situations under the provisions of restricted refugee rights in the camp was conducted among refugees who are in camps situated in the rural areas of the country. It has been revealed that many more refugees in such situations live in the urban areas out side the rear view of the international protection and assistance provided by international and national organizations working on refugees. The information gathered through this study is, however, limited to refugees who are living in protracted refugee situations in camp settlements who are provided with only basic assistance needed for survival.

The time and resource constraints have hindered a much wider survey research to be conducted among the refugees regarding their situations. The in availability and inaccessibility of some of quantitative data required due to the nature of the study has also forced it to be based primarily on data obtained through the qualitative method of data collection.

1.7 Organization of the Study

The research report is organized in to four chapters. The first chapter as seen under this section sets out the statement of the problem that has set the problem to be solved, general and specific objectives of the research and the different methods and methodologies employed to identify and solve such problems. The second chapter provides a brief account of the international legal framework for the protection of refugees and also a definition and characteristics of protracted refugee situations. It also shows the different international and regional historical events that led to the gradual deterioration in the standards of protection of

refugees especially regarding the developing countries leading to protracted refugee situations. The second chapter provides for the scope and limitation in the access to and quality of legal, policy and administrative standards for the protection of refugees particularly of women/ girls refugees in Ethiopia. It has particularly focused on the fundamental rights of equal protection under the law, physical protection of refugees regarding the personal liberty and security of refugees of rendering protection against physical and psychological harm and freedom of movement, the right to work and the right to education. The right to acquire identification documents and durable solutions as envisaged under the national policy and law of the country has also been studied. It also provides a detailed assessment of the positive and negative features of the standards. Chapter four provides an impact assessment of such legal, policy and administrative measures on the lives of women refugees in protracted refugee situations by taking on a case study of Somali women / girls refugees found in the kebribeyah camp of Ethiopia. It provides for the scope and dimension of restrictions on the rights of refugees in the camp and also the negative impact and challenges posed by the national protection frame work on the lives of women and girls in the camp. Conclusion of the report that features a brief summary of the discussions of the whole report and recommendations that provide for specific legal, policy and administrative measures to be taken at the international and national level has also been provided.

Chapter Two

Conceptual Framework: Conceptual Frame Work of Forced Migration, Refugees, Protracted Refugee Displacement and Legal and administrative Trends in the Protection of Rights of Refugees at the International level

2.1 The meaning and scope of Protection of Rights of Refugees under International and Regional laws.

International protection of refugees can be defined as interventions by States and/ or UNHCR on behalf of asylum-seekers and refugees to ensure that their rights, security and welfare are recognized and safeguarded in accordance with international standards¹⁵. Such interventions include ensuring respect for the principle of non-refoulement; admission to safety; access to fair procedures for the determination of refugee status; humane standards of treatment; and the implementation of durable solutions. UNHCR is the only United Nations agency with a mandate for the protection of refugees.¹⁶ In Africa such functions have been formally entrusted with the OAU commission on refugees.¹⁷ The world food program (WFP) is the other major organizations that practically work with the UNHCR and governments in the protection of rights of refugees.¹⁸

The other type of protection refers to temporary protection of refugees which can be defined as an arrangement or device developed by states to offer protection of a temporary nature to persons arriving en masse from situations of conflict or generalized violence, without prior

¹⁵ Erika Feller, Irene Khan, Stéphane Jaquemet et al (editors), UNHCR handbook on Refugee protection : a guide to international refugee law , (UNHCR 2001) p.129

¹⁶ Ibid.

¹⁷ Rachel Murray , Human rights in Africa, from OAU to the African Union, Cambridge university press ,2004, pp.105-106

¹⁸ See for example infra note 88



Individual Status Determinations.¹⁹ This is the case of many refugees on Africa who are provided protection after having being admitted under Prima facie determination basis.

2.1.1 Definition of Refugees:

People flee from their place of origin for different reasons. These persons may generally be recognized as migrants²⁰. The movement of people can be categorized in to those persons who flee their country for reasons with in their control for e.g. economic reasons and could avail them selves of the protection of their countries of origin. The others are generally called as forced migrants²¹.

Even though a strict and acceptable definition of the term forced migrants does not exist, it can be defined as the involuntary displacement of population movements for reasons beyond their control that includes persecution, violations of their human rights,²² causes for external aggression, occupation or events seriously disturbing public order like natural disasters. It also includes those groups of individuals called internally displaced persons which constitute the significant proportion of the total forced migrants²³. A more generous interpretation applies to a person who left his / or her place of residence where displacement are arbitrary, and there has been no change of circumstances so as to render the displacement non arbitrary and who has valid objection to return²⁴ to his / her place of residence. The general remedies

¹⁹ see supra note 15 , p.133

²⁰ International migration and human rights , challenges and opportunities in the threshold of the 60th anniversary of the universal declaration of human rights, (United nations: Global migration group 2008) available at <http://www.globalmigrationgroup.org>, [last accessed 11/16/2009]

²¹ Ibid

²² see Art 1(A) of the refugee convention

²³ Arthur C. Helton and Eliana Jacobs, What is forced migration?. In : Anne F. Bayefsky (editor) Human rights and refugees , internally displaced persons , and migrant workers, essays in memory of Joan Fitzpatrick and Arthur Helton , (Martinus Nijhofs publishers , 2006),p.5.

²⁴ Definition modeled on the 1946 constitution of the international refugee organization, and the 1998 guiding principles on internal displacement of the UN secretary – General's special representatives on internally displaced persons. The condition that displacement should be arbitrary is a definition to be

applicable to forced migrants include the right to seek safety in another part of their country of nationality (otherwise known as the right of asylum) or habitual residence, the right to leave their country of nationality or habitual residence, the right to seek and obtain territorial asylum on another country; the right to be protected against forcible return to or resettlement in any place where their physical security could be at risk and the right to return to their place of original residence.²⁵ Various academic writers also conceptualize forced migration against voluntary or unforced migration which includes those migratory movements motivated by the need of the persons to improve their livelihood economically and enjoy the protection of their rights in their country of origin²⁶.

The ordinary meaning of the term “refugee” is broad and may signify a person who fled to escape from pursuers or may refer to any person fleeing conditions found to be intolerable to him / her²⁷. But under modern international law states have employed limited criteria in identifying certain category of persons as refugees. The definition of the rights of refugees under international law could be found under the two documents particularly under the international convention on the status of refugees and the UNHCR statute. The convention defines refugees as those persons “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 unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who not having a nationality and being outside the country of his former habitual residence as a result of such events, is

seen widely than those under the refugee proclamation and the various regional definitions. P.11
Valid objection of return may be related to the physical security associated with armed conflict, risk of physical security is associated with environmental catastrophe or ecological causes, risk to physical security associated with violations of basic human rights, discrimination or persecution or humanitarian reasons arising out of previous persecution, or infirmity or illness which there fore precludes required return.

²⁵ Ibid

²⁶ See supra note 20

²⁷ G. Goodwin Gill, *The refugee under international law* (Oxford University press, 1995), pp.15-20

unable or, owing to such fear, is unwilling to return to it”²⁸. Gender persecution as a basis of granting asylum is also guaranteed as the term based on social status has been generously interpreted to include those persecution that are specifically perpetrated against women like female genital mutilation etc²⁹.

The 1969 OAU convention on status of refugees and the 1984 Cartagena Declaration of the American states have provided for a wider definition of the term refugees that can be responsive to the form of forced displacement in the later half the century. In this the OAU convention has defined refugees to include “...every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.”³⁰

The regional attempt to broaden the refugee definition applied internationally at the moment, demonstrate the need for a development of a new definition that encompasses broadly defined category of persons who flee for reasons other than those stated under the convention.

²⁸ Art I (A) of the refugee convention of 1951 Resolution 2198 (XXI) adopted by the United Nations General Assembly as amended under the 1967 protocol which extended its geographical application to include those refugees who have fled their respective countries all over the world well beyond the period of the second world war.

²⁹ See for example, Carol Devine , Carol Rae Hansen , Ralph Wide et al , Human rights , The essential reference (Oryx press 1999) p.234

³⁰ Art 1 of the OAU CONVENTION GOVERNING THE SPECIFIC ASPECTS OF REFUGEE PROBLEMS IN AFRICA, Adopted on 10 September 1969 by the Assembly of Heads of State and Government. CAB/LEG/24.3. It entered into force on 20 June 1974.

2.1.2 The Normative and Administrative Framework for the Protection of Rights of Women Refugees under International Law.

The protection of rights of refugees derives its legacy from the UDHR which states the right to seek and enjoy asylum and prosecution³¹. This right does not however guarantee the right to be granted asylum. Conceptually speaking the right to enjoy asylum is meaningless in the instance where there is no right to be granted asylum causing refugees to find them selves in what some scholars observed as refugees in orbit³². Despite such conflicting interpretation state practice shows of right to grant asylum with in the domain of the state sovereignty. In this, contrary to what has observed there has been a long regard to the situation of right of the state to grant asylum, to the contrary.³³ The UNHCR has thus been pleading states to adopt a generous asylum policy and inclusion of right to be granted asylum in their respective domestic legislations³⁴. Despite such limitations however it is universally recognized that asylum as stipulated under international instruments is an essential phenomenon for the protection of human rights and freedom where it serves as a back up system for those individuals or groups whose human rights has not been guaranteed in their country of origin³⁵.

The international protection of refugees was initially grounded under the 1951 Geneva convention on the status of refugees and the 1967 protocol that extended the application of convention to those groups of refugees who fled their respective countries after the second world war. The convention has laid a foundation for the protection of refugees by stipulating

³¹ Art 14 of the Universal Declaration of Human Rights

³² Atle Grahl-Madsen, Territorial Asylum ,(Almqvist & Wiksell international , Stolkholm , Sweden 1980),p.2

³³ Ibid

³⁴ See infra note 151

³⁵ Cf. N. Nathwani, the purpose of asylum , international journal of refugee law 12(3) (2000) ; p. 221

for a normative standard of those groups of forced migrants and the rights to be enjoyed in a manner that affirms the fundamental human right to seek and enjoy asylum stated under the 1945 United Nations declaration of human rights. In Africa such rights are also derived from regional refugee and human rights instruments³⁶.

The convention has stipulated for the definition of refugees and provided for a comprehensive international regime for the protection of their rights by recognizing the problem to be of a social and humanitarian character and the need to create a comprehensive and effective system to assure the exercise of widest possible fundamental rights and freedoms to be exercised by such groups in exile.³⁷ The convention also recognized the grant of asylum to be an international matter concerning all member states which should provide protection for rights and solutions to the problem of refugees in a spirit and manner of international solidarity and close cooperation with that of the United Nations Commission on Human rights³⁸. The principal substantive remedy provided in the refugee treaties is the right not to be returned to a territory where an asylum seeker may experience persecution – that is the right of non-refoulement. This concept is the foundation of all refugee protection and even states not parties to treaties are bound to respect non-refoulement as a fundamental principle of customary international law.³⁹ This prohibition includes non rejection at a border or shore and in certain circumstances, it may even limit the exercise of a government's power on an extraterritorial basis for example the US high seas program to intercept and return boat people to Haiti and Cuba.⁴⁰ Besides this the rights of refugees under international law provides for basic and fundamental rights to be enjoyed by refugees.

³⁶ See for example supra note 4

³⁷ fourth and fifth alena of the preamble of the refugee convention

³⁸ Second alena to the preamble of the refugee convention

³⁹ See for example Refugee protection IOM publication available at www.iom.org [last accessed 4/27/2010]

⁴⁰ See supra note 4

These rights are broad ranged starting from those entitlements of refugees against the asylum state without accessing the territory, those rights that refugees enjoy after having accessed the territory of the asylum state, those enjoyed by those lawfully residing in the state and those who are enjoyed by those who are lawfully stay in the state of asylum.⁴¹ It has stipulated for the definition of refugees and the different rights to be exercised by refugees in accordance with the level of physical and legal attachment with the state. Most rights in the convention inhere to a refugee who either in, lawfully staying or durably residing in an asylum country. Some small set of refugee rights like non-refoulement apply to refugees who donot have any legal or physical attachment to the state like for example on cases where there is defacto operation of a state.⁴² The physical presence of refugees in or with in the asylum state accrue freedom of religion, to receive identity papers , the right from penalization for illegal entry and to be subjected to only necessary and justifiable constraints on freedom of movement. The right in and with in the state refer to those refugees who have not yet been regularly admitted in the country like the case of US high seas program mentioned above.⁴³ The other level of attachment refers to the case of lawful presence in the country of asylum. This status provides those entitlements to be protected against expulsion, enjoy a more generous guarantee of internal freedom of movement and engage in self employment. The term lawful presence also refers to those persons who may have illegally entered the country of asylum but present themselves with out delay to the authorities and show a good cause for their illegal entry or presence⁴⁴ . The limitations of the right of freedom of refugees can be justified in cases for example where a state accepts refugees in prima facie status and may suspend these right to protect against the possibility of receiving non genuine claims and until a status

⁴¹ James Hathaway, *The Refugee under International Law*, Cambridge university press , 2008, pp.159-160

⁴² Ibid, p.160

⁴³ Ibid, pp. 167-171

⁴⁴ Ibid

determination is held to verify the such claims.⁴⁵ In the instance where the state does not wish to undertake individual status determination measures the lawful presence will be co-extensive with physical presence.⁴⁶ The other refers to those refugees who are lawfully staying in the country of asylum. Such refugees enjoy a whole set of additional benefits of such rights which include freedom of association, the right to wage earning employment and to practice a profession , access to public housing and welfare , protection of labour and social security legislation , intellectual property rights and entitlement to travel documentation. These groups of refugees include those who have settled down for a certainly defined length of residence. Some have defined lawfully staying to mean those who obtained a secure residence permit which is usually three to six months.⁴⁷ The other is with regards to Durable residence. Only few rights accrue to refugees who are habitually resident in the country of asylum. These include the right to benefit from legal aid systems and to receiving national treatment regarding the posting of security costs in court proceedings. ⁴⁸After a period of three years residence, refugees are also to be exempt from both requirements of legislative reciprocity and also restrictive measures imposed on the employment of aliens. ⁴⁹The general forms of treatment of refugees include assimilation of refugees to aliens unless more favourable treatment is available, including most favoured nations treatment, national treatment of refugees. Prohibition of exceptional and provisional standards of treatment that discriminate, exemptions from reciprocity and insurmountable requirements and prohibition of discrimination between and among refugees have also been stipulated under the convention⁵⁰.

⁴⁵ Ibid pp.171-173

⁴⁶ Ibid

⁴⁷ Ibid , pp. 173, 187

⁴⁸ Ibid , pp. 190-192

⁴⁹ Ibid

⁵⁰ Ibid pp. 196-236



Under the provision of welfare and humanitarian assistance, the convention has provided for right of refugees to treatment accorded to nationals in the distribution of rationing particularly in the case where the country is engaged in the distribution products of short supply⁵¹. In the case of housing, the convention stipulates for the obligation of states to provide housing to refugees lawfully staying to be accorded the same treatment as favourable as possible and not less favorable provided to aliens.⁵² The refugee convention has stipulated the right of refugees lawfully in the country of asylum the same treatment as nationals in the case of public relief and assistance.⁵³ These may include food, money or medical supplies to those refugees who are affected by conflict and/ or disaster who are in need of humanitarian assistance⁵⁴.

The convention has guaranteed the rights of refugees treatment as favourable as possible and not less favourable to aliens in the same circumstances to own movable and immovable property, the right to self reliance activities on its own account in agriculture, industry, commerce, industry and establish commercial and industrial companies.⁵⁵

The convention authorizes to national treatment as nationals regarding access to courts, in respect of protection of industrial property, such inventions, designs or models or trademarks, trade names and of rights of artistic, literary and scientific works and access to courts. The convention has stipulated that refugees have the right to freely access the courts of law on all the territories of the contracting states including legal assistance and exclusion from Cautio

⁵¹ Art 20 of the refugee convention

⁵² Ibid, Art 22

⁵³ Ibid, Art 23

⁵⁴ ibid

⁵⁵ Ibid, Art 13 and Art 17

judicatum solvi.⁵⁶ As of 2003, 145 countries are parties to the refugee convention or its 1967 protocol.⁵⁷

The rights of refugees also derive from many other general international human rights and humanitarian standards. Other sources of the law include general assembly resolutions that endorse executive committee decisions of the UNHCR and prominent views of the international scholars⁵⁸.

2.1.3 The Contribution of International Human Rights Law and International Humanitarian to the Protection of Refugees.

International human rights instruments and international humanitarian law play a complementary and supplementary role in the equal protection of the rights of refugees particularly women⁵⁹. International human rights law plays a significant role in providing a much generous interpretation of the rights enshrined under the convention and the protocol. Refugee law does not supersede human rights law as *lex specialis* if the human rights norm offers more protection.⁶⁰ International human rights law and the treaty bodies established under international human rights treaties can offer additional protection in different situations.⁶¹

⁵⁶ Ibid Art 14 and Art 16

⁵⁷ See for example supra note 4

⁵⁸ The resolutions made between states and other regional and international stake holders have had the influence of reiterating the commitment of these bodies in designing and implementing those necessary in the protection of rights of refugees at the national and international level.

⁵⁹ See for example, Stenberg, Mark R von the grounds of refugee protection in the context of international Human rights and international humanitarian law; Canadian and United States case law compared. (Martinez Nijhoff publishers 2002); see also for e.g. the refugee convention provides for non-discrimination based on race, religion or country of origin but does not provide to non-discrimination based on sex of the refugees. The guarantee to the protection equal treatment of women refugees is found under various international human rights instruments.

⁶⁰ See for example infra note 153

⁶¹ Cf. Saul Takahashi, "Recourse to Human Rights Treaty Bodies for Monitoring of refugee Convention," Netherlands Quarterly of Human Rights, Vol. 20/1, 53-74, 2002. As an example protection offered under a different treaty body, namely the Committee on the Rights of the Child,

In this regard, refugee law is not the only source of protection of non-citizens who are subject to the jurisdiction of authorities on the asylum country since the country is obliged to respect fundamental human rights, such as core rights declared in the international covenant on civil and political rights ICCPR and the international covenant on Economic, social and cultural rights ICESCR, the convention on the elimination of all forms of discrimination against women, the convention on the rights of the child, the convention in the elimination of all forms of discrimination against women etc. These various human rights treaties play both a complementary and supplementary role to those rights of women and girls in cases where discrimination may arise because of the national and ethnic affiliation of these groups, and or for gender based reasons. In this regard, the human rights committee general comment on the rights of aliens emphasized that aliens are entitled to all the other rights enshrined under the covenant.⁶² The enjoyment of the rights under the ICCPR is not limited to citizens but must be available to all individuals regardless of nationality or statelessness, such as asylum seekers, refugee migrant workers and other persons who may find themselves in the territory or be subjected to the jurisdiction of the state party.⁶³ Human rights committee general comment 31 obligates states “ not to extradite , deport or expel or other wise remove a person from their territory , where there are substantial grounds for believing that there is a real risk of irreparable harm , such as that contemplated by Art 6 (right to life), and Art 7 (prohibition of torture or other cruel , inhuman degrading treatment or punishment) of the covenant, either in the country to which the person might be removed or any country to which the person may subsequently be removed. It also stipulates that such right applies to all persons with out

see: Christopher Bierwirth: The Protection of Refugee and Asylum-Seeking Children, the Convention on the Rights of the Child and the Work of the Committee on the Rights of the Child. In: Refugee Survey Quarterly, Vol. 24, Issue 2, pp. 98 - 124

⁶² Human rights committee General comment No. 15 the position of aliens under the covenant (1986) , in compilation of General comment and Recommendations adopted by Human rights bodies , HRI/GEN/1/Rev.7 (2004)

⁶³ *ibid* paragraph 10

discrimination based on sex.⁶⁴ The convention in the elimination of all forms of racial discrimination against women CERD allows parties to differentiate between “citizens and non- citizens.” the committee however has highlighted the relevance of the convention to female refugees on the applicability of the convention to refugees and displaced persons as well as the gender related dimensions of racial discrimination⁶⁵ including discrimination based on confluence of prejudice based on race and sex and those against non- citizens⁶⁶. The general recommendation reiterates the obligation of states under Art 5 of the convention to eliminate racial discrimination on the enjoyment of civil, political, economic, social and cultural rights and freedoms. In reviewing state party reports, it has stated for legislative measures aimed generally at protecting refugees as well as legislation designed to protect specifically the rights of refugees and displaced persons regardless of their ethnic origin⁶⁷.

The CERD committee’s general recommendation on gender related dimensions of racial discrimination begins by pointing out that “racial discrimination does not necessarily always affect women and men equally and in the same way and that there are some circumstances to which racial discrimination only or primarily affects women” or affects them in a different way than men that is both in the public and private life.⁶⁸ In this it has also stipulated for some of the certain forms of discrimination directed against women which may include sexual violence against women who are members of a particular racial and ethnic groups in detention or during armed conflict, the coerced sterilization of indigenous women, abuse of women workers in the informal sector or domestic workers employed abroad by their

⁶⁴ Ibid, Human rights committee General comment 31,

⁶⁵ CERD committee general recommendations 22 on Art 5 of the convention on refugees and displaced persons , 1996, , in compilations of General comments and General recommendations adopted by Human rights Treaty Bodies , HRI/GEN/1/Rev7/, 2004,p. 214

⁶⁶ CERD committee, General Recommendations 25, on Gender related dimensions of racial discrimination, 2000 in compilation of General comments and General recommendations adopted by Human rights treaty bodies HRI/GEN/1/Rev., 2004, p. 217

⁶⁷ ibid

⁶⁸ Ibid, paragraph 1

employers. The consequences of racial discrimination may primarily affect women, such as pregnancy and in some society's ostracism as a result of racial bias motivated rape.⁶⁹ Women may also be further hindered by the lack of access to remedies and complaint mechanisms for racial discrimination because of gender-related impediments, such as gender bias in the legal system and discrimination against women in private spheres of life⁷⁰. The committee has also stated that xenophobia against non-nationals, particularly migrants, refugees and asylum seekers constitutes one of the main sources of contemporary racism and that human rights violations against members of the such groups occur widely in the context of discriminatory, xenophobic and racist practices that states must ensure that legislative guarantees against racial and discrimination apply to non-citizens regardless of their immigration status and that the implementation of legislative measures does not have a discriminatory effect on non citizens⁷¹. It also obligates states parties to pay greater attention to the issue of multiple discrimination faced by non-citizens, particularly children and spouses of non-citizens workers and ensure access to legal remedies⁷². To this end states are to take into account gender related ways in which women and girl refugees and asylum seekers experience racial or ethnic discrimination⁷³

Also, the specific arrangements for refugees can be seen as one example of human rights granted to non-citizens. The detention of a non citizen for example can be regarded as one right that has the recognition and protection where it can be analyzed on the arbitrary detention under general human rights law.⁷⁴ The 1948 UDHR is cited in the preamble of the refugee convention and general sources of rights for non-citizens under the different human

⁶⁹ *ibid*

⁷⁰ Concluding observations of CERD committee: Colombia, 20 August 1999, A/54/18. 1998, paragraph 468

⁷¹ *ibid*

⁷² *ibid*

⁷³ See CERD general recommendations 5, *supra* note 44, p.214

⁷⁴ see *supra* note 41

rights instruments. Regional human rights instruments such as the African charter on human and peoples' rights, the African protocol on the rights of women, the African protocol to the child rights can also provide additional sources of protection to asylum seekers within the sphere of the African continent.⁷⁵

International humanitarian law as embodied in the 1940 Geneva conventions and the 1977 protocols concerning the protection of civilians in the times of war and other situations of armed conflict, including civil conflict are also recognized.⁷⁶ The rights that can be applied to refugees include the right of protected persons to access humanitarian assistance under certain circumstances. The broader coverage of the Geneva conventions thus also allows for the protection of displaced persons including refugees, who are often represented in situations of conflict.⁷⁷

2.1.4 State Sovereignty and the Challenges posed in the Protection Rights of Refugees:

Refugees are those groups who are in the periphery of effective protection for the reason that they are outside the international framework of State Sovereignty which ascribes the primary protection of individuals to their community of states which see themselves as guardians and protectors of human rights.⁷⁸ Non-nationals as a result are perceived to stand outside the community and on that basis are denied the substantive and procedural guarantees provided for citizens.⁷⁹ The negative impact of Refugees especially those in protracted situations have on the environment, economic life and national security are also tremendous. Such framework of international responsibility and protection however resulted in the marginalization of

⁷⁵ This also includes those recommendations and resolutions adopted by the members at the regional and sub regional level

⁷⁶ See supra note 23, pp.5-7

⁷⁷ See supra note 23, pp.5-7

⁷⁸ Edward Newman, Refugees, International security and Human Vulnerability. In: refugees and forced displacement: International Security Human Vulnerability and the State, (United Nations university press 2003) pp. 70-80

⁷⁹ Ibid

those groups of persons as refugees who cannot avail themselves of protection of their country of nationality or citizenship.

The international legal framework of refugees has provided a system of protection which is of humanitarian character and stands in the necessity of finding solutions to the plight of refugees⁸⁰. This international arrangement has however led to the threat of a systemic deterioration in the living standards and well being of refugees. Refugees have been left primarily to be the responsibility of the UNHCR which has a limited mandate of providing only basic humanitarian assistance to those who have been living in the country of asylum for years.

2.2 Protracted Refugee Displacement and the Protection of Rights of Refugees

2.2.1 Definition of Protracted Refugee Situations:

There is no universally acceptable definition of the term protracted refugee displacements. However different definitions and characterizations have been provided. UNHCR currently characterizes a protracted refugee situation (PRS) as “one in which refugees find themselves in a long-lasting and intractable state of limbo. Their lives may not be at risk, but their basic rights and essential economic, social and psychological needs remain unfulfilled after years in exile.”⁸¹ For statistical purposes, UNHCR defines a PRS as a refugee population of 25,000 persons or more who have been in exile for at least five consecutive years without having durable solutions.⁸² The causes of protracted refugee situations have been identified as the lack of durable solutions for refugees caused as the result of the action and inaction of states due to political, economic, and social factors⁸³. Refugees in protracted refugee situations

⁸⁰ See generally the preamble of the UNHCR statute

⁸¹ See for example, Gil Loescher and James Milner, understanding the challenge of protracted refugee displacement, In: forced migration review issue no. 33 2009), p.9

⁸² Ibid

⁸³ Ibid

could not avail of voluntary repatriation as a durable solutions because of the persistent and intractable conflict in the country of origin, devastations and break down of the country of origin that discourages the voluntary repatriation of refugees, there is no possibility being integrated in to the host country, and being resettled in third country.⁸⁴

There are now well over 30 protracted refugee situations in the world, and the average duration of these refugee situations has nearly doubled over the past decade consisting more than two thirds of the total refugee population.⁸⁵ An overwhelming majority of these situations are found in some of the world's poorest and most unstable regions, and originate from some of the world's most fragile states, including Afghanistan, Burundi, Liberia, Myanmar, Sierra Leone, Somalia and Sudan. Refugees trapped in these situations often face significant restrictions on a wide range of rights, while the continuation of these chronic refugee problems frequently gives rise to a number of political and security concerns for host states and states in the region.⁸⁶ In this way, protracted refugee situations represent a significant challenge to both human rights and security and, in turn, pose a challenge to refugee and security studies.⁸⁷

2.2.2 Characteristics of Protracted Refugee Situations

The characteristics of protracted refugee situations can be deduced in to some common features but may differ based up on their own peculiarities, depending up on the policy of asylum states and the international community towards the refugee population, the socio-economic and political condition of the country of asylum and the history and dynamics of exile regarding the specific refugee populations of concern.

⁸⁴ Ibid

⁸⁵ Gil Loescher, James Milner, Edward Newman et al protracted refugee situations , Political, human rights and security implications, (United Nations University press , 2008), p. 3

⁸⁶ Ibid

⁸⁷ Ibid

Even though strict generalizations of the refugee populations cannot be made, refugees especially those in Africa share the common trend of where refugee camps and other settlements are found at the peripheral border of the asylum countries, where the climatic conditions are harsh and are very poor of non accommodative of living.⁸⁸ The other characteristic feature identified could be that of the refugee community are populated by large proportions of people with special needs, children and adolescents, unaccompanied children, vulnerable women and the elderly. The majority of children in these situations involve those refugees who are born and brought out in exile.⁸⁹

Restricted refugee rights is the other characteristic of refugee population in Africa. Refugees in these areas have limited rights of movement, limited physical security especially regarding women in education, employment and self reliance opportunities.⁹⁰ Many refugees in protracted refugee situations involve those who have limited rights of movement outside those areas designated by the authorities for settlement.⁹¹ As regards to women, the restrictions on the right to work and self-reliance coupled with the limited assistance towards them have caused many women refugees to resort to engage in doing informal work resulting in various violations of the rights of refugees including sexual exploitation, rape and sexual harassment by the employers etc.⁹² the limitations of such rights has resulted in the irregular secondary movement of refugees which includes women and the exposure to smugglers and traffickers which can cause violence against them especially women. Restriction of rights of

⁸⁸ Jeff Crisp, No solution in sight : the problem of protracted refugee situations in Africa, UC San Diego: Center for Comparative Immigration Studies, Retrieved from: <http://escholarship.org/uc/item/89d8r34q> December, 2002[last accessed 10/12/2009]

⁸⁹ Ibid pp. 8-10

⁹⁰ Ibid p. 12

⁹¹ See for example supra note 88

⁹² Supra note 88

refugees in such situations has resulted in the limitations of enjoyment of fundamental rights important to the survival⁹³.

The other is that of deterioration in the provision of welfare rights and physical protection. The deterioration has been attributed to the fact that of the frustration exhibited by the international community of maintaining the refugees in protracted refugees especially observed during the 1970s economic crisis and the current financial crisis that affected the majority of the developed and developing countries especially those who are the major source of funds.⁹⁴ The increasing of the number of people of concern also necessitates the deployment of more funds in the situation where the existing resources become insufficient to meet the basic needs of the refugee population. Corruption and mismanagement has been regarded as many as the other cause of deterioration of living standards of refugees in such situations. This is particularly caused by the abuse and exploitation of the welfare service. In the supply of rations for example local populations may register themselves as refugees that disrupts the formation of accurate budget lines and effective implementation⁹⁵. The other has been caused by the inaccurate data of the number and situation of refugees caused by the absence of timely registration and survey of the refugee population⁹⁶. This has hindered in the appropriate distribution of budget for the needs of refugees in such situations which majority of them include vulnerable groups particularly women.

The other is with regards to the psycho-social and gender issues. For example, it has been reported to be reports from medical and social services workers in the camps of Kenya make frequent reference to refugees as exhibiting 'nervous depression and dependency, describing them as 'traumatized', 'aggressive', 'highly stressed', and as suffering from

⁹³ See supra note 3

⁹⁴ See supra note, p.14-15

⁹⁵ See Supra note 88

⁹⁶ Ibid

‘emotional and behavioral problems.’⁹⁷ for example, the refugees in Kakuma camp have been reported to be in as sense of despair and low self worth.⁹⁸ The other psychological impact is as result of armed conflict and or disorder that led the refugees to flee causes various human rights violations on women/ girl refugees who may be exposed to rape, sexual exploitations, women and child trafficking and deprivation of basic food services necessary for survival.

As part of the survival strategy, various other negative behavioural patterns have been observed. These include the involvement of refugees in illegal activities taken to strengthen their economic independence. The activities include prostitution, manipulating and maximizing assistance etc⁹⁹.

The other is the political and security concern propagated of protracted refugee displacement. The long term presence of large refugee population has caused different problems particularly of internal, international and mainly regional conflict by causing instability in neighboring countries.¹⁰⁰ Militarization, arms trafficking, drug smuggling and trafficking in women and children, the recruitment of child soldiers and mercenaries can and do occur in some of the camps and urban areas hosting protracted refugee displacement.¹⁰¹ An indirect security implication could be that with the decrease of welfare and long term settlement of refugees causes competition over the scarce resources with the local population which will ultimately result in the increasing conflict and tension with the local population.¹⁰²

⁹⁷ Id

⁹⁸ See supra note 3

⁹⁹ See supra note 88

¹⁰⁰ See supra note 88

¹⁰¹ See supra note 88

¹⁰² See supra note 88

The other impact of protracted refugee situations is that of its negative impact on host population reflected through the political, economic and environment challenges posed on the local economy and people¹⁰³

2.3 The History of Forced Human Displacement and the Protection of Refugee Rights under International and Regional Arrangement

The history of forced human displacement dates back to the history of mankind it self who fled as a consequence of war, conquest or political struggle. The major monolithic religions have constantly portrayed the flight of people into exile in their religious books. The history of man kind reveals the various instances where people flee from their home land to escape tyrant leaders in power, conquerors and oppressors who persecuted their fellow men for different reasons.¹⁰⁴ In the Bible Adam and Eve were driven out of Eden and became thereby the first refugees. St. Mary and St. Joseph had to seek refuge in Egypt and then on in the lands of Ethiopia with the child Jesus Christ to escape the massacre perpetrated by king Herodus. Up through the ages human beings have fled from their homelands to escape the wrath of tyrant's conquerors and other oppressors¹⁰⁵.

Members of ethnic, Linguistic or religious groups were made the escape -goats for alleged or real hazards or injuries to the public good. Members of these different social groups have in different times been targets of accusation and attacks by authorities (governments) and were

¹⁰³ See for example K. Jacobsen , the impact of refugees on the environment ; a review of the evidence , Washington / Geneva , Refugee Policy Group (1994), see also Jeff crisp , Africa's refugees : patterns , problems and policy challenges , UNHCR working problem paper No, 75 (2003)

¹⁰⁴ See infra note 153 ,pp.1-2

¹⁰⁵ See infra note 153,p.1

subjected to measures of different kinds. Accordingly individual states have in different times provided for the protection of rights of refugees fleeing as a result.¹⁰⁶

At the international level, International protection of refugees was conceived under the international arrangement with the League of Nations which was formed under the Treaty of Versailles in 1919 in aftermath of the First World War. The world war I (1914- 1918) , its preliminaries the Balkan wars (1912-1913) and its aftermath in the Near East (the wars in the Caucasus, 1918-1921, and the Greco-Turkish War, 1919-1922) caused the greatest upheavals in the movement of people especially from Russian Empire. From One to two million refugees have been uprooted from the Russian empire and the territories for various countries of Europe or Asia Minor, Central and East Asia between 1918 and 1922 and also thereafter. The international Red-cross societies and the league of Red Cross societies called a conference of the principal organizations on 16 February and decided for the council to appoint a commissioner for the President of the Council. Dr. Fridtjof Nansen accepted the commission on 1 September 1921.”¹⁰⁷

The Ottoman Empire war has caused successive devastations around the world. In Europe it has caused the displacement of refugees from the empire and other countries of war zones. The Greeks that survived the massacres and the Greco Turkish wars have joined with their Bulgarian or Turkish counterparts in the “facultative mutual” exchange of populations that took place under the Treaty of Constantinople (1913), the Turco-Bulgarian Treaty (1913), the Greek-Turkish Agreement (May 1914) and the Treaty of Neuilly (1919), and finally in the

¹⁰⁶ See infra note 153, pp.2-3

¹⁰⁷ Gilbert Jaeger, On the history of the international protection of refugees, IRRC Vol. 83 September 2001 No 843 p.726-727 available at http://www.icrc.org/web/ara/siteara0.nsf/htmlall/5YQFYK/.../727_738_Jaeger.pdf [last accessed 6/10/2009]

compulsory exchange of Greek and Turkish populations provided for by the Treaty of Lausanne (1923). The war has also affected has affected ethno – religious communities in Europe particularly , the Armenians , Assyrians(Nestorians), Chaldeans(Uniate Restorians) , Jacobite Syrians , Turks , Kurds and other Muslim groups have suffered who inevitably led to the displacement of such peoples. On order to assist such refugees from the Ottoman empire and Turkish republic, the mandate of the High Commissioner of the League of Nations was extended to Armenians in 1924 and to “other categories of refugees” (Assyrians, Assyro-Chaldeans, Syrians, Kurds and a small group of Turks) in 1928.¹⁰⁸

During the League of Nations period (1921-1946) several institutions were created to perform some or all of the tasks of the High Commissioner for Refugees: the Nansen International Office for Refugees (1931-1938), the Office of the High Commissioner for Refugees coming from Germany (1933-1938), the Office of the High Commissioner of the League of Nations for Refugees (1939-1946) and the Intergovernmental Committee on Refugees (1938-1947)¹⁰⁹.

This period also saw the development of normative framework for rights of refugees to be enjoyed in the countries of asylum and third countries under the different arrangements and conventions for the protection of refugees. The first Arrangements of 5 July 1922, 31 May 1924 and 12 May 1926 provided a definition of Russian and Armenian refugees and dealt mainly with “identity certificates” for refugees¹¹⁰.

One of the important agreements to the protection of refugees is the convention on the international status of refugees of 28 October 1933. The state parties for the first time took

¹⁰⁸ Ibid, pp.728

¹⁰⁹ Ibid, p.729

¹¹⁰ Ibid



the obligations to protect those displaced by the devastating wars that predated. The preamble of the convention states that the purpose of the convention is according to the principles of the league of nations, to supplement and consolidate the work of the league of nations on behalf of refugees and to establish for according with the interests of states ensure the enjoyment of civil rights, free and ready access to the courts, security and stability as regards establishment and work, facilities in the exercise of the professions, of industry and of commerce, and in regard to the movement of persons, admission to schools and universities¹¹¹. The convention established as administrative measures for the undertaking of state parties not to take measures of expulsion or refoulement of refugees residing in the country regularly, right of refugees free and ready access to court of law and national treatment as regards to benefit of legal assistance and shall be exempt from *cautio judicatum solvi*. It prohibited the application of those laws and regulations for the protection of national market towards refugees that have been regularized in the country of asylum¹¹². It provided for welfare rights of refugees and treatment available to nationals.¹¹³ It also provided for rights of education and treatment most favorable as aliens and also fiscal regime and exemption from reciprocity, and provided for the “creation of committees for refugees”¹¹⁴. As regards to women it has stipulated in the provision of welfare, special protection of most favourable treatment of refugee women who are pregnant and lactating women among other persons like persons who are mentally ill, aged persons or infirm persons incapable of earning a livelihood, children for whose upkeep no adequate provision is made either by their

¹¹¹ Preamble of the Convention of 28 October, 1933 relating to the International Status of Refugees, League of Nations, Treaty Series Vol. CLIX No. 3663 available at www.unhcr.org/.../type,multilateral_treaty,3dd8cf374,0.html, [last accessed 15/3/2010]

¹¹² See Arts 3, 6 and 7 of the 1933 convention

¹¹³ See Art 9 of the 1933 convention

¹¹⁴ See Arts 12 and 14 of the 1933 convention.

families i.e. unaccompanied children.¹¹⁵ The same provision has also been reproduced under the convention of 1938¹¹⁶.

The convention of 1933 thus instilled an unprecedented regime that went a long way in providing for the protection of refugees and has served as a model to the 1951 Geneva Convention on the status of refugees. The convention was ratified by nine States, including France and the United Kingdom, the most important powers of that time. The UK did not, however, accept the second paragraph of Article 3.¹¹⁷ Nevertheless, it was by virtue of this Convention that the principle of *non-refoulement* acquired the status of international treaty law.¹¹⁸ As regards to the protection of women refugees it has recognized the special protection to be provided for women at risk as defined by the convention as those who are pregnant and lactating demanding special medical assistance and treatment as seen above.

The period also saw the development of the two treaties concluded to provide protection for refugees coming from Germany: the Provisional Arrangement concerning the Status of Refugees coming from Germany, signed in Geneva on 4 July 1936 and the Convention concerning the Status of Refugees coming from Germany, signed in Geneva on 10 February 1938. An Additional Protocol to these treaties, opened for signature in Geneva on 14 September 1939, extended them to include refugees from Austria.¹¹⁹ The convention of 1938 has stipulated the right of refugees to move freely and reside in the territory of the contracting state in accordance with the laws and internal regulation of the state parties. It also stipulated for the right to be issued travel documents to refugees coming from Germany and residing in

¹¹⁵ See Art 9 of the 1933 convention

¹¹⁶ See Convention concerning the Status of Refugees coming from Germany, Geneva, February 10th, 1938, League of Nations Treaty Series, Vol. CXCII, No. 4461, page 59 available at www.icrc.org/web/ara/siteara0.nsf/htmlall/5YQFYK/.../727_738_Jaeger.pdf [last accessed 5/1/2010]

¹¹⁷ See supra note 107, p. 731

¹¹⁸ Ibid

¹¹⁹ id

the contracting state. Neither the Provisional Arrangement of 1936 nor the Convention of 1938 mention the expression *refoulement*, and their provisions on asylum are weaker than those of the 1933 Convention. It was even laid down that, in extreme cases, refugees could “be sent back across the frontier of the Reich”.¹²⁰

The resolution of the intergovernmental committee on refugees IGCR adopted in Evian on July 1938 could be mentioned in this regard. It was established by President Roosevelt for the primary purpose of facilitating involuntary migration from Germany including Australia¹²¹.

The period up to 1951 saw the establishment of international body for the protection of refugees that of the International Refugee Organization (IRO) on 15th December 1946 by Resolution 62 (I) of the UN General Assembly. The organization has been widely active in the resettlement of 1, 049 (one thousand forty nine) refugees displaced persons, mainly from Central Europe, in the United States, Australia, Western Europe, Israel, Canada and Latin America. The organization is entrusted with the legal and political protection of refugees.¹²²

The ECOSOC the economic and social council initiated a study to be performed up on the status and condition of stateless persons and refugees and in 8th August 1949 appointed a committee in refugees and stateless persons to consider the desirability of preparing a revised and consolidated convention relating to the international status of refugees and stateless persons and, if they consider such a course desirable, draft the text of such a convention...”¹²³

After having received the draft sections of the convention, the council decided to convene a meeting in plenipotentiaries on 14 December 1950 in order to complete, contemplate and sign the draft convention relating to the status of refugees. The convention was soon after signed

¹²⁰ id, p. 731-732

¹²¹ id, p. 732

¹²² id

¹²³ id, p. 733. See also ECOSOC Res. 248 (IX), Study of Statelessness, 8th August 1949.

in 28 July 1951. UN General Assembly decided on 3 December 1949 “to establish, as of 1 January 1951, a High Commissioner's Office for Refugees” and on 14 December 1950 adopted the Statute of the Office of the United Nations High Commissioner for Refugee¹²⁴.

The period between the 1951 until the period of the cold war brought about a new direction to deal with the situation of refugees. During the Cold War and the national-liberation struggles of the 1960s and 1970s, those who fled communist regimes and colonial oppression were granted refugee status on the assumption that repatriation was not an option. Resettlement and local integration were generally regarded as the most viable and strategically desirable durable solutions.¹²⁵ In this sense, the situation in the 1960s and 1970s, in Africa, for instance, rural refugees were allowed a high level of de facto local integration. One concrete example could be the case of Liberian refugees in Cote d’Ivoire.¹²⁶

At the end of the cold war, there was a short lived optimism that the triumph of liberal democracy and market would lead to peace and stability but the hopes new world order faded with the upsurge in what are popularly described as ethnic conflicts and related phenomenon of nationalist secession movements. The increase in the intra state conflict also led to massive displacement and further pressure on asylum countries have caused repatriation to become more realistic and attractive for states.¹²⁷ Furthermore, the increase since the 1980s in migration from poor to rich countries and the growing association of refugees with migrants fleeing poverty have added to the reluctance of wealthy nations to offer resettlement¹²⁸. As for southern states, in the aftermath of economic adjustment and democratization most of

¹²⁴ Ibid , pp.734-736

¹²⁵ The State of World Refugees , 2005, chapter 6 pp. 129-130

¹²⁶ Ibid, p. 130

¹²⁷ See supra note 17

¹²⁸ See for example supra note 4

them have been less willing to support local integration which will be discussed in detail in the section below.

2.3.1 Forced Migration and Trends in the Protection of Refugees in Africa

The period in the 1960s was characterized by decolonization and conflict which led to the increase in the number of refugees in the region.¹²⁹ The refugee situation was viewed by the states as a result of the impact of colonization and the move towards independence. Due to this fact the, refugees in the continent were perceived and treated in a most favorable manner and in a manner of solidarity among the African states. For example, recommendations were made to integrate refugee children in to the schools of the host states and that all refugees were to be given travel and identity documents. Resettlement opportunities in the host states and more permanent means of solutions have also been provided.¹³⁰ The OAU was able to see the situation from the perspective of refugees “recognizing the essentially humanitarian nature of the problem and anxious to adopt measures to improve the living conditions of refugees and help them to lead a normal life¹³¹”.

Towards the beginning of the 1980s however there was a shift as fights for the independence became less relevant across the continent. Despite the such absence conflicts began to persisted in the continent that were caused unlike the previous times, not by the invasion and aggression but by the various political, ethnic and economic issues with in the continent. The conference held in Arusha in may 1979 held by the OAU, UNHCR and ECA and other voluntary organizations the stated that African states take the responsibility for the ever increasing number of refugees originating form independent Africa¹³². The conference had made recommendations for African states to make commitment to the full implementation of

¹²⁹ See supra note 17 pp. 190-196

¹³⁰ Ibid pp. 202-203

¹³¹ Ibid

¹³² Ibid p. 203

basic human rights instruments and to include provisions of international and national human rights instruments under their national legislations. They also made the commitment to implement education campaigning to instill the respect for human rights and tolerance in the differences and to consider making official public declarations of amnesty to their respective nationals currently in exile so as to encourage voluntary repatriation¹³³.

Despite such noble programs and rhetoric to human rights, such recognition marked the end to the generous policies adopted by states towards refugees and the adoption of stricter policies. This act came to play with the contributive factors of the increasing the number of refugees fleeing in large influxes and their impact of the host states and the increasing restrictive policies of foreign more developed states who have been preoccupied with the increase in the number of refugees in Europe and Asia in the aftermath of the post cold war period that was characterized by ethnic conflicts and related phenomenon of nationalist secessionist movements and increase in intrastate conflict¹³⁴. The cross-country ethnic settlements have also prompted states to adopt restrictive policies by refusing the entry of those groups of refugees that could have the potential of creating ethnic tension in side the country and with neighboring countries. Economic depressions have also had negative consequence on providing adequate standards for the legal protection and treatment of refugees¹³⁵.

In this respect the 1990 Khartoum declaration on African refugee crisis reiterated the responsibility of African to the problems caused in Africa and called for international assistance to help with the problems of refugee crisis in the continent.¹³⁶ The 1998 Khartoum declaration also opted for the recognition of voluntary repatriation as the major durable

¹³³ Ibid ,pp.204-205

¹³⁴ See for example supra note 4

¹³⁵ See for example infra note 396

¹³⁶ See supra note 17

solutions digressing from the former approach of considering integration as the only solution to the problem of refugees who fled because of the colonial oppressive regimes. This approach was further replaced by the attitude of African states that started to consider refugees as threats to security, development and environment and have increasingly provided limited attention to the recognition of the impact upon the rights of refugees.¹³⁷

With this issues at hand the approach to the treatment of refugees has changed into the viewing refugees as threats to the security of host states. The period saw the wide spread adoption of refugees as a temporary issue within the broader humanitarian provision of protecting the refugees as the international protection.

To respond to the issue of African refugee crisis various theories have been developed to respond to the problem of refugees. The second international conference on refugees in Africa ICARAI held in the year 1984 where refugee aid and development RAD theories emerged can be mentioned in this regard. Various other similar theories have later surfaced which include the development assistance for refugees (DAR)¹³⁸, Targeted development assistance to refugees TDA,¹³⁹ development assisted integration etc¹⁴⁰

¹³⁷ See supra note 17

¹³⁸ See for example the refugee convention today Navigation Guide, ICAR publications available at www.researchasylum.org.uk. [Last visited on 11/10/2009]

¹³⁹ See for example, Alexander Betts, Development assistance and refugees Towards a North-South grand bargain? (Refugee Studies Centre Oxford Department of International Development University of Oxford 2009), Targeted development assistance (TDA) refers to the way in which donor states can provide overseas development aid to host countries of first asylum as a means to enhance refugees' access to protection and durable solutions. Its central characteristic is an integrated development approach, which focuses on the needs of both refugees and host communities, through, for example improving livelihood opportunities, service provision or infrastructure.

¹⁴⁰ See for example, Sara J. Feldman, Development Assisted Integration: A Viable Alternative to Long Term Residence in Refugee Camps?, The Fletcher Journal of Human Security, 2007 available at www.fletcher.tufts.edu/praxis/archives/xxii/feldman.pdf [last accessed 12/3/2009]

The theory of refugee aid and development developed in the ICARA II created an unprecedented approach to solve the problem of refugees in protracted refugee situations by introducing multifaceted links and synergies between development and refugee issues. It also asserted the need that refugees' assistance be development oriented and that takes in to account host population needs.¹⁴¹ In the aftermath of this period, various measures were taken by donors in providing large scale projects including the construction of road drainage and buildings in segregated settlement areas for the purpose of inducing local integration opportunities to be provided by the host nations.¹⁴² The ICARA however failed to answer the most pressing issues of refugee employment, security of states and the ability to operate as an economic actor to which the country of asylum was responsible to provide¹⁴³. The gaps in implementation observed under this approach was further exacerbated by the impracticable demand it imposes on the southern developing states to provide integration for the disproportionate amount of refugees coupled with inadequately managed assistance provided by the international community.¹⁴⁴

The other could be international initiatives that embark up on providing comprehensive plan of action of particular protracted refugee situations. In this comprehensive plan of actions have been formulated for Somalia refugees and that of the Indo Chinese could be mentioned in this regard. The general objectives of the CPA is to foster and sustain multilateral commitment among interested States and other stakeholders, to enhance the provision of quality protection for Somali refugees in the region and to find durable solutions, in a spirit of burden and responsibility sharing. It focused on establishing the responsibility of the international community to restore peace and development in Somalia in a spirit of

¹⁴¹ See for example, the second international conference on Assistance of refugees in Africa , ICARA II – draft policy statement of the British refugee council , 1984

¹⁴² Ibid

¹⁴³ See for example, S. Meyer , The Refugee Aid and Development Approach in Uganda :Empowerment and self reliance of refugees in practice (University of oxford 2006)

¹⁴⁴ Ibid

cooperation and burden sharing.¹⁴⁵ Even though these measures are in arguably relevant it has become in effective in changing the lives of refugees especially in protracted refugee situations.

It also failed to answer the root problems of asylum states in the areas of environment degradation, security and economic security which has caused such a noble endeavor not be successful. This has caused the problem of refugee crisis of protracted situations to perpetuate until this day. In this, even though various measures and approaches were developed to solve the concerns of host populations, much less was done to avert the problems and crisis of faced by the refugee community who live in protracted refugee situations remains intact causing tremendous disaster in the socio- economic, physical and psychological well being of refugees particularly women and girls.

¹⁴⁵ Frame work document for the comprehensive plan of action (CPA) for Somali refugees (UNHCR Sept. 2005) available at www.unhcr.org [last accessed 11/16/2009]

Chapter Three

The Legal Protection and Treatment of Women/Girls Refugees under the Law, Policy and Administrative Framework in Ethiopia:

3.1 General Background:

3.1.1 A brief account of the history of protection of refugees in Ethiopia.

The influx of refugees into Ethiopia has a long history. This history of plight of refugees to Ethiopia dates back to at least 615AD when prophet Mohammed's earliest disciples and with his daughter Makiya, have sought refuge in Ethiopia, and their persecutors arriving from Arabia with gifts and demanded for their forcible repatriation, however, King Armha of Axum having interrogated them, turning to the visiting delegation, replied in a famous remark "If you were to offer me a mountain of gold I wouldn't give up these people who have taken refuge with me"¹⁴⁶ where they were granted asylum in the court of Axum. The plight of Virgin Mary and her child to escape the massacre by King Herodus of the children of Bethlehem to the highlands of Ethiopia can also be mentioned in this regard¹⁴⁷. Since those periods the country has been a refuge to many who fled persecution, conflict and violations of human rights in the twentieth century especially from neighbouring countries.¹⁴⁸

3.1.2 The legal history of the protection of refugees in Ethiopia

As to the legislative history, the Fetha Negast, considered to be one of the ancient legal documents has stipulated the institution of asylum and that of the protection of those who flee

¹⁴⁶ Cf. Richard Panchirest, A reflection on the Ethiopian History: The Respect for Human Dignity for all, paper presented on a conference under the title Dignity for all, Addis Ababa 1995, pp.3-4

¹⁴⁷ The Holy Bible containing the Old and New Testament, authorized King James version, (World publishing 1989)

¹⁴⁸ See for example, infra note 153, p.7

persecution. It states that “who ever by mistake kills a person may be saved if he took refuge in the house of the God.”¹⁴⁹

At the time of the ratification of 1951 refugee convention ,the 1967 protocol and the 1969 OAU convention , Ethiopia 's supreme Law was the 1955 constitution of the Empire of Ethiopia.¹⁵⁰ According to this constitution, treaties (legal instruments) were regarded as supreme as the constitution itself. However at the time of the acceding to the 1951 convention, the country has entered reservations Arts 8, and 9 of the convention regarding exceptional and provisional measures towards the rights of refugees art 17(2) regarding the non-application of restrictive measures towards refugees who have completed three years residence, who has either a spouse or a child possessing the nationality of the country of the asylum. The other is with regards to primary education of refugees stipulated under art 22(1) of the convention¹⁵¹. It was under this regime that the rights of refugees as agreed at that international level was recognized by the country.

The PDRE constitution, during the Dergue regime had also stipulated for protection mechanisms of refugees. The first includes the non-extradition and protection of refugees and states that “the state may not extradite a citizen of another state except as stipulated by international agreement.”¹⁵² These provisions were also found in numerous legislations including the 1957 penal code and the Ethio-Sudanese extradition agreement. The constitution has also created an unprecedented recognition of the right of asylum but has failed to stipulate for the status international legal instruments incorporating the rights and duties of refugees. In spite of the change of governments and of the constitutions the international instruments remained operational pursuant to the principle of state succession of

¹⁴⁹ See supra note 118

¹⁵⁰ See for example infra note 153,p.8

¹⁵¹ Tadesse Tessema , The legal protection and Treatment accorded to Somali refugees in Ethiopia Addis Ababa university, 1987

¹⁵² Art 34(2) Of the 1987 PDRE constitution, Federal Negarit Gazette of Ethiopia ,1987

treaties¹⁵³. It also did not however stipulate for the status of international human rights instruments which also includes the fundamental rights of women and girls, the country has ratified during its regime.

During this regime an institution under the ministry of interior called Administration of refugee affairs (ARA) a semi-autonomous working organ as an implementing partner that works closely with UNHCR was instituted. It was responsible to conduct interviews. The ministry of interior with the consent of the ministry of foreign affairs was responsible to issue travel documents to refugees.¹⁵⁴

The charter of the transitional government of Ethiopia has however dealt with the issue of rights of asylum in a much more unambiguous manner by including the provision guaranteeing asylum to individuals who fear persecution and has stipulated for the transitional government commitment to honour formerly entered international obligations.¹⁵⁵ It also however did not conclusively deal with the status and domestic application of international legal standards regarding refugee protection.

The 1994 FDRE constitution stipulated for a much clearer stipulation of the status of international legal instruments in Ethiopia that includes the protection of rights of refugees to be an integral part of the land.¹⁵⁶ During this period a proclamation regarding refugees was promulgated that provided for domestic application of the international standards of refugee rights.

¹⁵³ Wondwossen Lemma, the Ethiopian refugee law and the place of women in it, RSP publications 1995,p.8

¹⁵⁴ See supra note 151

¹⁵⁵ See generally the Transitional period charter of Ethiopia, Transitional conference of Ethiopia ,January 1991

¹⁵⁶ See Art 9(4) and Art 13(2) of the FDRE constitution

3.2 The Legal, Policy and Administrative Standards in the Protection of the Right of Women /Girl Refugees in Ethiopia

The legal standards for the protection of refugees in Ethiopia which include women and girls formally derive from the federal constitution of 1994. The constitution has stipulated for various fundamental rights to be exercised by all persons in the territory of the state and has also recognized for the domestic application of international legal instruments adopted by the country.¹⁵⁷

In 2004 the country has also enacted national (domestic) legislation for the effective implementation of international legal instruments dealing with refugees affairs (the Convention relating to the Status of Refugees, 1951, and its 1967 Protocol and OAU Convention Governing the Specific Aspects of Refugee Problems in Africa) and established a management framework for the reception of refugees, to ensure their protection, and promote durable solutions whenever conditions permit.¹⁵⁸

The law guarantees that no person shall be refused entry to, expelled or returned from Ethiopia where as a result of this act the person may be subject to prosecution or torture or on the account of race, religion, nationality, membership of a particular social group or political opinion or his/her life, physical integrity or liberty would be threatened on account of external aggression, occupation, foreign domination of events seriously disturbing public order in part or whole of the country.¹⁵⁹ The proclamation has provided that refugees lawfully in country to remain within Ethiopia in accordance with the provision of this proclamation¹⁶⁰.

¹⁵⁷ See the art 9(1) and chapter three of the FDRE constitution of 1994

¹⁵⁸ See Ethiopia, Reports submitted by state parties under Art 9 to the committee in the elimination of racial discrimination, General CERD/C/ETH/7-16, March 2009, Para. 128 available at <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.ETH.15.doc> ,[last accessed on 4/27/2009, 5:55 am]

¹⁵⁹ See Art 4(1) and (2) of the refugee proclamation

¹⁶⁰ Art 21(a) of the refugee proclamation

This right can be interpreted as a guarantee against any decision that may be formulated against the refugees not to seek refugee in the country outside those reasons provided in the proclamation and most importantly not to be returned back to the country of persecution i.e. non- refoulement.

In Ethiopia, foreigners residing in the country must be registered with by the immigration and nationality main department.¹⁶¹ An exception to this rule is in the case where the case of diplomats and international servants and member of their families residing in Ethiopia and also the case where a refugee is recognized as a refugee by the government of Ethiopia and UNHCR.¹⁶² Refugees as stated under the immigration proclamation do not need visa or residence permit to enter and live in the country.¹⁶³ Refugees are also exempt from the requirement that applies to foreigners to possess a valid travel document, a valid entry visa or valid permanent residence permit or an identity card issued by the respective ministry and also health certificate.¹⁶⁴

Deportation of foreigners is done in accordance with the law. The grounds for deportation include becoming a public burden, to be a notorious criminal, being declared to be a drug addict, being suspected of suffering from a dangerous contagious disease, being a threat to the security of the State, furnishing fraudulent information and violation of the provisions of the immigration proclamation and regulations. Any decisions on deportation are appealable¹⁶⁵ As regards to refugees, deportation of refugees is done on the requirements and reasons set under the international instruments and particularly under the refugee

¹⁶¹ Art 13 of the Immigration proclamation no. 354/2003, Federal Negarit Gazetta of Ethiopia, July 3, 2003 and also Art 1 of the Immigration council of ministers regulation no. 114/2004 , Federal Negarit Gazzeta , October 20, 2004

¹⁶² Art 14(1)(b) of the Immigration proclamation

¹⁶³ *ibid*

¹⁶⁴ *Ibid* Art 14(1) cum Art (1) of the proclamation

¹⁶⁵ See *supra* note 158, Para. 127

proclamation. In this deportation may result in case a refugee is expelled for reasons of national security and public order¹⁶⁶.

The proclamation took a large step in providing for the legal protection of girls/ women refugees. It states that “the Refugee Proclamation shall be applied without discrimination as to race, religion, and nationality, membership of a particular social group or political opinion”.¹⁶⁷ The Law in particular provides for the need for taking measures to ensure the protection of women refugees. It states that “the authority shall take measures to ensure the protection of women refugees, refugee children, elderly refugees and handicap that needs special protection”¹⁶⁸. The law stipulated for the Government to provide protection to these groups of people from human rights violations that could arise due to their vulnerability¹⁶⁹.

The Administration of Refugees and Returnees Affairs, a national mechanism for the administration of refugees under National Intelligence and Security Service (NISS), was established in 2003. In order to preserve the protection and well-being of refugees, the Government works in collaboration with UNHCR and WFO and with other non-governmental organizations through its Office of the Administration of Refugees and Returnees Affairs.¹⁷⁰ Under the proclamation, the authority has the function of receiving application for the recognition of refugee status and after assessing the claim in accordance with those procedures put under the proclamation, decides up on the application presented. An appeal hearing council has also been established under the proclamation that reviews the decision of the authority in relation to asylum established under it¹⁷¹.

In cases of group movements (mass influx) determination of eligibility on an individual basis

¹⁶⁶ Art 10 (1) of the refugee proclamation

¹⁶⁷ Ibid , Art 3

¹⁶⁸ Ibid, Art 22

¹⁶⁹ See supra note 158, Para. 129

¹⁷⁰ See supra note 158, para.130

¹⁷¹ See part three , Arts 13- 19 of the refugee proclamation



is in fact impracticable . In such situations it is customary to consider class of people for eligibility at the same time (prima-facie determination). Accordingly, therefore, refugees from South Sudan and Somalia and other similar ones (which is covered under the OAU convention) are granted status automatically. The only thing that should be ascertained is that they are really from such places .In Ethiopia there are screening sites along the borders between Ethiopia-Somalia and Ethiopia – Sudan, Ethiopia- Eritrea. ARRA personals screen and register new arrivals and arrange their departure to the refugee settlement areas.¹⁷²

Despite such important functions however, the formation of the authority under the NISS and ultimately under the ministry of interior overshadows its capability of granting independent autonomous decisions regards to obtaining refugee status and protection of rights of refugees by the authority and remains to be semi-independent organ. There is also no clear provision with in the proclamation regarding judicial review of the decisions and measures to be taken by the authority. This undoubtedly creates a huge gap in the effective implementation of the rights of refugees guaranteed under the international legal instruments.

As stated above, the rights and obligations of refugees in Ethiopia, which also includes women/girls refugees emanates from the 1951 refugee convention and the OAU convention on the specific aspects of refugee in Africa as stated under the proclamation. According to the Refugee Proclamation, refugees are also entitled to other rights and subject to the duties contained in the Refugee Convention and the OAU Refugee Convention with the exclusion of those exceptions provided for under it.¹⁷³

Human rights law guaranteed under the third chapter of the FDRE constitution and International Human Rights instruments ratified by the country and considered as part of the law of the land are the other source of law which apply indiscriminately to all persons within

¹⁷² See supra note 153, p.10

¹⁷³ Art 21(1) (d) of the proclamation

the territory of the state, including refugees and serve complimentary functions in protection.¹⁷⁴ As regards to children for example the convention on the rights of the child stipulates for “states to take appropriate measures towards child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall whether unaccompanied or accompanied by his /her parents or by any other person , receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the convention or any other human rights and humanitarian instruments to which the state is a party”¹⁷⁵ which is also applicable girl children. Refugees also enjoy those rights guaranteed under the national law of Ethiopia and are subjected to the similar restrictions. The assistance provided for refugees who also include women and girls refugees in Ethiopia by the government and various organizations can be summarized as physical protection and administrative assistance, humanitarian assistance and social assistance.¹⁷⁶

3.2.1 Equal Protection of Refugees under the Law:

Equality and non-discrimination are the fundamental bedrock norms for the development of rights and freedoms¹⁷⁷. The rights of women/girls refugees emanate from equal protection of women refugees of those rights guaranteed under the international and national refugee laws and that of human rights norms that apply to all persons irrespective of sex ,nationality, place of origin, religion etc.¹⁷⁸

¹⁷⁴ See for example, supra note 153,p.9

¹⁷⁵ Art 22 (1) of the convention on the rights of the child GA Res. No.44/25 of 20th November 1989

¹⁷⁶ Interview with Haile Selassie Gebre Selassie, Senior legal officer, ARRA, December 25, 2009.

¹⁷⁷ See for example, Human rights committee General comment 28, Equality of rights between men and women (art 3) , U.N. Doc. CCPR/C/21/Rev.1/Add.10 (2000)

¹⁷⁸ Even though the 1951 refugee convention does not specifically provide for the protection of women refugees specifically various international treaties have provided such right of refugees. see for example, the 1966 convention on civil and political rights ,convention on the elimination of

The equal protection of the rights of women/girls refugees in Ethiopia has been guaranteed under the various international legal instruments ratified by the country and considered as part and parcel of the law of land. Refugee women/ girls in Ethiopia enjoy equal protection of those rights under the 1951 convention and the OAU convention without discrimination and other human rights. The convention on the elimination of all forms of discrimination against women CEDAW and the protocol to the African charter on human and people's rights in Africa ratified by Ethiopia have stipulated for the abolition of any discrimination against women in public and in private life¹⁷⁹. As regards to women refugees the protocol to the African charter has further stipulated that of the state parties take measures to ensure that women enjoy in equality with men access to refugee status determination procedures and that women refugees are accorded with the full protection and benefits guaranteed under the international refugee law, including their on identity and other documents¹⁸⁰. The human rights committee has explained that to fulfill this obligation, states must protect women's right to life and physical integrity against such abuses as rape, abduction and other forms of gender – based violence.¹⁸¹ It also states that not only civil and political rights in the fields of basic aspects of ordinary life such as work or housing, but also that individuals are to be protected with in the meaning of Art 25.¹⁸²

The UNHCR has also recognized the need for the protection need to be particularly directed towards women refugees. In its executive committee conclusions it stipulates that that, even

discrimination against women , the African charter on human and peoples rights and the protocol to the African charter on human and people rights

¹⁷⁹ See Art 1 of the Convention on the elimination of all forms of discrimination against women, G.A. res. 34/180.34 U.N.GAOR Supp. (No.46) at 193, UN. Doc. A/34/46, entered in to force Sept. 3, 1981 and Art 2 of the protocol to the African charter on Human and Peoples' rights on the rights of women in Africa adopted by the 2nd Ordinary Session of the Assembly of the Union Maputo 11th July 2003

¹⁸⁰ Art 4(2)(k) of the protocol African charter on the rights of women in Africa, adopted by the 2nd Ordinary Session of the Assembly of the Union Maputo 11th July 2003

¹⁸¹ Human rights committee General comment No. 31 : the nature of general obligation imposed in state parties to the covenant in compilation of General comments and General recommendations adopted by the Human rights treaty bodies , HRI/GEN/1/Rev.7, 2004

¹⁸² Ibid

though forcibly displaced men and boys also face protection problems, women and girls can be exposed to particular protection problems related to their gender, their cultural and socio-economic position, and their legal status, which means that they may be less likely than men and boys to be able to exercise their rights and therefore, specific action in favour of women and girls may be necessary to ensure they can enjoy protection and assistance on an equal basis with men and boys.¹⁸³

The FDRE constitution stipulates that all persons in Ethiopia are equal before the law and are entitled with out discrimination to the equal protection of the law. It states that the “the law shall guarantee to all persons equal and effective protection without discrimination on the grounds of race, nationality, sex¹⁸⁴” the refugee proclamation also has stipulated for the application of the provisions of the proclamation with out any discrimination as to race, religion , nationality , membership of a particular social group which includes women.¹⁸⁵

Even though equality between the sexes is guaranteed refugees and foreigners are exempt from equal treatment in the sense of enjoyment of some rights under the constitution reserved for nationals. To this end ,Ethiopia has entered its reservation to Art 8 of the convention against exceptional circumstances which stipulates for the right of the state not to apply exceptional measures against the person, property or interest of nationals of foreign states to a refugee who is formally a national of the said State solely on account of such nationality.¹⁸⁶

Contracting States which, under their legislation, are prevented from applying the general principle expressed in this article, shall, in appropriate cases, grant exemptions in favour of such refugees which include women /girls. This allows the country to adopt any measures in

¹⁸³ UN High Commissioner for Refugees, Conclusion on Women and Girls at Risk, 6 October 2006, No. 105 (LVII) - 2006, available at: <http://www.unhcr.org/refworld/docid/45339d922.html> [last accessed 19/5/ 2010]

¹⁸⁴ Art 25 of the Federal Democratic Republic of Ethiopia Constitution , the Federal Negarit Gazettea 1st issue No, 1 August 1995

¹⁸⁵ Art 3 of the refugee proclamation

¹⁸⁶ See supra note 151,pp.55-57

appropriate cases, which is generally accepted to be determined by the respective asylum state that are targeted against refugees regarding the person, property or interests of nationals and even to other aliens/ foreigners. This has got great potential of limiting the rights of refugees who have been recognized as those who require special protection because of their status in the absence of a clear provisions as to those cases such measures are warranted in the interest of the asylum state.

The international convention on economic social and cultural rights has also stipulated for the right to limit the enjoyment of the rights of economic social and cultural rights only to nationals for those counties experiencing economic and social challenges.¹⁸⁷

In Ethiopia the equal protection of women/ girls refugees under law, administrative measures and benefits has been guaranteed under the constitution that stipulated the domestic application of international legal standards. Ethiopia has ratified the refugee convention which guarantees the application of the rights and duties with out discrimination to membership of a particular social group. The FDRE constitution and the refugee proclamation have also provided for the same.

3.2.2 Physical Liberty and Security of Refugees

The right of liberty and security of person is a right guaranteed under the United Nations Declaration of Human rights, International covenant on civil and political rights which Ethiopia has ratified¹⁸⁸. The FDRE constitution also provides that “everyone has the protection against bodily harm. It also provides the right of everyone against inhuman degrading treatment or punishment which also includes the right not to be held in slavery or servitude; the prohibition against trafficking of persons and to perform forced or compulsory

¹⁸⁷ See Art 2(3) of the International Covenant on Economic, Social and Cultural Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI), of 16 December 1966, entry into force 3 January 1976.

¹⁸⁸ See Art 3 of the UDHR and the Art 9 and 10 of the ICCPR G.A. Res/no. 2200A (XXI) of 16th December 1966 entry into force 23 March 1976

labour¹⁸⁹ The constitution has also stipulated for the right of everyone to respect of his human dignity reputation and honour and the development of his/her personality in a manner compatible with the rights of other citizens.¹⁹⁰

3.2.2.1 Protection from violence against women/girl refugees

The term violence against women has not been stipulated in international and regional human rights conventions at the international level until the Declaration of all forms violence against women was made in 1993.¹⁹¹ The Declaration on the Elimination of Violence against Women is the first international human rights instrument to exclusively and explicitly address the issue of violence against women. It affirms that the phenomenon violates, impairs or nullifies women's human rights and their exercise of fundamental freedoms. Under the declaration gender-based violence was defined as any act that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”¹⁹² The same definition has also been provided by the CEDAW committee in its general recommendation on the convention on the elimination of all forms of discrimination against women.¹⁹³ It identifies three areas in which violence commonly takes place. Physical, sexual and psychological violence that occurs in the family, including battering; sexual abuse of female children in the household; dowry-related violence; marital rape; female genital mutilation and other traditional practices harmful to women; non-spousal violence; and

¹⁸⁹ See generally Arts 17 and 18 of the FDRE constitution

¹⁹⁰ Art 24(2) of the FDRE constitution

¹⁹¹ International Human Rights Instruments have provided for the right of liberty and security of persons which includes women and girls but prohibition of violence against women was not specifically mentioned.

¹⁹² Art 1 of the Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104 of 20 December 1993, available at [http://www.unhchr.ch/huridocda/huridoca.nsf/\(symbol\)/a.res.48.104](http://www.unhchr.ch/huridocda/huridoca.nsf/(symbol)/a.res.48.104) [last accessed 25/12/ 2009]

¹⁹³ CERD committee's General recommendation on gender related dimensions of racial discrimination supra note 66

violence related to exploitation; Physical, sexual and psychological violence that occurs within the general community, including rape; sexual abuse; sexual harassment and intimidation at work, in educational institutions and elsewhere; trafficking in women; and forced prostitution; Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.¹⁹⁴

As regards to women, the protocol to the African Charter on Human and peoples rights on the rights of women in Africa has stipulated for the protection of women from those specific violations particular to women. It states that every women in countries parties to the convention has the right to dignity inherent in a human being and to the recognition and protection of her human and legal rights and shall be entitled to respect for her life and the integrity and security of her person.¹⁹⁵ It stipulates for the state parties to take legal and administrative measures to prohibit exploitation cruel, inhuman and degrading punishment and particularly enact and enforce laws that prohibit all forms of violence against women including unwanted or forced Sex whether the violence takes place in private or public¹⁹⁶. The CEDAW committee has recognized violence against women as “a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on the basis of equality with men.”¹⁹⁷ The committee has urged states to adopt specific measures, including legislation to protect refugees or internally displaced women¹⁹⁸. It has also recommended that

¹⁹⁴ Ibid

¹⁹⁵ Art 4 of the protocol to the African Charter on Human and peoples’ right on the rights of women in Africa, supra note 180

¹⁹⁶ Ibid Art 4(2)(a)

¹⁹⁷ CEDAW committee , General recommendations No. 19 , violence against women , 1992, in compilations of general comments and General recommendations adopted by Human rights treaty bodies , HRI/GEN/1/Rev.7, 2004 ,p. 246 . the definition of violence against women as envisaged under it includes acts that inflict physical ,mental or sexual suffering the threats of such acts , coercion and other deprivations of liberty , whether committed by a private person or a public official

¹⁹⁸ See for example concluding observations of the CEDAW committee ; democratic republic of Congo; 31 January 2000, A/55/38, part I , 2000 , paragraph 218 : Federal republic of Yugoslavia 2nd February 1994, A/49/38, 1994 p. 133 ; concluding observations of the CEDAW committee Bosnia Herzegovina , 1st February , 1994 , A/49/38, 1994 , Para. 757

government provide refugee and displaced women with psychological support and socio-economic integration opportunities.¹⁹⁹

In addition the committee has recommended that states encourage public discussions of Violence against women, initiate legislation and train judges and security and health care professionals to identify and eliminate manifestations of violence and ensure that refugee and displaced victims of violence to have access to health and psychological services²⁰⁰.

A more detailed account of the difference areas of occurrences of violence against women refugees is provided by a preliminary report in 1994 by the Special Rapporteur, Ms. Radhika Coomaraswamy which focused on three areas of concern where women are particularly vulnerable: in the family (including domestic violence, traditional practices, infanticide); in the community (including rape, sexual assault, commercialized violence such as trafficking in women, Labour exploitation, female migrant workers etc.); and by the State (including violence against women in detention as well as violence against women in situations of armed conflict and against refugee women).²⁰¹ Women and children form the great majority of refugee populations all over the world and are especially vulnerable to violence and exploitation. In refugee camps, they are raped and abused by military and immigration personnel, bandit groups, male refugees and rival ethnic groups.²⁰² They are also forced into prostitution. In this regard, as to women/ girls refugees, the special Rapporteur report identified that measures should be to be taken for the protection of women and girls in refugee camps: improvement of security, deployment of trained female officers at all points

¹⁹⁹ Ibid, concluding observations of the CEDAW committee, Democratic Republic of Congo.

²⁰⁰ Concluding observations of the CEDAW committee Armenia, 16 the July 1997, A/52/38/Rev.1,1997, Para. II

²⁰¹ Preliminary Report of the UN Special Rapporteur on violence against women, including its causes and consequences appointed by the UN Commission of Human Rights , United Nations Department of Public Information DPI/1772/HR--February 1996 available at <http://www.un.org/rights/dpi1772e.htm> [last accessed on 5/12/09]

²⁰² id

of the refugees' journey, participation of women in organizational structures of the camps and prosecution of government and military personnel responsible for abuse against refugee women.²⁰³ The Platform for Action adopted at the Beijing Conference also identified violence against women and the human rights of women to be 2 of the 12 critical areas that are the main obstacles to the advancement of women.²⁰⁴

The FDRE constitution of 1995 also stipulated for the right of women to eliminate of harmful customs laws and, customs and practices that oppress or cause bodily or mental harm to women²⁰⁵. To this regard the 2004 revised criminal law has specified for the various crimes committed against women and also strict penalties and measures to be applicable to criminals. In this case it states that “whosoever compels a woman to sexual intercourse outside wedlock whether by the use of violence or grave intimidation.... is made punishable with rigorous imprisonment from five to fifteen years.”²⁰⁶ The maximum sentence established under this sentence will rise to twenty years in the case where such violence is committed by any one who the victim is under his supervision or is in the control or dependent up on him²⁰⁷. The code has provided for an austere punishment for any violation against women refugees especially those committed by those persons or officers who are the care takers of the victims. The law how ever does not recognize Marital rape, where the act of rape was performed by the spouse of the victim. An act that compels a person of opposite sex to perform or submit to act corresponding to the sexual act , or any other indecent act or an act which procures from a woman sexual intercourse or any other indecent act by taking

²⁰³ id

²⁰⁴ See generally ,Beijing Declaration and platform for action, fourth world conference on women ,15 September 1995,

²⁰⁵ Art 35(4) of the FDRE constitution

²⁰⁶ Art 620 of the Criminal Code of the Democratic Republic of Ethiopia 2004, proclamation No. 414/2004 9th of May, 2005 Addis Ababa

²⁰⁷ Ibid, Art 620 of the (a) and (b) of the Criminal Code

advantage of the distress or dependency of the woman is also made punishable.²⁰⁸ Sexual outrages committed against infants are punishable with rigorous imprisonment from thirteen to twenty years.²⁰⁹ Domestic violence committed against women is also punishable. In this case it states that a person who, by doing violence to a marriage partner or a person cohabiting in an irregular union causes grave or common injury to his / her physical or mental health is punishable under those provisions crimes committed against the person and health.²¹⁰ Early marriage and forced marriage have also been criminalized under the code.²¹¹

The refugee proclamation which stipulates that the government take special measures for the protection of women refugees includes measures that prohibit violence against women, trafficking and smuggling arising from their vulnerability.

3.2.2.2 Trafficking and Smuggling of Refugees:

The protocol to prevent, suppress and punish trafficking in person especially women and children defines trafficking of persons to mean the recruitment , transportation , transfer harbouring or receipt of persons ,by means of the threat to use of force or other forms of coercion, of abduction of fraud of deception, of abuse of power or of position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation.²¹² Exploitation shall include, at a minimum the exploitation of the prostitution of others or other forms of sexual exploitation, forced Labour or services, slavery practices similar to slavery servitude

²⁰⁸ Ibid , See Arts 622 and 625 of the code

²⁰⁹ Ibid , Art 627 of the code

²¹⁰ Ibid Art 564 of the criminal code

²¹¹ Ibid See generally Title Four chapter II of the code

²¹² See Art 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children ,supplementing the United Nations Convention against Transnational organized crime , G.A. Res./no. 55/25 of 15th Nov. 2000. Entered in to force 25th December 2003

or removal of organs.²¹³ The protocol has stipulated for the obligation of states to criminalize such acts in their domestic legislation and assistance to be provided to victims of trafficking of persons especially women and children. It has also stipulated for obligation of states to take prevention, cooperation and other measures needed which includes actions regarding information exchange and training and also border measure²¹⁴

Ethiopia has not ratified the protocol to prevent, suppress and punish trafficking in persons, especially women and children supplementing the United Nations Convention against Transnational organized crime. However The FDRE constitution has stipulated that slavery, servitude and trafficking of persons within the territory is prohibited. It also provides for the prohibition of forced or compulsory labour other than those exceptions provided under the constitution and which include any work or service normally required of a person who is under detention in the consequence of lawful order, or of a person during conditional release from detention and in case of conscientious objectors, any service exacted in lieu of compulsory service; any service exacted in cases of emergency or calamity threatening the life and well being of the community and any economic and social development activity voluntarily performed by the community within its locality²¹⁵.

In this regard the criminal code of 2004 stipulates that anyone “by violence, threat, deceit, fraud kidnapping or by the giving of money and other advantage to the person having control over a woman or a child, recruits, receives, hides transports, exports, imports a woman or a minor for the purpose of forced labor is punished with rigorous imprisonment from five to twenty years and a fine not exceeding fifty thousand years.”²¹⁶ The penalty is prescribed for

²¹³ Ibid

²¹⁴ Ibid, section three of the protocol

²¹⁵ See Art 18 of the FDRE constitution

²¹⁶ Art 597 of the 2004 criminal code, supra note 206

any one “who knowingly carries off, or transports, whether by land, sea or by air such victims.”²¹⁷

In spite of the fact that such legislative measures have been taken to criminalize such acts, the failure of acceding to the convention and the protocol have negatively influenced the commitment of the government from adopting policies that provide administrative and other assistance for the victims , preventive measures of such acts done in close cooperation with the international community.

3.2.2.3 Freedom of Movement

The right to freedom of movement and residence is one of the rights guaranteed under the 1951 refugee convention which states that “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.”²¹⁸ The United Nations Declaration of Human Rights and the International Covenant on Civil and Political Rights provide for the obligation of states to provide measures for the protection of freedom of movement of all human beings within the territory of state²¹⁹. The exception provided under the international covenant on civil and political rights stipulates that permissible limitations are those which may be imposed on the rights protected under the Article that do not nullify the principle of liberty of movement and are governed with the requirement of necessity to protect national security and public order (order public), public health and morals and the rights and freedoms of others.²²⁰ The restriction should also be provided by law, must be necessary in a democratic country and must be consistent with all other rights recognized under the covenant. Most importantly it is

²¹⁷ Ibid, sub article two

²¹⁸ Art 26 of the convention on the status of refugees , UN GA/ Resolution 2198 (XXI), 1951

²¹⁹ Art 12 of the International Covenant on Civil and Political rights, supra note 188

²²⁰ Ibid

not sufficient that the restrictions serve the permissible purposes but also must be necessary to protect them. Restrictive measures must conform to the principle of proportionality; must be appropriate to achieve their protective functions, they must be least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest of the protected. The principle of proportionality should also be provided for and applied by administrative and judicial authorities.²²¹

The human rights committee general recommendation provides that a state party should take measures to protect the infringement of such right not only from the public but also from private bodies, which is particularly pertinent to women refugees in ensuring the right of the woman to move freely and to choose her residence where such right is not infringed by law or by practice, to the decision of another person, including the relative.²²² Also state parties must also ensure that rights and freedoms, which include freedom of women /girls, apply to refugees without any discrimination up on their status as refugees. In this regard the convention regarding women CEDAW stipulates that states have obligations to take legislative and administrative measures that ensure the rights of women the exercise and enjoyment of human right and fundamental freedoms political .economic, Social, Cultural, civil or any other field in equality with men.²²³

The right to freedom of movement includes those rights under the convention of the right to move freely with in the country of residence and place of residence.²²⁴ This means that refugees enjoy as a minimum the rights enjoyed by aliens in the country of asylum and any limitations on such rights may be made for those purposes and reasons stipulated under the ICCPR and the ACHPR. This may include those circumstances where there is mass influx of

²²¹ Human rights committee General comment 27 on freedom of movement U.N. Doc CCPR/C/21/Rev.1/Add.9 (1999)

²²² Ibid

²²³ Art 1 of the convention on the elimination of all forms of discrimination against women(CEDAW) supra note 178

²²⁴ See, Hathaway supra note 41 pp.692-700

refugees or cases where it has become necessary to identify the identity of the refugee and security issues that may be posed by the individual in question.²²⁵ It is also that in the case where the refugee wants to transfer to another country and did not wish to apply for refugee status. In this regard the wording of the international refugee convention had also stipulated that states may take in case of war or other grave and exceptional circumstances, could take provisional measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security²²⁶.

In Ethiopia the right to freedom of movement is guaranteed under the constitution which stipulates that “everyone who is lawfully in the state has the right of freedom of movement and residence and any limitation as to it should be provided by law”.²²⁷ The provision is meant to include everyone which is in the territory of the state including non- nationals. As regards to refugees the country has entered reservation to the provision of the convention as regards to the freedom of movement of refugees and also the provision regarding exemption from provisional measures, that puts an obligation up on states not to take any exceptional measures that restrict the rights of refugees applied specifically for the sole purpose of their nationality.

Accordingly, the refugee proclamation of 2004 has provided for an exception to the full exercise of freedom of movement of refugees. It has also stipulated that the head of the authority has the power to decide on the place of encampment of such refugees, which currently the national body endowed of such right is the NISS (National Intelligence and Security Service). In practice refugees are inhabited in the 8 refugee camps near borders and

²²⁵ See supra note 41, pp. 697-713

²²⁶ See for example, supra note 41, pp.697-713

²²⁷ Art 27 of the FDRE constitution

only a few of them are exceptionally allowed to inhabit in the cities. In February 2010, there are about thirteen refugees camps hosting 144, 797 registered refugees. The rest 1, 645 registered refugees live in the urban areas. Also there is no legally established limitation on restrictions on freedom of movement which results in the long term encampment of refugees in designated places that also includes women /girls refugees. In this the exception lies in the case of Eritrean refugees who are presently allowed to move and reside anywhere they want within the country. Despite such positive administrative measure however such exception applies to those refugees who are originally from Eritrea and not to others resulting in the violation of another fundamental provision of equality and non-discrimination in the treatment of refugees. The provision also violates the article of the covenant regarding the permissible conditions of limiting freedom of movement of refugees which according to the interpretation provided by the Human rights committee must be necessary to serve a specific purpose of protecting national security and other national interests and must also be proportional to interest protected. The exception under the proclamation has however failed to address specific reasons, time and conditions of encampment of refugees to be determined by the authority.

In this regard the proclamation also infringes the provision of human rights standards that guarantee the application of human rights to all persons without any discrimination as to nation, nationality, sex or political opinion.

The restriction of such rights also affects and negatively impacts the exercise of other fundamental rights like the right to access to courts, right to work and self reliance, freedom to choose one's own residence, and various other restrictions that apply to detainees in general.

3.2.3 Right to Work and Self – Reliance

3.2.3.1 Right to Work and Conditions of Employment

The right to work is one the fundamental human rights guaranteed under international law. In this regard, international covenant on economic social and cultural rights defines that the right to work is one of the fundamental human rights guaranteed under the convention and “state parties should undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures²²⁸. It also states that these rights apply to all persons with in the territory of the state with out any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status with the exception that developing countries in consideration of human rights and national economy may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.²²⁹ The Paris principles held in 1992 upheld the indivisibility and interdependency of human rights which means that the deprivation of one of the rights under the ICESR would amount to violations under the ICCPR setting the obligation of states to enforce and protect all human rights on equal level.²³⁰

International human rights standards regarding women stipulate for the obligation of states to ensure through their national constitutions and other legislations the practical realization of the equality of women with men including all those rights and freedoms stated under

²²⁸ Art 2(1) of the International Covenant on Economic Social and Cultural Rights, supra note 187

²²⁹ Ibid Art 2(2)

²³⁰ The Paris principles have for the first time established the interdependency and indivisibility human rights be it civil, political , economic social or cultural.

international human rights instruments.²³¹ This has also attained the status of customary international law.

3.2.3.2 The Right to Self -Employment of Refugees

The right to self- employment refers to the right of refugees to engage freely in economic activity and pursue a livelihood of his / her choice.²³² The refugee convention has stipulated for some of the areas for the self employment of refugees. This includes agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.²³³

The refugee convention stipulates that countries should provide for the right of refugees the right to self-reliance, which includes women/girls, the most favourable treatment and in any case not less favourable than accorded to aliens. In this regard it states that “... The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstance ...”²³⁴

As regards to women, the provisions of the refugee convention is supplemented by the convention on the elimination of all forms of discrimination against women, CEDAW which stipulates that state parties should take all appropriate measures to eliminate discrimination against women in the areas of economic and social life and in particular regarding the right to bank loans , mortgages and other forms of financial credit ...”²³⁵ It also stipulates that states should take measures to ensure the right to women to organize self help groups and cooperatives in order to obtain equal access to economic opportunities through

²³¹ See Art 2 of the Convention on the elimination of all forms of discrimination against women, G.A. res. No.34/180 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered in to force Sept. 3, 1981 entered in to force Sept.3, 1981(CEDAW)

²³² See for example Hathaway, supra note 41,pp.721-723

²³³ Art 18 of the refugee convention

²³⁴ Ibid

²³⁵ Art 13 of the CEDAW convention, supra note 231

employment or self employment and adequate living conditions particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”²³⁶

3.2.3.3 Wage- Earning employment

The right to wage-earning employment is one of the rights of refugees including women /girls refugees guaranteed under the refugee convention. It states that refugees should be accorded with most favorable treatment of rights of foreigners.²³⁷ It also stipulates that such restrictions as the nationality will be lifted in those cases where the refugee has completed three years of residence in the country, has spouse possessing the nationality of the country of asylum, has one or more children having the nationality of the country of asylum²³⁸.

The CEDAW convention also stipulates additional obligations up on state parties as regards to women refugees to take in all fields including the sphere of economic activity the appropriate affirmative measures, including legislation to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on the basis of equality with men²³⁹.

The protocol to the ACHPR regarding women stipulates that of the right of refugees to economic and social welfare rights. It has stipulated for the obligation of states to promote equality of access to employment, promote equal remuneration for jobs of equal value for women and men.²⁴⁰ It has also stipulated for the obligation of states to promote and support the occupations and economic activities of women in particular with in the informal sector.²⁴¹ State parties also have the obligation to establish a system of protection and social insurance

²³⁶ Ibid , Art 14 (d)-(e)

²³⁷ Art 17 (1) of the refugee convention

²³⁸ Ibid, Art 17 (2)

²³⁹ Ibid Art 3

²⁴⁰ Art 13(a) and (b) of the Protocol to the African Charter on Human and peoples’ rights on the rights of women, supra note 180

²⁴¹ Ibid , Art 13 (e)

for women working in the informal sector and sensitize them to adhere to it²⁴². It has also established for the obligation of states to take measures that guarantee adequate and paid pre- and post-natal maternity leave in both the private and public sectors; take effective legislature and administrative measures to prevent the exploitation and abuse of women in advertizing and pornography²⁴³. It has also stipulated for the duty of states to guarantee women the freedom to choose their occupation and protect them from exploitation by their employers violating and exploiting their fundamental rights as recognized and guaranteed by conventions , laws and regulations in force.²⁴⁴ To establish minimum age for work and prohibit the employment of children below that age, and prohibit, combat and punish all forms of exploitation of children especially the girl child.²⁴⁵

In Ethiopia, the right to employment is guaranteed under the constitution which stipulates that of the rights of every Ethiopian to engage freely in economic actively and to pursue a livelihood of his choice any where with in the national territory and the obligation of the state to undertake all measures necessary to increase opportunities for citizens to find gainful employment. It means that the right to work is reserved to only the nationals of the state. As regards to women it has also stipulated that due to the history of inequality and discrimination suffered by women in Ethiopia they are entitled to affirmative measures so as to serve the purpose of enabling them to compete and participate on the basis of equality with men in political, social and economic life as well as public and private institutions.

As regards to refugees, the country has also entered her reservation to the convention regarding the reasons for extinction of the limitations on wage -earning employment.²⁴⁶ In

²⁴² Ibid Art 13 (f)

²⁴³ Ibid Art 13 (i)-(l)

²⁴⁴ Ibid Art 13 (m)

²⁴⁵ Ibid Art 13 (g)

²⁴⁶ See for example supra note 151

reflection of this policy, the refugee proclamation has stipulated for the right of refugees to work and employment and has stipulated for the exception as regards to the right to gainful employment, where refugees may exercise rights granted to aliens. It states that that as in the case of right of education refugees and their family members may be entitled as regards to wage earning employment to the same rights and to be subjected to the same restrictions imposed upon person who are not citizens of Ethiopia.²⁴⁷

As regards to wage-earning employment the proclamation has thus provided for exceptions to the rights guaranteed under the refugee convention where refugees are treated as aliens as regards to wage earning employment. The national policy provides the prohibition of foreigners no to be eligible to be civil servants. However, a foreigner may be appointed on temporary basis, where it is proved that it is impossible to fill a vacant position that requires high level professional expertise by an Ethiopian through promotion, transfer or recruitment²⁴⁸. By the same token refugees may not be employed under the public offices which are only reserved to only citizens. As with foreigners refugees may be engaged in any other type of work where he/she possesses a work permit given to him by the Ministry of Labour and Social Affairs (MoLSA) which has the authority to grant such permits. A work permit, which has to be renewed every year, is given to any foreigner for employment in a specific type of work for three years. However, MoLSA may vary the three years limit as required. Where MoLSA ascertains that the foreigner is not required for the work, the work permit may be cancelled which *mutatis mutandis* applies to refugees.²⁴⁹

As seen above the right to work of refugees in Ethiopia applies equally to women refugees inside the country in equality with the men by virtue of principles of the constitution and international human rights standards, that refer those rights to be enjoyed by foreigners in the

²⁴⁷ Art 21(3) of the refugee convention

²⁴⁸ Report submitted by Ethiopia to the committee on the elimination of racial discrimination CERD General CERD/C/ETH/7-16, 11th march 2009, Art 1 paragraph 18

²⁴⁹ Ibid, paragraph 19

country. In this, refugees including women/ girls who have fulfilled the condition of living in the country for three years and/ or one of the spouses or children is an Ethiopian national, have the right to engage in wage-earning employment is not accrued to such refugees.

Such limitations imposed on self employment of refugees also affects the exercise of the fundamental human rights standard of the right of self improvement guaranteed under the international human rights instruments and the constitution. The restrictions on the right to self- employment and wage- earning employment also affects the other rights of refugees regarding access to minimum core living standards of life of such refugees in the case where these refugees unlike other foreigners cannot avail them selves of the protection of their own country of exercising their civil, political, economic, social and cultural rights. Such rights and restrictions regarding self-employment and wage-earning employment accorded to refugees applies equally as regards to women refugees including in the instance of acquiring nationality as stipulated under the amended proclamation regarding the acquisition of nationality in Ethiopia.

3.2.4 Education

Education is one of the rights guaranteed under the 1951 refugee convention. It states that state parties to the convention shall give refugees the same treatment accorded to nationals in the case of elementary education²⁵⁰. The convention has also provided treatment as favourable and not less favourable as accorded to aliens in 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.²⁵¹

²⁵⁰ Art 22(1) of the refugee convention

²⁵¹ Art 22(2) of the refugee convention



African states have over duly stated for the provision of providing education to children with out limitations in history as seen in the above chapter. In this case, the protocol to the rights of women refugees in Africa has guaranteed women refugees their right to equal access to education of such rights with out any discrimination on their status of being female refugees. In this regard state responsibility extends to such measures that should be taken by the government to create awareness by establishing the various rights of refugees²⁵².

The right to education has been guaranteed under international legal instruments that Ethiopia has ratified. The right of education related to refugee women and girls established the responsibility of states in their territory to take measures to eliminate discrimination against women in education including in higher education, vocational training, continuing education, such as language and literacy courses, and participation in sports and physical education.²⁵³ The other can be that of the obligation of states to take measures to reduce female dropout rates. The convention on the rights of the child provides for the obligation of states. States are required to make primary education compulsory and free for all, and to encourage regular school attendance and to reduce drop out-rates.²⁵⁴ This right is applied without any discrimination on the basis of sex or nationality or origin applied indiscriminately to all children in the territory of the state party to the convention.²⁵⁵

The millennium development goals also show the commitments by the international community to implement right to education with goals that thrives to achieve gender parity, promote access to quality education and meet the learning needs of adults particularly women²⁵⁶. The commitment provides access to quality education in case of displaced persons

²⁵² See Art 12 of the protocol of the rights of women in Africa, supra note 180

²⁵³ Art 10(a) of the CEDAW convention supra note 231

²⁵⁴ See Art 28 of the Convention on the Rights of the Child, GA Res no. 44/25 of 20th November 1989 entry in to force 2nd December 1990

²⁵⁵ Ibid

²⁵⁶ See for example Progress for Children , A world fit for children statistical review,(UNICEF 2007),pp.16-18

and particularly women/ girls refugees means access to those which incorporate programmes that raise awareness about women's and girls' rights, empowerment, and protection against sexually transmitted diseases, including HIV.²⁵⁷ The right of refugees to be thought in their language is also the other right guaranteed.

The right to education of refugees also is intrinsically related to the exercise of any prohibition of discrimination based on sex emanating from unequal status in marriage and family responsibility, early marriage, poverty which coupled with the overburdened responsibility that could hinder refugees from the possibility of going to school.²⁵⁸

In Ethiopia, as in the case of wage earning employment the refugee proclamation provides limited right of refugees in the exercise to both elementary and secondary education as other foreigners. The proclamation thus contradicts international legal norms Ethiopia has ratified which are considered as part of the law of the land by not providing for legislation to provide for the right of refugees to elementary education.

3.2.5 Durable Solution

Durable solutions refer to those options of voluntary repatriation, local integration in the country of first asylum or resettlement in a third country deemed to bring a permanent settlement and an end to the refugee status.²⁵⁹ These three measures have been called durable solutions because are expected to bring about the end to refugees' suffering and their need for international protection and dependence on humanitarian assistance. The UNHCR as

²⁵⁷ See NGO Statement on the Relevance of UNHCR's Activities to the Millennium Development Goals available at www.refugees.org [last accessed 11/29/2009]

²⁵⁸ See Art 5 of the CEDAW convention ,supra note 231

²⁵⁹ See for example supra note 125

mandated by its statute of providing solutions to the problem of flight of refugees²⁶⁰ has adopted for these solutions under the executive committee conclusions particularly under the theme of “Durable solutions and refugee protection” as endorsed by the general assembly resolutions.²⁶¹

In this, the UNHCR has focused on providing humanitarian assistance to refugees and pursuing durable solutions where the protection of the right of refugees in as a temporary and second best protection option to be provided by states until durable solutions are found.²⁶²

In this, some basic fundamental rights that are related to the availability of durable solutions include right to nationality, relating to the exercise of basic civil and political rights that only accrue to citizens²⁶³. This obviously justifies the need of durable solutions and the credibility of any measures directed to pursue them.

The right of voluntary repatriation is one of the durable solution guaranteed under the convention²⁶⁴ which also met by the right of return of refugees to their country of nationality. For example, the right of return of citizens of Ethiopia is guaranteed under the immigration proclamation of 2005. This right entails an obligation of the country not to refuse entry to nationals at any time.²⁶⁵

Any person including a refugee has a right to decide to leave the country including the state of asylum. Durable solutions of local integration and resettlement are not rights that provide

260 The organization's statute commands the High Commissioner to seek 'permanent solutions for the problem of refugees by assisting Governments . . . to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities.'

²⁶¹ Durable solutions and refugee protection UN GA. Res. 44/137, OP10 15 Dec 1989

²⁶² See supra note 41, p. 913. See also the preamble of UNHCR Executive Committee Conclusion No. 89 “conclusions on international protection”, 2000

²⁶³ See for example supra note 41, pp. 916-917

²⁶⁴ See Art 1 [C] of the refugee convention

²⁶⁵ Art 4 of the immigration proclamation

obligation up on states because of the international legal principle of State Sovereignty that accrues the right of states to independently decide on citizenship and ultimately those refugees should be permanently admitted to their territories and acquire nationality²⁶⁶. The right of resettlement only creates the obligation of states to facilitate his / her admission into another country. This may include for example the abolishment of those measures that restrict the right of the refugee to contact foreign consultants, UNHCR representatives or voluntary agencies and avoid any administrative actions that detain and the as rule prohibits encampment of such refugees.²⁶⁷

In Ethiopia, every recognized refugee has the right of his/her own will, to seek to repatriation to his/her country of nationality or former habitual residence in safety and dignity. The proclamation states that “.....every refugee has the right, of his own volition, to seek to repatriate from Ethiopia to his country of nationality or former habitual residence in safety and dignity”,²⁶⁸. As a rule, a refugee who is a lawful resident of Ethiopia shall not be expelled save on grounds of national security and public order. Even in such cases, however, certain requirements have to be complied with. For example, after an expulsion decision has been made, a reasonable period of time is provided to enable such refugees to seek admission to a country other than that to which he/she is to be expelled. Moreover, an order to expel can only be given by the head of NISS and the concerned refugee is also allowed to present his/her case.²⁶⁹

The national policy of the country does not allow any measures that allow the local integration of refugees. By this token, integration is possible in the case the refugee acquires nationality of the country.

²⁶⁶ See for example Supra note 41, pp. 966-967

²⁶⁷ Supra note 41, p.967

²⁶⁸ Art 23 of the refugee proclamation

²⁶⁹ See for example supra note 248

Any foreigner including refugees may acquire Ethiopian nationality without discrimination as long as he/she satisfies the requirements of the law that applies to non-nationals of Ethiopia²⁷⁰. In order to avoid discrimination in the course of naturalization a system has been developed where any application to obtain Ethiopian nationality by law shall be examined by a Committee called Nationality Affairs Committee which comprises of representatives from NISS, Ministry of Foreign Affairs, Ministry of Justice and Federal Police Commission. A residence permit is issued for foreigners who satisfy legal requirements without discrimination of any kind.²⁷¹

To reduce statelessness of children, however, the Ethiopian law recognizes an infant who is abandoned and found in Ethiopia, unless proved to have a foreign nationality, shall be deemed to have been born to an Ethiopian parent and to be considered as an Ethiopian national.²⁷²

In Ethiopia the right of nationality accrues the fundamental civil and political rights guaranteed to citizens under the constitution which also includes the right to own immovable property. In this regard the ownership of immovable property is reserved for Ethiopian nationals only. However, foreigners may own immovable property in the country with special permission from the head of the Government (art. 390 of the 1960 Civil Code).²⁷³ Furthermore, if a foreigner wants to engage in investment activities, he/she is entitled to own immovable property such as a dwelling house and other immovable property necessary for the investment. Foreigners can invest in Ethiopia either with the status of a domestic investor (i.e., foreigners residing permanently in Ethiopia who prefer to be treated as domestic

²⁷⁰ Ibid, Para. 133

²⁷¹ Ibid, Para. 135

²⁷² Ibid, Para. 136

²⁷³ Ibid, Art 1, Para. 20

investors) or as foreign investors. Foreigners can invest in areas not exclusively reserved for the Government or for Ethiopian nationals.²⁷⁴

3.2.6 The Right to Identification Documents, the Right of Labour Legislation and Social Security of Refugees.

The right to acquire identification documents is one of the rights guaranteed under the international convention of refugee law and the OAU convention. The right has also been guaranteed under the refugee proclamation which states that “every recognized refugee shall be issued with identity card attesting to his refugee status”²⁷⁵ Pending their application, they are issued with identification card attesting their asylum-seeker status. However they are not required to possess valid travel documents and international health certificate to enter the country. Valid travel documents are issued to them for the purpose of travelling outside Ethiopia. They may be issued for exit only or for exit and re-entry.²⁷⁶

In practice however the country has adopted the administrative measure of granting identity cards to refugees living outside camps where by refugees in the camps only possess ration cards. This has been taken by the authorities as a pragmatic step of minimizing financial cost spent for the preparation of the identity cards since the free movement of refugees out of the camp is limited.²⁷⁷

The other is with regard to labour legislation and social security of refugees. This right has been guaranteed under the international convention of refugees and various other international human rights instruments. This right refers to national treatment in case of those labour rights of refugees particularly of “remuneration, including family allowances where

²⁷⁴ Ibid

²⁷⁵ Art 21(1)(b) of the refugee proclamation

²⁷⁶ See supra note 248

²⁷⁷ See infra note 313

these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons, and the enjoyment of the benefits of collective bargaining.²⁷⁸ It also provides for the right of social security' schemes which provide employment compensation to refugees in cases of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and others. In Ethiopia how ever there are exceptions where refugees like foreigners are not covered in the government pension scheme unless bilateral or multilateral agreements provide otherwise²⁷⁹.

²⁷⁸ Art 24 of the refugee convention

²⁷⁹ See supra note 248

Chapter Four:

The Impact and Challenges created by the National policy and Legislative Standards in the Protection of Rights of Women / Girls Refugees living in Protracted situations in Ethiopia: The Case of Refugees in Kebribeyah Camp.

4.1 General Back ground of the Kibrebeyah Camp of Ethiopia

4.1.1 The Somali Regional State of Ethiopia

The kebribeyah camp is found in the Jijiga zone inside the town of kibrebeyah situated in the Somali regional state of Ethiopia located at 7°26'190N 44°17'490E on the map²⁸⁰. The regional state is located in the Eastern part of the country and borders Somalia to the north east and south, Djibouti to the north, Kenya to the south west and the Ethiopian regions of Oromia, Afar and Dredawa to the west. There are nine administrative zones- Shinile, Jijiga, Fik, Degahbur, Korahe, Warder, Gode, Afder and Liban.²⁸¹ The area of the region covers 279, 250 km² which makes it the largest region of the country. According to a census made in 2005 the total population of the region consists of 4, 329,000 people where the Somalis consist of 97.5% of the total population²⁸². The Kebribeyah refugee camp is located at a distance of 685 kms from Addis Ababa, 51 kilometers from the capital of the regional state Jijiga and about 100 kilometers from the Somali border. It is found at an altitude of 1660 meters above sea level.²⁸³

²⁸⁰ The Somali regional state of Ethiopia, Field Surveys conducted by SCUK/DPPB. Food Security Monitoring and Early Warning Programme – Revised 2004.p.1

²⁸¹ ibid

²⁸² ibid ,p.2

²⁸³ Ibid

The Woreda is bordered in the south by the Degehabur Zone , on the west by the Oromia region on the north west by the Jijiga town , on the north by Awbere , on the north east by Somalia and on the south east by Hartshin.²⁸⁴ According to the census made by the central statistics Authority in 2005, the total population of the woreda is estimated 204, 706 of whom 98,055 are men and 106,651 are women.²⁸⁵

The climate is mostly arid/semi-arid in lowland areas, cooler/wetter in the higher areas. Annual rainfall is 150 - 1,000mm per year. Temperatures range from 19°C (Jijiga Zone) where the town of kebribeyah is found) to 40°C (the southern zones, particularly the Shabelle, Dawa and Ganale river basins); northern Shinile Zone gets very hot between May and August.²⁸⁶ Permanent rivers include permanent rivers include the Ganale (Liban and Afder), the Shabelle (Afder/Gode border) and the Dawa (in Liban Zone, becoming seasonal in Dolo Ado District). Seasonal rivers include the Erer, Hurso and Chow rivers (Shinile Zone), the Wayb River (Afder Zone), part of the Dawa River (Liban Zone), and the Fafan, Jerer and Dakhata rivers (in Jijiga, Fik, Degahbur and Korahe Zones).²⁸⁷ In the kebriebeyah the only perennial rivers are the Fafen and Jerer²⁸⁸

Water resources include mainly rivers, shallow/deep wells, natural ponds, berkads (artificial reservoirs) and boreholes. Shallow wells (mostly in seasonal river-beds) are found in all zones; their yields and quality decline in the dry seasons. Berkads are found mainly in the Hawd areas (Warder, eastern Korahe, eastern Degahbur and Jijiga Zone) where permanent water sources do not exist. Historical, permanent, deep wells are found in Warder Zone,

²⁸⁴ Hailu Ejara Kene , Baseline survey of the 55 woredas of PCDP phase II part I (Addis Ababa, August 2008

²⁸⁵ See supra note 280

²⁸⁶ See supra note 280

²⁸⁷ See supra note 280

²⁸⁸ See supra note 284

particularly in Warder District. Other sources include natural depressions (balleys) which collect rain water, or hand-dug ponds. Water quality is often a problem for all sources – boreholes are better but are very few.²⁸⁹ Water scarcity is an endemic problem in most areas, particularly those with no permanent water points. Areas that are known for their chronic water shortages in the dry seasons are all berkad-dependent areas (see above), and most of Fik, and parts of Gode, Liban and Afder, which depend on shallow wells and balleys. The soil fertility is high around rivers (permanent and seasonal) which flood seasonally. These areas are cultivated by agropastoralists and riverine communities. Most of the Hawd area has sandy soils which are very porous and do not support crop production. Many parts are rocky and hilly.²⁹⁰ Four generic livelihood types exist in the region- pastoralism, agropastoralism, farming (sedentary and riverine) and urban. Pastoralism is the most prevalent, comprising about 60% of the region's rural population. Agropastoralism comprises about 25% of the total rural population, and is a mixture of extensive livestock rearing and rain-fed crop production; some may be better described as pastoralists with opportunistic farming activities as in Fik and some parts of Liban Zone.²⁹¹ The remaining 15% of the rural population comprises sedentary (Jijiga) and riverine (Shabelle and Dawa-Ganale) farmers. Both farming and agropastoral groups keep some livestock but farmers' herds do not migrate and are sometimes hand-fed, only migrating with other groups if there is a severe drought. Agricultural land tends to be inherited and individually "owned", although it is often managed by the community or clan/sub-clan. Ownership may be limited near to rivers where irrigation is easier, but otherwise household capacity to cultivate is usually the limiting factor; so wealthier households tend to cultivate wider areas. Grazing land tends to be communal, although herd migration may take people into wider areas in Jijiga, households may own

²⁸⁹ See supra note 280

²⁹⁰ See supra note 280

²⁹¹ See supra note 280



some grazing land. Land to farm salt in Afder can only be afforded by middle and better-off households²⁹².

There is relatively little employment to be found outside the towns, other than seasonal agricultural labour, and sometimes livestock herding. Households may send members to seek work in towns as a coping strategy, but it does not usually generate much extra cash once living expenses have been accounted for. The major employers are the regional and federal governments, NGOs and the private sector (particularly urban services like restaurants). Overall the skilled labour force is extremely limited.²⁹³ Infrastructure roads and access to health, education and water is poor throughout the region. A major road construction that joins kebribeyah town and jijiga has been recently constructed. The road connecting jijiga town and city of Harar is also being reconstructed.

Most zonal capitals and district towns are important trading centers for surrounding villages/towns and important market towns which serve wider areas and serve as marketing hubs for livestock, food and non-food commodities both within the region, and also across the borders into neighbouring regions of Ethiopia and also into Kenya, Djibouti and Somalia. Trade with the rest of Ethiopia is very limited but has progressively been improving with the adoption of new policies by the government.²⁹⁴ The main source of income for pastoral groups is livestock sales (often making up to 50% or more of all income). Poorer households usually have more diversified income sources as they have too few livestock and can ill-afford to sell them. Ghee sales, particularly for cattle-rearing pastoralists is also a source of income. Milk is sold by pastoralists only when they are near settlements or near permanent water points during the dry seasons. Normally most pastoral groups just consume their milk

²⁹² See supra note 280

²⁹³ See supra note 280

²⁹⁴ See supra note 280, p. 3

as access to markets is difficult. Other sources of income, particularly among the poor, are the collection and sale of construction materials, firewood, charcoal, gums and resins, and engagement in unskilled labour activities such as working in tea shops and livestock herding for the richer households. Again most of these opportunities are more available to those living near towns, which provide the demand. Payment for herding may be given in kind. In the drier seasons water is sold, particularly in berkad-dependent areas. Pack camel rent is an important income source in Shinile zone. Members of these households go to nearby towns (usually agro-pastoral areas are nearer settlements) to work in tea shops, work as house-helps, etc. Agropastoralists may also sell fodder.²⁹⁵ Wealthier agropastoralists/farmers are able to store their grain for sale at a later date when prices are better. Jijiga sedentary farmers may sell some chat for income during the wet seasons. In some geographical areas pastoral or agropastoral households benefit from remittances sent by relatives in Djibouti, Somaliland, Jijiga city and even from other countries.²⁹⁶

The security situation of the state is currently relatively stable with the exception of reports of incidents of insurgent attacks by separatist groups around Jijiga and border villages which had resulted in the death of some people.²⁹⁷

4.1.2 The Characteristics of Refugee Population in the Camp

The Somali refugee influx into Ethiopia started with the civil war in the northern parts of Somalia in 1988. The influx increased significantly with the fall of the Siad Barre Regime in 1991 which led to the establishment of 9 refugee camps in eastern Ethiopia, with a total population of 628,000 Somali refugees.²⁹⁸ Following the voluntary repatriation that took

²⁹⁵ See supra note 280, p.4

²⁹⁶ See supra note 280, p. 6

²⁹⁷ The Ethiopian news Agency, August 2010

²⁹⁸ Refugees in the Somali regional state of Ethiopia , UNHCR- Ethiopia publications available at

place from 1997 until July 2005, only one camp, Kebribeyah, hosting 16,678 refugees remained.²⁹⁹

The camp was founded in 1991 where the protracted civil war in Somalia resulted in the displacement of large number of people from their place of origin to the neighboring countries. The country has thus been hosting refugees from Somalia since 1990s. The Kebri Beyah currently hosts refugees that were not able to be repatriated or resettled and includes all the refugees from the other camps that were also not able to be repatriated or resettled (in zone 4).³⁰⁰

Due to the present insecurity in Somalia, almost all of the refugees in the camp are staying in the country. The recent events in Somalia have also lead to new arrivals in Kebribeyah and the surrounding areas. In the year 2006, more than 6,000 asylum seekers have been screened and accepted as refugees in Kebribeyah. The continued war and violence in Somali the outflow of refugees to the neighboring countries has also resulted in the opening of 2 new camps and the reopening of one camp at shedder, Beklomay and Aw Barre (also known as Teferiber near the city of Hartishiek). Kebribeyah camp which is the subject of this study currently hosts about 16, 530 refugees where women constitute 51% of the total population where most of them arrived in the country in the year 1991³⁰¹. The camp was established along clan lines and affiliations however as zone 4 regroups all the refugees from the other 8 camps it includes a variety of different clan. The demographics of the camp population is shown in the following table.

[www.unhcr.org/.../Refugees%20in%20Somali%20Regional%20State%20of%20ethiopia%](http://www.unhcr.org/.../Refugees%20in%20Somali%20Regional%20State%20of%20ethiopia%20)
[last accessed 12/ 3/ 2010]

²⁹⁹ *ibid*

³⁰⁰ *Ibid*, pp.1-2

³⁰¹ ARRA- monthly progressive report, February 2010

Table 3: The Demographics of the camp population

Age	Gender				Number of Head of Households		
	Female	Male	Total	%	Female	Male	Total
0-4 years	991	1040	2031	12.29%	1285	745	2027
5-11 years	2575	2603	5178	31.32%			
12-17 years	1143	1196	2339	14.15%			
18-59 years	3518	3021	6539	39.56%			
60years and above	197	246	443	2.68%			
Total	8424	8106	16530	100.00%			

Source: ARRA- monthly progress report Feb, 2010

The female head of households consist of more than 60 % of the total head of house holds who are responsible in bringing about the livelihood of the rest of the family.

The socio- economic and cultural features of the Somali population is characterized by clan lines. The first distinction can be between clan federations with a pastoral origin and the “others”. The main pastoral federations of Somalia include the Dir. The main clans under it include the Isaq (the hegemonic clan in north-west Somalia/Somaliland), the Issa (hegemonic in Djibouti, but also with a large presence in Ethiopia), the Gadabursi (sandwiched between

the first two) and the Bimal, the only Dir clan inhabiting southern Somalia.³⁰² The other main clan is Darod. It is the largest federation if we take into account its presence in Ethiopia and Kenya. The main clans are the Harti (particularly the Majertein in north-eastern Somalia, but also the Dulbahante and Warsangeli living in present “Somaliland”), the Ogaden (mainly in south-eastern Ethiopia) and the Marrahan (Siyad Barre’s paternal clan).³⁰³ Hawiye is the other living mainly in central and southern Somalia. The main clans are the Habar Gidir (Aidid’s clan), the Abgal (of his rival Ali Mahdi), the Murusade, the Galjel and the Hawadle. Digil-Mirfl: also known as Rahanweyn are adapted to a more sedentary and agricultural lifestyle in the fertile regions between the rivers Juba and Wabi Shebelle in southern Somalia. From a spatial point of view, all clan-families as well as most clans and sub-clans are oriented from the coast towards the interior and are transnational, spanning across the Somali-Ethiopian border and Somali-Kenyan. This makes it very difficult to establish the citizenship of individuals, particularly in a context where lack of proper identity documents is the norm rather than the exception.³⁰⁴

Groups of non-nomadic origin often referred to as “minorities” include “mercantile” clans, (e.g. the Reer Hammar and the Reer Brawa) “clergy” clans (like the Shekhal and the Ashraf) or low-caste occupational groups performing culturally “impure” jobs (Gaboye/Mitgan, Tumal and Yiber) and some clans of Bantu practising fishery and agriculture along the river banks. Most of these groups, without a warrior tradition and without a militia of its own have

³⁰² Guido Ambroso, Pastoral society and transnational refugees: population movements in Somaliland and eastern Ethiopia 1988 - 2000: NEW ISSUES IN REFUGEE RESEARCH Working Paper No. 65 Evaluation and Policy Analysis Unit United Nations High Commissioner for Refugees, August 2002 available at [www. UNHCR.org](http://www.UNHCR.org) [last accessed 2/7/2008] ,p.2

³⁰³ Ibid

³⁰⁴ Ibid, p. 3

to rely on the “protection” of a pastoral clan, but can become their victims in case of conflict³⁰⁵.

In the camp, the majority of the refugees are from the major clan of Darod, and sub clans of majerten, merehon, Awalian and the major clan group of Hawiye which comprises the second largest group of refugees in the camp. The number of women refugees for the major clans of Darod, Hawiye, Dirr, Gaboye/midgan, Shekhal and Rahanweyen are greater than the rest of the clan groups particularly of Asharaf , Bantu and others. The majority of refugees in the camp are from rural areas in Southern Somalia, and have a pastoral economic base. The clan composition of refugees in the camp is shown in the following table.

Table 4: The clan composition of the refugees living in the camp

Rank	Ethnic group	Male	Female	Total	%
1 st	Darod	4302	7524	11826	72
2 nd	Hawiye	1043	1432	2475	15
3 rd	Dirr	222	428	650	4
4 th	Gaboye/midgan	261	306	567	3
5 th	Shekhal	82	170	252	2
6 th	Rahanweyen	99	110	909	1
7 th	Asharaf	129	82	211	1
8 th	Bantu	100	44	144	1
9 th	Others , Arab , Derhamar, Ada	110	86	196	1

³⁰⁵ ibid

Total		6348	10181	16530	100
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Source: ARRA -monthly progress report February 2010

4.2 The Impact of National Protection Frame Work on the Rights and Lives of Women

Refugees in the Camp

The kebribeyah camp consists of those refugees who have not been able to be repatriated since the operation ceased to be availed by the refugees due to new emerging conflict in the country and those who have not been able to be resettled. The camp is populated by refugees who have been admitted on prima facie basis during the 1990s³⁰⁶. In this, a significant percentage of the population consists of vulnerable groups. The following table shows the demographics of the refugee population by specific needs:

Table 5: the Demographics of the refugee population by Specific needs

Specific needs	Female	Male	Total	% of female population
Child/adolescent at risk	1321	1140	2461	53.6%
Women at risk	549		549	100%
Important medical condition	952	607	1559	61%
Legal protection needs	164	99	263	62.3%
Single parent	53	3	56	94.6%

³⁰⁶ See supra note 4,294

Unaccompanied minors /separated child	186	181	367	50.6%
Older persons at risk	145	127	272	53.3%

Source: ARRA monthly progressive report February 2010

In the month of February 2010, the number of women refugees at risk is very high and also that the out of the total number of child and adolescents at risk the female population stands at 53.67%. The number of female refugees who need special protection also stands at 62.3% and that of proportion of female single parents stands at 94%. The number of female unaccompanied minors/separated child and old persons at risks is also a bit higher than the male population. In this at least 33.43% of the total refugee population in this period are in the immediate need of special protection and assistance where 60 % of them are vulnerable women / girls refugees.

Refugees in the camp live in what some scholars call closed and restricted camp settlements. But it is reported that illegal movement of refugees is rampant and the government is tolerant of such movements where punitive measures are rarely taken against refugees in violation³⁰⁷.

There is no one organization in the camp devoted to providing protection on women refugees only but almost of all of them have created projects , initiative and strategies that are particularly devoted in providing adequate protection for women/ girls refugees in the camp. Accordingly the UNHCR provides financial assistance and also that of general monitoring

³⁰⁷ Joëlle Moret, Simone Baglioni, Denise Efionayi-Mäder. The Path of Somali Refugees into Exile , A Comparative Analysis of Secondary Movements and Policy Responses,swiss forum' for migration and population studies (SFM Studies 46) , 2006 available at http://www.doc.rero.ch/lm.php?url=1000,44,4,20070216150929-NK/s_46.pdf, pp . 61-62 [last accessed13/12/2009]

under the guidance of ARRA.³⁰⁸ The implementing partners working in the camp include the world food program (WFP) which provides basic rations, and supplementary food. It also implements the school feeding programme. ARRA's main activities include providing Primary and secondary education, Logistics (distribution of food & Non-food items), Sanitation, Health & Nutrition, Physical protection and Camp administration.³⁰⁹ The international rescue committee IRC is responsible for providing Community Services, Pre-school education, Non-formal education, and Preparation & supply of sanitary materials.³¹⁰ It has also established SGBV and Child protection departments that are responsible for improving the protection to women, girls and other children.³¹¹ The other IP working in the camp includes the rehabilitation and development organization RADO which provides Disability prevention awareness, Provision of auxiliary limbs, Provision of physiotherapy service to disabled refugees particularly children. GIAIA, an NGO within the camp is responsible for providing clean cook stoves and supply of ethanol to refugees which primarily centers on women head of households and those households inhabiting vulnerable groups. Mother and child development organization (MCDO) is an advocacy organization that plays a special role working on the issues of women by for example advocating against harmful traditional practices particularly FGM.³¹² ZOA - refugee care a Netherlands based NGO which primarily worked on livelihoods of refugees, Environmental awareness & introduction of environmental friendly technology and Peace education has ceased to operate since its projects have phased out in the new academic year³¹³. The other newly established organization within the camp is the Danish NGO which has taken up the primary responsibility of working on the livelihood of refugees. Save the environment Ethiopia

³⁰⁸ See supra note 298, p.5

³⁰⁹ See supra note 298, p. 5

³¹⁰ See supra note 298, p. 6

³¹¹ International refugee committee IRC – Ethiopia program available at <http://www.theirc.org> [last accessed December 15, 2009]

³¹² *ibid*

³¹³ Interview with Senait Getachew, Legal protection officer UNHCR office at Jijiga, April 5, 2010

(SEeth) is the other NGO, working in the area of protection of the natural environment in and out side the camp.³¹⁴

The overall protection provided in the camp is centered on the need based basic assistance for refugee and what other organizations call the “care and maintenance model.”³¹⁵ This is also reflected by the national protection policy and regime of the country characterized by persistent restrictions of fundamental rights of refugees as seen in depth in the previous chapter. The merits and demerits of the protection regime on the major fields of socio-economic development, physical protection, standards of health and nutrition, access to courts and durable solutions and education are discussed below.

4.2.1 The Socio –Economic Condition of Women / Girl Refugees in the camp

Almost all refugees in the camp are dependent up on the assistance provided by the organizations. During the time form January – June 2009 a total of 1977.2516 kg of food was distributed as a general ration in which some of them include 16 kilos of cereals, 15l liters of pulse oil, 0.9 kg of salt. There is also a supply of sugar, vegetable oil, Famix/CSB³¹⁶. The amount provided is in adequate for the refugee population caused due to lack of timely and effective registration of new borns and also the continuous decrease in the supply of these materials.³¹⁷ As a supplementary feeding program vegetable oil, famix and sugar is provided for refugees who need special assistance. the complementary feeding program provided by UNHCR includes the supply of food and non food items distributed that includes soap , plastic cans blanket , kitchen set and kitchen pot , plastics sheets, flannel towel , blanket child

³¹⁴ Ibid

³¹⁵ Id

³¹⁶ ARRA Mid –year Sub project Monitoring Report (SPMR), Care and maintenance Assistance for Somali Refugees in Kebribeyah Refugee camp.09/AB/ETH/CM/200/a/001n January – June 2009, pp.5-9

³¹⁷ Focus group with IPs and Stake holders , April 12 , 2010

clothes and sanitary pads³¹⁸ to women refugees who are particularly the vulnerable like lactating women , elderly women and vulnerable children³¹⁹. It is also stated that in the earlier times refugees were provided with sardines and also used clothes but has stopped currently to be supplied due to the decrease in aid provided by the international organization of providing refugees in this protracted situations³²⁰. The WFP (world food program Guidelines) state that women should take a lead role and establish local decision making committees on food aid management through food – for – all programs³²¹. To this end in order to maintain equity and protection of rights of refugees in the distribution of ration, the government set a criteria that guarantees 80-90% of the recipients of rationing to be women³²² in order to avoid the possibility of abuse that can be directed by the male refugees by depriving them the ration and use it for buying other things such as khat/chat and or cigarette.³²³

There is also a lack of adequate durable shelters for refugees where they build their own houses by using used old clothes, bags and plastics used for food rations supplied by UNHCR. There is also lack of supply of clothes and other foods that are necessary for a proper balanced diet.³²⁴ The respondents of the survey stated that the assistance provided is inadequate to meet the needs of refugees where the women refugees carry the burden since they are culturally responsible to provide for the whole of the family. Mothers of the husband

³¹⁸ Ibid

³¹⁹ id

³²⁰ id

³²¹ Susan martin , Justice women rights and forced migrants , What is forced migration?, Human rights and refugees , internally displaced persons , and migrant workers, essays in memory of Joan Fitzpatrick and Arthur Helton , Edited by Anne F. Bayefsky Martinus Nijhofs publishers , 2006 p. 147

³²² Ibid

³²³ Interview with Wondwossen Negash ,ARRA Ration distribution officer in kebrîbeyah camp , April 2010

³²⁴ Focus group with refugees 4, 10 women , April 27 2010

are also traditionally responsible to construct homes and provide for the newly wed couples creating extra economic pressure on such women.³²⁵

Consequently in order to cope up with such economic pressures many have resorted to adverse measures of collectively selling their rations in the market in order to buy clothes, sugar, milk, tomato and rice.³²⁶ In this they also stated that they send lots of their children whom mostly are girls to work as domestic labourers and also collect fire wood to sell in the market.³²⁷

Only a handful of activities and projects that promote the income generating and self-employment of opportunities were initiated and were able to accommodate only small number of refugees. The projects provided skill training to refugees in computer, tailoring, embroidery handicrafts and carpentry by the IPs particularly ZOA, DICAC and IRC.³²⁸ The initiatives failed to be successful and thus were not applied on a large scale. The reasons for the failure of such initiatives as identified by the respondents to the questionnaire include financial constraints and proper management³²⁹. The lack of commitment and devotion of refugees to different projects is the other major problem identified where there is a prevalence of dependency syndrome among the refugees on aid and assistance provided who have become reluctant of those initiatives regarding self-reliance. One example could be that in the year 2006 the international refugee commission IRC took the initiative by facilitating income generation activities to be taken up by the refugees. The project failed as a result of administrative failure but also that the refugees were unable to come up with a business plan

³²⁵ Ibid

³²⁶ Focus group no 1 and 2 with refugees , April , 2010

³²⁷ ibid

³²⁸ Interview with the Asrat Tegne , Child protection officer of IRC, April 2010

³²⁹ Focus group , no. 1 with Refugee central committee and women association , 15 persons , April 2010

after having being properly trained and provided with the capital.³³⁰ This has caused many organizations to abandon livelihood initiatives on women refugees and focus generally on providing assistance in the field of formal education, health, nutrition etc

There is a prevalence of poverty among the refugee and this was due to lack of initiatives that work on the economic opportunities³³¹.

Lack of capital and financial resources are identified as the main reason that hinders refugees from being self-reliant by engaging in self-employment activities. In addition to the lack of capital lack of skill and training is also a major contributing factor that paralyzes the refugees from being creative and engage in economic activities.³³²

4.2.2 Physical protection of women / girls refugees.

Physical protection of refugees includes the protection of the security and liberty of refugees whose rights have been guaranteed under international legal instruments and also particularly the human rights section of the FDRE constitution.

The major institution for protecting the physical well being rests with the government where in the camp as discussed above is primarily entrusted to ARRA working in joint cooperation with other organs within the government. The impact of national policies and laws and gaps in the protection on the physical well being and security of refugees are discussed in next section.

³³⁰ Interview with Yewerkwa Mengistu IRC SGBV officer at the kebribeyah camp of Ethiopia , April 2010

³³¹ Survey result

³³² Focus group discussions no. 2, 13 women, April 26, 2010, 3:04 p.m.

4.2.2.1 Sexual and Gender Based Violence (SGBV)

Sexual and gender based violence can be defined as violence perpetrated against women because they are women, preying on their vulnerability in a defined society and includes those existing both in public and private life and can also be exercised by both sexes³³³.

Refugees and displaced women uprooted from their homes and countries of war, internal strife, or natural catastrophe are vulnerable to violence both as a result of surrounding problem and because of their dependency on outside relief. ³³⁴Women refugees are raped because they are refugees and because of their actual or perceived political, ethnic affiliation and also for the very reason that they are women.³³⁵

The types of sexual and gender based violence in the camp include rape and attempted rape, sexual exploitation, verbal abuse/ Sexual harassment, “Gangster” harassment / assault / abuse (G.Harras/Ab), Domestic Violence, Confinement, Denial of Education for girls women/ Abduction , forced marriage, Early marriage, Denial of divorce to women, forced labour, wife inheritance , Female genital mutilation (FGM).³³⁶ This sexual based violence are considered as crime under the law in Ethiopia.

In the camp the stake holders for the protection regarding SGBV incidents include the ARRA (Administration for refugee and returnee affairs, UNHCR office at Jijiga SGBV program, the IRC (international rescue committee SGBV and child protection section), the local police,

³³³ See for example, UNHCR Executive Committee Conclusion on Refugee Protection and Sexual Violence No. 73 (XLIV) ,1993

³³⁴ See Binaifer Nowrojee , Sexual violence , gender roles and displacement ; Refugee Rights ethics, Advocacy and Africa , edited by David Hollenbach , Georgetown university press , 2008 p. 125

³³⁵ Ibid , p.126

³³⁶ Dawit Mulu, study on traditional practices used to mediate incidents of Gender based violence (GBV) in Shimebla and Kebribeyah camps, paper presented to International Rescue Committee December 2007, pp.21-22

MCDO (mother and child development organization), International Medical Corps (UNFPA) and Refugee Community Leaders.³³⁷

In the case of SGBV incident, the survivor may report the matter to anyone which may include family friends, Refugee Community Leaders, or the Refugee Committees and Associations, the ARRA or UNHCR which according to their interests of the may take further actions.³³⁸ The UNHCR take action in referring the matter to ARRA when the matter cannot be resolved by the Refugee Committees and also provides material support for the survivor to construct a house. In the case where the survivor wants to speak with a health practitioner, the officers of ARRA will refer him/her to the health facility will examine and treat the survivor, refer him/her to counseling services, refer to police if survivor consents, provide follow-up examination, complete medical assessment forms as needed. According to his / her consent the survivor will be referred to the police and if the survivor is a child and or has immediate safety and security risks, the police takes up the case and conduct investigation the case will be taken to the court and in the case of rape to the court located in Jijiga located 50 kilometers from the Kebribeyah town. ARRA would monitor and provide logistical support to the police. With the consent and interests of the survivor ARRA will also take measures by providing for consultation and assistance in protection issues, ensure physical safety of a survivor, liaise with the community for social protection and provide the survivor with a plot of land if needed. The IRC will be responsible for the documentation of the cases, the referral of cases for the, advocate for the survivor if necessary and provide material support as needed.³³⁹

³³⁷ Standard operating procedures for the prevention and response to SGBV in Ethiopia Kebribeyah refugee camp of the Somali regional state of Ethiopia, 2007

³³⁸ *ibid*

³³⁹ *Ibid*

In this case, the informants stated that in practice the ARRA will not refer any case coming directly as a problem where it has to pass through the Refugee Committee which is responsible to assess the situation as to whether the matter can be solved by the traditional mediation process³⁴⁰.

The local police has also the power to entertain cases reported directly to it but the number of cases reported directly regarding rape and domestic violence over the years is very small as seen in the following table.

Table 6: Cases reported on SGBV of refugees in the Kebribeyah camp:

Year	Rape and attempted rape	Domestic violence
2006/2007	5	10
2008/2009	3	15
Half year 2009/2010	2	10

Source: kebribeyah Woreda Police Station of the Somali Regional State of Ethiopia, 2009

4.2.2.1.1 Gangster harassment /assault / abuse: There is a serious problem of gangster harassment and abuse with in the community.³⁴¹ In most cases it involves beating, kicking, insulting, degrading, or unwanted sexual advance, which could happen in the street, with in the community or on the way to school, in market places, water points and so on. Walking alone at night has also been reported to be very risky.³⁴² This has been rapidly increasing over the years but has began declining recently because of the effect caused by deployed refugee police in the area³⁴³.

³⁴⁰ Focus group no. 3 , 10 women, April 2010

³⁴¹ See infra note 344

³⁴² See supra note 336 , p.22

³⁴³ Interview with Jodi Myrum IRC- Ethiopia SGBV program, April 2010

4.2.2.1.2 Rape and Attempted Rape: The existence of rape and attempted rape was identified by both the respondents to the questionnaire conducted and the informants of the interviews. This fact mostly happened in the cases where girls go around looking for firewood or in the case where refugees move and at the market places.³⁴⁴

To avert the situation of rape caused due to collecting firewood critical measures were taken in camp. One of such measure have been supplying cooking stoves especially to vulnerable refugee women and women refugee who are the head of families. GIAIA, an implementing partner working in the camp has been responsible for the supply of cooking stoves to most of the homes in the camp³⁴⁵. The other has been the deployment of refugee police in which half of them constitute women which has greatly curbed the prevalence of gangster harassment and rape with in the camps as seen in the above section. Despite such positive measures that had a significant impact in the lives of refugees they have proved to be inadequate to eradicate the problems faced by refugee women /girls.

The existence of rape often occurs in case of when they are collecting fire wood to sell in the market as a means of income and for local use.³⁴⁶ Fuel, mainly firewood, is obtained by women a great distance from the camp where the greatest share of their time is used for collection. It is predominantly women who are responsible for firewood collection.³⁴⁷ In many cases girls are also involved where the responsibility lies on females only. On average they travel 8kms in search of firewood. The maximum distance they travel is generally about 15km.³⁴⁸

³⁴⁴ Focus group no. 1 with refugees , 15 persons , April 2010

³⁴⁵ Interview with Bethlehem Yohannes , project assistant GIAIA kebreibeyah camp of Ethiopia

³⁴⁶ See supra note 329

³⁴⁷ See supra note 329 Focus group discussion 1 with refugees, 15 persons , April 2010

³⁴⁸ Ibid

They could also be raped and are usually sexually harassed by the local people who are frustrated with the refugees and use it as a punishment against them for destroying the local vegetation and also use it as deterrence and warning.³⁴⁹ Similar problems also happen to refugees when they are trying to clear land to build new houses but this problem has been decreasing with the increased protection provided by the government on the refugee settlements³⁵⁰.

The other is that, since the ration and other basic assistance provided is not enough to support the family, children particularly girls are sent to work as cattle rears and house maids to supplement the income of the family. In this case the girls working are usually sexually abused and raped. They also bear the physical abuse by the wives of the perpetrators who are jealous of the attention given to them by their partners. The refugee girls are also physically severely punished as they are blamed for the accidental destruction of every household materials or goods. They are also called as thieves and are usually beaten for the reason that a material has been lost in the house³⁵¹.

Most of the time employers of these refugees refuse to give proportional compensation for the work done and also do not give them nothing in many cases. They may also be raped and even killed for demanding to be paid.³⁵² In this case, the legal or administrative protection to be provided for such refugees is absent.

The other is with regards that of restriction on the free movement of refugees to work on the informal sector. In this case the informants stated that the restriction on movement of refugees out of camp is not done formally but indirectly by refusing to give refugees necessary documents particularly identity cards. For instance, in order to discourage and

³⁴⁹ Ibid

³⁵⁰ Ibid

³⁵¹ Focus group 3 with refugees, 10 women, April 2010

³⁵² Ibid



deter individual movement, impromptu registrations are held where by those absent during such process are not allowed to be considered for the resettlement process used as a form of punishment or punitive measure.³⁵³

During the interview held one of the informants stated that her parents had just left after getting resettlement but she was not able to go with them because she was absent during registration. She also stated that since her family left she lives alone which makes her vulnerable to rape and other forms of violence.³⁵⁴ This can be taken as one of the forms negative effects of such policy measures

It also has negative effects in the sense such restriction propagate violence perpetrated against such refugees in their work place in the absence of any legal or administrative protection of refugees engaged in working in the informal sector.

The refugees have also significantly reported that rape has increased over the years.³⁵⁵ Rape and sexual abuse is not usually reported because of the existence of cultural taboo of discussing it and for the fear that the woman / girl would be ostracized from the society³⁵⁶. It was also stated that due to the ongoing process of resettlement women/ girl refugees have become reluctant to report the matter on fear of loosing their resettlement opportunity. The under reporting of rape cases was also confirmed by the different stake holders.³⁵⁷

4.2.2.1.3 Domestic violence:

Domestic violence can be defined as physical assault such as beating , kicking ,and verbal abuse (can be insulting , degrading....), marital rape, compromising family's ration for

³⁵³ Focus group no. 2 with refugees , 13 women , April 2010

³⁵⁴ Ibid

³⁵⁵ Survey result. The response of informants in the Focus group discussions states that the prevalence of rape and sexual abuse on refugee women and girls is increasing

³⁵⁶ See supra note 248

³⁵⁷ See supra note 248. See also supra note 343

purchasing chat and cigarette ,and kicking wives out of house or beating them for not preparing food.³⁵⁸ Many women are victims of domestic violence long before they fled the country, but the special pressures, uncertainty and indignities associated with their flight and the housing security in food and other problems that people tend to face in camps exacerbate the already frayed domestic situation often leading to increased violence at home³⁵⁹.

Domestic violence has been reported as one of the most common SGBV with in the camp³⁶⁰. The refugees identified the prevalence of domestic violence has been caused mainly due to frustration caused by extreme poverty and hunger and the idleness where the male refugees usually spend their time chewing chat caused by the feeling helplessness and unworthiness.³⁶¹ Many refugee may also feel depressed in the case aspects of life in camps challenge their traditional male roles and that their roles and standing in the home is effectively being usurped by UNHCR and relief organizations providing food and other necessities. This has resulted in the prevalence of anger, frustration, uncertainty and helplessness among the male population who eventually ventilate their anger on their family members especially women manifested through physical beating, verbally abuse and are forced to have sex against their will. This has resulted in the increase in the number of divorce which has the negative consequence of leaving the woman of solely bearing the burden of raising the children³⁶². During the focus group discussions the women identified the lack of durable solution there is low possibility of resettlement may also be regarded as the other reason causing domestic violence in the camp³⁶³. One of the women during the discussions stated that lack of resettlement and durable solutions led her husband, who at that

³⁵⁸ See supra note 336

³⁵⁹ See supra note 200

³⁶⁰ See for example supra note 336

³⁶¹ See supra note 347

³⁶² See supra note 353

³⁶³ See supra note 351

time felt hungry and frustrated to leave her to get resettlement in another country. Another woman also stated that her husband left her and married another woman who has received resettlement opportunity leaving her children and the rest of the family to psychologically affected and vulnerable³⁶⁴.

Lack of employment has also led male populations of refugees to spend their time chewing on khat or chat, a local herb that has stimulating effect resulting in various physical and moral abuses directed against women/ girls.³⁶⁵

The respondents also stated that there is high prevalence of domestic violence among refugees in the camp. This can also be substantiated by the increase in the number of reports made to police over the years seen under Table 6 .

In this, the refugees identified lack of economic activities to be the major cause of the increase in domestic violence in the camp. The informant refugees have also identified the socio-cultural attitudes and lack of awareness as the other major cause for the increase of domestic violence in the camp. The situation of vulnerability of women / girl refugees especially unaccompanied minors has also been identified by minority of the informants to be the major cause of domestic violence amongst refugees caused by the absence of effective protection.

The informants during the focus group discussions in addition to non-availability of economic activities and employment, the non availability of durable solutions particularly resettlement opportunities as the other main reason for the prevalence of domestic violence in the community.³⁶⁶ Socio-cultural attitudes that do not recognize domestic violence as a crime against women have also been identified by the informant refugees, as one of the elements

³⁶⁴ Focus group no. 1 and 2 with refugees, April 2010

³⁶⁵ Ibid

³⁶⁶ Ibid

that propagate violence against refugees in the camp. The informants also stated that frustration and violence is particularly rampant among the younger generations. They have also stated that the availability of employment opportunities would bring about great changes in the lives of refugees and also helps to reduce the prevalence of domestic violence³⁶⁷

The UNHCR guidelines for the protection for women stipulate for measures that can be taken to counter physical and sexual attacks and abuse of women during flight and country of asylum. This include changing the physical design or location of camps, providing better physical security, using security patrols, reducing the use of closed facilities or detention centers, training staff regarding the particular problems faced by refugees women and identifying their concerns, establishing law enforcement educating women about rights, assessing the need of unaccompanied refugee women, ensuring direct access to fund and other services.³⁶⁸ The sexual violence guidelines also state that the physical design and location of refugee camps ensure physical security, providing frequent security patrols by law enforcement and by refugees themselves. Installing fencing of camps, and more importantly identifying alternatives to refugee camps, assigning greater number of female protection officers, field interpreters, doctors, health worker and counselors has also been identified.³⁶⁹

To this end many measures that promote the rights of refugees in the camp has been taken which include the increased deployment of women refugee police, educating the public about sexual based violence, prioritizing victims to be beneficiaries of resettlement of refugees, the settlement of victims in towns and cities etc³⁷⁰. Despite such positive measures however there

³⁶⁷ id

³⁶⁸ UNHCR Handbook for the Protection of Women and Girls , Provisional Release for Consultation Purposes June, 2006 pp. 31-53

³⁶⁹ Sexual Violence against Refugees - Guidelines on Prevention and Response , UNHCR 1995 available at <http://helid.desastres.net/en/d/Jh0198e/9.4.html> [last accessed 1/17/2010]

³⁷⁰ See supra note 317

is a lack of special protection of victims of violence perpetrated against women/girls refugees in the camp. In this case there are no measures that are tailored as seen under the UNHCR guidelines, for the physical protection of refugees who are victims and are most vulnerable to violence like providing homes that have greater security protection, redesigning the camps to suit the protection needs of refugee women, and most importantly the lack of measures that look for alternatives to camps where encampment is one of the national policy adopted by states. The other include lack of psychological treatment for victims of rape and grave violence, the lack of protection of right of women refugees in providing them with financial and other assistance³⁷¹.

4.2.3 Irregular secondary movement of refugees;

Irregular secondary movement of refugees refers to the phenomenon of refugees, whether they have been formally identified as such or not (asylum-seekers), who move on in an irregular manner from countries in which they have already found protection, in order to seek asylum or permanent resettlement elsewhere.”³⁷² On the basis of the Convention Plus initiative, in order to address this phenomenon, a Core Group on Addressing Irregular Secondary Movements of Refugees and Asylum-Seekers was established in March 2004³⁷³. The Core Group have called for an increasing research on this topic in order to develop strategies in addressing ISM.³⁷⁴ This proposal was further echoed in the 2006 10-Point Plan of Action regarding Refugee Protection and Mixed Migration, which calls for data collection

³⁷¹ See Guidelines on the Protection of Refugee Women, prepared by the United Nations High commissioner for Refugees (Geneva 1991). See also supra note 365 both available at www.unhcr.org [last accessed 12/12/2009]. Some of the many actions stipulated under the handbook include the Advocate with States in favour of freedom of movement for refugees and detention policies that conform to international legal standards and promote the use of alternatives to detention, particularly for asylum-seeking women and girls.

³⁷² Alison Munteanu, Secondary movement in Romania: the asylum-migration nexus, NEW ISSUES IN REFUGEE RESEARCH, Research Paper No. 148, December 2007 available at [http:// www.unhcr.org](http://www.unhcr.org) [last accessed 12/12/2009], p.1

³⁷³ Ibid. , p.3

³⁷⁴ id

and analysis, including information related to motivations for movement, modes of transport and transit routes³⁷⁵.

The informant refugees identified the existence of significant irregular secondary movement of refugees out side the camps. During the focus group discussions, the refugees identified an incident that happened two and half years ago where those refugees who have finished grade10 left to another country because they were frustrated of not being able to get any jobs after having graduated.³⁷⁶ The other is that refugees from both sexes leave in order to seek job in another country and come back where there is registration held for resettlement purposes , for example a women who had left the country to Djibouti and came back in order to get registered for resettlement. She has sought psychological help at the IRC office and reported of the rape and various forms of violence perpetrated against her during the journey and in Djibouti. She had also stated that she took this action in desperate need to help her family.³⁷⁷

The other is the case where male refugees involve in such movement, it leaves the women and the rest of the family in vulnerable condition exposed to attacks and various forms of violence.³⁷⁸

The other is that the existence of traffickers and smugglers has also exacerbated the problem where refugees, particular women fall in prey to the false and unrealistic promises made by these criminals. It also exposes them to various form of violence perpetrated by such smugglers and traffickers and others³⁷⁹.

³⁷⁵ Refugee protection and mixed migration, 10 point plan of Action available at [http://reliefweb.int/rw/lib.nsf/db900sid/SHIG-7ETFQX/\\$file/UNHCR_Refugee_Protection.pdf?openelement](http://reliefweb.int/rw/lib.nsf/db900sid/SHIG-7ETFQX/$file/UNHCR_Refugee_Protection.pdf?openelement) [last accessed 4/27/2009]

³⁷⁶ Focus group no.2 with refugees , 13 women, April 2010

³⁷⁷ See supra note 351

³⁷⁸ See supra note 351

³⁷⁹ See supra note 336

Despite this however irregular secondary movement of refugees in the camp has been reported to be non-rampant especially as compared other refugees in other camps like that of the Eritrean refugees in Shimebela and Mayaine camps³⁸⁰.

It was also stated that refugee commercial sex workers exist working in towns and particularly the cities both within the country and outside in order to economically support themselves and their family.³⁸¹

4.2.4 Education:

The right of education is one of the fundamental rights guaranteed under the international covenant on economic social and cultural rights ICESCR, the convention on the rights of the child CRC.³⁸² As regards to women / girls refugees, international goals and initiatives on the “education for all” has been set in order to eliminate gender disparities and primary and secondary education by 2005. The millennium declaration of 2000 has also stipulated for the goal of achieving gender equality in education by 2015 with a focus on ensuring girls full and equal access to and achievement in basic education of good quality³⁸³.

With due regard to national policy and strategy on education, education is provided to refugees through the means of formal education that includes education in the primary and secondary schools, Alternative basic education (ABE), an accelerated three year program that responds to the needs of out of school youth working children and school drop outs (particularly due to early marriage and / or pregnancy) that are not served by the formal

³⁸⁰ See supra note 175

³⁸¹ Interview with Mr. Ibrahim Mohammed Bokh ,UNHCR senior field Assistant , April 2010

³⁸² See the international convention on the rights of the child, supra note 254

³⁸³ See for example supra note 256

education system.³⁸⁴ It particularly targets refugee girls as a means of increasing their school enrollment and reducing the gender gap. The other is informal education provided for school children who can access the formal education of the ABE³⁸⁵.

Out of the total school aged children only 48.27 % of children are enrolled in schools which means that 51% of the total population of school aged children are out of school. In this regards to girls female refugees the proportion of girls at lower primary school (grades 1-4) stands at 42.1 % which is lower than the average enrollment of girls in the three camps which stands the 46 %.³⁸⁶ In the upper primary schools (grades 5- 8) the percentage of girls enrollment further decreases to 35.8% which is also lower that the average of the three camps(Awbere, sheder and kebribeyah) which stands ate 37.9 %. In the secondary school the percentage of girls' enrollment stands at 31.6% which is still lower than the enrollment rate of girls in the primary school but is higher than the average for the three camps which stands at 23.5 %. The proportion of girls in ABE and informal education however proportion stands 60.2% and 80 % respectively. As regards to preschool the average rate of enrollment for girls stands at 46 %³⁸⁷.

Table 7: Proportion of Female Refugee Students in Schools

Grade level	Male	Female	% of female enrollement
Primary school (total)	453	159	42.1%
Secondary school (total)	171	79	31.6%

³⁸⁴ Report on Joint participatory assessment conducted on Education in the Eastern refugee camps of Aw' bare, kebribeyah and Sheder. A Base line report on education 9-18 December ,(International refugee committee , IRC 2009)

³⁸⁵ Ibid , pp. 3-5

³⁸⁶ Ibid,25

³⁸⁷ Ibid pp.26-27

Pre-school (total)	497	423	46%
Alternative basic education ABE	180	274	60.2%
Informal education	70	280	80%

Source; *modified from* the Report on Joint participatory assessment conducted on Education in the Eastern refugee camps of Aw' bare, kebribeyah and Sheder. A Base line report on education 9-18 international refuge committee (IRC) December 2009

As seen in the above data the lower enrollment performance and retention of children are affected by a multitude of factors, which range from economic challenges to socio cultural attributes. How ever the major challenges include lack of livelihood opportunities for families. During the focus group discussion held with the selected informants, the women expressed that the lack of livelihood opportunities have forced refugees not option but to rely on the income derived form girl children and adolescents engagement in low paid employment like serving as house servants, working as cattle herders, collecting firewood and other domestic work.³⁸⁸

The other is that of the refugees loose interest when they see older siblings sitting at home doing nothing after finishing school. The lack of job or employment opportunities for children, due to restrictions on employment, after having finished school has led the community to devalue the importance of education in changing the lives of refugees in the camps. Other major factor can be the case of safe school and learning environment that discourages the involvement of children. Some of violence happening in the schools specifically affect that of girls who face harassment on the way and in school, bullying, lack

³⁸⁸ Focus group discussions 1 and 2 with refugees, April 2010. See also Ibid , p. 26

of latrines specifically designed for girls, heavy work loads of girls at home and the lack of understanding about the reasons for girls low performance as a result³⁸⁹.

The socio-cultural attitudes towards women and girls also affects the education of refugee girls. For example the Bantu and Gaboye clans do not enforce school on their children. The other could be that of early marriage of children which prohibits them from finishing their education and the absence of female teachers that could play as role models and the cultural attitude of impropriety of girls seen speaking to a teacher alone³⁹⁰.

Vocational trainings and skill development that can enhance the capacity of refugees to be self reliant is however absent.³⁹¹

4.2.5 Health and Nutrition of Refugees in the camp:

The other is with regards to health of women refugees in the camp. Assistance regarding Health and nutrition as stated in the above section is provided by the government acting through ARRA. In the camp there is one health facility medical staff which consist of 1 MD, 1 PHO, 6 clinical nurses, 3 midwives, 1 druggist, 1 assistant druggist, laboratory technician, 1 sanitarian, 7 reproductive health promoters and 36 community health promoters employed in the health facility. As regards to women, a comprehensive mothers and child health services (MCH) with adequate midwives and community reproductive health worker (TBA) , the national strategy stated under the national Health Sector Development programme is utilized on a full and regular bases on mothers and children in the camp.³⁹² The health services

³⁸⁹ Id, pp.30-31

³⁹⁰ Id, p.27-29

³⁹¹ Focus Group Discussions made with refugees and stake holders April 2010

³⁹² Interview with Hailu Girmay , Nurse at the health facility located in the Kebribeyah camp

provided to women / girls refugees in the camp include pre- natal and ante-natal service, and basic psychiatric drug made available to rape survivors.³⁹³

The other implementing partner working on women and girls refugees include mother and child development (MCDO) primary works on advocacy against female genital mutilation provides training and education of the consequences and reasons of abuse of refugees in the camp³⁹⁴.

In this in addition to physical health problems, some refugee and displaced women suffer from mental health problems where becoming a refugee involves many dislocations and abrupt changes in life³⁹⁵. At a minimum, women refugees in displacement face emotional problems and difficulties to adjustment resulting from loss of family and community support. Most importantly in protracted refugees situations which is the case of refugees in this camp, more serious mental health problems are prevalent arising from torture and sexual and gender based abuse before and after flight , depression and post – traumatic stress disorder often follow such experience.³⁹⁶

To such end, programs for refugees women and girls tend to range from specialized mental health facility services to play, sports and other recreational groups for traumatized children and income generation activities for traumatized women in order to prevent trauma, stress and enhance their capacity to deal with their problem³⁹⁷.

As stated above the special protection of psychologically affected refugees in the camp is by providing psychological pills.³⁹⁸ There is no special mental health facility, a psychiatrist or counsellor available to the refugees where the only psychological center serving the whole

³⁹³ See supra note 316

³⁹⁴ See supra note 316

³⁹⁵ See supra note 321,p.137

³⁹⁶ Ibid, pp. 148-149

³⁹⁷ Ibid

³⁹⁸ See supra note 316

country called Amanuel hospital is found in the capital city Addis Ababa. There are also no programs or measures have the purpose of serving the psychological needs of woman and child victims. Moreover, there are no safe spaces or shelters for women to go to in the camp. The number of members of the medical staff and storage of medicines is also low as compared to the populations which is also expected to exacerbate with the up coming budget cuts by the international community.³⁹⁹ This threatens the availability of sufficient resource needed for providing adequate services to refugees especially in the future which makes the indefinite availability of humanitarian assistance in the absence of the possibility of economic independence of such refugees to be infeasible and unrealistic.

4.2.6 Access to Courts and Justice

There are three mechanisms of solving disputes in the camp where the refugees, institutions and agencies can take and refer cases of both civil and criminal nature incidents depending on their nature and survivors' interests. In this the case whether it be reported to ARRA is sent to the Refugee Central Committee who assess the nature of the crime committed and in the interest of the victim and the nature of the case refer the matter to the traditional mediation or back to ARRA who will refer the matter to the police⁴⁰⁰. The local police has also the power to receive cases but in practice cases have rarely been reported directly to it.

The first one includes traditional mediation practice/structure functions based on culture, norms, Sharia laws/Islamic laws and also sometimes through negotiation. Neighbours, families/ relatives, clan leaders, Refugee central committee and religious leaders are the most common institutions involved in the mediation process held at the community level. The

³⁹⁹ See for example the statement made by the Ethiopian delegation to the UNHCR EXCOM 60th session regarding the budget cuts for the year 2010 on 28 September - 2nd October 2009, Geneva Switzerland. In: ARRA update VOL III No. XII September 2009

⁴⁰⁰ See supra note 344

members of the mediation process do not have a code of conduct and have also been ranked as the least efficient⁴⁰¹.

The other is with regards to the Sharia court as established under the Federal courts of Sharia consolidation proclamation no.188/1999 may see cases regarding marriage divorce, maintenance, guardian ship of minors, and family relationships. More over they entertain cases regarding wakf/ gift/Hiba/, succession of wills; provided that the endower or donor is a Muslim or the deceased was a Muslim at the time of his death.⁴⁰² Cases can be referred to the Sharia court either by ARRA, police, RCC, religious leaders, or by the complainant.⁴⁰³

The formal legal system executes justice according to Ethiopian laws where such jurisdiction lies with the justice system that includes the police, the public prosecutor and the courts. In kebribeyah town a court exists which has the jurisdiction of adjudicating matters of the Woreda courts. Cases of rape and other forms of serious injury is seen by the court that has the first instance jurisdiction is found Jijiga city found 51 kilometers from kebribeyah. Refugees do not have the right to go to the courts directly which means and have to primarily consult with the Refugee Central Committee and ARRA as seen above.⁴⁰⁴ In this, lack of freedom of movement of refugees as reflected in the camp has limited them from taking cases themselves to the courts. This has had a negative effect of causing extra pressure on refugees from freely accessing courts directly as opposed to the other forms of dispute resolution and mediation mechanisms. It has also the negative effect of creating a lot of run rounds and delay in justice. It also discourages the possibility of refugees from directly accessing the courts in the case where one does not wish to pursue traditional mediation or Sharia courts, inhibiting the free exercise of his / her legal right to choose the institutions of pursuing

⁴⁰¹ Supra note 336

⁴⁰² Supra note 336

⁴⁰³ Supra note 336

⁴⁰⁴ Supra note 351

justice. This is particularly relevant in the sense where there is lack of confidence in the local mediation scheme as reflected by the majority of refugees in the camp. The lack of awareness of the existence of the fundamental right to free access courts by refugees has also affected refugees from making informed decisions.

4.2.7 Access to Durable Solutions

The durable solutions of voluntary repatriation, local integration and resettlement possibilities in the camp are absent. Repatriation of refugees in the camp has completely stopped in 2005 because conflict and instability has resumed in Somalia prohibiting many from going back.⁴⁰⁵ As discussed in the above chapter the government does not provide any local integration possibilities unless the refugee as any other foreigner acquires the nationality of the country under one of the reasons stipulated under the amended nationality proclamation⁴⁰⁶.

Resettlement opportunities have not been available until the year 2007.⁴⁰⁷ The resettlement opportunity has been provided by the United States. The process is done through a system called JVA (Joint Venture Assessment) where the representative of the third state is responsible to conduct Refugee Status Determination Procedures in order to determine genuine refugee from the others done in close cooperation with the International Organization for Migration (IOM).⁴⁰⁸

Despite such positive measures however the record number of refugees resettled from the camp in the past three years is about less than 450 people, a significantly lower proportion of people as compared to other refugees in other camps like those in Sherkole or Shemebla

⁴⁰⁵ Interview with legal protection UNHCR office , Jijiga , April 2010

⁴⁰⁶ See generally, the Ethiopian nationality proclamation No. 378/2003 , Federal Negarit Gazette , 10th year issue No. 13 23rd December , 2003

⁴⁰⁷ See supra note 381

⁴⁰⁸ Interview with Yilikal Hailu , IOM - Ethiopia April 2010

inhabiting Eritrean and other refugees.⁴⁰⁹ This has been reflected as an interest of third states to integrate Eritrean or other refugees who are composed of highly skilled young populations which is absent in the case of those refugees in the camp who many of them have been born and had lived for decades in the camp with out having acquired the required motivation or proper skills.

Also while many of the refugees complain of the lack of resettlement opportunities and delay of process , some of the have also expressed their view that they do not want to be resettled to America and are doing it because they are the head of the family and are responsible to create better opportunities for the those under them⁴¹⁰. This has had the possibility of casting a shadow to the legitimacy of durable solutions available to refugees respecting their right to choose of place of residence or settlement guaranteed under international law.

⁴⁰⁹ See supra note 381

⁴¹⁰ See supra note 381

Conclusions and Recommendations

The normative standards for the protection of refugees under international law that mainly rested under the international refugee convention have provided for those standards and treatment to be accorded to refugees by states that are party to it. The convention has allowed state parties to make reservations to the articles of the convention other than those regarding non-refoulment, non discrimination, right to access to courts and freedom of religion. Ethiopia is one of the countries in Africa as a reflection of its socio- economic condition, has made reservations to the provisions of the convention regarding freedom of movement, right to work, right to education of refugees and also to the provision regarding exceptional measures not to be taken against refugees due to their nationality, for the purpose of minimizing the impact of the refugee population may have up on the socio- economic condition of the country.

The standard of protection that are provided under the international human rights and international humanitarian standards require state parties to take legal and administrative measures for the protection of rights of refugees especially regarding civil and political rights which are particularly relevant to refugees. Despite such standards of protection stated under the international conventions that the country has ratified, all of the standards have not been granted to refugees in the country as seen under the refugee proclamation.

In light of this, as a reflection of such policies, the legal and administrative standards been met with some restrictions particularly regarding freedom of movement and residence of refugees. In this regard, the country follows the encampment policy of settling refugees in make shift camps usually located near the border and the movement of refugees out of this camps is restricted unless some pressing physical or medical security problems exist. An exception to this policy has been the case of Eritrean refugees who according to the new

policy have been allowed to move freely in side the country. Despite the fact that this measure is most commendable it, has not been applied to other refugees fleeing from other countries going against the clause of non discrimination in the treatment amongst refugees stated under the convention. It has also failed to provide a clear detailed account of those specific reasons, conditions and period by which such measures may be imposed.

The other restriction has been that regarding the employment and education of refugees. In this regard the refugee proclamation provides less standards to the exercise of such rights by refugees which also includes women by completely assimilating their rights with that of aliens. The other can be regarding the availability of local integration of refugees where this can be achieved only in the case where refugees attain the nationality of the country under the conditions stated under the nationality proclamation. Even though the proclamation has provided for the obligation of the states to provide for special protection of refugees, it does not however provide for a detailed account of the special protection for those vulnerable groups particularly women refugees and does not stipulate for the measures to be taken to tackle the effects caused by protracted refugee situations.

The findings of the research regarding the impact of such policy and legal standards on women/ girls refugees living in protracted refugee situations is reflected through the challenges faced by Somali women refugees who have fled from the Somalia since 1991 living in kebribeyah camp located in the Somali regional state of Ethiopia

The temporary protection provided for refugees like in many other African countries is designed to provide basic humanitarian assistance to refugees arriving in large influx and recognized in prima facie basis until they are repatriated back to the country of origin. The need-based assistance provided for refugees in the camp includes providing ration, basic health care and formal education as seen in the above sections.

Even though this design can become effective in rendering basic protection of refugees especially in the field of basic assistance, regarding rationing, health facilities and education especially to vulnerable groups on an adhoc basis such design has become unfit for others living in protracted situations particularly those women refugees who consist of the majority of the total refugee population, who are vulnerable groups and are also socially responsible to ultimately bear the responsibility of taking care of the extended family living in protracted situations. Because of this as the number of exile increases the quality of life of refugees' decreases despite the presence of some positive legal and administrative interventions made available to these refugees by the government and different organizations working in the camp. The expected short falls budget and aid services have made the continuing assistance to be provided for refugee to be unsustainable and unreliable in the future.

The inadequacy of the assistance provided has caused socio-economic problems for refugees in the camp. The inadequacy of the food and other assistance given has led many women refugees who culturally bear the family responsibility to resort to activities that has put them in vulnerable position resulting in the various forms of sexual exploitation and abuse. Limitation on fundamental rights particularly the encampment policy and restriction on employment has impeded protection from the various violations directed against them by employers and others who are left at their mercy in cases where they are engaged in illegal work. This has led many refugees to labour exploitation, sexual and other forms of violence which is usually in practice is not well tended to by the government and different organizations working in the camp where there are meager psychological services , financial help and lack of special measures that particularly tend to protect the special needs of refugee women and girls. Such restrictions have also become a cause for the various gender based violations perpetrated towards the women and girls refugees by their male family members who have become helpless

The limitation on freedom of movement as employed as a means of banning refugees who have violated it from being considered in resettlement opportunities have caused the problem of family separation going against the purpose and fundamental principles of resettlement which is family reunification. This has also led many refugees to be exposed to various forms of violence perpetrated against them in absence of the protection provided by their family members.

Refugees have also been exposed various forms of violence by traffickers and smugglers engaging them to involve in secondary irregular movements preying on the vulnerability of refugees who are eager to get employment and other means of income. Many others are also involved in selling their ration in the market leaving many members of the family to starvation. It has also negatively affected the free access of courts by the refugee community.

Besides the debilitating effect of this protection regime, it has also discouraged development oriented successful income generating initiatives to be utilized as reflected by the insignificant number of measures taken to train and provide financial support to large number of the population that could have made a positive contribution in enhancing the capacity of refugees to be self reliant. This has also created dependency syndrome among the refugees.

As regards to education tremendous change has been achieved in providing for the education of refugees. Despite this however such restrictions have also impeded the education provided for refugees to be unworthy because of the restrictions on employment. It has also influenced the education provided to focus solely on the type of education which does not enable them to be self reliant since they cannot get a job in the formal sector. Vocational training and other skill oriented education that enhances their capacity to engage in self-reliance activities are largely absent. Thus the policy discourages self reliance opportunities and those activities that promote the self-reliance of refugees. This has led socio-economic, psycho-

social and security conditions in the camp to deteriorate which is also expected to get worse in the coming years with the acute budget shortfalls observed for the year 2010.

Lack of durable solutions of refugees has also become the cause and consequence of restricted refugee rights. Lack of local integration and resettlement opportunities have led refugees to live in protracted refugee situations. The restriction of the rights of refugees has also hindered the availability of integration and resettlement opportunities. States that provide resettlement opportunities to refugees have taken on selective criteria of admitting only those who are highly educated and skill full young refugees who can contribute to their society and are not going to be a public burden. In this even though the formal education provided for refugees is encouraging and is also highly relevant for the protection of refugees, the lack of self-reliance opportunities and training that gives skill have led many refugees to have a dependency mentality. The lack of skill in those areas of self employment have inhibited them from being self-sufficient and creative to lead their lives and generate income.

The policy also discourages the possibility of self reliance of refugees and does not provide for a detailed and clear account of “special measures” stipulated under the proclamation to provide for the protection of vulnerable groups particularly vulnerable women and girls like those that could ensure the safe settlement of women and girls at risk, providing for special treatment and assistance for refugee women and girls, unaccompanied minors, child and adolescent girls at risk.

The other is with regards to durable solutions. There is no possibility of local integration of refugees in the camp and the lack of self-reliance opportunities discourage the possibility of procuring durable solutions like resettlement of refugees.

As regards to welfare rights, the supply of basic assistance of refugees is limited to rationing of food and does not provide for other important services like shelter and clothing where refugees must rely on them selves to obtain such necessities.

All of these realities have practically resulted in psyche – social and economic devastation of refugees leading to life of misery for the women and girls as seen in the case of refugees in the kebribeyah camp of Somali Regional State of Ethiopia.

b) Recommendations:

As revealed through this research the problems faced by women/girls refugees living in protracted refugee situations in the camp include those that are multi-faceted which means that to solve this problem requires a multi-dimensional and multi-spectral approach both at the national and international level. The problem of refugees in protracted refugee situations emanate from three throng problems. The first one includes that of the erroneous appreciation of the international community of the current form and magnitude of forced migration where the mandate of humanitarian assistance of the UNHCR has become incompetent to answer the other pressing needs of refugees particularly regarding development, security and the protection of their rights. The weak structural frame work of the international legal system in the enforcement of the various international legal standards that are particularly relevant to the protection of the rights of refugees have also become one of the basic structural gaps creating such situations.

The other could be inability of the country to provide the refugees the maximum rights guaranteed under international law. In the absence of such restriction the major reasons that compelled states to adopt such measures include the negative impact the activities of such refugee have in the local population, which can include the in

appropriate sharing of land for grazing and agricultural production, negative impact on the local population regarding access to market and creating business, issues of national security where refugees allowed to move about freely will create instability in the area. The other could be that of environmental degradation where these refugees may help to destroy wild life with in a wide scope of area and that of conflict that may exist between the local population and the refugee populations particularly women/girls who for reason of social responsibility and number, consist of the majority of the total population that may engage in these different activities. The other could be that of costs in the maintenance of welfare of refugees.

Due to the above reasons, like the combat against Cross-Country Terrorism which has demanded the close coordination of states the protection of the refugees also demands similar close cooperation of states acting in good faith to uphold the sacred values of human rights and freedom. It also demands sharing the burden of the host states who have been identified of hosting the great majority of refugees. This approach must also be responsive to the needs and interests of host states and local population by designing the most effective and efficient protection mechanism that has the potential of avoiding the possible threats in national interests. In light of these points the following recommendations regarding ideal policy measures to be taken both at the national and international level has been provided.

Steps that should be concomitantly taken at the international level may include the following:

I) In order to fill the gaps in the standards of protection of rights of women and girl refugees in the camp as revealed in this research and encourage and establish a concrete and comprehensive standard of protection to be adopted by state parties, the international protection regime should be able to reflect the rights guaranteed to refugee better enjoyment rights in the case where their attachment to the country increases. A refugee staying in the

country should be fully regularized with the period of 3- 5 years where individual status determination procedures are conducted and he/ she is unable to be repatriated back to the country of origin or other durable solutions cannot be availed by him / her with in such period. These international legal standards if applied domestically will conform to the provisional limits that may be applied to the rights of individuals for purposes of national security as guaranteed under international human rights law. It will also guarantee the full applicability of the rights of refugees as stated under the frame work of refugee convention to those refugees in protracted situations.

To this end the articles of the convention should be reconstructed to incorporate other rights as not subjected to reservation clause by member states particularly those provisions regarding freedom of movement, right to education, right to work and self-reliance to those who are in asylum state in protracted refugee situation and are in the country for more than five years. This will have a tremendous importance in reversing the negative impact of the legal and policy measures in the psycho- social and economic lives of the women/ girls refugees mentioned above. The protection of the right of freedom of movement of refugees facilitates the right of self reliance and economic independency of the women refugees which will have the impact of removing violence perpetrated against them by the refugees, and or the local population, combat irregular secondary movements and better treatment. It will also ensure better access to courts.

These measures also in concordant with the interests of the country in the sense that a period of 3-5 years will provide an ample period for the country to identify those refugees who are a threat to the national security of the country and in the aim of preserving the peace and security of the country. The other could be that of differentiating those who are genuine refugees from others needing international protection which will have a positive impact in the efficient use of resources.

II) An international agreement or consensus that clearly and concretely establishes the means and methods of burden sharing of resources among the international community of states in their joint responsibility of the protection of the rights of refugees as stated under the refugee convention and the UNHCR statute should be established. This action also will have direct and/ or indirect positive impact in the interests of international states regarding the developing ones like for example in combating irregular secondary movement, issues of national security, etc. It will also promotes the efficient use of international resources where international funds and resources indefinitely used for humanitarian assistance for those in protracted situations that may be redirected to development assistance will create a ground for decrease in the emergency assistance in the case where the refugees are able to be self sufficient in meeting their own needs.

The country, particularly, will eventually be able to reserve its local resources for the protection of the rights of refugees without compromising its own interests like for example by avoiding environmental degradation, diverting national resources for domestic purposes etc.

III) Establishing a system that has the mandate of providing self reliance or development-oriented assistance to refugees. In this, Even though the UNHCR is the only international body endowed with the protection of refugees its activities as stipulated under the statute is only limited in providing basic humanitarian assistance and finding durable solutions to their flight. This therefore requires the establishment of an internationally based system or organization and international mandate within the United Nations System devoted to enhancing the self- reliance and development of refugees. This will have the effect of reversing the negative impact on the psycho- social and economic condition of women

refugees in the camp while at the same time promoting the socio- economic interests of the local population in the area.

To make such development-induced assistance to refugees successful the following points should be considered;

- i) As envisaged under the RAD (Refugee Aid for Development Theories) integrating the needs of the refugees with that of the local populations. In this, the development assistance should also include the local population as a means of compensation for the use of the natural and other resources of the host state. This requires a detailed study of the socio- economic characteristics of the refugees with that of the local populations in the camp. In this one of the problems identified with the local Somali population around the camp was the lack of market for the pastoral products and the handicrafts produced locally. In the various skill and financial assistance coupled with the opening new market doors will avoid any possibility of conflict with the refugees and will even change the perceptions of the local population towards such refugees. As regards to women, specific strategies that can provide vocational training of skills like handicraft and other economic activities in consideration of their respective capacities and that of the local population adopted on a large scale should be provided. Adequate funds or capital; and Consultancy arrangements that guide the Business activities of the refugees in parallel with the local population should be provided in guaranteeing the success of this development induced projects. Preferential treatment in the access of international markets particularly by the developed countries should be provided. This action will guarantee the economic independence of the women / girl refugees which will also have a direct impact in their psycho- social and

physical well being. It will also at the same time help to maintain and to some extent restore the interest of the country in the protection of interest of local population in the area of access to international markets to the products of the local population. The negative impact of the activities of refugees may have on the local business will be averted where the availability of international markets will help promote the productivity of the local populations. With the economic self-sufficiency of the refugee population the adverse impact on the environment will also be reduced.

- ii) Looking for legal migration opportunities to fill in the demand of skilled manpower in the developed countries could be the other. This would also guarantee the standard of burden sharing of the responsibilities of refugees by the international community and enhancing the commitment of host states. This will also in turn will positively affect the interest of the local population in the event where those resources spent refugees will be redirected to public interest.
- iii) There is also a need for the development of an international agreement between states that concretizes and deals with the means and methods of burden sharing in the protection of the rights of refugees and standards of state responsibility towards such refugees.

In this regard measures that should be taken by the country in light of the standards established under the international legal framework by the country may include the following:

- i) Abolishing the restrictive laws , polices and administrative measures that have the effect of limiting the exercise of rights of women/girl refugees in the camp as guaranteed under the 1951 refugee convention and various international human rights instruments ratified by the country. This measures would have a tremendous impact in the exercise of all the fundamental rights guaranteed under the convention. The other could be that of the efficient management of the assistance provided by state parties to the interest of the refugee population while simultaneously protecting the interest of the local population in guaranteeing their successive socio- economic development.
- ii) Strengthening the special protection mechanism provided for the vulnerable groups of women and girls by designing clear policy and legal measures to be applied to such refugees who are in protracted refugee situations.
- iii) As a means of institutional measure , the reformation of the institution of ARRA as an independent or autonomous organ that has the power to look into the matters of refugees in accordance with the national law and policy of the country. Also establishing legal mechanisms of judicial oversight of those administrative decisions and measures taken on rights of refugees.



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17. The Refugee convention of 1951 Resolution 2198 (XXI) adopted by the United Nations General Assembly, 1951 as amended under the 1967 protocol.
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20. The Immigration Proclamation no. 354/2003, Federal Negarit Gazetta of Ethiopia, July 3, 2003 and also immigration council of ministers regulation NO. 114/2004 , Federal Negarit Gazzeta , October 20, 2004
21. The protocol to the African charter on Human and Peoples' rights on the rights of women in Africa adopted by the 2nd Ordinary Session of the Assembly of the Union Maputo 11th July 2003

22. The Convention on the Rights of the Child, GA Res no. 44/25 of 20th November 1989 entry in to force 2nd December 1990
23. The International Covenant on Economic, Social and Cultural Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI), of 16 December 1966, entry into force 3 January 1976.
24. The Criminal Code of the Democratic Republic of Ethiopia 2004, proclamation No. 414/2004 9th of May, 2005 Addis Ababa
25. The Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, Supplementing the United Nations Convention against Transnational organized crime, G.A. Res./no. 55/25 of 15th Nov. 2000. Entered in to force 25th December 2003
26. The International Covenant on Civil and Political Rights G.A. Res/no. 2200A (XXI) of 16th December 1966 entry into force 23 March 1976
27. UN High Commissioner for Refugees, Conclusion on Women and Girls at Risk, 6 October 2006, No. 105 (LVII) - 2006,
28. The UNHCR STATUTE G.A. Res no. 428(V), 1950

Interviews

- ♦ Interview with the Asrat Tegne , Child protection officer of IRC at the camp, Kebribeyah April 2010
- ♦ Interview with Bethelehem Yohannes, project assistant GIAIA kebreibeyah camp of Ethiopia, April 2010
- ♦ Interview with Haile Selassie Gebre Selassie, Senior legal officer, ARRA, Addis Ababa December 25, 2009.
- ♦ Interview with Hailu Girmay , Nurse at the health facility located in the Kebribeyah camp
- ♦ Interview with Ibrahim Mohammed Bokh, UNHCR Senior field Assistant, Kebribeyah April 2010
- ♦ Interview with Jodi Myrum IRC- Ethiopia SGBV program, Addis Ababa, April 2010
- ♦ Interview with Senait Getachew, legal protection officer UNHCR office at Jijiga, Jijiga April 5, 2010
- ♦ Interview with Wondwossen Negash, ARRA Ration distribution officer in kebreibeyah camp, April 2010
- ♦ Interview with Yewerkwa Mengistu IRC SGBV officer at the kebreibeyah camp of Ethiopia , Kebribeyah April 2010
- ♦ Interview with Yilikal Hailu , IOM - Ethiopia Addis Ababa April 2010

Focus Group Discussions

- ♦ Focus Group Discussions made with refugees and stake holders April 2010
- ♦ Focus group no.2 with Refugees, 13 women, April 2010
- ♦ Focus group 3 with Refugees, 10 women, April 2010
- ♦ Focus group no. 1 with Refugees, 15 persons, April 2010

ADDIS ABABA UNIVERISTY

FACULTY OF LAW

GRADUATE STUDIES

HUMAN RIGHTS STREAM

A THESIS PREPARED ON THE PARTIAL FULFILLMENT OF MASTERS OF LAW (LLM)

TITLE: The Protection of Rights of Refugees in Protracted Situations in Ethiopia: The Case of
Women/ Girls Refugees in Kebribeyah camp of Ethiopia

Questionnaire

Respondent code:-----

For refugees

Location of camp

Zone

Block

House No.

Date of filling the form:_____starting time_____ending time_____

Personal information of the Respondent

Age

Sex

Ethnic / tribal group

Status: married / unmarried/single/divorced

Head of the House Hold :

Name of the enumerator

Signature of the enumerator

*Instruction: please tell the respondent that the objective of the study is purely for academic purpose .
it has no relation with food ration or political stand . Assure them that the name of the respondent
will remain anonymous and the information collected will remain confidential.*

Please be notified that the name of the respondent remains anonymous

Concerning the durability and effectiveness of protection of refugee women

1. What is the number of years of exile in Ethiopia _____

2. What are the reasons of your plight and seeking asylum in Ethiopia _____
3. What kind protection is provided for you or others in the camp
 - a) Emergency assistance /food ration / housing /medical care /education and training
 - b) Physical protection by the local police
 - c) If others please specify
4. Are there any projects initiated for the voluntary repatriation of refugees back to their countries of origin?
 - a) Yes
 - b) No
5. When and how many women/female refugees have been repatriated?
6. Why is voluntary repatriation (going back) of refugees ineffective for those refugees in the camp. If more than one please Rank.
 - a) there is still conflict in the area of origin
 - b) the place of origin is destroyed so there is no interest to go back
 - c) no financial Capability or skill to go back and to work
 - d) their lives in the camp is better than the situation back in country of origin
 - e) if others please specify

7. Are there any means of resettlement of refugees in the camp? How many refugees are resettled
 - a) Yes
 - b) No
8. Is there any procedure at the moment for the resettlement of refugees in third countries
 - a) Yes
 - b) No

9. Is there a possibility of local integration of refugees in the country? if yes what were and what are the possibilities.
 - a) Yes
 - b) No
10. If yes to q. 9 please state what are those reason of local integration and how many. _____

11. If there is no means of local integration what do you think are the reasons? _____

12. What is the national refugee policy of Ethiopia? Please specify - _____

-
-
-
13. Does the policy promote local integration and provide nationality for women/ refugees and their children?
a) Yes b) No
14. If no what are the reason of not allowing local integration?
a) Economic and resource shortage
b) Social conditions
c) National security issues
15. What are the special protections provided for vulnerable women / female refugees in Ethiopia?
a) Special physical protection against sexual based gender abuse
b) Financial assistance/aid for self-reliance
c) Training for self-reliance
d) If others please specify

16. Do you think that the protection provided is adequate? if not what are the shortcomings.

17. Are you allowed to leave the camp and settle any where in the country? if no which of the following are the reasons for you to live the camp and for how long if any

Reasons of leaving the camp	Total time allowed to leave camp
Medical purpose	
Education	
(if others)	

Camp security and Social conditions of refugees

18. At what distance is the camp located from the border? _____
19. Does the location of the camp induce violence against women/ female refugees ?
a) Yes b) No
20. Is the camp condition secure? Is no so what are the instances of violence against refugees in the camp?
a) Rape against women/ female refugees
b) Sexual violence against children
c) If others please specify

21. Which bodies are the main causes of violence against women refugee and in what instances does violence occur.

- a) The refugee population
- b) The local population
- c) The officials
- d) If others please specify

22. Has the rape inside the camp escalated or declined over the years?

- a) it declined / decreased over the years
- b) it violence has escalated/ increased over the years
- c) It is the same as before

23. Has domestic violence increased or decreased inside the camp

- a) it declined / decreased over the years
- b) it violence has escalated/ increased over the years
- c) It is the same as before

24. Is the domestic violence and other sexual harassment amongst refugee women who do not work

- a) Yes
- b) No

25. Does living in the camps for a long time create social tensions of the refugees with the local populations? What are such tensions and or conflict

26. What the measures adopted with in the community members and on the part of the officials to curb such problems.

Legal measures	Administrative measures

27. Is there free education available to refugees in the camp?

- a) Yes b) No

28. If available where is the means of education available and which organization provides such services?

- a) Government b) UNHCR c) is other organization please specify _____

29. How do you asses the quality of education in the camp?

- a) Very good b) Satisfactory c) Bad

30. How does living in camps affect the free movement of refugees to access basic education and other social services like hospitals, markets

31. Does the unavailability of identity card an travel document affect the free movement of refugees

- a) Yes b) No

32. Can you freely access courts?

- a) Yes b) No

33. How does the living in camps affect the means of accessing courts?

34. How does the life in the camp affect the female / women refugees positively?

35. Have you or any one of the women /female refugees in your community receive identity cards of travel documents to leave the camp and/or the country.

- a) Yes b) No

36. Have you ever tried to move out of the country or you know of any one of the refugees who have left or plan to leave on their own thorough sea or Land irregularly on their own to other countries

- a) Yes b) No

37. If yes in the above question no. 33 what would be main reason of such flight

- a) Lack of freedom to move about in Ethiopia and seek employment / self employment opportunities
- b) b/c there is chance to re-unite with your family abroad
- c) In order to resettle and live in a more developed country
- d) Because there is no chance of education for you and your children
- e) If others please specify

The impact of national refugee policy on the lives of women refugees in the camp

Economic condition of refugees

38. What is the aid and financial support provided to women/female refugees in the camp? _____

39. Are there any means of projects, trainings and financial support for self reliance of women/female refugees?

- a) Yes
- b) No

40. If yes to q. 39 State the fields of activities of self reliance.

Field of activity	Financial assistance

41. What is the main source of your income? If more than one answer please Rank them

- a) Remittance
- b) Employment
- c) Agriculture
- d) Handicraft
- e) If others please specify _____

42. What is the amount of income you receive per month _____

43. Are there means of employment for women/female in side and out side the camps for refugees?

- a) Yes b) No

44. If no means of working outside camp why?

45. What are those activities that women refugees engage in out side camp?

- a) Cattle rearing
b) Small Buissness
c) If others please specify

46. Do the refugees in the camp access the local market freely? If no what are the restrictions? _____

47. If yes to q. no 42 what are those fields of activities that the women refugees engage in the local market.

Field of activity	Financial assistance

48. How many of the refugee enjoy access to and means of integration in the local market

- a) Many of women /female refugees b) Small numbers c) non of the women / female refugees

49. Are the means of economic activities in the local market and employment opportunities available creating adequate economic independence of refugees?

50. If no to q.no. 46 what are the reasons of such constraints? _____

- a) Yes b) No

51. How has the economic activities of refugees affected the economic condition of the local population and the country.