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ADDIS ABABA UNIVERSITY

COLLEGE OF LAW AND GOVERNANCE STUDIES

SCHOOL OF LAW

Local Integration of Refugees in Ethiopian; The law and Practices

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Local Integration of Refugees in Ethiopian: The Law and Practice

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in Partial Fulfillment of the Requirements for Masters of Laws Degree in Human Rights
Law**

Addis Ababa University

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Declaration

I, Eyasu Seifu, hereby declare that this thesis is original and has never been presented in any other institution. To the best of my knowledge and belief, I also declare that any information used has been duly acknowledged.

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ACRONYMS

ARRA	Agency for Refugees and Returnees Affairs
CAT	Convention against Torture and Other Cruel, Inhumane or Degrading Treatment
CRC	Convention on the Rights of Child
CRRF	Comprehensive Refugee Response Framework
CSA	Central Statistics Agency
FDRE	Federal Democratic Republic of Ethiopia
GoE	Government of Ethiopia
HPR	House of People's Representatives
IRO	International Refugee Organization
NGO	Non-Governmental Organization
No	Number
OAU	Organization of African Union
P	Page
UDHR	United Nation Declaration of Human Rights
UN	United Nation
UNHCR	United Nation High Commissioner for Refugees
VCLT	Vienna Convention on the Laws of Treaties

Abstract

Refugee protection is all about Human Rights protection. Because of the prevalence of pushing and pulling factors people may flee from their place of origin and cross the boards of foreign states. Refugees need special protection in the country of asylum since they are out of state protections. Although different effort has been made by the international community so as to solve the problem of refugees, until the adoption of the Refugee Convention, there were no international standards that determine the right and duties of refugees in the world. Local integration is one of the three durable solutions for refugees who had stayed for a protracted period of time in the country of asylum available to refugees in the Refugee Convention but it's really found in many domestics' laws. Even if Ethiopia had a good track record of receiving refugees from different countries, but there was no compressive law that governs the issue until recent time. The current Refugee Proclamation is one of the progressive refugee laws which allow local integration for refugee. However, the law is not compatible with international standards. Accordingly, the definition is circular and is not clear as to the application and implementation of local integration though the country has a robust tradition of receiving refugees in the country.

Key Words: Local Integration in Ethiopia: the Law and Practice

CHAPTER ONE

1. INTRODUCTION

1.1. Background of the Study

People's migration, displacement, and resettlement from one place to another are common phenomena all over the world. With the formation of modern countries and governments, some restrictions have been imposed on the free movement and settlement of people.¹ For example, in holy places like Jerusalem, a person who does not want to return to his place of origin is expected to pay a fixed fee² in the form of tributes to the host country. In early 16thc and 17thc, much emphasis has been given to sovereignty and country nationality as a result anyone who wants to move across the boundaries of other states required to have some kind of permission i.e. Emigration pass, work permit, and residence ID.³

However, strong immigration laws do not stop migrations of people from place to place due to the prevalence of pushing factors and pulling factors.⁴ The push factors include situations that affect the well-being of people like well-founded fear of persecution on the basis of race, religion, nationality, political opinion or because of war and conflict or natural disasters like drought, earthquake, or volcanic eruption.⁵ The pulling factors are attractive conditions that drive migrants to leave their place of origin to seeking favorable living conditions and better economic development in another place.⁶

The prevalence of refugee crises in Europe following the end of WWII, contributed significantly to the adoption of UN Refugee Convention Relating to the Status of Refugees (hereinafter the

¹ Esther Chelule, "Refugee Crisis in Africa", (Journal of International Academic Research for Multidisciplinary, Impact Factor 1.393, ISSN: 2320-5083, Volume 2, Issue 3, April 2014) 83

² Ibid

³ Ibid

⁴ UNHCR, Lesson plans for ages 9-11 in History: Refugees in History, available at: <https://www.unhcr.org/getinvolved/teachingtools/45efe7852/lesson-plans-ages-9-11-history-refugees-history.html> accessed on December 10, 2019

⁵ Ibid

⁶ Ibid

1951 Convention) that specifically governs refugee issues of Europe.⁷ The 1951 Convention was the first international instrument that specifically acknowledged local integration as one form of a durable solution for refugees though it was backed by time and territorial limitations⁸. Later on, in 1967 the 1951 Convention have got an authority to deal with throughout the world by eliminating its geographical and time limitation to cover larger scope⁹.

When we come to the Ethiopian scenario, the country has a good track record in receiving and giving sanctuary for refugees with full human dignity in the absence of any international obligation¹⁰. In this regard, starting from the 7th century to the present time the country has adopted open door asylum policy to host refugees that come from different states especially from neighboring countries and from the Arabian Peninsula¹¹. As indicated by Islamic writings, in the early long stretches of Islam, Muslims were under the barrel of exceptional mistreatment from the decision clan (Quraysh) of Mecca and around 615 AD. To secure his supporters and the freshly discovered religion, Prophet Mohammed sent over eighty individuals including his daughter, cousins and different followers to Negus Al-Asham (otherwise called Armha), the then King of antiquated Abyssinia (Ethiopia) for them to look for asylum.¹² Currently, in Ethiopia there are more than 720,914 refugees in 26 different refugee camps across the country¹³ and this makes the country to become one of the -largest refugee-hosting country in Africa.¹⁴

⁷ Ibid,

⁸ UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations, Treaty Series, vol. 189, Art.34 (hear in after called the Refugee Convention)

⁹ United States Committee for Refugees and Immigrants, World Refugee Survey 2009 - Ethiopia, 17 June 2009, available at: <https://www.refworld.org/docid/4a40d2a594.html> [accessed 23 May, 2020]

¹⁰ Yonas Birmeta (PhD), 'Refugee Protection in Ethiopia', (International Law Series Volume I Addis Ababa University, 2017)14

¹¹ Ibid

¹² Haggai Erlich, Islam, Christianity, Judaism, and Ethiopia: The Messages of Religions: The Fifth Annual Levtzion Lecture (The Hebrew University of Jerusalem, 2013), pp. 4-5; Jon Abink, "An historical anthropological approach to Islam in Ethiopia: issues of identity and politics", Journal of African Cultural Studies, Vol.11 (1998), p.111.

¹³ International Rescue Committee, New Responses to Refugee Crisis: Promises and Challenges in Ethiopia <<https://www.rescue.org/sites/default/files/document/3285/ethiopiacasestudy.pdf>> accessed on August 29, 2019

¹⁴ <https://data2.unhcr.org/en/country/eth> accessed on August 29, 2019, 10:04 AM

Ethiopia is also a State Party to the 1951 Convention and the 1967 Protocol even though the country has entered reservations to some of the provisions to the refugee convention.¹⁵ In addition to this Ethiopia is also a State Party to the 1969 OAU Convention Governing the Specific Aspects of the Refugee Problem in Africa that fill the gaps of the 1951 Refugee Convention in the causes of displacement in the African situation. Moreover, the country has adopted national legislation concerning refugee at a different times though the laws have some vagueness concerning local integrations. This shows that the country is committed to properly fulfilling its international obligations to promote and protect people's basic human rights, regardless of their nationality.

Although Ethiopian is State-Party to the 1951 Refugee Convention and the 1969 OAU Convention, domestic legal machinery was very poor and inadequate about the application of local integration of refugees until the enactment of proclamation No. 1110/2019. However, the country has made nine pledges on the sidelines of the 2016 New York Leaders' Summit and become one of the pilot countries for the implementation of the Comprehensive Refugee Response Framework (CRRF)¹⁶ that expressly talks about local integrations of refugees in the country by allowing local integration for refugees who have lived in Ethiopia for over 20 years¹⁷.

¹⁵United States Committee for Refugees and Immigrants, World Refugee Survey 2009 - Ethiopia, 17 June 2009, available at: <https://www.refworld.org/docid/4a40d2a594.html> [accessed 22 December 2020]

¹⁶Global Compact on Refugees, Digital Platform, available at: http://www.globalcrrf.org/crrf_country/eth/ accessed December 2019 (In 2016, Ethiopia co-facilitated the Leaders' Summit on Refugees, where it made nine eager promises to improve the lives and jobs of displaced people and host networks in the nation. Expanding on responsibilities to make these strides, made at the 2016 Leaders' Summit on Refugees, Ethiopia has been among the underlying nations reveal the Comprehensive Refugee Response Framework (CRRF) of the New York Declaration on Refugees and Migrants. The following are a portion of the vows, the administration focused on extending it's out of camp arrangement; give work grants to exiles; increment enrolment of displaced person kids in school; make irrigable land accessible to outcasts; permit neighborhood mix of evacuees who have lived in Ethiopia for extended timeframe; work with worldwide accomplices to fabricate modern stops and create employments for outcasts and hosts; grow and upgrade fundamental social administrations for outcasts; and give different advantages including birth endorsements, financial balances, and the choice of getting a driver's permit).

¹⁷UNHCR, High Commissioner's Dialogue - Protection and Resilience during Pandemics. http://www.globalcrrf.org/crrf_country/eth/ accessed December 2019

1.2. Statement of the Problem

The issue of refugee protection also embraces the safeguarding of fundamental human rights peoples who are out of their national protection and placed in particular jeopardy in refugee circumstances. Refugee protection is all about the right to life liberty and security of person, the right to free from torture and other cruel or degrading treatment, the right not be discriminated against, the right of access to the basics necessary for survival (food, shelter, medical assistance), as well as self-sufficiency (a livelihood, education, health care). Before the adoption of the 1951 Convention, different efforts have been done by the League of Nations and United Nations for creating awareness about the responsibility of the international community to protect for refugees to lead a dignified life.¹⁸In this regard, Ethiopia has a good track record in receiving and giving shield for refugee's to live in its territory long time before its international community provides state obligation¹⁹though there were no specific laws except the constitution that govern the issue of refugees in general until 2004.

The Refugee Proclamation No. 409/2004 doesn't have a provision dealing with local integration of refugees in Ethiopia except statement that refuges can be entitled to other rights and be subject to the duties contained in the Refugee Convention and the OAU Refugee Convention. However, one of the pledges that Ethiopia has made was granting local integration for refugees who have lived in Ethiopia for over 20 years²⁰. The Refugee Proclamation No.1110/19²¹ is the first domestic law that incorporates the idea of local integration without properly defining the concept. Indeed, local integration is one of the three remedies for refugees and it has three dimensions. Firstly, it is a legal process, in which refugees can get a broader range of rights in

¹⁸ Erika Feller, 'International refugee protection 50 years on: The protection challenges of the past, present, and future' (International Review of the Red Cross, No. 843, 2001) 1-5; It is also available at: https://www.icrc.org/en/doc/assets/files/other/581-606_feller.pdf accessed on December 22, 2020

¹⁹Haggai Erlich, 'Islam, Christianity, Judaism, and Ethiopia: The Messages of Religions': The Fifth Annual Levtzion Lecture (The Hebrew University of Jerusalem, 2013). 4-5; Jon Abink, 'An historical anthropological approach to Islam in Ethiopia: issues of identity and politics', (Journal of African Cultural Studies, Vol.11 1998) 111

²⁰ Emily Alvarez, 'Solidarity in Action: One Year on from the Global Refugee Forum', available at: http://www.globalcrf.org/crf_country/eth/ accessed December 22, 2019

²¹ Refugees Proclamation, 2019, Proc. No 1110, Neg. Gaz. Year 25, no. 22.

the country of asylums like citizens.²² Secondly, it has an economic aspect in which refugees are able generate income sustainably for their livelihoods equivalent to the host community. Thirdly, it is a social and cultural dimension in which refugees are able to adapt the social life of the host country and live in harmony without fear of discrimination.²³

Ethiopia is one of the countries with the largest number unemployment and large number of internally displaced persons with 2.9 million IDPs²⁴ in the year 2018, on one hand and the country has pursued open door asylum policy for refugees with the existence of strong opposition from peoples of Gambela. The other issue is that there is a high rate of unemployment in the country on the one side and the country is welcoming more refugees.

By considering such a problem, the research will attempt to answer the following questions:

1. Is the current legal system of Ethiopia sufficient to address all aspects of local integration in the country?
2. How the application of local integration is implemented under the new 2019 Proclamation?
3. To what extent 2019 proclamation and other Ethiopian legal systems are compatible with international law related to refugees, particularly on the implementation of local integration? What is the policy rationale behind allowing local integration of refugees?
4. How many refugees are eligible for to local integration? Does the current economic situation of Ethiopia capable to accommodate additional job seekers from abroad?
5. How is the local integration of refugees implemented in the current social structure of Ethiopia?

²² Human Rights and Refugee Essays, available at: <<https://www.essay.ws/human-rights-and-refugees-essay/>> accessed on January 5, 2020

²³UNHCR (2016) “Comprehensive Refugee Response Framework: from the New York Declaration to a Global Compact on Refugees”, available at: <<https://www.essay.ws/human-rights-and-refugees-essay>> accessed on January 5, 2020

²⁴ DW, Ethiopia’s Crisis of Internally Displaced Persons <<https://www.dw.com/en/ethiopias-crisis-of-internally-displaced-persons/av-49384151>> accessed on January 5, 2020

1.3. The Objective of the Study

1.3.1. General Objective

The primary aim of this research is to examine and review the local integration of refugees in Ethiopia's legal framework and its impact on the practical application of local integration in the host communities. The second main objective is to propose possible recommendations that will assist the legislature and the government of Ethiopia on how to implement the integration of refugees in line with the provisions of international laws and standards by suggesting some of the major flaws of the current refugee law. Lastly, to contribute to the existing body of knowledge in areas of local integrations of refugee thereby envisages the scope and content of the local integration concerning refugee law and its place in Ethiopia. Thus, the practice of Ethiopia will be thoroughly assessed.

The overall objective of this research is to identify and explore the current Ethiopian legal, economic and social framework on the application local integration of refugees and its impact on the host society.

1.3.2. Specific Objectives

The specific objective of the research is to identify and analyze the current vital legal, policy and practical bases for local integration of refugees in Ethiopia and to come up with some possible recommendations for improvement from the perspective of local integration of refugees the hosting State.

- To assess the nexus between the institution of refugee protection and human rights.
- To explore and examine whether the current legal regime of the country is adequate in addressing Ethiopia's pledge about local integration.
- To evaluate the compatibility of proclamation No. 1110/2019 in light of international instruments.
- To explore and evaluate the existing trend of local integration of refugees with local communities.

- To identify and analyze the practical problems and challenges on the application of local integration in Ethiopia.
- To suggest possible solutions that would help to overcome the legislative challenges which became an obstacle for the application of local integration in Ethiopia.

1.4. Scope of the Study

The scope of this research is confined to identify and explore how the application of local integrations of refugees implemented in Ethiopia based on the new refugee law taking in to account international commitment of the country in protecting human rights and the legislative loopholes of the new amended proclamation No. 1110/2019 that became an obstacle for the application of local integration of refugees in Ethiopia.

1.5. Literature Review

Many works of literature discuss the application of refugees' local integration in their country of asylum. Although refugee protections have got recognition before six decades, the issue refugee protection in general and local integration, in particular, evolved in developing countries in Africa in the late 1980s²⁵. Local integration is one of the three durable solutions for refugee problems that combine three dimensions. Firstly, it is a legal process, whereby refugees attain a wider range of rights in the host state equivalent to the citizens. Secondly, it is an economic process of providing justifiable maintenances and a standard of living for refugees similar to the host community. Thirdly, it is social and cultural issues that are favorable conditions for refugees to be adapted with the host community way to live in peace and harmony²⁶.

Most of Scholars perceives local integrations of refugees from two dimensions: from refugee's fundamental human rights perspective and host communities and host state.

²⁵ Kibreab, Gaim. "Resistance, Displacement, and Identity: The Case of Eritrean Refugees in Sudan." (Canadian Journal of African Studies Vol. 34, No 2 2000) 249-96.

²⁶ Alexandra Fielden, "Local integration: an under-reported solution to protracted refugee situations" (UNCHR Research Paper No. 158 June 2008,) 1-23

According to Salem research entitled “Understanding African Refugees Integration in Cairo through the Eyes of Underprivileged Host Communities” try to disclosed the poor condition of the host communities in Cairo as the major hindering factor for the integration of African refugees²⁷. In the same fashion, Campbell²⁸ suggest that local integration to be a viable solution for Somali refugees in Nairobi, it is important to make a balance for the necessity of protecting the right and human security of refugees and the interest of the host state in combination. As Alexandra Fielden points out though local integration is one means of a refugee protection system for refugees who have been stayed in the host country for a protracted period. So far its application is very much minimal throughout the world²⁹. Starting from 2005, UNCHR has prepared a handbook for local integration of refugees to solve the problems of refugees and to the process in the proper manner in the host country. The handbook is currently a basic instrument with a detailed procedure for the realization of local integration that was suggested in the international refugee conventions.

1.6. Research Methodology

The methodology of this research has employed a secondary data approach. Within this method, it will use a descriptive research type to show the real picture of local integration in Ethiopia. Both primary and secondary sources were in this research. The primary sources will be Constitutions, proclamations international treaties. I reviewed the Ethiopian laws policies and other legal documents that state about refugees' integration with the host communities, and then I will try to assess the international legislations in which Ethiopia is a signatory. I also made some interview with the concerned organs experts from, UNCHR, ARRA and CSA, Secondary legal sources such as textbooks, printed and electronic journals, legal encyclopedias, policy documents, independent reports, academic commentaries, catalogs, databases, online research guides, and country of origin information from reliable sources were used and analyzed.

²⁷Rasha Salem, “Understanding African Refugees Integration in Cairo through the Eyes of Underprivileged Host Communities” (The American University in Cairo 2013) 44

²⁸Campbell, Elizabeth. “Urban Refugees in Nairobi: Problems of Protection, Mechanisms of Survival, and Possibilities for Integration.” *Journal of Refugee Studies* Vol. 19, No. 3, 2006)

²⁹ Kibreab (n 22) 249

1.7. Significance of the Study

The significance of this research is to evaluate the application of local integration of refugees in Ethiopia based on the new amendment proclamation in promoting and protecting human rights and its shortcomings that would hinder the process. It may also serve as an input for further researches and for the government to reconsider the proclamation by taking in to account the current economic and social factors that affect the proper realization of local integration in the country.

1.8. Limitation of the study

The potential constraint of this study will be because of budget constraint I may not see and make interview in person the refugees' condition on campus and the place where they settle and evaluate the application of local integration in different place. Furthermore, since this paper is more of doctrinal, I will not collect data from different stakeholders about local integration. I will try to solve this problem by searching for funds to go and see the realities. The other is the availabilities of information about the application of local integration of refugees in Ethiopia. It may be challenging to find information related to how many refugees are locally integrated so far with the Ethiopian society, especially in the different refugee camp area and how much this integration is effective may not be registered.

1.9. Research Organization

The study will be organized into five chapters. The first chapter presents an introduction to the study. It briefly discusses the background of the study, the identified problem and the objectives of the study, indicated limitation and scope of the research. It also provides the significance and methodology of the study. Chapter two will briefly recount the basic conceptual framework of local integration in modern refugee law and outline the existing international and regional standards that imply the local integration. It concludes by noting the major actors involved in the refugee international protection regime.

Chapter three has attempted to explore the most important international and regional legal instruments that safeguard and give effect the local integration substantively and procedurally through analyzing international legal principles and soft laws to clarify applicable law and legal standards relating to specific thematic. An analysis of the main international legal instruments related to the protection of refugees in general and local integration of refugees in particular is undertaken. In this chapter, the 1951 UN Refugee Convention and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa are discussed to determine the effectiveness of these international legal instruments in addressing the evolving problem of refugees in the world and particularly in Africa.

Chapter four discusses survey the national legal frameworks that are directly important sources for refugee protection. In this part, the study addresses the practice of local integration of refugees from the past to present and I try to assess and reviews Ethiopian refugee laws and policy. The chapter focuses on the extent to which the Ethiopian Constitution and the Refugee Proclamation have guaranteed refugees' access to fundamental human rights while living in Ethiopia. This chapter includes a discussion of the implementation of international refugee law in Ethiopia and the extent to which the provisions of the 1951 UN Refugee Convention, in particular, have been domesticated and incorporated into the national legal system.

The study will try to assess legislative challenges that could be an obstacle to the proper implementations of local integrations in Ethiopia. Finally, the study will provide conclusions and some possible recommendations that may help to overcome the problems raised.

CHAPTER TWO

CONCEPTUAL FRAMEWORK OF REFUGEE and LOCAL INTEGRATION

2.1. The Notion of Refugee Protection in the World

The issue of refugees have been as long as the history of mankind though an awareness of the obligation of the international community to provide protection and find an adequate solution for the problem dates back only from the time of the League of Nations on the appointment of Dr. Fridtjof Nansen as the first High Commissioner for Russian refugees in 1921.³⁰ Indeed, before the 1648 Treaty of Westphalia, the cognizance of displaced individuals had been relative to programmed transients that get away from their living game plans in view of dispute, abuse, starvation or calamitous occasion in a more broad sense. Post-WWI period, the mass departure of refugees that fled the war agreed with result political patriotism, security concerns and financial downturn in the western world, the states began to follow thin and watched way to deal with the origination of a refugee.³¹

HCR was initially established with the purpose to solve the refugee crisis of Russian refugees as a temporary agency with a goal of facilitating voluntary reparation and resettlement of refugees in the host community by providing a legal document called Nansen Passport in order to expand the free movement of a refugee.³² The League of Nations protection for refugees was on the

³⁰ Erika Feller, 'International refugee protection 50 years on: The protection challenges of the past, present and future'(Article, International Review of the Red Cross, No. 843 30-09-2001)584 available on <<https://www.icrc.org/en/doc/resources/documents/article/other/57jre4.html>> accessed on february 18, 2020, (UNHCR), Global governance and the evolution of the international refugee regime, 15 February 2020, available on , < <https://www.refworld.org/docid/4ff54f442.html> > accessed 18 February 2020

³¹ Before WWI the common understanding of refugees is not compressive. Hence anyone who flees from his/ her place of origin presumed as a refugee since the system was concerned about the collective identification of refugees by their country. Following the end of WWI, some progress has been shown by giving some protection for particular group refugees like Russia, Turkey, Armenia, etc... the protection was non-refoulment and prohibitions non-admittance refugees.

³²Laura Barnett, 'International Journal of Refugee Law', Volume 14, Global Governance and the Evolution of the International Refugee Regime, April 2002,p. 4-6

bases of the country of origin of refugees mainly refugees of the Middle East and in Europe.³³ Following the establishment of the UN, in the mid of 1947 International Refugee Organization (IRO) was established as a new form to deal with refugee problems in the world. The IRO was created with the purpose of solving the immediate and imminent problem of refugees in Europe that was materialized in the aftermath of the Second World War.³⁴

When the UN realized the nature of the problem, in December 1949 the UN General Assembly decided to replace the IRO with UNHCR, which was established, for an initial period of three years, as a subsidiary organ of the General Assembly under Article 22 of the United Nations Charter with the mandate to address every aspect of the refugee problem (from registration and determination of status to repatriation, resettlement, and legal and political protection) in a very comprehensive way.³⁵ On 14 December 1950, the General Assembly adopted the UNHCR Statute and began its full operation in January 1951. The organization's tasks were to provide international protection for refugees and to seek permanent solutions to their problems by assisting governments of the host country in facilitating their voluntary repatriation or their assimilation within new national communities via local integration.³⁶

Currently, the 1951 Convention is the only binding refugee protection instrument at worldwide nature thanks to the 1967 protocol³⁷ that lift geographical and time limitation of the 1951 Convention and has 141 States Parties. At regional level, the 1969 OAU Convention on the Specific Aspects of Refugee Problems in Africa was the pioneer territorial restricting instrument that tends to the holes of refugee show by extending meanings of a refugee by fusing extra reasons for mistreatment like outside animosity, occupation, unfamiliar control or occasions genuinely upsetting public request in one or the other part or the entire of his nation of beginning

³³ Ibid

³⁴ Feller, (n 29) 584

³⁵ Ibid

³⁶ Ibid

³⁷ Protocol relating to the Status of Refugees was prepared. After consideration by the General Assembly of the United Nations, it was opened for accession on 31 January 1967 and entered into force on 4 October 1967. It was a separate instrument opened for accession just to expand the jurisdiction of the refugee convention in terms of time and geographical territory.

or ethnicity can be the reason for oppression.³⁸ In the same fashion, the Organization of American state adopts another regional refugee instrument called the Cartagena Declaration³⁹ that widens grounds of persecution though it was not a binding instrument.

2.2 Definition of Refugee

According to the 1951 Convention Relating to the Status of Refugees, a refugee is someone who has a well-founded fear of persecution because of his/her race, religion, nationality, membership in a particular social group, or political opinion; outside his/her country of origin; and unable or unwilling to avail him/herself of the protection of that country, or to return there, for fear of persecution where events occurring before 1 January 1951 in Europe.⁴⁰

Defining Elements Refugee in the Refugee Convention

- a. **A well-founded fear of being persecuted:** - This is the core phrase of the definition since the concept is subjective by its nature and there is no universal yardsticks' for fear. Under Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, any ordinary fear that occurred on the person doesn't equate well-founded fear unless there is a real tangible situation that jeopardizes of the life of the person.⁴¹ As it's clearly stated in the refugee convention, the major grounds of persecutions are - Race, Religion, Nationality, Membership in a particular social group, or political opinion.
- b. **Grounds of persecution:**-In fact any ordinary punishment doesn't amount to persecution unless the ground for the circumstance that intimidates the life of the persons is on the bases

³⁸ Kushner, T., & Knox, K. "Refugees in an age of genocide: Global, national, and local perspectives during the twentieth century", ISBN-13,978-0714643410 ,Routledge; 1st edition, 30 Jun. 1999) 12

³⁹ It is a non-binding regional refugee instrument signed by Latin and Central American states. Accordingly, violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order are a sufficient ground of persecution.

⁴⁰ Refugee Convention, Article 1 A (2)

⁴¹ "UNCHR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees", (Reedited, Geneva, January 1992) 19 available on <<https://www.unhcr.org/afr/publications/legal/5ddfdcd47/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html>> accessed 18 February 2020

of race, religion, nationality, political opinion or membership of a particular social group are the main bases of persecution in the convention. In this regard, the refugee convention fails to incorporate other ground of persecutions like natural disaster and other scenarios that create a general atmosphere of insecurity in the country of origin⁴².

- c. **Is outside the country of his nationality:-** Any person to be considered as a refugee he or she expected to found him/herself out of the territorial boundary of his/her country⁴³. As a general rule, there is no status of a refugee within the protection of national jurisdiction.
- d. **Events occurring before 1 January 1951 in Europe:-** At the time of the adoption of the 1951 refugee convention, the state-parties obligation was limited by the time frame of 1951 and geographical territory of Europe⁴⁴. However, following the adoption of the 1967 Protocol relating to the Status of Refugees, the time and territorial limitation came to an end.
- e. **Unable or unwilling to avail himself of the protection of that country:** - A refugee has a nationality. However, they are unable or unwilling to enjoy national protections due to bad circumstances that threaten their lives in their place of origin like⁴⁵.

OAU Convention Governing the Specific Aspects of Refugee Problems in Africa defines the term Refugee as 1. “ For the purposes of this Convention, the term refugee shall mean any person who, 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 unable or, owing to such fear, is unwilling to return to it and it shall also apply to 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

⁴² Ibid, 10

⁴³Ibid, 15

⁴⁴ UNCHR Handbook,(n38)15,23

⁴⁵ UNCHR Handbook,(n) 16

nationality⁴⁶.” As equated to the refugee convention, the OAU Convention is much expanded definition since it has wide range of reasons for persecution like owing to foreign antagonism, forcefully occupation of territory, foreign control or measures enormously disturbing public order in either part or the full of his country of origin or nationality is obliged to leave his place of origin in order to search for refuge in another place outside his country. Thus a person who fall under 1951 convention automatically incorporated in the OAU Convention.

2.3. Definition of Local Integration

Despite the fact that the matter of local integration of refugees was a communal practice human being from the time immemorial to the present day, so far there is no commanding definition of the concept in international refugee laws.⁴⁷ However, the reference guides of UNHCR define local integration as:-

*One of the three durable solutions available to refugees, local integration is based on the assumption that refugees will remain in their country of asylum permanently and find a solution to their plight in that State. It is a legal, economic and socio-cultural process and is related to, but also to be distinguished from, self-reliance, as well as local settlement.*⁴⁸

Hence, local integration contains three major concepts that are highly interrelated.

First, local integration has two faces and it is an on-going process, meaning, on the one hand, it needs the effort of the refugee to adapt to the way of life of the host community and on the other

⁴⁶ Organization of African Unity (OAU), Convention Governing the Specific Aspects of Refugee Problems in Africa, 10 September 1969, Article 1(1)&(2) (here in after called "OAU Convention"),

⁴⁷ Jeff Crisp, “The local integration and local settlement of refugees: a conceptual and historical analysis”,(Working Paper No. 102, Geneva, Switzerland April 2004) 4-6

⁴⁸ Rosa da Costa, “ Rights of Refugees in the Context of Integration: Legal Standards and Recommendations”, (United Nations High Commissioner for Refugees, Geneva Switzerland 2006)8 available online on <<http://www.unhcr.org/protect> > accessed on 18 February 2020

hand, it creates obligations on the host community to be welcome and responsive for the diverse needs of a refugee.⁴⁹

Local integration is also defined as a legal procedure to state the level local integration to be practical and effective it needs the legal base in the host state that wider the rights and privileges of refugees such as to enjoy the freedom of movement, the right to seek employment, to engage in an income-generating activity, to have access to public service in the same way to citizens.⁵⁰

Second the economic dimensions of local integration, it is obvious the fact that refugee wants to lead a dignified life in the host community. So they are expected to be self-reliant to contribute something good to the economic growth of a nation. To do that, the first thing is refugees are under obligation to adapt themselves to less reliant on state aid or humanitarian assistance, attaining a growing degree of self-reliance and becoming able to follow sustainable source of revenue, thus backing to the economic life of the host community.⁵¹ Third, local integration is a social, cultural and political process of acclimatization by the refugees and accommodation by the local communities, that enables refugees to live amongst or alongside the host community, without discrimination or mistreatment and subsidize actively to the social life of their state of shelter. However, the idea of local integration doesn't imply assimilation of refugees towards the way of life the host community even if article 34 of the Refugee Convention propagates some ideas of assimilation. In this regard, Kuhlman suggests that "it is better to maintain their own identity, yet become part of the host society to the extent that host population and refugees can live together in an acceptable way."⁵² The Ad Hoc Committee responsible for drafting the 1951 Refugee Convention suggest that the term "assimilation" to be understood "in the wisdom of accommodation into the economic, social and cultural life of the country" and not as forced assimilation or compulsion.⁵³

⁴⁹ Ibid

⁵⁰ Ibid

⁵¹ Ibid

⁵²T. Kuhlman, "Asylum or aid? The economic integration of Ethiopian and Eritrean refugees in the Sudan", (African Studies Centre, Leiden, 1994) 56.

⁵³ UNCHR, Recommendations to the European Ministerial Conference on Integration,(Zaragoza 15 and 16 April 2010) 4 available on < <https://www.unhcr.org/4bcc61b59.pdf>> accessed on February 20, 2020

2.4 Understanding the Basic Concept of Local Integration

History proves that the displacement and movement of peoples from their habitual resident to another area and lead their life comfortably by adapting the new settlement was a common practice of human beings from the time immemorial to the present day. Before The Peace Treaty of Westphalia in 1648, the application of movement and resettlement of peoples in a new territory doesn't need any rigorous procedures.⁵⁴ In the present day, the trend shows that still most of the world is no willing to the proper realization of local integration.⁵⁵

Currently, the assumption of local integration is a dynamic two-way process that places demands on both the refugee and the receiving community. Today, local integration of refugees goes beyond ensuring that they are provided with basic needs and access to services. Local integration needs that the host community and the government are expected to build friendly situation which supports refugees to succeed sustainable economic base and adjust themselves to the way of life of the host community, including fostering a sense of belonging, and encouraging participation in their new communities though local integration is one among the three stated durable solutions for the problem of refugees by UNHCR.⁵⁶

Local integration can occur within a specific cultural context and social and economic environment. These vary widely among resettlement countries, as do systems of governance, and divisions of responsibility between national, states, provincial, territorial, district, regional, and municipal authorities in established and prospective resettlement states.⁵⁷ While UNHCR recognizes and affirms each State's need to approach resettlement in a manner appropriate to its particular context, UNHCR also advocates that the legal and socio-economic needs of refugees

⁵⁴ Following the Westphalia peace treaty, nation-states have emerged that give much emphasis to sovereignty and territorial integrity. As a result, local integration and free settlement of refugees have become the will of the host country.

⁵⁵ Feller, (n31) 485

⁵⁶UNCHR The Integration of Resettled Refugees: Essentials for Establishing a Resettlement Program and Fundamentals for Sustainable Resettlement Programs available on < <https://www.unhcr.org/52a6d85b6.pdf>> accessed on February 20,2020

⁵⁷ Ibid

must be take place in a way that guarantees a durable solution has been realized.⁵⁸ Although there is no global standard on resettlement and integration outcomes, States have developed instruments to measure refugees' economic and social outcomes, and there is an ongoing collaboration to establish benchmarks and criteria to evaluate integration.⁵⁹ In this regard, the 1951 UN Refugee Convention is the front line worldwide instrument that obliges State Party under Art 34 of the Convention: 'the Contracting States will go beyond what many would consider possible encourage the absorption and naturalization of displaced people.

2.5. Perspectives of Local Integration

It is possible to evaluate the issue of local integration from host communities' perspectives and views of refugee protection. The issue of local integration incorporates the perception of refugees, host communities and the host state even if the issue integration has got little attention from the concerned organs.⁶⁰ From the host community, socio-economic problems and wrong perceptions hinder the application of local integration. In this regard, according to Salem under research entitled 'Understanding African Refugees Integration in Cairo through the Eyes of Underprivileged Host Communities' disclosed the underprivileged condition of the host communities in Cairo as the major hindering factor for the integration of refugees?⁶¹ Hence, solving the socio-economic problems of the host communities and viewing the issue of integration from the host communities' perspective as a master key to protect refugees and facilitate the integration process. In the same fashion, Campbell revealed the importance of incorporating institutional perspective, refugee perspective and community-oriented perspective in dealing with refugee protection, mechanisms of survival and possibilities of integration for Somali refugees in Nairobi. For local integration to be a viable solution for Somali refugees in

⁵⁸ Ibid

⁵⁹ Ibid

⁶⁰Grabska, Katarzyna, "Who Asked Them Anyway? Rights, Policies, and Wellbeing of Refugees in Egypt" (University of Sussex, Falmer, Brighton BN1 9SJ, United Kingdom July 2006),40

⁶¹Rasha Salem, "Understanding African Refugees Integration in Cairo through the Eyes of Underprivileged Host Communities", (The American University in Cairo 2013), 44

Nairobi, Campbell vows for the necessity of protecting the right and human security of refugees, the host community, and the interest of the host state in combination.⁶²

From the refugees perspective, local integration is one of the durable solutions for refugee problems. However, the current trend shows that local integration is given little emphasis. The Opening Statement to the 61st UNHCR's Executive Committee meeting on 4 October 2010, UNHCR chief António Guterres acknowledged concern over the increase in the number of quasi-permanent, or protracted, refugee situations confronting UNHCR.⁶³ In addition to the human suffering those situations represent – in which refugees effectively have their lives put on hold, sometimes for decades – the increasing number of a protracted refugee without any remedy. Hence refugees who stay for a protracted period of time in the host state have the right to get citizenship which enables them allowed a continuously more extensive scope of rights and privileges by host states in order to lead a dignified life. These rights and privileges incorporate the privilege to 'look for business, to take part in other pay creating exercises, to claim and discard property, to appreciate the opportunity of development and to approach open administrations, for example, training. This empowered the displaced people to challenge state control by being undetectable and changing their way of life as residents of the host nation, notwithstanding the constraint of state limit.

2.6. The concept of “Assimilation” and “Integration” under the international law

The expression "assimilation" utilized in article 34 of the 1951 Convention is to be perceived in the feeling of integration into the financial, social and social existence of the nation and not as signifying any idea of constrained assimilation or compulsion. Analysts on this arrangement concur that the Ad Hoc Committee liable for drafting the Convention proposed the expression "assimilation" to be perceived in this sense. Additionally, the global network has consistently dismissed the idea that refugees should be relied upon to desert their own way of life and

⁶²Campbell, Elizabeth H. “Urban Refugees in Nairobi: Problems of Protection, Mechanisms of Survival, and Possibilities for Integration.”(Journal of Refugee Studies, Vol. 19, No 3 2006). 402

⁶³UNHCR, “Ex.Com: UNHCR chief warns of rising of new semi-permanent global refugee population”, Retrieved 4 October 2010, available on <http://www.unhcr.org/cgi-bin/texis/vtx/home> accessed on October 10 2020

lifestyle, in order to get undefined from nationals of the host network. In this reference control the expression "integration" will subsequently be utilized rather than "assimilation".⁶⁴

The term integration ("assimilation") has likewise been deciphered as alluding to the way toward establishing the frameworks for the refugee to get comfortable with the traditions, language and lifestyle of the nation of shelter, so that with no sensation of pressure, he/she may all the more promptly be coordinated into the various parts of life in the nation of asylum. This might be refined through such methods as, entomb alia, language and professional courses, addresses on public organizations and culture, and by making open doors for animating contacts among refugees and the host population.⁶⁵

Thusly, any meaning of "integration", just as integration structures or projects ought to mirror a methodology which advances acknowledgment and regard for the refugee's lifestyle and culture, while likewise aiding their practical and social variation into the host society.

Naturalization finishes up the lawful component of the integration cycle, as it prompts the end of refugee status as per Article 1C (3) of the 1951 Convention. Article 34 of the 1951 Convention gives that States will bend over backward to speed up naturalization procedures for refugees and lessen expenses. A comparable arrangement is additionally contained in Article 6(4)(g) of the European Convention on Nationality, as indicated by which each State Party "will encourage in its inner law the procurement of its identity for stateless people and perceived refugees legitimately and constantly inhabitant on its region". The Council of Europe's Explanatory Report to the Convention contains a few instances of great conditions, which incorporate a decrease of the length of required habitation, less tough language necessities, a less difficult technique and lower procedural charges. A few EU Member States have deciphered the soul of these arrangements into their public laws by diminishing holding up periods and naturalization charges as well as eliminating prerequisites for the renunciation of the citizenship of the nation of cause.⁶⁶

⁶⁴UNHCR, Legal and Protection Policy Research Series. (2006) available on <https://www.unhcr.org/44bb90882.pdf> accessed on February 2020

⁶⁵ Ibid

⁶⁶ Ibid

UNHCR supports the other Member States to follow and consider while checking on their identity enactment, the chance of encouraging the procurement of citizenship by refugees. Given that refugees are probably going to stay outside their nation of origin for extensive stretches, UNHCR invites the way that the European Convention on Nationality presents an arrangement whereby the necessary time of legitimate and ongoing home before the acceptance of an application formal naturalization ought not surpass ten years, and might want to feature great practice in some EU nations which incorporate the time spent as a haven searcher in computing the trusting that refugees will apply for citizenship.⁶⁷

Article 34 of the 1951 Convention suggests that State Parties should put forth great confidence attempts to help refugees to meet the necessities for naturalization. Peruse related to Article 25 of the 1951 Convention, this involves that States will defer or substitute prerequisites for documentation to be gotten from the refugee's nation of origin. This is especially significant concerning accreditation of renunciation of the nation of origin identity, as security reasons request that refugees be absolved from this prerequisite. While not explicit to refugees, the presentation of severe language tests and assessments on the set of experiences and culture of the host nation may punish certain classes of refugees, specifically older or unskilled people. Essentially, necessities to exhibit confidence prior to presenting an application for naturalization may likewise be hard for specific classifications of refugees to meet. UNHCR subsequently approaches EU Member States to apply deftly such prerequisites to make naturalization sensibly reachable for refugees with explicit requirements.⁶⁸

⁶⁷ Ibid

⁶⁸ <https://www.unhcr.org/463b462c4.pdf> accessed on February 2020

CHAPTER THREE

INTERNATIONAL AND REGIONAL LEGAL INSTRUMENTS THAT GIVE EFFECT LOCAL INTEGRATION

3.1 International laws and standards that safe guard local integrations

3.1.1 The 1951 Refugee Convention

The Convention Relating to the Status of Refugees is the main international instrument that gives effect to the protection of rights of refugees as a distinct area of international law. The Refugee Convention sets minimum standards for the treatment of persons who are found to qualify for refugee status since refugees doesn't have state protection. The 1951 Convention is a landmark in the setting of standards for the treatment of refugees incorporates, either directly or as an inevitable interpretation, the fundamental concepts of the refugee regime including naturalization refugee in a country of asylum, which are as relevant in the contemporary context as they were in 1951⁶⁹.

Article 34 of the Refugee Convention is the only appropriate provision concerning to local integration of refugee which states that "The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings."⁷⁰

Although the refugee convention has provision dealing with local integrations of refugees, but there is no clear definitions about the concept. Moreover, the Conventions don't have specific procedures for the proper execution of local integrations. Cumulative reading of Article 1C (3) and Article 34 of the 1951 Convention suggest that Naturalization finishes up the lawful component of the integration cycle, as it prompts the end of refugee status and the host States will bend over backward to speed up naturalization procedures for refugees and lessen expenses.

⁶⁹ Erika Feller, 'International refugee protection 50 years on: The protection challenges of the past, present, and future' (International Review of the Red Cross, No. 843, 2001). 1-5

⁷⁰ Refugee Convention Article 34

The Refugee Convention doesn't have a specific time limitation for refugees to naturalization even if the draft has specific time for refugees to grant the right to local integration.⁷¹ Article 34 the 1951 Convention, seems tactical in determining obligation of States parties since the articulation is very ambiguous which says "States parties are expected to make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings". This paved the way to states to use different criteria depending on the national context, citizenship may be granted after a certain period of permanent residence and after language, and other integration requirements are met. In some countries, such as Belgium, Canada and the United States, uptake of citizenship is high among refugees and follows a relatively short period of permanent residence. In other countries, requirements such as non-reliance on social security for a certain period, maybe challenging for refugees to fulfill and may delay naturalization. Only a few countries distinguish in their naturalization statistics between refugees and other new citizens, so information on the number of refugees who are naturalized is limited.⁷²

3.1.2 The 1967 Protocol relating to the Status of Refugees

The 1967 Refugee Protocol is independent of, though integrally related to, the 1951 Convention. The Protocol lifts the time and geographic limits found in the Convention's refugee definition. Together, the Refugee Convention and Protocol cover three main subjects: The legal status of refugees in their country of asylum, their rights and obligations, including the right to be protected against forcible return, or refoulement, to a territory where their lives or freedom would be threatened. Yet the vast majority of States have preferred to accede to both the

⁷¹ Dr. Paul Weis, *The Refugee Convention, 1951: The Travaux préparatoires analyzed with a Commentary*, (UN High Commissioner for Refugees 1990) 250-255; One of the most contentious issue in the process of ratification of the refugee convention is setting the fixed period for refugees to be local integration through naturalization. In the draft convention the time frame for local integration was only five years. Most of European states except Belgium strongly oppose the five year period and come up with the idea of Contracting States the period of residence required has in fact been Shortened for refugees and naturalization fees may be reduced in their case.

⁷² UN High Commissioner for Refugees (UNHCR), "A guide to international refugee protection and building state asylum systems "(Handbook for Parliamentarians N ° 27 2017,)

Convention and the Protocol. In doing so, States reaffirm that both treaties are central to the international refugee protection system.⁷³

78th Conference of the Inter-Parliamentary Union, October 1987 “The Executive Committee reaffirms that the 1951 Convention relating to the Status of Refugees and the 1967 Protocol remain the foundation of the international refugee regime.” The responsibilities of States parties to the Refugee Convention as a general principle of international law, every treaty in force is binding upon the parties to it and must be performed in good faith in the process of local integration. Countries that have ratified the Refugee Convention are obliged to protect refugees on their territory according to its terms.

States Parties to the Refugee Convention and Protocol must apply are: Cooperation with UNHCR in the exercise of its functions and, in particular, to help UNHCR supervise the implementation of the provisions found in those treaties.⁷⁴ The States Parties to the Refugee Convention agree to inform the UN Secretary-General about the laws and regulations they may adopt to ensure the application of the Convention. Where, according to a country’s law, the granting of a right to an alien is subject to the granting of similar treatment by the alien’s country of nationality (reciprocity), this will not apply to refugees. The notion of reciprocity does not apply to refugees since they do not enjoy the protection of their home country in the application of local integration.⁷⁵

⁷³Sofiabhambri, Home Sweet Home: A Review of International Refugee Law available on <<http://www.legalservicesindia.com/article/1238/Home-Sweet-Home:-A-Review-of-International-Refugee-Law.html>>accessed on October 12, 2020

⁷⁴Ms. Kate Jastram, Ms.Marilyn Achiron, UNCHR, Refugee Protection: A Guide for International Refugee Law, available on < https://portal.teachers4refugees.eu/nl_BE/slides/slide/refugee-en-2> accessed on October 12, 2020

⁷⁵Elizabeth Macharia-Mokobi and Jimcall Pfumorodze, Advancing refugee protection in Botswana through improved refugee status determination (AFRICAN HUMAN RIGHTS LAW JOURNAL 2013)152-177) available on <https://repository.up.ac.za/bitstream/handle/2263/33284/MachariaMokobi_Advancing_2013.pdf?sequence=1> accessed on October 12, 2020

3.2 Regional laws and standards

3.2.1 1969 Organization of African Unity (OAU)

This is a Convention Governing the Specific Aspects of Refugee Problems in Africa. The contentions that went with the finish of the pilgrim time in Africa prompted a progression of enormous scope refugee developments. These populace removals provoked the drafting and selection of the 1967 Refugee Protocol as well as the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. Under the OAU convention, there is a clear provision that dealing with local integration. Thus refugee can acquired a new nationality, and enjoys the protection of the country of his new nationality in the country of asylum⁷⁶.

3.2.2 Integration in the European Union

As indicated by Article 25 of the 1951 Convention, managing authoritative help, have nation specialists "will convey or cause to be conveyed under their watch to refugees such archives or accreditations as would typically be conveyed to outsiders by or through their public specialists." Refugees have featured issues in acquiring official records vital for marriage, confirmation of good character and other comparative papers. UNHCR emphatically urges EU Member States to set up compelling instruments to guarantee that refugees approach reports that they need to practice their privileges. Not on the Integration of Refugees in the European Union. As a rule, refugees can't give narrative proof of past examinations. They may have needed to give up their own possessions and papers. There might be no real way to discuss securely with the institution(s) where their capabilities were acquired, or important records and chronicles may have been decimated in demonstrations of war or viciousness. Data may likewise be retained for political or different reasons.⁷⁷

UNHCR invites activities encouraging such appraisal or confirmation, through competency tests or other fitting strategies. With respect to advanced education, Article VII of the Lisbon Convention obliges State Parties "to find a way to create techniques intended to survey decently and quickly whether refugees, dislodged people and people in a refugee-like circumstance satisfy

⁷⁶ "OAU Convention" Article 1(4)

⁷⁷ Note on the Integration of Refugees in the European Union

the pertinent necessities for admittance to advanced education, further advanced education projects or work exercises, even in cases in which the capabilities acquired in one of the Parties can't be demonstrated through narrative proof." UNHCR calls upon State Parties to the Lisbon Convention to execute this arrangement by receiving adaptable evaluation measures, for example, those recommended in the Explanatory Report to the Lisbon Convention just as by the Lisbon Recognition Conference Committee.

The Executive Committee has energized against separation strategies and mindfulness raising exercises pointed toward fighting regulated segregation in the process of local integration. In the territory of blue collar business, notwithstanding the capability issues distinguished above, there might be a need to guarantee that businesses know about the way that refugees are permitted to work.

In this regard, few EU Member States have interpreted the soul of these arrangements into their public laws by diminishing holding up periods and naturalization charges or potentially eliminating necessities for the renunciation of the citizenship of the nation of beginning. UNHCR invites the way that the European Convention on Nationality presents an arrangement whereby the necessary time of lawful and ongoing habitation before the housing of an application for naturalization ought not surpass ten years and might want to feature great practice in some EU nations which incorporate the time spent as a haven searcher in computing the trusting that refugees will apply for citizenship sensibly attainable for refugees with explicit requirements.

3.3 Other international Human Rights standards deals about local integrations of Refugees

3.3.1 UDHR and Local Integration of Refugees

Like all people, asylum-seekers and refugees are protected by international human rights law. This body of law extends to everyone within a State's territory or under its authority or jurisdiction. As the 1948 Universal Declaration of Human Rights is the first International human right instrument that talks about asylum. Article 14(1) affirms that everyone is at liberty to seek and to enjoy in other country to asylum to persecution.⁷⁸ Refugees and asylum-seekers are thus

⁷⁸ United Nations, Universal Declaration of Human Rights.(Resolution 217 A (III),1948) Article 14

entitled to two partially overlapping sets of rights, those which States are obliged to respect, protect, and fulfill under international human rights law, and the specific rights of refugees.

3.3.2 The Convention against Torture:

How it ensures refugees The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has an especially critical spot in global refugee law in light of the fact that:

- It characterizes and restricts torment and different types of abuse that offer ascent to numerous refugees' applications for security.
- It precludes refoulement, or constrained return; to circumstances where there are 'significant justification for accepting' an individual would be at risk for torment.
- Its non-refoulement arrangement isn't restricted to individuals who have been officially perceived as refugees. It can, thusly, help people who missed a cutoff time to apply for acknowledgment as a refugee, or who were the subject of a wrong choice, or who are in nations where no individual systems exist for the assurance of refugee status.
- Unlike the arrangement in the 1951 Convention, the non-refoulement arrangement of the Convention against Torture is outright. No constraint of or disparagement from this arrangement is reasonable.

3.3.4 International criminal law

International criminal law is intended to disallow especially intolerable lead. The Rome Statute of the International Criminal Court, in power since 2002, gives that the International Criminal Court (ICC) has ward over the center wrongdoings of destruction, atrocities and violations against humankind, and contains insights regarding what these wrongdoings comprise of. For instance, the Statute expressly incorporates "assault, sexual bondage, implemented prostitution, constrained pregnancy, upheld cleansing, or some other type of sexual brutality of tantamount gravity" in the meanings of violations against mankind and atrocities. Also, decisions of the International Tribunals for the previous Yugoslavia and Rwanda have affirmed that oppression, assault, torment, and annihilation are violations against humankind. The Rome Statute is in this way applicable to deciding the criminal demonstrations that could prompt somebody being avoided from refugee status.

CHAPTER FOUR

LOCAL INTEGRATION OF REFUGEE IN ETHIOPIA: THE LAWS AND PRACTICE

Introduction

This chapter has five major sections. The first section provides a historical overview of refugee-hosting experience in Ethiopia. The second section analyses the policy response of the country in different period and factors that have been shaping the country's reaction to the influx of refugees from different countries beyond humanitarian hospitability. The third section is focus on the legal response of local integration in Ethiopia. The fourth section is designated to evaluate the application of local integration of refugee in Ethiopia. The final section discusses the critical appraisal of factors that affect Refugees local Integration in Ethiopia.

4.1. Historical Overview of Hosting Refugee in Ethiopia

Ethiopia has an elongated past of being a reservation for those fleeing from different forms of persecution in their homeland. Ethiopia's welcoming culture of hosting refugee date back to Muslims refugees that fled the persecution of Quraysh in early 7th Century A.D and got hospitable reception by the then king and people. As indicated by Islamic writings, in the early long stretches of Islam, Muslims were under the barrel of exceptional mistreatment from the decision clan (Quraysh) of Mecca and around 615 AD. To secure his supporters and the freshly discovered religion, Prophet Mohammed sent over eighty individuals including his girl, cousins and different followers to Negus Al-Asham (otherwise called Armha), the then King of antiquated Abyssinia (Ethiopia) for them to look for asylum.⁷⁹ This historical trend has also been continued in the late nineteenth, early twentieth century's, and after the beginning of First World War when Ethiopia had afforded asylum for those Armenians that escaped the Ottoman Turkey

⁷⁹Haggai Erlich, *Islam, Christianity, Judaism, and Ethiopia: The Messages of Religions: The Fifth Annual Levtzion Lecture* (The Hebrew University of Jerusalem, 2013), pp. 4-5; Jon Abink, "An historical anthropological approach to Islam in Ethiopia: issues of identity and politics", *Journal of African Cultural Studies*, Vol.11 (1998), p.111.

Empires' massacres.⁸⁰ In the period of Africans struggle against colonialism, Ethiopia had been a sanctuary and source of support for numerous refugees from different African countries mainly from South Africa, South West Africa/Namibia, and Zimbabwe.

The mass influx of refugee to Ethiopia has begun in the late 1960s with the outbreak of the first civil war in Sudan. The disagreement within Sudan (between North and South) preceded the independence of the state in 1956 that magnified the patchwork from the beginning. According to the UNHCR Online Database, at the end of 1969, 20000 Sudanese refugees (from the south) had found asylum in Ethiopia that marked the first mass refugee influx to Ethiopia. in the period from late the 1960s to 1983, Ethiopia had hosted the refugees mainly from the Southern part of Sudan with an average of 13,300 per year.

The attack of the Somalia National Movement (SNM) on the Barre's force in Hargeisa and the brutal response of the government in 1988 marked the beginning of the dire refugee flight from Somalia with the lion share influx to Ethiopia.⁸¹ Thus, currently, refugee entry to Ethiopia reached Total 720,914. With the significant repatriation of Somali refugees to Somaliland and the existence of relative calm also in other parts of Somalia, the number of Somali refugees settled in Ethiopia had declined progressively from 1998 to 2008. The Sudanese Second Civil War that had continued for more than two decades culminated with the signing of Comprehensive Peace Agreement (CPA) in 2005 that resulted in a sharp decline of new refugee influx from South Sudan and repatriation to some extent.

Although the period from 1998-2008 witnessed a decline in the refugee influx in general, the Eritrean refugees have become the new refugee group influx to Ethiopia since the outbreak of the Ethio-Eritrea War (1998-2000).

⁸⁰Pankhurst Richard, "Economic change in late nineteenth and early twentieth Century Ethiopia: a period of accelerated innovation" (*Annales d'Ethiopie*, Volume 20, 2004), 195-219.

⁸¹ UN High Commissioner for Refugees (UNHCR), "UNHCR Position on Returns to Southern and Central Somalia (Update I May 2016) 1-13

According to the UNHCR Report of 30 Nov 2019, Ethiopia is the fifth most refugees hosting country with Total 720,914 refugees from twenty-one countries. Mainly they are from the neighboring states of South Sudan, Somalia, and Eritrea.

Table 1 Number Refugees from different Countries in Ethiopia

Source: UNHCR Report as of 30 Nov 2019⁸²

Breakdown by Country of Origin

Country of origin	Source	Data date		Population
Yemen	UNHCR	30 Nov 2019	0.2%	1,348
Others	UNHCR	30 Nov 2019	0.8%	6,112
Sudan	UNHCR	30 Nov 2019	7.3%	52,894
Eritrea	UNHCR	30 Nov 2019	20.9%	150,692
Somalia	UNHCR	30 Nov 2019	26.2%	188,911
South Sudan	UNHCR	30 Nov 2019	44.5%	320,957

Total **720,914**⁸³

4.2. Policy Response to Refugee local integration in Ethiopia

Ethiopia has been known for its culture of generosity and hospitality of hosting refugees from different states for a long period with an open-door policy. However, it is important to recognize the underpinning considerations and driving factors behind the principles and practices of refugee policy without entirely discounting the culture of hospitality that Ethiopia has. The

⁸² <<https://data2.unhcr.org/en/country/eth>> accessed on august 2020

⁸³ ibid

policy response towards hosting refugees in Ethiopia has been driven by diverse but mutually inclusive factors, its relation with refugee-producing state, national security concern, and the need for assistance from international refugee regimes, state capacity to control its border, and calculation to have political reputation rather than mere humanitarian hospitality.

However, until recent time the issue of refugee was not given proper attention by the government of Ethiopia. From 1963 to 1988, RRC Relief and Rehabilitation Commission was the concerned body for all issues of refugee under the Ministry of Interior. RRC manage the issue of refugee as part of the national security agenda.⁸⁴ Starting from 1988, Administration for Refugee and Returnee Authority (ARRA) has been administering the refugee issue as high policy agenda under Ministry of Interior (1988-1994), Security, Immigration and Refugee Affairs (1994-2004) and National Intelligence and Security Service (since 2004). Thus, under the successive regimes, the issue of refugee has been the high policy agenda in Ethiopia and part of national security and foreign policy.⁸⁵

Until recent time, Ethiopia's legal responsibility and the directing policy towards hosting refugees had been mainly guided by the 1951 UN Convention of Refugees and its 1967 Protocol as well as the 1969 OAU Convention on Refugees that the country acceded.⁸⁶ Thus as a party to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol and the 1969 Refugee Convention of the Organization of African Unity, the Federal Democratic Republic of Ethiopia maintains an open-door policy for refugees into the country and allows humanitarian access and protection to those seeking asylum on its territory.⁸⁷

Although Ethiopia had a good track record of refugee protection and enacts refugee law in 2004, there was no comprehensive policy framework that regulates the issue of refugees and asylum seekers in the domestic jurisdiction.⁸⁸ The year 2016 is presumed as the golden year in the

⁸⁴Wogene Berhanu, "Assessing the Local Integration of Urban Refugees: a Comparative Study of Eritrean and Somali Refugees in Addis Ababa, Addis Ababa University", June 2017, p.47 un published theses.

⁸⁵ Ibid

⁸⁶ Ibid

⁸⁷ Ibid

⁸⁸Gillian Triggs, Solidarity in action: One year on from the Global Refugee Forum ,(UNCHR, 15/12/2020) available on <http://www.globalcrf.org/crrf_country/eth/> accessed on November 2020

history of refugee law in Ethiopia. First, in July 2016 through the drafting of Refugee Regulation to implement the 2004 Refugee Proclamation has been done. Second, on 20 September 2016, the government of Ethiopia, has made the following nine pledges to improve the lives of refugees New York Declaration.⁸⁹ One of the Pledges intends to benefit refugees local integration who have lived in Ethiopia for more than 20 years. Comprehensive Refugee Response Framework (CRRF) has been adopted by the country become one of Pilot Country in implementation of CRRF in February 2017. The CRRF, in particular, calls up on host states, bearing in mind their capacities and international obligations, to provide legal stay to those seeking and in need of international protection as refugees in cooperation with UNHCR and the international community, recognizing that any decision regarding permanent settlement in any form, including possible naturalization, rests with the host country. Now there is draft Ethiopia National Comprehensive Refugee Response Strategy (NCRRS) which will serve as a Road Map for the Implementation of the Government of Ethiopia Pledges and the CRRF, particularly in relation to local integration.

Apart from a compressive policy frame work in particular, refugee issues has been suggested in different policies of the country.in this regard, the second GDP of Health Sector suggest that the Government endorsed UNHCR's Ethiopian Refugee Programed Public Health Sector Strategic Plan 2014-2018 that outlines the principles and strategic areas for response throughout the displacement cycle. Nationwide, the health sector accounts for 5 to 6 percent of government spending's.⁹⁰ similarly ARRA and UNHCR, together with partners has a project, effectively operate a parallel system to the national one to ensure that refugees have access to a package of potable water and sanitation that meet minimum service provision standards close to their dwellings and remain involved in designing priority hygiene responses. Similarly the Education Sector Development Plans permit all refugee children to have access to primary education.

⁸⁹ Ibid

⁹⁰ The Federal Democratic Republic of Ethiopia, Health Sector Transformation Plan 2015/16-2019/20, October 2015

Generally speaking, Ethiopia has signed the 1951 Refugee Convention Relating to the Status of Refugees, with some reservations⁹¹, and its 1967 Protocol, the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. It is also signatory to a number of regional and international human rights and humanitarian law treaties. The Constitution of the Federal Democratic Republic of Ethiopia stipulates that international agreements ratified by Ethiopia are an integral part of the law of the land.⁹² The Constitution also has a chapter dedicated to human and democratic rights; the interpretation of which shall be in conformity with international instruments adopted by Ethiopia.⁹³

4.3 Local Integration of Refugee under the Ethiopia laws

Local integration is understood to be a complex and gradual process combining multi-faceted legal, economic, social and cultural dimensions. Concerning to the legal process, refugees attain a progressively wider range of rights and entitlements in the host State, which are broadly commensurate with those enjoyed by citizens. These rights include freedom of movement, access to education, access to the labour market, access to certain public assistance, including health facilities, the possibility of acquiring and disposing of property, and the option to travel abroad with Government issued valid identification. Over time, the local integration process should lead to permanent residence rights and, for those, who voluntarily seek to do so, the acquisition of the nationality of the country of asylum. Naturalization in particular offers protection from refoulement and deportation back to the country or origin.

The protection of refugees and asylum seekers in Ethiopia is regulated by both international laws as well as domestic legal frameworks. Concerning to International legal framework Ethiopia is a state party to the 1951 convention relating to the states of Refugees and its 1967 protocol. Apart

⁹¹ Ethiopia made reservations to Articles 8, 9, 17(2) and 22(1), recognizing these only as recommendations and not as legally binding obligations. See <http://www.unhcr.org/protection/convention/3d9abe177/reservations-declarations-1951-refugee-convention.htm> | [accessed 13 July 2018.]

⁹² Article 9(4), the Constitution

⁹³ Ibid, Article 13(2)

from the global refugee convention, Ethiopia is one of the member states of the 1969 OAU regional Refugee convention.⁹⁴

Apart from this, Ethiopia is a party to many of international human rights instrument that are highly relevant to Refugee protection.⁹⁵ Apart from international treaties, currently Ethiopia has its own domestic legal machinery that important for local integration of refugees and asylum seekers are:-

1. The FDRE Constitution
2. Proclamation No.1110/2019 the current refugee protection of Ethiopia
3. Proclamation No.378/2003 Ethiopia Nationality law

The FDRE constitution is a supreme law of the land.⁹⁶ It has two major importance in protecting the rights of refugees. Firstly per Article 9/4/ of the constitution all international human right treaties including specific refugee treaties will becomes of the domestic law of the country through the ratification process.⁹⁷ Furthermore pursuant to Article 13/2/ interpreted in manner of taking into account its compatibility with international human rights instruments.⁹⁸ Therefore, local integration that is provided under the refugee convention is also applicable in Ethiopia. Secondly, even though the constitution doesn't use the term refugee and asylum seeker nowhere, foreigners can acquire Ethiopian nationality in accordance with the law and procedures provided under international agreements ratified by Ethiopia⁹⁹.

Until the adoption of proclamation 1110/19 the concept of local Integration was not explicitly found in the Ethiopian law though the practices testify the opposite. Ethiopia's parliament adopted a revised refugee law on 17 January 2019, which the United Nations (UN) has hailed as

⁹⁴ Zelalem Mogessie Teferra, (Ph.D.) “Delimiting the normative Terrain of Refugee protection a critical appraisal of Ethiopian refugee proclamation No. 409/2004 (Refugee protection in Ethiopia AAU press volume 1) .35

⁹⁵ < <https://www.ohchr.org/EN/Countries/AfricaRegion/Pages/ETIndex.aspx>> accessed date Jan.15,2019

⁹⁶ Article 9/1/ the constitution

⁹⁷ Ibid Art 9/4/

⁹⁸ Ibid Art 13/2/

⁹⁹ Ibid Art 33/4/

one of the most progressive refugee laws on the continent.¹⁰⁰ Accordingly, the UN High Commissioner for Refugees Filippo Grandi, UN says that “The passage of this historic law represents a significant milestone in Ethiopia’s long history of welcoming and hosting refugees from across the region for decades.¹⁰¹” It replaces the country's 2004 Refugee Proclamation and grants the country's massive refugee population access to local integration, a wide range of services and improved socio-economic integration.

Definition of local integration under proclamation 1110/19 article 2/12 states that a process by which individual refugee or groups of refugees who have lived in Ethiopia for a protracted period are provided, upon their request, with a permanent residence permit to facilitate their broader integration with Ethiopian nationals until they fully attain durable solutions to their problems. When we see the definition it is not clear. The term “protracted period” is very subjective. UNCHR guide for local integration has suggested the time frame of five years as requirement for local integration. Similarly Ex.Com Conclusion No. 104 on local integration affirms that protracted period as more than five years stayed the host State granting refugees a secure legal status and a progressively wider range of rights and entitlements that are broadly commensurate with those enjoyed by its citizens and, over time, the possibility of naturalizing.¹⁰² Pledge No 6 on local integration addresses this gap through a commitment to resolve the plight of refugees, who have lived the longest (more than 20 years) in a protracted situation. The legal process of local integration of refugees could be facilitated through the options of secured legal residency status or naturalization.

Although Article 41 of the same proclamation states that, the agency upon their request, as it is necessary to facilitate local integration of recognized individual refugee or group of refugees who have lived in Ethiopia for a protracted period of times. However, Article 42 states that recognized refugee who full fill the necessary riqirmnts that are provided in Nationality law may apply to aquire ethiopian Nationality by law. This shows that local Integration is not authomatit under the the new refugee Proclamation. The 2003 Ethiopian Nationality Proclamation contains provision for acquisition of Ethiopian nationality by descent, law,

¹⁰⁰ <<https://reliefweb.int/country/eth>> accessed on November 2020

¹⁰¹ Ibid

¹⁰² Executive Committee Conclusion No 104 on Local Integratio,2005

marriage, adoption and special cases. .As per the Proclamation, a foreigner means “a person who is not an Ethiopian national” that includes refugees. A foreign national, including refugees, therefore may acquire Ethiopian nationality on these grounds and upon fulfillment of applicable conditions provided in the Proclamation. Article 5 of the Nationality Proclamation lists the conditions that need to be fulfilled by a foreigner to acquire Ethiopian nationality by law i.e. naturalization. These conditions include age of majority and legal capacity, established domicile and residency for four years preceding the application, language ability, economic self-sufficiency, good moral character, renunciation of previous nationality, and the oath of allegiance. Article 6 concerning conditions of acquiring Ethiopian nationality through marriage with Ethiopian national contains similar provisions, though the application may be filed after only two years of conclusion of marriage, with one year of time spent in-country. In general with the possible options for realizing local integration of refugees is through voluntary naturalization in accordance with Article 5 and 6 of the Nationality Proclamation very difficult since most of refugees are lives in the country for a long period of time entirely dependent on aid.

Moreover the definition provided under the refugee proclamation is not compatible with international standards. Because under the new law, local integration is not presumed as a durable solution since the definition says “until they fully attain durable solutions to refugees problems”.

4.4 The Implementation of Local Integration of Refugee in Ethiopia

Local integration is understood to be a complex and gradual process combining multi-faceted legal, economic, social and cultural dimensions. Currently, there are more than 36,354 refugees, who have lived in Ethiopia more than 20 years as of 31 June 2018, and who could potentially benefit from local integration. Majority constitute Sudanese, Somali and Eritrean refugees, respectively. ¹⁰³The following table illustrates the number of refugees who have lived for 20 years or more in Ethiopia, disaggregated by nationality. ¹⁰⁴

¹⁰³UNCHR Ethiopia, Draft Position Paper on Local Integration Pledge , July 2018(Unpublished)

¹⁰⁴ Ibid

Nationality	# of refugees who stayed for 20 years or more in Ethiopia (31 June 2018)
South Sudan	19,952
Somalia	12,790
Eritrea	3,351
Others	261
Total	36,354

Local integration is a good response to refugee situations and a combination of which, taking into account the specific circumstances of each refugee situation, helps to achieve lasting solutions for refugee problems. However, the practical application of local integration of refugees in Ethiopia doesn't start yet. Regarding the practical implementation of local integration, Mr. Ephram argued that although the new Refugee proclamation permit local integration refugee, so far the is no a single refugee who have been locally integrated by fulfilling the legal, economic and social and cultural elements of local integration but you can find a difacto type of local integration in many parts of the country.¹⁰⁵ According to Mr Ephrame, so far UNCHR Ethiopia doesn't facilitate local integration of refugee in Ethiopia as per Refugee Convention and Proclamation No. 1110/19. There are factors impacting refugee's local integration in Ethiopia. Similarly, Mr. Estifanos confirm that ARRA so far the agency doesn't facilitate local integration of refugee in the country by its own initiation or by the request of the refugees. Moreover, ARRA doesn't have a guide for local integration of refugees and in its internal policies local integration is not incorporated as a durable solution for refugees.¹⁰⁶

¹⁰⁵ Ephrame Tadesse, Associate Legal Expert in UNCHR Ethiopia, Interviewed on December 5, 2020, at 10:30 A.M.

¹⁰⁶ Estifanos G/Medihn, Refugees Legal and Protection Director in ARRA, Interviewed on December 6, 2020, at 11:30 A.M.

4.5 Factors that affect Refugees local Integration in Ethiopia

4.5.1. Refugee's Related Factors

One of the greatest challenges in local integration of refugees in Ethiopia is wrong perception of refugees. According to Mr. Ephrame, “most of the refugees in Ethiopia are entirely dependent on aid though they have skill, knowledge and resource to create job for their livelihood. Furthermore their primary goal is finding resettlement in the third country of asylum. Therefore most of them are not open to learn and know the language and the culture of the host community.¹⁰⁷” When refugees become self-reliant and able to be free from humanitarian assistance, attaining a growing degree of self-reliance and becoming able to pursue sustainable livelihoods thus contributing to the economic life of the host country and able to integrate easily.¹⁰⁸

Starting from the UN Refugee Convention of 1951, states have been responsible for refugee integration as assimilation, thereby considering refugees as passive integrators to host state or community. However, refugees are active and primary decision-makers in making their home within their host community. The absence of language knowledge obstructs interaction of refugees with the host communities that results in the sense of insecurity, mistrust and frustration. Thus, the degree of existing similarities of language, culture and social values between the host communities and the refugees on the one hand and the refugees' interest to know and understand the hosts are the significant factors for local integration. In this regard, Ex. Com Conclusion No 104 on Local Integration sets out elements of the socio-cultural dimension of local integration. As such, the social and cultural dimension of local integration require refugees to make conscientious efforts to adapt to the local environment and respect and understand new cultures and lifestyles, taking into consideration the values of the local population, and requires the host community to accept refugees into its socio-cultural fabric has a great role in fostering local integration.

¹⁰⁷ Ephrame Tadesse, Associate Legal Expert in UNCHR Ethiopia, Interviewed on December 5, 2020, at 10:30 A.M.

¹⁰⁸ Global Consultations on International Protection, local integration, 2002, p.2

4.5.2. The Fear of the Host Community

The perceptions of local communities towards refugees have a great impact on local integration. Under the Ethiopian federal arrangement, power is shared in direct proportion to the populations of ethno cultural communities. The demographic imbalance refugees and the host community might be a security treat for host communities. In Gambella Regional State, demographic changes due to a large refugee population or internal migration have triggered and exacerbated violent inter-ethnic conflict between refugees and host communities. In this regard, the host communities in Gambella are around 300,000 and there are more than 320,000 refugees. Therefore, there is a fear from the host community not to be dominated politically as well as economically on the bases of local integration.¹⁰⁹ According to Mr, Ephram the Gambela situation is quite different from the rest of the country because there are ethnic tensions between Anuak (host community) and Nuer (refugees and host community) communities. Thus the Nuer are happy by the new proclamation whereas the Anuak has fear of domination by the Nuers.¹¹⁰ Concerning to the economic factors, W/ro Sihin suggest that grant local integration to all refugees as per UNCHR guide will create a big problem for the country. First of all the Ethiopian economy doesn't suffice to accommodate additional infrastructure in which the refugee camps are exist. Second the number of unemployment is very high. For instance around 200000 students are graduated every year from different universities who seek jobs. Therefore, even if there is no registered refugee integrated in the country the issue must be seen by the policy makers.¹¹¹

4.5.3 Policy Related Factors

Policy related issues are other factors that have an impact on the local integration of refugees and the host communities. Perceiving refugees as sources of security threat and economic burden are commonly propagated justification for opposing the presence of refugees in urban areas developing countries. As a result they have never developed clearly defined policy towards urban

¹⁰⁹ MEHARI TADDELE MARU (Phd), "In-depth: Unpacking Ethiopia's revised refugee law" 13 Feb 2019 available on <https://www.africaportal.org/features/depth-unpacking-ethiopias-revised-refugee-law/>

¹¹⁰ Ephrame Tadesse, Associate Legal Expert in UNCHR Ethiopia, Interviewed on December 5, 2020, at 10:30 A.M.

¹¹¹ W/ro Sihin Merhawi Population and vital Statics Registration Directorate Director, Interviewed on December 10, 2020, at 11:30 A.M.

refugee. In addition to their liminal and marginalized position, the securitization of refugee issues develops a sense of ‘outsider’ among refugees and the sense of ‘cultural gathering’ within the host communities. Securitization also create favorable environment for the refugees by fostering xenophobia within the host people. Even for those assisted refugees that are legally settled in urban areas, states reservation to some rights granted under international refugee regimes limits their access to education, employment and legal protection. Limits on these rights have an impact on putting the refugees’ perceptions towards local integration under question by making their livelihood unstable. Thus, policy inclusion or exclusion has a direct impact on the integration process by creating a sense of insider or outsider on the side of refugees.

4.5.4. Legal Factors Affecting Refuges local integration

The 1951 Refugee Convention provide that States shall as far as possible facilitate the naturalization of refugees by expediting naturalization proceedings and make efforts to reduce the charges and costs of such proceedings. However, Ethiopia has made reservation to the agreement with regard to the right to work, the right to Public Education, and the right to ownership of property.in the absence of this right local integration may not be assumed. Reservation is one form of alteration of international obligations of states and governments are not obliged to perform anything with regard to the reserved provision. Having this in mind, proclamations No 1110/19 allow local integration. Accordingly, one of my interviewers suggests that the” drafting of the refugee proclamation take in to account the reservations made by the country. First of all local integration may not be assumed without right to work, and ownership of property. When you look at the proclamation in detail, local integration is not provided as rights of refugees who have stayed in the host country for a long period of time. Moreover, as per the 2003 Ethiopian Nationality Proclamation acquisition of Ethiopian nationality is only by descent, law, marriage, adoption and special cases. As per the Proclamation, a foreigner means “a person who is not an Ethiopian national” that includes refugees. A foreign national, including refugees, therefore may acquire Ethiopian nationality on these grounds and upon fulfillment of applicable conditions provided in the Proclamation. The conditions include age of majority and legal capacity, established domicile and residency for four years preceding the application, language ability, economic self-sufficiency, good moral character, renunciation of previous nationality, and the oath of allegiance. So the requirements are the same to all foreigners and no

special protection is vested to refugees. Most notably, the country is strictly follow encampment policy except refugees that comes from Eritrea”¹¹²

The other issue with regard to reservation is until Ethiopia has lifted up the reservation formally the country may not accuse of any failures to that particular provisions in the international arena. Because by the virtue of article 22 of the Vienna Convention on the law of treaty, states are at liberty to withdraw and lifted up the reservation they made unless the treaty prohibits doing so. In the case of Ethiopia, has lifted up the reservations found on the refugee convention. However, when we come to the procedure of withdraw of reservation, since a reservation, an express acceptance of a reservation and an objection to a reservation must be always pronounced in writing and communicated to the contracting States and other States entitled to become parties to the treaty.¹¹³

Concerning to the time frame, there is discrepancy between the pledges, refugee proclamation and the nationality law the time frame expressed as protracted period in the pledge is twenty years. However the refugee proclamation doesn't define even the tern protracted period. In the contrary the nationality law requirement to have Ethiopian nationality is only five years.¹¹⁴ Therefore, in the absence of clear domestic law it is very difficult for proper implementation of local integration of refugee in Ethiopia as per the international standards.

¹¹² Anonymous Legal Expert from UNCHR Ethiopia; Interviewed on December 10, 2020, at 2:30 P.M.

¹¹³ Vienna Convention on the law of treaties (with annex). Concluded at Vienna on 23 May 1969, Article 23

¹¹⁴ Article 5 of Ethiopian Nationality Proclamation No.378/2003

CHAPTER FIVE

CONCLUSION AND RECOMMENDATION

5.2. Conclusion

Throughout the history of mankind, movement and displacement of people from one place to another were common phenomena in all parts of the world. The issue of refugee and asylum seekers has become one of the concerns of the world following the establishment of a modern nation-state. The recorded history of Ethiopia, prove that the country has a good track record in receiving and giving shelter for refugees starting from 7th Century AD when the first Muslim believers flee to Ethiopia because of persecution in their place of origin and start the country. The issue of local integration is not a new concept to the Ethiopian community since many foreigners established their residence in different parts of the country. However, there was no compressive legal framework that governs the issue of refugee in general and local integration in particular domestic law until recent time. Currently, the laws that govern the issue of local integration refugee concern in Ethiopia are the Constitution, the Nationality law and Refugee proclamation No. 110/2019 which is enacted one year ago along with are international and regional instruments.

Under the international and regional refugee agreements, local integration is understood to be a complex and gradual process combining multi-faceted legal, economic, social and cultural dimensions. The legal dimension all about how refugees attain a progressively wider range of rights and entitlements in the host State, which are broadly commensurate with those enjoyed by citizens. The economic dimension focus on how refugees attain a growing degree of self-reliance and sustainable livelihoods comparable to the host community thus contributing to the economic life of the host country. The socio-cultural aspect of local integration is about social and cultural and acceptance, whereby refugees are able to live amongst or alongside the host population, in peace and harmony in the country of asylum.

As compared to the pervious refugee law, proclamation 1110/19 is much progressive law concerning local integration of refugee though the law has some limitations. The proclamation 1110/11 defines local integration under article 2/12 states that a process by which individual

refugee or groups of refugees who have lived in Ethiopia for a protracted period are provided up on their request with a permanent residence permit to facilitate their broader integration with Ethiopian nationals until they fully attain durable solutions to their problems. In addition to these, article 41 of the same proclamation states that the agency may up on their request, as it is necessary to facilitate local integration of recognized individual refugee or group of refugees who have lived in Ethiopia for a protracted period. However the definition subjected to different types of interpretation since the term “protracted period of time” is ambiguous. Moreover as per article 41 and 42 of the refugee proclamation doesn’t create additional rights and protection for refugees since the provisions refers to the Nationality law for implementations.

Although there are ten thousands of refugees who stayed in Ethiopia for protracted period of time, because the prevalence affecting factors the application of local integration in Ethiopia is stacked. The first one is most of refugees in Ethiopia are lives in camp and they are entirely dependent on humanitarian aid. Thus their interactions with the host community are limited. Second, there is a fear from the host community concerning to recourse issue, political domination and demographic change. The third is the prevalence of policy and legal related factors. In this regard, the refugee proclamation doesn’t bear any new protection interims of local integration as compared to the Nationality law. Moreover there is discrepancy between the pledge made in 2016, the international obligation and the refugee proclamation as to the concept of protracted period of time.

5.2 Recommendations

To avoid such non-compliance and confusion in the future about local integrations of refugee in Ethiopia, the researcher offers the following recommendations;

- The new refugee proclamation number 1110/2019 comes into force in January 2019 and until now till now, secondary legislations are not promulgated. The primary purpose of secondary legislation to clarify vague and general ideas that are found in the mother law and/or to fill the gaps that are found in primary laws. Hence, the definition of local integration that is provided in the proclamation number 1110/2019 and the application is not compatible with the refugee convention and its articulation is also circular. Therefore in order to able to discharge state obligation provided under the refugee convention, the definition must be corrected by the endorsement of regulations and directives or if it's necessary, the HPR is expected to come up with a separate piece of amended legislation of new proclamation with regard to the definition of local integration so as to make the law compatible with the international standards.
- In order to foster peaceful and harmonized application of local integration in the country, it is important to expand a developmental project that has the capacity benefiting both the host community and refugees equally. Furthermore, accessibility and expansions of infrastructure is mandatory in order to avoid the fear of the host community including building industries that are open for both communities. When the host community got benefit by the existence of refugee in the area, no doubt the wrong perceptions and attitudes will be gradually changed. Thus local integration might be implemented without any disturbance.
- Ethiopia follows a combination of encampment and out-of-camp practices. Currently, refugees are hosted in 27 refugee camps across the country. In fact the Government of Ethiopia has promised to expand the out-of-camp that constitutes 10% of the refugee population, which may be progressively increased as resource allows in the New York pledges though the practical realty doesn't show any progress. So in order to foster the economic and socio-cultural integration the government is expected to keep the promise and permit out camp policy to all

refugees like the Eritrean refugees since partial treatment of refugees is strictly prohibited under the Refugee Conventions.

- Restore peace and stability in the country: local integration may not be realized in conflicts. The safety and security of refugees directly depend on the peace and stability of the host community. Restoring the country's peace through solving the current internal conflicts is also another step expected from the government. The Government of Ethiopia must take initiative for restoring peace and orders of its neighboring countries to minimize the flow of refugee burden in the boarder area.
- So far there are more than 36,000 refugees who have been live in Ethiopia without any durable solution. Most of them are unable to fulfill the requirements provided under the Nationality law. In order to foster local integration they have to have permanent residence permit which is the first steep for local integration. So the government is expected to create favorable condition in which those refugees are able to get permanent ID in which gradually changed in to naturalization.
- In order to avert the fear of Anuak people in Gambela, the government of Ethiopia is expected to give proper information to the host community. Moreover, the government must give proper attention for the questions of Anuak people and must work hard to find another place outside Gambela Region if the government decides to allow South Sudanese refugees to be locally integrated in Ethiopia since such kind of decisions has a chance for source of instability because of the fear of the host community to change demography of the region.

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- Organization of African Unity (OAU), *Convention Governing the Specific Aspects of Refugee Problems in Africa*, 10 September 1969
- Protocol Relating to the Status of Refugees General Assembly of the United Nations, 31 January 1967 and entered into force on 4 October 1967.
- United Nations, Universal Declaration of Human Rights. Resolution 217 A (III), 1948
- Vienna Convention on the law of treaties (with annex). Concluded at Vienna on 23 May 1969

Interviews

- ❖ Ephrame Tadesse, Associate Legal Expert in UNCHR Ethiopia, Interviewed on December 5, 2020, at 10:30 A.M.
- ❖ W/ro Sihin Merhawi Population and vital Statics Registration Directorate Director, Interviewed on December 10, 2020, at 11:30 A.M.
- ❖ Estifanos G/Medihn, Legal and Protection Director in ARRA, Interviewed on December 6, 2020, at 11:30 A.M.

Major Visited Websites

1. <https://www.unhcr.org/afr/getinvolved/teachingtools/45efe7852/lesson-plans-ages-9-11-history-refugees->

- [history.html?query=why%20people%20flee%20to%20another%20place?](#) Accessed on December 10,2019
2. <https://www.unhcr.org/protection/basic/3b66c2aa10convention-protocol-relating-status-refugee.html> Accessed May 18, 2019
 3. <https://www.rescue.org/sites/default/files/document/3285/ethiopiacasestudy.pdf> accessed on August 29, 2019, 10:04 AM
 4. <https://data2.unhcr.org/en/country/eth> accessed on August 29, 2019, 10:04 AM
 5. <https://www.refworld.org/docid/4a40d2a594.html> Accessed on April 13,2019
 6. http://www.globalcrrf.org/crrf_country/eth/ accessed December 2019
 7. https://www.icrc.org/en/doc/assets/files/other/581-606_feller.pdf
 8. <https://www.icrc.org/en/doc/resources/documents/article/other/57jre4.htm> accessed on February 18, 2020
 9. <https://www.refworld.org/docid/4ff54f442.html> accessed on 18 February 2020]
 10. http://www.ipu.org/pdf/publication/refugee_en.pdf
 11. <https://www.unhcr.org/afr/publications/legal/5ddfcdc47/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html?query=definition%20of%20refugee>
 12. <http://www.unhcr.org/protect>
 13. <https://www.unhcr.org/4bcc61b59.pdf> accessed on February 20, 2020
 14. <http://www.unhcr.org/cgi-bin/texis/vtx/home>
 15. <https://www.unhcr.org/44bb90882.pdf> accessed on February 2020
 16. <https://www.unhcr.org/463b462c4.pdf> accessed on February 2020
 17. <http://www.legalservicesindia.com/article/1238/Home-Sweet-Home:-A-Review-of-International-Refugee-Law.html> accessed on October 12, 2020
 18. https://portal.teachers4refugees.eu/nl_BE/slides/slide/refugee-en-2 accessed on October 12, 2020
 19. https://repository.up.ac.za/bitstream/handle/2263/33284/MachariaMokobi_Advancing_2013.pdf?sequence=1 accessed on October 12, 2020
 20. http://www.globalcrrf.org/crrf_country/eth/ accessed on November 2020

21. <http://www.unhcr.org/protection/convention/3d9abe177/reservations-declarations-1951-refugee-convention.html> [accessed 13 July 2018.]
22. <https://www.ohchr.org/EN/Countries/AfricaRegion/Pages/ETIndex.aspx> Accessed date Jan.15,2019 @ 3:00 pm

Annex I

Interview Guide Questions to Officers in the Ethiopian Institution of Ombudsman, Human Rights Commission, EWLA, and Human Rights Council

I, Eyasu Seifu, LL.M Student in Addis Ababa University School of Law, kindly requests to prepare or inscribe your answer for the following interview questions.

This interview guide is prepared for the purpose of gathering information that I am pursuing in AAU Law School. I am grateful for your kind cooperation investing your precious time to respond for my interview. You can refrain from writing your name.

Interview Questions:

1. The current Proclamation no 1110/19 incorporates the idea of local integration under Article 41. However, it failed to explicitly stipulate the major criteria for local integration. Does the current law is sufficient to address the issue of local integration?
2. The amended proclamation defines the phrase local integration. Does the definition provided in the law is compatible the international standards.
3. What are the criteria in which ARRA used to grant local integration in Ethiopia? How the current trend is looks like? What is the role of UNCHR Ethiopia concerning to local integration?
4. How many refugees are exist in Ethiopia that is eligible for local integration as per the 2016 pledge? Do you think that the pledge and the proclamation is compatible in terms of the time frame of local integration?
5. Do you think the current Proclamation adequate enough to ensure for proper realization of local integration in Ethiopia? If yes, in what way?
6. What are the major factors that affect local integration in Ethiopia?
7. So far how many refugees are locally integrated in Ethiopia?