

**ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES**



**THE ROLE OF COMPREHENSIVE REFUGEE RESPONSE
FRAMEWORK ON THE PROTECTION OF REFUGEE
RIGHTS IN ETHIOPIA**

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BY

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DECLARATION

I, the undersigned, declare that this thesis entitled “The Role of Comprehensive Refugee Response Framework on the Protection of Refugee Rights in Ethiopia”, is my original work and has not been presented for a degree in any other university or organization, and that all sources of materials used for the thesis have been duly acknowledged.

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This is to certify that the thesis prepared by Naol Abera, entitled: *The Role of Comprehensive Refugee Response Framework on the Protection of Refugee Rights in Ethiopia* and submitted in partial fulfillment of the requirements for the degree of Master of Law, complies with the regulations of the University and meets the accepted standards with respect to originality and quality.

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ABSTRACT

Every day, the world hears about increasing refugee crisis in some part of the world. It is now becoming common to see new faces from Syria on streets of Addis Ababa, begging for help. This shows how the issue of refugees is not a matter of a single country. People will flee to save their lives. It is in human nature, to fight for survival. It is also human nature, moral and legal obligation to lend a hand for those in need. There are millions of refugees relying on the help of international community. This study shows the need for cooperation and implementation of CRRF as a whole and particularly in Ethiopia in order to provide refugees a chance to live in harmony and dignity. It shows how CRRF play a significant role in protecting refugee rights and benefiting refugees and host community.

“Nobody is a Refugee by Choice”

To refugees all over the world

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ACRONYMS

ARRA	Administration for Refugee and Returnees Affairs
CRRF	Comprehensive Refugee Response Framework
DFID	Department for International Development
ECOSOC	Economic and Social Council
FDRE	Federal Democratic Republic of Ethiopia
HRPs	humanitarian response plans
RRPs	Refugee response plans
ICCPR	International Covenant on Civil and Political Right
ICESCR	International Covenant on Economic, Social and Cultural Right
IDPs	Internally displaced people
CESCR	International Covenant on Economic, Social and Cultural Rights
NCRRS	National Comprehensive Refugee Response Strategy
NGO	Non-governmental Organization
OAU	Organization of African Unity
SNNP	Southern Nation, Nationalities and People
CEDW	the Convention on the Elimination of Discrimination against Women
CRC	the Convention on the Rights of the Child
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDAF	United Nations Development Assistance Framework
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
VERA	Vital Events Registration Agency
WWI	First World War
WWII	Second World War

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CHAPTER ONE

Introduction

1.1. Background of the Study

People flee from their countries in order to escape social, economic, political and environmental challenges. The outbreak of civil war and collapse of the governmental structure in countries of origin are the major reasons for the increasing number of people who flee from their countries of origin.

The international community has been trying to provide protection to persons in search of safety and security for their lives. After the Second World War (WWII), this protection was mainly provided under the auspice of protection of human rights.¹

Following several developments since the First World War (WWI), the international community adopted the 1951 Refugee Convention alongside with its 1967 Protocol. The Convention outlines the basic rights which states should afford to refugees.² Moreover, the Convention along with its Protocol remains a cornerstone of the modern refugee protection system. The legal principles enshrined in the Convention are incorporated into other international, regional and national laws.

The 1969 OAU Convention Governing Specific Aspects of Refugee Problems in Africa is an important instrument for the African refugee protection system.³ This instrument is complementary to the 1951 Convention and provides a wider definition to refugees. The Convention includes people who leave their country "...owing to external aggression,

¹ United Nations, what we do, Protect human rights, < <http://www.un.org/en/sections/what-we-do/> > accessed 17 June 2018

² Erika Feller, 'International Refugee Protection 50 Years On' 582
<https://www.icrc.org/en/doc/assets/files/other/atmswvjv581-606_feller.pdf> accessed 4 July 2018

³ Rainer Hofmann, 'Refugee Law in the African Context' page 323
<http://www.zaoerv.de/52_1992/52_1992_2_a_318_333.pdf > accessed 8 July 2018

occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality⁴ as refugees.

The 1951 Convention is also a base for national refugee laws. Ethiopia is a State Party to the 1951 Refugee Convention alongside its 1967 Protocol. In addition to the international treaties Ethiopia ratified, the FDRE Constitution and the Refugee Proclamation (409/2004) serve as the main domestic legal instruments relating to the protection of refugees.

Despite all such international, regional, and national efforts made towards the protection of refugees, the issue has continued to progress. The current refugee crisis is increasing in number and scope. There are more than 25 million refugees all over the world among which over two-thirds of those refugees come from just five countries: Syria, Afghanistan, South Sudan, Myanmar, and Somalia.⁵

Millions of people in the world flee from their homes and cross borders after a dangerous journey in search of safety; others are caught up in the midst of conflicts endangering their lives. The refugee crisis in Syria, South Sudan, Myanmar, Somalia, North Central America, the Mediterranean region and other parts continued to persist. Moreover, during the process of seeking asylum, a growing number of people are faced with restrictive measures which deny them access to safe territories.⁶ In some instances, asylum seekers and refugees are detained or forcibly returned to areas where their lives, liberty, and security are threatened.⁷

The absence of sufficient international cooperation is allowing new crises to emerge and created difficulties in providing sufficient protection for those forced to flee. Even in such times of refugee crisis, certain states have closed borders restricting access to asylum and deterring entry.⁸

⁴ OAU Convention Governing Specific Aspects of Refugee Problems in Africa Article, 1969, article 1(2)

⁵ 'The world's 5 biggest refugee crises' <<https://www.mercycorps.org/articles/worlds-5-biggest-refugee-crises>> accessed 2 September 2018

⁶ OHCHR, 'Fact Sheet No.20, Human Rights and Refugees', <<https://www.ohchr.org/Documents/Publications/FactSheet20en.pdf>> accessed 14 July 2018

⁷ ibid

⁸ United Nations High Commissioner For Refugees, 'A review of UNHCR's response to border closures in situations of mass refugee influx' Policy Development and Evaluation Service (PDES), <<https://www.unhcr.org/en-my/4c207bd59.pdf>> accessed 12 July 2018

On the contrary, other refugee-hosting States, particularly those neighboring conflict zones, keep their borders open and generously host thousands sometimes millions of refugees.⁹

The dynamic nature of refugee crisis makes it necessary to change strategies, adopt new mechanisms and follow new directions towards achieving the intended goals. For this reasons, in September 2016, the UN General Assembly had a meeting and adopted the Comprehensive Refugee Response Framework (CRRF), one of the two annexes to the New York Declaration for Refugees and Migrants.¹⁰

The New York Declaration for Refugees and Migrants (New York Declaration) serves as a milestone for global solidarity and refugee protection at a time of unprecedented displacement.¹¹ The set of commitments agreed by the Member States reflect that the protection of those who are forced to flee, and support for the countries that shelter them, are a shared international responsibility – a responsibility that must be borne more equitably and predictably.¹²

After the adoption of the New York Declaration on Refugees and Migrants in September 2016, states agreed to address and resolve refugee flows through a new model, the Comprehensive Refugee Response Framework (CRRF). CRRF places the rights, interests, and potential of refugees and of their hosts at the heart of a greater engagement in solving conflicts and addressing root causes to make voluntary repatriation becomes a real and sustainable option.¹³

The Comprehensive Refugee Response Framework sets out commitments to be implemented in large-scale refugee crises, or movements. It is the most recent and wide protection given to refugees. The framework lists four areas of action in relation to refugees.¹⁴ These set of actions

⁹ UNHCR, ‘Matching commitments with action’ November 2017

<<https://www.unhcr.org/news/press/2017/6/593e5c364/match-resettlement-commitments-action-un-refugee-chief.html> >

¹⁰ UNHCR, ‘The New York Declaration for Refugees and Migrants’ <<http://www.unhcr.org/584689257.pdf>> accessed 02 July 2018

¹¹ibid

¹²ibid

¹³ibid

¹⁴ibid

are reception and admission measures, support for immediate and ongoing needs; support for host countries; and enhanced opportunities for durable solutions.¹⁵

The active role of stakeholders such as national and local authorities, international and regional organizations, international financial institutions, civil society, the private sector, refugee and host communities is what the new framework depends to achieve its goals.¹⁶

1.2. Statement of Problem

According to the UNHCR report in 2018, there are over 25.4 million refugees in the world.¹⁷ This figure indicates the fact that the number of refugees is increasing significantly; despite efforts and policies embarked by the international community. The case of refugees has now reached international proportion demanding international cooperation since every country is affected by refugees in one way or another. The current refugee situation has become a classic example of the interdependence of the international community by fully demonstrating how the problems of one country can have immediate consequences for other countries.¹⁸

Refugees flee from a dangerous situation in the hope of finding safety, security and a chance to rebuild a future. However, for most refugees, life in exile is as bad as and sometimes worse than the conditions fled in the country of origin.¹⁹

Most refugees are confined to camps that are close to borders of their home country. This does not only deprive their right to move but also makes them vulnerable to cross-border attacks. Moreover, refugees who are resettled in different parts of a host state suffer from alienation underemployment, unemployment, and lack of access to justice, lack of education, and other basic rights.

¹⁵ibid

¹⁶ibid

¹⁷ UNHCR, 'Figures at Glance' < <https://www.unhcr.org/figures-at-a-glance.html> > accessed 5 July 2018

¹⁸ibid [7]

¹⁹ B.C. Nirmal, Refugees and Human Rights , <<http://www.worldlii.org/int/journals/ISILYBIHRL/2001/6.rtf>> accessed 9 July 2018

Refugees until present are forced to depend on international and private charities for their survival. An insignificant portion of refugees has access to education, vocational training, employment, social and economic integration, local integration or any other activity that enables them to develop themselves.

Refugees have also been victims of the host community at different times for different reasons. Mostly, the lack of awareness by host community towards refugees and fear of losing resources around their areas led some host communities to have hostile relation with refugees. For these and other reasons, refugees have been forced to take illegal and dangerous routes to travel to other far countries mostly European countries which led to the death and illegal human trafficking of many refugees.²⁰

Host countries are suffering a lot from hosting hundreds of thousands of refugees sometimes over a million, with a very little economic, institutional, social and political strength. Due to this reason, most states make reservations to basic refugee rights which they cannot provide for their own citizens let alone refugees. Other countries close their borders, expel new arrivals, incarcerate and harass those in detention centers and deny agencies access to areas where refugees exist.

The case of refugees continues to be among the least considered major international issue. The geopolitical features and character of refugees have changed and require a new way of addressing the increasing number of refugees all over the world. With the increasing refugee number and need for providing sufficient protection, it is now necessary to consider refugee-related issues with international cooperation.

Most of the above-mentioned challenges are faced by refugees all over the world including refugees in Ethiopia, a country which is among the less developed ones hosting near a million refugees. The country is facing numerous challenges in relation to refugee protection which need to be addressed.

²⁰UNHCR, 'Desperate Journeys' <<https://www.unhcr.org/desperatejourneys/>> accessed 16 July 2018

1.3. Objective of the Study

The main objective of the study is to assess the role of Comprehensive Refugee Response Framework (CRRF) in the protection and promotion of refugee rights thereby analyzing the impacting factors from refugees and host countries angle.

1.3.1. Specific Objectives of the Study

Assess how CRRF address the current refugee crisis.

Explore what CRRF would bring to the refugees and host countries, different from past mechanisms, particularly Ethiopia

Assess how CRRF is related to and different from existing approaches

Analyze how CRRF will improve refugee protection and refugee rights in Ethiopia

Examine the challenges and prospects in implementing CRRF

1.4. Research Question

The major question of the study is what is the role of the Comprehensive Refugee Response Framework (CRRF) in creating a better refugee protection mechanism, particularly in Ethiopia?

1.4.1. Specific Questions

How does CRRF develop?

How does CRRF address current refugee crisis and protect refugee rights?

What makes CRRF different from past refugee right protection mechanism?

What role will CRRF play in improving refugee protection in Ethiopia?

What are the challenges and prospects of implementing CRRF in Ethiopia?

1.5. Research Methodology

Taking in to account the research questions and the objective of the study, the methodology that better enables the writer to answer these questions and achieve the desired goal is doctrinal legal research methodology.

The writer engaged in a desk-based review of primary and secondary sources. The most logical starting point is to critically analyze the development, rationale, relation and integration of the CRRF. Interview with officials working on refugees, particularly the CRRF, are also the other method used to understand the progress of CRRF in Ethiopian refugee protection mechanism. The writer used a purposive sampling method in choosing the interviewee.

1.6. Significance of the Study

This study will provide valuable knowledge and understanding of the issue of Comprehensive Refugee Response Framework. Since the issue is new and under-researched, the study attempts to create an understanding of the role and significance of CRRF especially for Ethiopia which is a host to near a million refugees. In addition to academic significance, the study will also have policy relevance for both state and non-state actors to understand and strive to implement the CRRF in Ethiopia as well as other important pilots with a large number of refugees.

1.7. Limitation of the Study

The main concern of this study is to assess the role of CRRF in improving the right and protection provide for refugees in Ethiopia. Due to a shortage of time and lack of easy access to refugee camps, the study is limited to data and information gained from UNHCR office at Addis Ababa, UNHCR reports on websites, and experts working on the CRRF.

While it was relatively easier to find Eritrean and Somalia refugees in Addis Ababa, language barriers made it impossible to get the best out of the refugees about their circumstance in the capital.

1.8. Structure of the Study

This study has five chapters. The first chapter consisted of the background of the Study, statement of the problem, objectives of the study, research question, significance and limitation

of the Study. The second chapter is devoted to frame concepts on refugee and development of refugee rights, as well as protection mechanisms. The third chapter dealt mainly with assessing the comprehensive refugee response framework along with a discussion of the New York Declaration and the Global Compact on Refugees. The role of CRRF in the current refugee crisis, how it addresses the issue of refugee protection and its relation with the previous mechanism is also covered under this chapter. The fourth chapter is allocated for assessing the Ethiopian refugee protection mechanism and the role of CRRF in refugee protection in Ethiopia. In addition, this chapter paid attention in identifying major challenges and prospects of implementation of CRRF in Ethiopia.

Finally, the Study ended up by offering a concluding remark and possible recommendations.

CHAPTER TWO

Refugees and Refugee Protection

2.1. Defining Refugees

There has always been a problem in defining the term refugee. "Stowaways" "boat people," "economic migrants," "displaced persons," "illegal aliens" or "people who have been firmly resettled elsewhere" are among the different names given to refugees.²¹

The definition and status of a refugee have evolved throughout the past time in response to the changing social and political conditions of the world. During the earlier times, a refugee was understood as people who left their home and seek refuge in another state due to the presence of war in their homeland.²²

The term refugee has evolved considerably since its entry into international affairs after World War I. The earliest international legal instruments recognizing refugees date from the 1920s which assigned refugee status to specific national groups.²³ Russians fleeing the Bolshevik Revolution were viewed as persons lacking the protection of their country of origin and in need of international protection.²⁴ The Evian Conference of 1938, which addressed the flight of Jews from National-Socialist Germany, is also another example.²⁵

²¹ C.O. Miranda , 'Towards a Broader Definition of Refugee: 20th Century Development Trends' (1990) 315 California Western International Law Journal 318

²² UNHCR and its NGO partners 'Protecting Refugees ' < <https://www.unhcr.org/en-ie/3bb9794e4.pdf>> accessed 12 July 2018

²³ Vanessa Holzer, 'The 1951 Refugee Convention and the Protection of People Fleeing Armed Conflict and Other Situations of Violence' <<https://www.refworld.org/pdfid/50474f062.pdf> > accessed 18 July 2018

²⁴ 'Arrangement with regard to the Issue of Certificates of Identity to Russian Refugees of 5 July 1922' < <http://www.refworld.org/pdfid/3dd8b5802.pdf> > accessed 8 July 2018

²⁵ 'The Evian Conference (1938): A Failure of Nerve' <https://perryjgreenbaum.blogspot.com/2015/10/the-evian-conference-1938-failure-of.html> > accessed 28 June 2018

The international community, for humanitarian reasons began to assume responsibility for protecting and assisting refugees. The pattern of international action on behalf of refugees was established by the League of Nations and led to the adoption of the number of international agreements for their benefit.²⁶

In 1950, the statute of the office of the United Nations High Commissioner for Refugees was passed by a United Nations General Assembly (UNGA) resolution establishing a body to deal with refugees. The adoption of the 1951 Convention improved on previous instruments played a significant role in defining and protecting refugees.

The Convention definition applied to a person who becomes refugees before 1 January 1951, to include refugees due to the Second World War (WWII) and events after that. Definition of refugees by the Convention is followed by two limitations.²⁷ These limitations were in relation to time ("events occurring before Jan 1951") and the geographical limitation (events occurring in Europe"). These two to limitations excluded a wide range of persons from the scope of the convention hampered its universal applicability.²⁸

However the state parties to the Convention developed the habit of applying it beyond its vision, it was intended before, (i.e. on displaced persons who were outside Europe and to those displaced due to events occurring after 1 January 1951). Such extended use of the convention as a matter of habit continued until the coming in to force of the Protocol relating to the Status of the Refugees of 1967 which expressly recognized this practice of removing the temporal and Eurocentric characteristics of the 1951 Convention definition.²⁹ Since 1967, these two instruments were used for the purpose of determination of refugee status.

When the 1951 Convention along with its 1967 Protocol relating to the status of refugee, are combined, a refugee is defined as someone who:-

²⁶ Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees' page 12 <<https://www.unhcr.org/4d93528a9.pdf>> accessed 2 July 2018

²⁷ The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, <<http://www.unhcr.org/4ec262df9.pdf> > page accessed 28 June 2018

²⁸ *ibid*

²⁹ *ibid*[27] page 3

“is a person owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his (her) nationality and is unable or, owing to such fear, is unwilling to avail (herself) himself to the protection of that country”³⁰

An individual determination is required in the case of each applicant before a state decides whether or not to grant refugee status. To be entitled to the protection afforded by the Convention and Protocol, a forced migrant must satisfy, the criteria of the Convention's definition of "refugee," which are as follows:

- He / She must be "outside" his/her country of nationality or habitual residence.
- The acts and treatment from which the applicant is seeking refuge must qualify as persecution, as then understood.
- The refugee must have a "well-founded fear of persecution" and because of this must be unable or unwilling to rely on the protection of her/his country of origin.
- The persecution feared must be due to one of, or a combination of, the enumerated reasons, namely, race, religion, nationality, membership of a particular social group, or political opinion

2.2. The five reasons specified in the 1951 Refugee Convention

a) well-founded fear of being prosecuted

In addition to the definition given above, the Convention put reasons for a person to be considered a refugee. One is a well-founded fear of being prosecuted. The phrase "well-founded fear of being persecuted" is the key element issue of the definition.³¹ It contains a subjective and an objective element. Fear is, by definition, a state of mind and hence a subjective condition.³² Fear is well founded if there is a reason to believe that his or her continued stay in the country of origin has become intolerable for the reasons stated in the definition, or would be intolerable if the applicant returned.³³

³⁰ Convention Relating to the Status of Refugees 1951, Article 1 Paragraph A(2)

³¹ibid [26]

³²ibid [26]

³³ibid [26]

b) Race

The UNHCR handbook states that race include all kinds of ethnic groups which could commonly be described as races. Frequently, it will also entail membership in a specific social group of common descent forming a minority within a larger population.³⁴

c) Religion

The Universal Declaration of Human Rights and the Human Rights Covenant proclaim the right to religion. This right includes the right to manifest or change religion, teach, practice, worship and observe. Persecution for “reasons of religion” may assume various forms, e.g. prohibition of membership of a religious community, of worship in private or in public, of religious instruction, or serious measures of discrimination imposed on persons because they practice their religion or belong to a particular religious community³⁵

d) Nationality

The term "nationality" is usually taken to include members of a specific ethnic or linguistic group and citizenship.³⁶

e) Membership of a Particular Social Group

A "particular social group" generally comprises persons of similar ethnic, Cultural, Religious or linguistic background, habits, or social status.³⁷ As further stated in the *WHCR Handbook*:

Membership of such a particular social group may be at the root of persecution because there is no confidence in the group's loyalty to the Government or because of the political outlook, antecedents or economic activity of its members, or the very existence of the social group as such is held to be an obstacle to the Government's policies.

³⁴id page 13

³⁵ibid

³⁶Human Rights for All, International Covenant on Economic, Social and Cultural Rights’ August 2015 PWESCR (Program on Women’s Economic, Social and Cultural Rights)

<http://www.pwescr.org/PWESCR_Handbook_on_ESCR.pdf > accessed 17 June 2018

³⁷ Ibid [21]

e) Political Opinion

"Political opinion" includes those persons who have fled their country to avoid persecution on the ground that they are alleged or known, to hold opinions critical of the government.

2.3. Refugee definition under the United Nations High Commissioner for Refugees (UNHCR)

The Statute of the UNHCR is another international instrument defining refugees. The statute first brings within UNHCR'S competence refugees covered by various earlier treaties and arrangements. It next defines a refugee as.

*"Any person who ". . . owing to well-founded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his nationality and is unable or, owing to such fear or for reasons other than personal convenience, 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, is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to return to it"*³⁸

The definition is important to determine who is entitled to the benefits provided for in the statute. The persons included in this definition are referred by the name "Mandate Refugees. This term is issued for persons considered by UNHCR to be refugees.³⁹

2.4. 1969 Organization of African Union (OAU) Convention defining refugees

It has been mentioned that the 1951 refugee Convention along with its 1967 Protocol is the vital instrument defining the status of refugees. The definition in these instruments has been adopted by the OAU Convention of Refugees.

³⁸ 'Statute of the Office of the United Nations High Commissioner for Refugees' 1950, Article 6(b(ii))

³⁹Canadian Association for Refugee and Forced Migration Studies 'Mandate refugees, Definition and Examples' , <<http://rfmsot.apps01.yorku.ca/glossary-of-terms/mandate-refugees/>> accessed 20 July 2018

The OAU refugee definition has two parts. The first part repeats the definitions of the 1951 Convention. The second goes further to cover any persons compelled to leave his or her country" 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.⁴⁰ This definitional phrase is an important addition since persons fleeing civil disturbances; violence and war are entitled to claim the status of refugee in states that are parties to this convention.⁴¹ This expanded definition of the OAU is meant to meet the context of African Nations.

2.5. Basic refugee rights and protection mechanism

Internationally, the rights of refugees are protected by two distinct and co-existing regimes. These are the Refugee-Specific Rights Regime based on the 1951 Convention and the General International Human Rights Law regime, comprising a large range of specialized universal accords and regional human rights regimes of Europe, Africa, and the Americas.

In the post Second World War period, a major objective of the United Nations has been the design of mechanisms to ensure that the ideals of the Universal Declaration of Human Rights can be enforceable.⁴² The early steps toward this objective were taken with the promulgation of the *International Covenant on Civil and Political Right (ICCPR)*⁴³ and the *International Covenant on Economic, Social and Cultural Right (ICESCR)*.⁴⁴

The implementation mechanisms for the existing system of protecting the human rights of refugees are broadly divisible into four:⁴⁵

⁴⁰ibid [39]

⁴¹OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969 Article 1 (2)

⁴²'Charter on the United Nations and Statute of the International Court of Justice'

<<http://www.un.org/en/sections/un-charter/un-charter-full-text/>> accessed 14 July 2018

⁴³United Nations Human Rights Office of the High Commissioner, 'International Covenant on Civil and Political Rights' <<https://www.ohchr.org/en/professionalinterest/pages/CCPR.aspx>> accessed 14 July 2018

⁴⁴'International covenant on Economic and Cultural Right'

<<https://www.ohchr.org/EN/ProfessionalInterest/Pages/ICESCR.aspx>> accessed 14 July 2018

⁴⁵ Guy S. Goodwin-Gil, 'The International Law on Refugee' Oxford Handbook of refugee and Forced Migration Studies, <http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199652433.001.0001/oxfordhb-9780199652433-e-021> accessed 14 July 2018

- Regional and multilateral conventions binding states to accord to refugees as defined therein, certain rights and standards of treatment or, in the human rights domain, to assure certain rights to all persons within their territory
- the constituent instruments of the principal international agencies charged with the protection of refugees
- the rules and standards of general or customary international law regulating relations between states, thus contributing to solutions
- National legislation or implementation.

2.5.1. International refugee protection mechanisms

International refugee protection is as much necessary today as it was when the 1951 Convention was adopted over fifty years ago.⁴⁶ The highly increasing number of refugees is a proof for the necessity of an international mechanism for the protection of refugees all over the world. Most countries have signed a variety of multilateral treaties, thereby agreeing to abide by various human rights standards.

Laws, agreements, and institutions which have been established to provide and regulate the refugee protection are often referred to as the international refugee regime or international refugee protection system.

The Statute of UNHCR; the 1951 Convention Relating to the status of Refugees alongside the 1967 Protocol Relating to the status of Refugees have universal application. The 1951 Convention is a modern legal embodiment of the ancient and universal tradition of providing sanctuary to those at risk and in danger.⁴⁷ The Convention reflects a fundamental human value on which global consensus exists. It was the first and only instruments at the global level which specifically regulate the treatment of those who are compelled to leave their homes because of a rupture with their country of origin.⁴⁸

⁴⁶ibid [2]

⁴⁷ Volker Turk and Frances Nicholson , ‘Refugee protection in international law: an overall Perspective ‘
<<https://www.unhcr.org/419c73174.pdf>> accessed July 17 2018

⁴⁸ ibid

2.5.1.2 Specific rights and protection under international and regional instrument

There are specific refugee rights international and regional instruments provide. Such rights are also incorporated in number of national laws.

- **Non - Refoulement**

Non-refoulement is a prohibition from returning a refugee or asylum seeker to territories where there is a risk that his or her life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group, or political opinion.⁴⁹ The 1951 Convention states that no contracting state shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. This is one of the provisions to which no contracting state can make a reservation at the time of signing, ratifying or acceding to the convention.

The 1969 OAU Convention governing the specific aspects of refugee problems in Africa is worthy of consideration in the issue of non-refoulement. The convention reads as " No person shall be subjected by a member state to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened."⁵⁰

The OAU convention unlike the 1951 convention, explicitly prohibits rejection of asylum seekers at the frontier, thus making any debate as to whether the principle of non-refoulement applies only to refugees who have already set foot in the territory of the receiving state.⁵¹

- **Exemption from penalties because of illegal entry or presence**

The second protection available to refugees is an exemption from penalties because of their illegal entry or presence.⁵² The manner in which refugees enter the territory of another state may vary considerably. In certain situations, their initial entry may be legal but they may over-stay

⁴⁹Convention Relating to the Status of Refugees, 1951 , article 33(1)

⁵⁰OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969, Article 2(3)

⁵¹ibid

⁵²Convention Relating to the Status of Refugees, 1951 , Article 31

and seek asylum because of fear of persecution resulting from events taking place in their country of nationality or habitual residence either before or after entry. In the majority of cases, however, a refugee crosses the frontier to escape his pursuers or the compelling situations, and he rarely has the time or the desire to observe immigration formalities.⁵³

- **Non - expulsion**

States parties have undertaken not to expel a refugee lawfully in their territory saves on grounds of national security or public order.⁵⁴ Decisions to expel are further required to be in accordance with due process of law and except where compelling reasons of national security otherwise require the refugees shall be allowed to submit evidence to clear himself and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the Competent authority.⁵⁵

Moreover, the contracting states shall allow such a refugee a reasonable period within which to seek legal admission into another country. The contracting states reserve the right to apply during that period such internal measures as they may deem necessary. This provision benefits the refugee when he has to fulfill the requirement that he is in the grounds of "lawfully in their territory" on the other hand such person has to be admitted into the territory in accordance with the applicable law.

- **Issuance of travel documents**

The contracting states shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory unless compelling reasons of national security or public order or otherwise require. Hence, contracting states are obliged to issue travel documents to refugees in their territory in accordance with the provisions of the schedule.⁵⁶ Travel documents issued to refugees are known as convention travel documents and have received wide acceptance even by states that are not parties to the conventions.

⁵³ *ibid*[47]

⁵⁴ Convention Relating to the Status of Refugees, 1951 article 32

⁵⁵ UNHCR, 'Note on Non-Refoulement' <<http://www.unhcr.org/excom/scip/3ae68ccd10/note-non-refoulement-submitted-high-commissioner.html>> accessed 15 July 2018

⁵⁶ Convention Relating to the Status of Refugees, 1951, Article 28

- **The Right to an Effective Remedy**

The Convention relating to the Status of Refugees besides from providing the definition of a refugee in international law also provides for the treatment of refugees in countries of asylum. This has been referred to as a “statement of the minimum rights of refugees”. It provides for a myriad of rights, civil, political, economic and social, that a State should ensure to refugees.⁵⁷ However, unlike under the International Bill of rights, the Convention does not contain an express provision on the right to an effective remedy in case any of the rights provided therein are violated. Hence, there is no express obligation on States to ensure the right to an effective remedy under the 1951 Convention. Nonetheless, the Convention in article 16(1) provides “a refugee shall have free access to courts of law on the territory of all contracting states.

2.6. Refugee protection under the UNHCR

The Office of the United Nations High Commissioner for Refugees (UNHCR) was established by the General Assembly as of 1 January 1951, by the adoption of the Statute of the United Nations High Commissioner for Refugees, as an annex to Resolution 428(V) to provide international protection to refugees.⁵⁸ The agency is mandated to lead and co-ordinate international action to protect refugees and resolve problems worldwide.⁵⁹ The primary purpose of UNHCR is to safeguard the rights and well - being of refugees. It strives to ensure that everyone can exercise the right to seek asylum and find safe refuge in another state, with the option to return home voluntarily integrate locally or to resettle in a third country.⁶⁰

The authority of UNHCR is only moral and advisory which doesn't bind States and entails no legal sanctions. Notwithstanding, governments are called upon to co-operate with the Office in providing international protection and seeking permanent solutions to the problems of refugees

⁵⁷ *ibid*[47]

⁵⁸UNHCR, ‘Statute of the office of the United Nations High Commissioner for Refugees’ page 2<
<https://www.unhcr.org/3b66c39e1.pdf>> accessed 6 July 2018

⁵⁹ UHNCR Statute, 1950, Par.1

⁶⁰*ibid*

by way of voluntary repatriation and assimilation into new communities.⁶¹ The Statute expressly provides that the "work of the High Commissioner shall be of an entirely non-political character; it shall be humanitarian and social and shall relate to groups and categories of refugees."⁶²

The UNHCR Statute also spells out the relationship of the High Commissioner with the General Assembly and the Economic and Social Council (ECOSOC). Under the authority of the General Assembly, the UNHCR shall follow policy directives of either the General assembly itself or of ECOSOC. The High Commissioner is required to report to the General Assembly through ECOSOC. The High Commissioner may request the opinion of the advisory committee on refugees should the need arise.

2.7. Refugee protection under African regional system

Different instruments related to refugees have been adopted in international, regional and national levels. The 1967 OAU convention dealing either refugee problem in Africa is among the important instruments protecting refugees in Africa.

The protection that is extended to refugees recognizes the specific needs of people who have good reason to fear that their own governments will not or cannot provide safeguards against abuse. It provides a temporary substitute for the normal safeguards until the refugee can again benefit from national protection either by returning voluntarily to his or her original country of nationality or by assuming a new nationality. The core principle of Regional and international protection is that people should not be forced to return against their will to a country in which their lives or freedom would be endangered because of race, religion, nationality, membership of a particular social group or political opinion.

The period lasting from the 1950s and into the mid-1980s marked the rise against colonialism and foreign domination in Africa.⁶³ Under the 1951 Convention, the majority of the Africans in flight from the forces of oppression and in search of bases from which to launch their wars of

⁶¹ UNHCR, 'Voluntary Repatriation: International Protection' <<https://www.unhcr.org/uk/3bfe68d32.pdf>> accessed July 23 2018

⁶² UHNCR Statute, 1950, Paragraph 2

⁶³ Gareth Austin, 'African Economic Development and Colonial Legacies' <<https://journals.openedition.org/poldev/78#ftn1> > accessed 2 August 2018

liberation did not qualify as refugees.⁶⁴ A Convention on the African problem had to be found to provide a legal basis upon which the international community could protect refugee populations caused by man-made activities.⁶⁵

The former Organization of African Unity decided that a regional refugee treaty was needed, in order to take account of special characteristics of the situation in Africa. . The Organization of African Union Convention Governing the Specific Aspects of Refugee Problem in Africa was established in 1969. The African refugee protection system has its legal basis in the OAU Convention on the Specific Aspects of Refugees in Africa. This instrument is complementary to the 1951 Convention and seeks to address specific refugee problems in Africa.⁶⁶ The 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa expanded the definition of a refugee to people who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his/her country of origin or nationality, is compelled to leave his/her place of habitual residence in order to seek refuge in another place outside his/her country of origin or nationality.⁶⁷

This standard represents an important conceptual adaptation of the Convention refugee definition, in that it successfully translates the fore meaning of refugee status to the reality of the developing world without suggesting that victims of natural disasters or economic misfortune should become the responsibility of the international community.⁶⁸ The OAU definition acknowledges important modifications of the 1951 Convention definition are required in order to accommodate the specific context of abuse in states of the developing world.⁶⁹

⁶⁴ *ibid*[3]

⁶⁵ *ibid*[3]

⁶⁶ UNHCR, ‘Persons covered by the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and by the Cartagena Declaration on Refugees ‘ 1992 Paragraph 8
<<http://www.unhcr.org/excom/scip/3ae68cd214/persons-covered-oau-convention-governing-specific-aspects-refugee-problems.html>> accessed 21 July 22018

⁶⁷ OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969, Article 1(2)

⁶⁸ *ibid*[3]

⁶⁹ *ibid*[3]

First, the OAU definition acknowledges the reality that fundamental forms of abuse may occur, not only as a result of the calculated acts of the government of the refugee's state of origin, but also as a result of that government's loss of authority due to external aggression, occupation, or foreign domination.⁷⁰

Second, the OAU definition reverts to the pattern of pre-World War II refugee accords in recognizing the concept of group disfranchisement.⁷¹ By its reference to persons who leave their country as a consequence of broadly based phenomena such as external aggression, occupation, foreign domination, or any other event that seriously disturbs public order, the OAU recognizes the legitimacy of flight in circumstances of generalized danger.⁷²

The 1951 Convention definition link refugee status to the prospect of abuse resulting from some form of personal or group characteristic, mainly from one's civil or political status.⁷³ The OAU definition, on the other hand, leaves open the possibility that the basis or rationale for the harm may be indeterminate.⁷⁴ As long as a person "is compelled" to seek refuge because of some anticipated serious disruption of public order, they need not be in a position to demonstrate any linkage between their personal status or that of some collectivity of which they are a member and the impending. The African standard emphasizes assessment of the gravity of the disruption of public order, rather than motives for flight.⁷⁵

The OAU Convention also extends international protection to persons who seek to escape serious disruption of public order "in either part or the whole of their country of origin."⁷⁶ This represents a departure from past practice which generally assumed that a person compelled to flight should make reasonable efforts to seek protection within a safe part of her own country, if

⁷⁰ibid[67]

⁷¹ibid[3]

⁷²ibid[67]

⁷³ ibid[3]

⁷⁴ibid[67]

⁷⁵ Marina Sharpe , 'The 1969 OAU Refugee Convention and the Protection of People fleeing Armed Conflict and Other Situations of Violence in the Context of Individual Refugee Status Determination'

<<https://www.refworld.org/pdfid/50fd3edb2.pdf> > accessed 14 August 2018

⁷⁶ ibid[67]

one exists, before looking for protection abroad." The relevance of the OAU definition to conditions in the developing world has made it the most influential conceptual standard of refugee status apart from the *1951 Convention* definition itself.⁷⁷ It has provided the basis for enhanced UNHCR activity in Africa. The convention also was at the root of the proposed conventional definition of persons entitled to territorial asylum and it has inspired the liberalization of a variety of regional and national accords on refugee protection.⁷⁸

2.8. The Comprehensive Refugee Response Framework, a new protection mechanism towards current refugee crisis

On 19 September 2016 the United Nations General Assembly adopted a set of commitments to improve the manner in which we respond to large movements of refugees and migrants. These commitments, endorsed by 193 Member States, are known as the New York Declaration on Refugees and Migrants.

The CRRF is the first of two Annexes to the New York Declaration for Refugees and Migrants adopted in September 2016 at a High-level meeting of the UN General Assembly.⁷⁹ It is a comprehensive set of commitments to be implemented in situations involving large-scale movements of refugees. The Declaration calls for the development of a Global Compact on refugees, based on the Comprehensive Refugee response Framework set out in Annex I, to be led and initiated by UNHCR.⁸⁰ It lists a number of actions and best practices in four areas, these are

- Reception and admission measures;
- Support for immediate and ongoing needs;
- Support for host countries;
- Enhanced opportunities for durable solutions⁸¹

The CRRF forgo short-term responses in favor of a sustainable approach linking humanitarian action with development assistance. This new approach is based on the engagement of a wide

⁷⁷ibid [3]

⁷⁸ ibid

⁷⁹ UNHCR, 'Comprehensive Refugee Response Framework' <<https://www.unhcr.org/584687b57.pdf>> accessed 24 July 2018

⁸⁰ ibid

⁸¹ ibid

range of stakeholders, including but not limited to national and local authorities, international and regional organizations, international financial institutions, civil society, the private sector, and refugee and host communities themselves.⁸²

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⁸² *ibid*

CHAPTER THREE

The New York Declaration, Comprehensive Refugee Response Framework (CRRF) and Refugee Compact

The unprecedentedly increasing refugee crisis is a common concern of the world. It is increasing in scope, scale, and complexity demanding international cooperation towards refugee protection, assistance, and provision of sustainable solutions. Millions of refugees live in protracted situations, mostly in low and middle-income countries facing their own economic and development challenges, and the average length of stay has continued to grow.⁸³

The global community is witnessing large and sudden flows of refugees and other persons in need of international protection, particularly from high-intensity civil-conflict situations. As mass displacement across the world continues to grow, low- and middle-income countries are shouldering the responsibility for refugees.⁸⁴ Among the total refugee population in the world, the vast majority are hosted by developing countries.⁸⁵

The achievement of international cooperation in solving international problems of a humanitarian character is a core purpose of the United Nations, as set out in its Charter.⁸⁶ Similarly, the 1951 Convention relating to the Status of Refugees recognizes that a satisfactory solution to refugee situations cannot be achieved without international cooperation, as the grant of asylum may place unduly heavy burdens on certain countries.⁸⁷

Despite the tremendous generosity of host countries and donors, the gap between needs and humanitarian funding is widening. There is an urgent need for more equitable sharing of the burden and responsibility for hosting and supporting the world's refugees while taking account

⁸³ UNHCR, 'Global Appeal 2018 – 2019': Matching commitments with action, **November 2017**
< <https://reliefweb.int/report/world/unhcr-global-appeal-2018-2019>> accessed 12 August 018

⁸⁴ *ibid*

⁸⁵ Interview with Kaleab Zelalem, Senior CRRF Associate/General Economist- UNHCR representation in Ethiopia, (Addis Ababa, November 1, 2018)

⁸⁶ Charter of the United Nations; Article 1(3)

⁸⁷ Convention Relating to the Status of Refugees, 1951, Preamble, Paragraph 4

of existing contributions and the differing capacities and resources among States.⁸⁸ A strong and practical action, including through widening the support base beyond those countries that have been contributing to the refugee cause through hosting refugees or other means is an important task to be done by the international community.

3.1.1. The New York Declaration: A Highlight

On 19 September 2016, the United Nations General Assembly hosted a high-level Summit for Refugees and Migrants that aimed at improving the way in which the international community responds to large movements of refugees and migrants⁸⁹. At the Summit, all 193 Member States of the United Nations unanimously adopted the New York Declaration for Refugees and Migrants (Resolution 71/1).⁹⁰

The New York Declaration for Refugees and Migrants addresses the challenging situations faced by refugees and migrants. The Declaration includes both commitments that apply equally to refugees and migrants as well as separate commitments for each group.⁹¹ The Declaration lays the groundwork for further action to improve the situation of refugees and migrants by laying out a process for the development of two ‘Global Compacts’, one on refugees and the other on migrants.⁹²

The recognition of these two compacts is in recognition of the fact that, for refugees, there is a specific legal regime already in place, and a framework that is elaborated in the Declaration for addressing large refugee movements. Regarding migrants, the Declaration provides for the development of a Global Compact for safe, orderly and regular migration that will set out a range of principles, commitments, and understandings regarding all aspects of international migration.

⁸⁸ibid

⁸⁹UNHCR ‘Developing the Refugee Response Framework’, 2017, <<http://reporting.unhcr.org/sites/default/files/UNHCR%20Developing%20the%20Comprehensive%20Refugee%20Response%20Framework%20Special%20Appeal%202017%20--%20September%202017.pdf>> accessed 3 August 2018

⁹⁰The New York Declaration for Refugees and Migrants, <<http://undocs.org/a/res/71/1>> accessed 3 August 2018

⁹¹ The New York Declaration for Refugees and Migrants <<https://www.unhcr.org/en-my/584689257.pdf>> accessed 3 August 2018

⁹²ibid

The set of commitments agreed by the Member States in the New York Declaration reflect that the protection of those who are forced to flee, and support for the countries sheltering them are a shared international responsibility, a responsibility that must be borne more equitably and predictably.⁹³

The New York Declaration is adopted specifically for refugees and migrants by the UNGA which affirms the rights of refugees and commits to enhancing the protection of refugees.⁹⁴ The Declaration shifts the paradigm of treating refugees and migrants not only under a humanitarian lens and human right based approach but also in the context of long-term development agenda.⁹⁵

The Declaration most importantly acknowledges the fact that the 1951 Refugee Convention does not explicitly refer to burden or responsibility sharing.⁹⁶ Hence, recognizing the burden that large movements of refugees place on national resources, especially for developing countries, the Declaration underlines the centrality of international cooperation to the refugee protection regime.⁹⁷

The States under the Declaration have committed to a more equitable sharing of the burden and responsibility for hosting and supporting the world's refugees while taking account of existing contributions and the differing capacities and resources among States.⁹⁸

States also pledged to actively promote durable solutions with a focus on repatriation, reintegration, rehabilitation and reconstruction activities, and to take support from multiple stakeholders for the same. In addition, they called on the Office of the United Nations High Commissioner for Refugees to develop and initiate a Comprehensive Refugee Response for each

⁹³‘Comprehensive Refugee Response Framework: from the New York Declaration to a Global Compact on refugees’, December 2016 page 1 <<http://www.unhcr.org/584687b57.pdf>> accessed 26 July 2018

⁹⁴ibid [91]

⁹⁵‘New York Declaration, UNHCR quick guide September 2018 update’ page 5 <<http://www.unhcr.org/57e4f6504.pdf>> accessed 15 August 2018

⁹⁶ Volker Türk , ‘The New York Declaration: Once-in-a-lifetime opportunity to enhance refugee protection’ <<https://www.unhcr.org/admin/dipstatements/57fe577b4/new-york-declaration-once-in-a-lifetime-opportunity-enhance-refugee-protection.html>> accessed 18 August 2018

⁹⁷ibid[95] page 13

⁹⁸ibid

situation involving large movements of refugees. The New York Declaration is of paramount importance as it is a milestone for global solidarity and refugee protection at this time of unprecedented displacement.

In the Declaration, all 193 Member States of the United Nations reaffirmed the enduring importance of the international refugee protection regime, committed fully to respect the rights of refugees and migrants. They pledged to provide more predictable and sustainable support to refugees and the communities that host them and agreed to expand opportunities to achieve durable solutions for refugees.⁹⁹ Following such understanding States to be committed to legal or policy changes to enhance refugees' access to education, lawful employment, and social services, substantially increased humanitarian aid; and expands access to third-country solutions.¹⁰⁰

3.1.2. New York declaration commitments

The New York declaration has commitments that aspire to address current refugee challenges in a fast and sustainable manner. They also intend to pave a way to solve future challenges before a greater degree of disaster happens. While these commitments are many in number, they can be generally included among the following:¹⁰¹

Shared global responsibility: this commitment acknowledges the need for that the protection of refugees and assistance to host States are a shared international responsibility.

A whole of society approach: A stronger partnership between host governments, UN Agencies, the private sector, NGOs, financial institutions, and civil society is another commitment.

Supporting host countries: providing host countries with additional and predictable humanitarian funding and development support especially since most refugee host countries are less developed ones.

⁹⁹UNHCR, 'The New York declaration for refugees and migrants' page 2, February 2018

< <https://www.unhcr.org/new-york-declaration-for-refugees-and-migrants.html> > accessed 11 August 2018

¹⁰⁰Ibid

¹⁰¹ UNHCR, 'FROM COMMITMENT TO ACTION' < <https://www.unhcr.org/5b8d1ad34.pdf> > accessed 6 September 2018

Well-funded emergency responses: Pledge to meet the needs of refugees and host communities at the start of emergencies.

Self-reliance: Commitment to include refugees in national development plans and invest in the future of refugees and local communities alike.

Enhancing durable solutions: Commitment to wider chances for refugees through resettlement and other complementary pathways.

In order to give life to these commitments, the New York Declaration also sets out the key elements of a Comprehensive Refugee Response and laid the groundwork for the adoption of a Global Compact on refugees in late 2018.¹⁰²

Among the key new elements are commitments by States to:

- Strengthen and facilitate emergency responses to refugee movements and a smooth transition to sustainable approaches that invest in the resilience of both refugees and the communities that host them;
- Provide additional and predictable humanitarian funding and development support to host countries;
- Explore additional avenues for refugees to be admitted to third countries, including through increased resettlement; and
- Support the development and application of a Comprehensive Refugee Response Framework (CRRF) for large refugee movements, applicable to both protracted and new situations.

3.1.3. The Comprehensive Refugee Response Framework (CRRF)

In 2016, UN member states convened in New York and adopted a declaration paving the way for a non-binding international compact on refugees with intentions to enhance preparedness for

¹⁰²UNHCR, 'Towards a Global Compact on refugees' < <https://www.unhcr.org/towards-a-global-compact-on-refugees.html>> accessed 26 July 2018

refugee crises, improve the situation of refugees and relieve the burden on host societies.¹⁰³ They annexed a comprehensive refugee response framework to the declaration that spelled out a series of short and longer-term measures to address refugee crises.

CRRF lists a number of actions and best practices in four areas. These are reception and admission measures; support for immediate and ongoing needs; support for host countries; and enhanced opportunities for durable solutions.¹⁰⁴

The CRRF serves as the central mechanism proposed by the declaration at the level of practical action. More concretely, the CRRF aims to ensure better inclusion of refugees in their host communities as a response to protracted situations of encampments that have been prevalent in many developing countries.¹⁰⁵ Countries participating in the CRRF pledge to improve refugees' access to education, health, and other social services, as well as employment. Furthermore, the CRRF calls for more international support to countries that hosts refugees, for more resettlement solutions, and for efforts to create the conditions for refugees to return home whenever possible.¹⁰⁶

Several African countries – Djibouti, Ethiopia, Kenya, Rwanda, Uganda and Zambia – have committed to applying the CRRF to refugees within their own territories, while a regional approach has been adopted with regard to the Somali refugees.¹⁰⁷ Central American countries participating in the CRRF are Belize, Costa Rica, Guatemala, Honduras, Mexico, and Panama.¹⁰⁸

The commitments are in line with the obligations and the recommendations put forward by the Convention, thereby encouraging countries to comply with them. The CRRF also brings pledges

¹⁰³ibid[83]

¹⁰⁴Ibid [83]

¹⁰⁵ European Parliamentary Research Service, 'Towards a Global Compact on refugees, Strengthening international cooperation to ease the plight of refugees in the world' 2018,

<[http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI\(2018\)623550](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2018)623550)> , accessed August 12, 2018

¹⁰⁶ibid

¹⁰⁷ UNHCR, 'Practical Application of the Comprehensive Refugee Response Framework' December 2017,

< <https://www.unhcr.org/5a2eb12b7.pdf> > accessed 19 August 2018

¹⁰⁸ibid

of international solidarity in return for fair treatment of refugees. The CRRF is expected to provide valuable lessons to be incorporated in the global refugee compact.¹⁰⁹

As a result of the pledges entered into via the CRRF, most countries have made notable progress. To mention some, Djibouti adopted a new refugee law in January 2017 and improved refugee access to education.¹¹⁰ Ethiopia, which hosts the second-largest refugee population in Africa, enrolled some 20, 000 additional refugee children in primary education in 2017 and provided refugees with access to civil registration.¹¹¹ The country also plans to reserve for refugees 30 % of the jobs in newly created industrial parks.¹¹² Uganda, which is often regarded as an African model for the treatment of refugees, given its progressive approach involving providing refugees with substantial freedoms and access to land and public services, has pledged to ensure that all refugee children and adolescents have access to education at all levels.¹¹³

The Comprehensive Refugee Response Framework (CRRF) recognizes that while each refugee situation differs in nature, it is possible to offer a more comprehensive, predictable and sustainable response that benefits refugees and their hosts, rather than responding to refugee displacement through a purely, and often underfunded, humanitarian lens.¹¹⁴

In the New York Declaration, UN Member States request UNHCR to engage with States and consult all relevant stakeholders to apply the Comprehensive Framework, and to further develop it in situations that involve large movements of refugees.

The framework presents a comprehensive response designed to ensure:

- Rapid and well-supported reception and admission measures;
- Support for immediate and ongoing needs (e.g., protection, health, education);

¹⁰⁹ UNHCR, The Global Compact on Refugees, page 3, August 2018 <<https://www.unhcr.org/ua/wp-content/uploads/sites/38/2018/09/The-global-compact-on-refugees-UNHCR-quick-guide-ENG.pdf>> accessed 4 October 2018

¹¹⁰ibid [89]

¹¹¹ibid

¹¹²ibid

¹¹³ibid

¹¹⁴ibid

- Assistance to national/local institutions and communities receiving refugees; and,
- Expand opportunities for durable solutions.

These elements are designed to meet the four objectives of CRRF which are: easing pressure on host countries, enhancing refugee self-reliance, expanding third-country solutions and supporting conditions in countries of origin for return in safety and dignity.¹¹⁵

Such elements of the CRRF elaborated in the New York Declaration draw on best practices from over 65 years of experience in international refugee protection, humanitarian assistance and the search for solutions. This is why the CRRF is said to be a blueprint to bring to life the commitments made in the New York Declaration, by providing a more comprehensive, predictable and sustainable response to large-scale movements of refugees and protracted refugee situations.¹¹⁶

3.1.4. CRRF as a new approach

The nature of the CRRF is not a new coordination mechanism, it rather builds on existing mechanisms such as Humanitarian Response Plans (HRPs), Refugee Response Plans (RRPs) and the Refugee Coordination Model, as well as development processes pursued by the UN (such as the UNDAF), Member States, regional organizations and international financial institutions.¹¹⁷

The normative legal regime for refugees is grounded in international law, notably the 1951 Convention relating to the Status of Refugees alongside its 1967 Protocol, as well as regional refugee instruments. The Global Compact on refugees will not create new legal norms or envision a fundamentally different international architecture for refugee protection.¹¹⁸ Rather, it provides the framework for applying these norms in large-scale influx, as well as protracted

¹¹⁵ ‘Practical application of the comprehensive refugee response framework’ page 2, paragraph 5

<<https://www.unhcr.org/5a2eb12b7.pdf>> accessed 18 August 2018

¹¹⁶ ‘The 2016 New York Declaration, the CRRF, and the 2018 Global Compact on

Refugees’ <<http://www.aalco.int/Global%20Compact%20on%20Refugees.pdf>> accessed 13 September 2018

¹¹⁷ UNHCR, Comprehensive Refugee Response Framework: from the New York Declaration to a Global Compact on Refugees, December, 2016 <<https://www.unhcr.org/584687b57.pdf>> accessed 18 August 2018

¹¹⁸ The New York Declaration for Refugees and Migrants, <<https://www.unhcr.org/en-my/584689257.pdf>> accessed 19 September 2018

refugee situations, grounded in the principles of international cooperation and responsibility-sharing.¹¹⁹

However, rather than responding to refugee displacement through a purely, humanitarian lens, the elements of the CRRF are designed to provide a more systematic and sustainable response that benefits both refugees and the communities that host them.¹²⁰ It engages a much broader group of stakeholders: government at national and local levels, international and regional financial institutions, UN Agencies and NGO partners, refugees themselves, the private sector, and civil society actors.¹²¹

CRRF seeks to ensure more sustainable responses by linking humanitarian and development efforts early on in a crisis, and by strengthening and making more inclusive service delivery, including through investment in national and local systems.¹²² It also calls for more robust and expanded planning and opportunities for durable solutions.

Currently, African states like Djibouti, Ethiopia, Kenya, Rwanda, Uganda and Zambia and countries in Central America, namely, Costa Rica, Guatemala, Honduras, El Salvador, Panama, and Mexico have been clearly identified as CRRF countries and have committed to applying the CRRF to refugees within their own territories – with varying degrees of progress in CRRF roll-out in each of them.¹²³

The UNHCR is further expected to seek opportunities to assess and refine the implementation of the CRRF in collaboration with the Member States and key stakeholders. In this regard, periodic stock-taking may facilitate real-time adjustments and support each pilot’s evolution, and also

¹¹⁹ibid

¹²⁰ibid[85]

¹²¹ New York Declaration, Annex 1, Paragraph 2

<http://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_71_1.pdf> accessed 4 September 2018

¹²²ibid[85]

¹²³‘Bringing the New York Declaration to Life’ page 3, <<http://www.unhcr.org/593e5ce27.pdf> last visited on September 7, 2018> accessed 25 September 2018

generate lessons learned, which collectively may inform the development of a proposed Global Compact for refugees.¹²⁴

UNHCR has begun working with the Member States and its international, national, local and partners to implement the comprehensive refugee response framework in a range of specific refugee situations. These will be selected on the basis of a number of relevant factors, including agreement and active engagement of the hosting State; a potential for progress; availability of diverse and representative partners; regional diversity; and representation of different operational contexts (emergency, established and protracted situations).¹²⁵

UNHCR continues to explore opportunities with Member States from other regions to ensure geographical diversity. Further consultations will be conducted to apply the comprehensive refugee response framework to new emergency situations and contexts beyond the specific roll-out.¹²⁶

3.2. From CRRF to Global Compact on Refugees

With the adoption of the *New York Declaration for Refugees and Migrants* in September 2016, the Member States of the United Nations made a range of commitments to enhance the manner in which the international community addresses issues of human mobility.¹²⁷ In relation to refugees, this included two key steps towards a more sustainable system for providing refugee protection and responding to the needs of host countries and communities.

Adopting the comprehensive refugee response framework, or ‘CRRF’, which builds on decades of experience in protecting refugees, supporting host countries and communities, as well as finding solutions was the first step.

Secondly, Member States agreed to continue to improve international responses by working towards the adoption of a Global Compact on Refugees’. To this end, states asked the UNHCR

¹²⁴ibid[86]

¹²⁵ UNHCR, ‘The Global Compact on Refugees’ September 2018 < <https://www.unhcr.org/5b6d574a7.pdf>> accessed 16 October 2018

¹²⁶ibid

¹²⁷ibid

to consult with Member States and a wide range of other stakeholders such as international organizations within and outside the United Nations system, development actors and international financial institutions, regional organizations, civil society, the private sector, host community members and refugees themselves and propose such a compact.¹²⁸

The Global Compact on Refugees emanates from fundamental principles of humanity and international solidarity. It seeks to operationalize the principles of burden- and responsibility-sharing to better protect and assist refugees and support host countries and communities.¹²⁹ The Global Compact is entirely non-political in nature, including in its implementation, and is in line with the purposes and principles of the Charter of the United Nations.¹³⁰ The Global Compact focuses on international, regional- and national-level mechanisms for achieving a fair distribution of the responsibilities related to refugees, and on areas where action can be improved.

The objectives of the Global Compact as a whole are to: (i) ease pressures on host countries; (ii) enhance refugee self-reliance; (iii) expand access to third country solutions; and (iv) support conditions in countries of origin for return in safety and dignity.¹³¹ The Global Compact will seek to achieve these four interlinked and interdependent objectives through the mobilization of political will, a broadened base of support, and arrangements that facilitate a more equitable, sustained and predictable distribution of contributions among States and other relevant stakeholders.

The Global Compact on refugees provides 'a basis for predictable and equitable burden and responsibility-sharing among all United Nations member states, together with other relevant stakeholders as appropriate'.¹³²

¹²⁸ibid

¹²⁹ The Global Compact on refugees, Final draft, as of 26 June 2018, page 2

<<https://reliefweb.int/sites/reliefweb.int/files/resources/5b3295167.pdf>> accessed 15 October 2018

¹³⁰ibid page 1

¹³¹ibid, page 3

¹³²ibid [115] page3

As indicated on the draft compact the measures contained in the compact are not intended to be prescriptive to host states, rather it aims to ease pressure on these states through the help of other states and stakeholders.¹³³ The draft compact brings important new perspectives into play compared to the existing international refugee regime as it assigns an important role to fight the root causes of large-scale refugee crises and refugee flows. Some of the roles include preventing and solving conflicts, respecting international humanitarian law, alleviating poverty; reducing disaster risks; and ensuring respect for human rights and fundamental freedoms, in particular by putting an end to discrimination on grounds of gender, race, color, religion or belief.¹³⁴

3.3. Development of the Global Compact on refugees

Global Compact on Refugees doesn't intend to create additional burdens or impositions on countries hosting large numbers of refugees or to cease current protection mechanisms. It seeks to build upon the international refugee regime that has been established over decades to save lives more equitably and predictably through sharing of burdens and responsibilities.¹³⁵ In this regard, the Global Compact is developed through an extensive multilateral process of consultation with member states and other key stakeholders as requested by the UNGA. The practical application of the CRRF in more than a dozen countries, and two situations, at the regional level alongside a process of collecting good practices and lessons learned from a wide range of refugee situations where the CRRF's principles inform policies and program was one of the processes taken in developing the compact.¹³⁶ A series of five thematic discussions on key topics to be addressed by the Global Compact on refugees in the second half of 2017, involving the participation of States, international and regional organizations, NGOs, academics, experts, private sector partners, refugees (and host community representatives) were another process involved in the development.¹³⁷ Third, the High Commissioner's Dialogue on Protection Challenges in December 2017, which was used to take stock of progress made and lessons

¹³³ibid

¹³⁴ ibid [79] page 1

¹³⁵ibid [115], page 5

¹³⁶ibid

¹³⁷ UINHCR, 'Thematic discussions for the Global Compact on refugees' <www.unhcr.org/thematicdiscussions> accessed 6 September 2018

learned in the course of the practical application of the CRRF and the thematic discussions contributed for the development of the Compact.¹³⁸ In addition to these, an iterative process of six formal consultations with United Nations Member States on successive drafts of the Global Compact from February to July 2018, between which the text was revised in accordance with the feedback received; helped in the development process.¹³⁹ The submission of almost five hundred publicly-available written contributions by a wide range of stakeholders also contributed to the development of the Global Compact on Refugees.¹⁴⁰

3.4. Features of the Global Compact on refugees

Although not legally binding, the Global Compact on refugees establishes the architecture for a stronger, more predictable and more equitable international response to large refugee situations. The Refugee Compact guides the international community as a whole in supporting refugees and countries and communities hosting large numbers including for extended periods of time through the mobilization of political will, a broadening of the base of support, and the activation of arrangements for more equitable and predictable burden- and responsibility-sharing.¹⁴¹ There are a number of key features of the approach that the Global Compact on refugees embodies. Some of them include;

Greater support to hosting countries and communities: An important part of this support relates to the nexus between humanitarian and development activities; that is, the Global Compact on refugees will seek to enhance humanitarian responses, while also providing a basis for the early activation of development cooperation to provide additional support with direct benefits for host communities and refugees.¹⁴² The Global Compact on refugees will seek out ways to provide greater support to hosting countries and communities in a manner that supports

¹³⁸ UNHCR, ‘High Commissioner’s Dialogue on Protection Challenges’ 2017 < www.unhcr.org/hc-dialogue2017 > accessed 6 September 2018

¹³⁹ UNHCR, ‘Formal consultations on the Global Compact on refugees’ < www.unhcr.org/formalconsultations > accessed 6 September 2018

¹⁴⁰ UNHCR, ‘Towards a Global Compact on refugees: written contributions’ <www.unhcr.org/writtencontributions> accessed 6 September 2018

¹⁴¹ *ibid* [109]

¹⁴² *ibid*[85]

refugee protection and the search for durable solutions; this support will include additional financial resources, political support, technical assistance, capacity-building activities, preferential trade arrangements, expanded access to resettlement and other third-country solutions, and efforts to address root causes and establish conditions in countries of origin that enable refugees to return home in safety and dignity.¹⁴³

Engage a wider range of States and other partners: the Global Compact will engage a wider range of States and other partners that are ready to respond to large refugee situations, both new and protracted.¹⁴⁴ It will embrace a multi-stakeholder approach, under national leadership, by strengthening existing partnerships and developing new ones. Partnerships between States, international and regional organizations, NGOs, and the academic community will continue to be very important, but there is also great potential for partnerships with international financial institutions, the private sector, and many others.¹⁴⁵

Very importantly, the draft compact encourages the involvement of local authorities and private entities, refugees and host communities, and other local actors, which are often in the first line when dealing with refugees, in designing the appropriate policy responses.¹⁴⁶

Resilience and self-reliance: the Global Compact on refugees will seek to enhance the resilience and self-reliance of refugees. It seeks a way in which hosting refugees can also benefit host communities by facilitating access to livelihood opportunities and services, backed up by appropriate support from the international community.¹⁴⁷ While this method makes refugees less dependent on aid from the international community, it enables them to be better equipped to return to their home country in time of peace.¹⁴⁸ In terms of host states, the self-reliance of

¹⁴³ UNHCR, ‘The Global Compact on Refugees’ August 2018 < <https://www.unhcr.org/ua/wp-content/uploads/sites/38/2018/09/The-global-compact-on-refugees-UNHCR-quick-guide-ENG.pdf>> accessed 12 September 2018

¹⁴⁴ibid

¹⁴⁵ibid [143] page 5

¹⁴⁶ibid

¹⁴⁷ibid[85]

¹⁴⁸ibid[85]

refugees will mean that their own development will not be affected negatively by hosting refugees.¹⁴⁹

Rights-based and integrate gender, age, and diversity considerations: the Global Compact will seek to ensure that refugee responses are rights-based and integrate gender, age, and diversity considerations throughout.

The Global Compact will not be legally binding but once adopted; it will be a powerful international agreement on how to respond better to large movements of refugees. States already have a strong expression of political will in the New York Declaration. The compact will operationalize this by setting out the concrete measures and steps to be taken by governments and others. It will provide a blueprint, guiding the response to ensure host communities get the timely support they need, that refugees are better included in host communities (with access to health, education, livelihoods) and can rebuild their lives, and that solutions to the plight of refugees are sought from the start.¹⁵⁰ The current progress of implementing CRRF plays a significant role in the realization of the Global Compact.

¹⁴⁹:ibid[85]

¹⁵⁰:ibid[85]

CHAPTER FOUR

The role of CRRF on the protection of refugees in Ethiopia

4.1. Introduction

This section is a brief review of the Ethiopian legal framework on the protection of refugees and the role CRRF plays in improving the protection of refugee rights in Ethiopia.

The Horn of Africa is one of the most conflict-ridden regions in the world. People in the region suffer from protracted political strife arising from local and national grievance, identity politics and regional inter-state rivalries.¹⁵¹ Such conflicts not only had a huge cost on the security and development of the region but also results in the prevalence of many of the largest refugee influxes in the history of humanitarian operation.¹⁵²

Ethiopia has a long-standing history of hosting refugees. The country continues to maintain an open door policy for refugee inflows into the country and allows humanitarian access and protection to those seeking asylum on its territory. This led to the flow of near to a million refugees into the country making Ethiopia the second largest refugee host country in Africa. Ethiopia constitutes over 928,000 refugees in its 27 camps.¹⁵³ Most refugees originate from South Sudan, Somalia, Eritrea, and Sudan, Yemen.¹⁵⁴

¹⁵¹ Social Science research Council, 'Crisis in the horn of Africa' <<http://hornofafrica.ssrc.org/>> accessed 24 September 2018

¹⁵² 'Hosting Refugees in Ethiopia' <<http://www.strathink.net/wp-content/uploads/2015/04/Hosting-Refugees-in-Ethiopia.pdf>> page 1, accessed 19 August 2018

¹⁵³ *ibid*[86]

¹⁵⁴ UNHCR Ethiopia, 'Operational Update (September 2018)' <<https://reliefweb.int/sites/reliefweb.int/files/resources/66333.pdf>> accessed 2 October 2018

The majority of refugees in Ethiopia are located in Tigray, Afar, Benishangul-Gumuz, Gambella and Somali regional states¹⁵⁵. Most of these regional states are the least developed regions in the country, characterized by harsh weather conditions, poor infrastructure, extremely low capacity, high levels of poverty and poor development indicators.¹⁵⁶

The number of refugees in the country is expected to rise following the continuing conflicts around the region and the increasing number of refugees from Eritrea following the Joint Declaration of Peace and Friendship, signed on 9 July 2018 by the governments of Ethiopia and Eritrea, in which two border crossing points were reopened on 11 September 2018.¹⁵⁷ The Ethiopian government has taken responsibility and protects refugees from different countries. The protection provided to such refugees is yet to be said satisfactorily. However, the following pages will discuss the past and current measures taken and measures to be taken for better protection of refugees in Ethiopia.

4.2. Recent refugee protection mechanisms in Ethiopia

Ethiopia's legal framework related to the protection of refugees is a combination of both international and domestic legal instruments. Ethiopia is a party to the 1951 Refugee Convention. The other international legal instruments that complement and form part of the Ethiopian human rights and refugee law includes the International Covenant on Economic, Social and Cultural Rights (CESCR), the Convention on the Elimination of Discrimination against Women (CEDW), the Convention on the Rights of the Child (CRC), and the International Convention on Torture, Inhuman and Degrading Treatment.

At a regional level, the state of Ethiopia has ratified the African Charter on Human and Peoples' Rights and is also a signatory to the 1969 OAU Convention Governing the Specific Aspects of Refugee problems in Africa.

The Constitution of the Federal Republic of Ethiopia and the Refugee Proclamation (proclamation no. 409/2004) are the main domestic legal instruments the FDRE bases in protecting refugee rights.¹⁵⁸ The

¹⁵⁵ UNHCR report, 'Ethiopia Country Refugee Response Plan 2018 : The integrated response plan for refugees from Eritrea, Sudan, South Sudan and Somalia (January - December 2018) '

<https://reliefweb.int/sites/reliefweb.int/files/resources/62986_0.pdf> accessed 24 September 2018

¹⁵⁶ibid

¹⁵⁷UNHCR report, 'Update on renewed influx from Eritrea'

<<https://reliefweb.int/sites/reliefweb.int/files/resources/66092.pdf>> accessed 9 October 2018

¹⁵⁸:ibid[85]

Constitution of Ethiopia makes provision and recognition of the inherent human rights of foreign nationals, while the Refugee Proclamation deals with specific aspects concerning refugees in the country.

The FDRE Constitution

The Constitution of the Federal Democratic Republic of Ethiopia (FDRE) provides that ‘all international agreements ratified by Ethiopia are an integral part of the law of the land’.¹⁵⁹ Furthermore, Ethiopia reaffirms its commitment to safeguarding and promoting human rights by providing a list of basic human rights in chapter three of the Constitution in accordance with the provisions contained in the Universal Declaration of Human Rights (UDHR) and all other international instruments adopted by Ethiopia.¹⁶⁰

There is no a clearly expressed constitutional guarantee of the right of asylum on the FDRE constitution. However, since the ratified refugee instruments became an integral part of law of the land, by its Art.9 (4), a conclusion can be drawn that this right is protected under the FDRE Constitution.

Treaties Ratified by Ethiopia

The FDRE Constitution under Art.9 (4) Provides that “all international agreements ratified by Ethiopia are an integral part of the law of the land”. Moreover, Art.13 (2) provides “ the fundamental rights and freedoms specified in this Chapter (Chapter three) shall be interpreted in a manner conforming to the principle of Universal Declaration of Human Rights, International Covenants on Human Rights and International instruments adopted by Ethiopia”. These make international treaties signed by FDRE other sources of refugee right protection.

The Ethiopian Refugee Proclamation (Proclamation no. 409/2004)

The main proclamation concerning refugee in Ethiopia is the Ethiopian Refugee Proclamation (proclamation no 409/2004), which adopted many of the provisions of the 1951 Refugee Convention and the 1969 OAU Refugee Convention.

¹⁵⁹ FDRE Constitution, Article 9(1)

¹⁶⁰ Id, Article of 13(2)

Ethiopia enacted its Refugee Proclamation in an effort to express its commitment and desire to enact national legislation for the effective implementation of international legal instruments and to establish a legal framework for the protection of refugees. The expanded definition of a refugee contained in the 1969 OAU Convention and incorporated in the Ethiopian Refugee Proclamation, provides the state with enough leverage to deal with a wide range of situations that may give rise to refugee problems.

In addition to providing individual Refugee Status Determination, the Proclamation allows for the recognition of ‘groups of individuals’ as refugees without subjecting them to the rigorous Refugee Status Determination process.¹⁶¹

The Refugee Proclamation has an objective “to enact national legislation for the effective implementation of the international legal instruments, establish a legislative and management framework for the reception of refugees, ensure their protection and promote durable solution where the condition permits.”¹⁶²

The provisions of the refugee proclamation mainly promote relations between refugees, hosting communities and neighboring countries. The Refugee Proclamation, among other things, paved the way for:¹⁶³

- Ethiopia to open its borders to people coming in search of asylum
- Providing land for camp establishment free of charge despite the environmental pressure
- Guaranteeing the physical safety and protection of refugees
- Facilitating the voluntary repatriation of refugees to their countries in safety and dignity
- Increased refugee assistance in collaboration with UN agencies that helped avail basic services

¹⁶¹ Ethiopian Refugee Proclamation No.409 , 2004, Article 19

¹⁶²Id , preamble Paragraph 3,

¹⁶³ ibid [152] page 3

The Proclamation used the definitions incorporated in both the 1951 refugee convention and the 1969 OAU Refugee Conventions to define refugees. It states that a refugee is “any person or a group of persons who fulfill the criteria under the provisions of Art.4 or 19 of the proclamation.”¹⁶⁴ Art.4 provides “any person shall be considered as refugee where: -

I Owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, he is outside his nationality and is unable or, owing to such fear is unwilling to avail himself of the protection of that country

II. Not having a nationality and being outside of his former habitual residence, he is unable or owing to a well-founded fear of being persecuted for reasons of race, religion, membership of a particular social group or political opinion, he is unwilling to return to it III. 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, he is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality, in case of refugee coming from Africa.

The other article referred by Art.2 (7) to identify a refugee is Art.19. This specific article stipulates “if the head the authority considers that any class of persons met the criteria under Art. 4(3) of this proclamation, he may declare such class of persons to be recognized as a refugee”, without even having gone through individual refugee determination procedures.

In effect, this provision seems to refer to what is commonly referred to as prima facie refugee. These are groups recognized as a refugee in the absence of evidence to the contrary, especially during the mass influx situation, without having undertaken individual determination procedures.

In addition to the legal framework, there is an institutional framework for dealing with refugees. At present, the designated administrative body dealing with refugees in Ethiopia is the Administration for Refugee and Returnee Affairs (ARRA), established under National

¹⁶⁴ ibid [161] Art 2(7)

Intelligence and Security Service (NISS) formerly Security, Intelligence and Refugees Affairs Authority. ARRA is responsible for the protection of refugees, including refugee registration, refugee status determination, the granting of asylum, security, and management of refugee protection and assistance program.

4.3. Drawbacks in the current refugee right protection

International refugee law and International human rights law guarantee refugees a range of important civil, political, economic, social and cultural rights. Unfortunately, in Ethiopia, these rights are limited. As the basic treaty on states obligations vis-a-vis refugees, the 1951 Convention relating to the Status of Refugees includes provisions on the treatment that states parties must provide to refugees in their territory. The Convention requires states to treat refugees as they treat aliens generally and to refrain from discriminating between refugees on the basis of their race, religion or country of origin.¹⁶⁵ In addition, the Refugee Convention obliges states to provide refugees with administrative assistance, identity papers, and travel documents.¹⁶⁶

The current data shows Ethiopia is one of the biggest UNHCR partner in Africa hosting more than 928,000 refugees from South Sudan, Somalia, Eritrea, Sudan, Yemen, and other countries.¹⁶⁷ With a positive recognition towards Ethiopia's effort in being a generous country towards hosting refugees with its open door policy, there are certain standards that country needs to fulfill in the treatment of refugees. One is to ensure the freedom and rights of movement of every recognized refugee. Freedom of movement is an especially important issue with regard to protracted refugee situations in countries like Ethiopia. In practice, refugees in Ethiopia have very limited or no access to employment and education as they are confined to 27 different refugee camps in the country.

¹⁶⁵ Guy S. Goodwin-Gill, 'Entry and Exclusion of Refugees: The Obligations of States and the Protection Function of the Office of the United Nations High Commissioner for Refugees' volume 3, Issue 1

<https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1871&context=mjil> accessed 14 September 2018

¹⁶⁶ Convention Relating to the Status of Refugees, 1951 Article 2

¹⁶⁷ *ibid* [155]

Freedom of movement of refugees within their host country is well described in major international human rights treaties. For instance, International Covenant on Civil and Political Rights, Article 12 and Article 26 of the 1951 Convention provides that States shall afford refugees the right to choose their place of residence within the territory and to move freely within the State.¹⁶⁸ The Ethiopian refugee proclamation specifies that the movement of refugees throughout the country may be restricted and that refugees may be limited to living in designated areas known as refugee camps.¹⁶⁹

In addition to a limited right of movement, refugees live in camps that are separated from the social and economic life of host communities forcing them to be dependent on aid, which is the main source of livelihood for them. They don't have access to employment, education, social, economic and local integration among other restrictions put on refugees.

4.4. The Comprehensive Refugee Response Framework (CRRF) in Ethiopia

Ethiopia's intention to become more safe and better refugee host country through the implementation of out of camp policy and integration (both local and socio-economic) dates prior to the leaders' summit in New York.¹⁷⁰ The country has been undergoing different researches and studies to improve the situation of refugees in the country.¹⁷¹

In 2016, the Government of Ethiopia articulated a strategic approach in a series of pledges aimed at improving rights and expanding services to benefit both refugees and host communities.¹⁷² Through the pledges, Ethiopian government practically showed its global solidarity to share responsibility for refugee protection.

Consequently, Ethiopia accepted to be considered as a CRRF focus country by formally launched the Comprehensive Refugee Response Framework (CRRF) in February 2017 making it one of the first countries to initiate the practical application of the Comprehensive Refugee

¹⁶⁸ Convention Relating to the Status of Refugees, 1951, Article 12 & 26,

¹⁶⁹ibid [161] article 21 (2)

¹⁷⁰ibid[85]

¹⁷¹ibid[85]

¹⁷²ibid[85]

Response Framework.¹⁷³ The CRRF is an approach which Ethiopia is committed to meet for the provision of improved access to basic services and rights towards refugees through its laws and practice.¹⁷⁴

4.4.1. The nine pledges

Ethiopia made nine pledges to comprehensively respond to refugee needs at the Leaders' Summit on Refugees, on 20 September 2016 in New York, and is formulating a National Comprehensive Refugee Response Strategy (NCRRS).¹⁷⁵ The pledges made by the objectives pursued by the international community through the CRRF will provide opportunities for increased freedom of movement, explicit recognition of refugees' right to work, as well as possibilities for local integration.¹⁷⁶

The pledges are:

- Out of Camp Pledge:
 - Expansion of the “Out-of-Camp” policy to benefit 10% of the current total refugee population.
- Education Pledge:
 - The increase of enrolment in primary, secondary and tertiary education to all qualified refugees without discrimination and within the available resources.
- Work and Livelihoods Pledges:
 - Provision of work permits to refugees and to those with permanent residence ID
 - Provision of work permits to refugees in the areas permitted for foreign workers.
 - Making available irrigable land to allow 100,000 people (amongst them refugees and local communities) to engage in crop production.
 - Building industrial parks where a percentage of jobs will be committed to refugees.
- Documentation Pledge:

¹⁷³: Briefing note: Comprehensive Refugee Response Framework (CRRF) Ethiopia'

<<https://reliefweb.int/sites/reliefweb.int/files/resources/65262.pdf> > accessed 15 August 2018

¹⁷⁴ ibid[85]

¹⁷⁵: ibid[85]

¹⁷⁶: ibid[85]

- Provision of other benefits such as the issuance of birth certificates to refugee children born in Ethiopia, a possibility of opening bank accounts and obtaining driving licenses.
- Social and Basic Services Pledges:
 - Enhance the provision of basic and essential social services.
- Local Integration Pledge:
 - Allowing for local integration for those protracted refugees who have lived for 20 years or more in Ethiopia.¹⁷⁷

Currently, ARRA and UNHCR are collaborating closely in order to prepare a comprehensive roadmap to guide concrete implementation of the pledges. Further, Ethiopia is incorporating these pledges into a new legally binding comprehensive Refugee Proclamation.¹⁷⁸

4.5. The role of CRRF in the protection of refugee rights in Ethiopia

The Comprehensive Refugee Response Framework (CRRF) can be regarded as a vehicle to accompany the implementation of Ethiopia's nine pledges. A set of new and innovative approaches is required to increase the quality of protection and expand protection solutions for refugees in the country. This will be done through a four-pronged approach: (1) implementing the pledges; (2) strengthening legal and policy components; (3) supporting host populations (4) strengthening coordination mechanisms.¹⁷⁹

Ethiopia has prepared a roadmap detailing the implementation of each pledge, outlining key opportunities and partnerships that must be put in place. Ethiopia is incorporating some of the pledges into a revised Refugee Proclamation waiting for ratification. Such action has paved a way to improve the situation of refugees in the country. The following pages will show some of the significant changes made by Ethiopia in complying with its pledges.

¹⁷⁷ibid [155]

¹⁷⁸ ibid[85]

¹⁷⁹ibid[85]

4.5.1. Provision of Legal and life event documents

As one of the nine pledges made at the Leaders' Summit held in New York in September 2016, Ethiopia has launched civil registration for refugees. On 7 July 2017, the Ethiopian Parliament passed an amendment to Proclamation 760/2012, which previously restricted Vital Events Registration Agency (VERA) from providing vital events documents for non-Ethiopian nationals.¹⁸⁰

Following intensive consultations with government partners, including the federal Vital Events Registration Agency, refugees can now be issued identity and civil status documentation. Documents which VERA can now issue to refugees include birth, death, marriage, and divorce certificates. The documents will be issued at camp level, and by ARRA on behalf of VERA.¹⁸¹ Children born before the new law came into force can also obtain a birth certificate retroactively, including the more than 70,000 refugee children born in Ethiopia over the last decade who have not had their births registered.¹⁸²

4.5.2. Education Pledge

The 1951 Refugee Convention expects member states to accord to refugees the same treatment as is accorded to nationals in relation to public education. The treatment shall be favorable, but not less favorable than that accorded to foreigners in similar circumstances.¹⁸³

Previously, the Ethiopian legal framework has reserved access to public education to its citizens. The Refugee Proclamation affirms Ethiopia's reservation to public education.¹⁸⁴ As such, Refugee children are not exempt from restrictions placed on foreigners with regard to access to education. UNHCR has built schools for refugee children in refugee camps and provides 100% of the support required including recruitment and payment of salaries to teachers. Involvement of

¹⁸⁰ 'UNHCR, 'Situational Update, April 2018' page 4 <<https://data2.unhcr.org/fr/documents/download/63711>> accessed 10 August 2018

¹⁸¹ *ibid*[85]

¹⁸² UNHCR, 'Child Protection Fact Sheet, December 2017' <<https://data2.unhcr.org/es/documents/download/62722>> accessed 12 July 2018

¹⁸³ Convention Relating to the Status of Refugees, 1951, Article 22(1-2)

¹⁸⁴ *ibid* [161] Article 21 (3)

the Ministry of Education in the provision of education in the refugee camps is very limited. Currently, with the introduction of CRRF, preliminary data on the school enrolment rate indicates significant progress in Ethiopia, as the country pledges to increase the number of students attending early, primary, secondary and tertiary education.¹⁸⁵ As compared to the 2016/2017 academic year some 12,300 new students have been enrolled in pre-schools across the country while 40,000 more refugees have enrolled in primary and secondary schools (in camps and urban areas) during the current cycle with an additional 700 refugee youth pursuing university studies.¹⁸⁶

As such, overall figures against the pledged numbers stand at:¹⁸⁷

- ECCE (pre-school): The increase is of 29% from 42,276 to 54,619 - Making the current enrolment percentage stand at 57% (out of 60% pledged)
- Primary school: Increase of 37% from 96,700 to 132,563 - making the current enrolment percentage 72% (out of the 75% pledged)
- Secondary School: Increase of 102% from 3,785 to 7,665, making the current enrolment percentage 12% (out of the 25% pledged)
- Tertiary education: 43% increase from 1,600 to 2,300 (out of the 2,500 pledged)

A National Refugee Education Strategy is also developed by UNHCR and ARRA, which is aligned with the Ethiopian Education and Training Policy and the Education Sector Development Program.¹⁸⁸

Improving access to secondary and tertiary education allows improving the livelihood of refugees through increasing the interaction and integration among societies and making refugees self-reliant who are able to utilize their skills and knowledge. This significant improvement proves Ethiopia's commitment and effort to be a better and more inclusive host country for refugees.¹⁸⁹

¹⁸⁵ibid [180]

¹⁸⁶ibid [180]

¹⁸⁷ibid [180]

¹⁸⁸ibid[85]

¹⁸⁹ibid[85]

In addition, Article 24 of the Draft Proclamation of refugees provides a right to education without distinction on any ground, within available resources and subject to the education policy of Ethiopia.¹⁹⁰ In addition, it gives refugees the most favorable treatment as accorded to foreign nationals by relevant laws, in respect to education other than primary education, particularly in relation to access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.¹⁹¹

4.5.3. Right to freedom of movement and residence in Ethiopia

While the Constitution of Ethiopia expressly permits all persons the right to move freely and to choose a place of residence, the Refugee Proclamation restricts refugees' movement and authorizes the head of the authority to designate areas where refugees should reside.¹⁹²

Ethiopia has made reservations to Article 26 of the 1951 Convention obliges states to allow refugees to choose their own place of residence and to move freely in the territory, subject to any regulations imposed on aliens in similar circumstances. It is clear that the intention of the Ethiopian government is to control and restrict the movement of refugees by confining them to camps. These camps are separated from the social and economic life of host communities and are mostly dependent on aid.

The encampment policy deprives refugee's right to freedom of movement and more importantly, infringes on their right to choose a place of residence and live a normal life. The encampment policy is clearly a violation of the Constitution of Ethiopia, international law and Ethiopia's obligation to contribute towards finding durable solutions for refugees. There is a general trend of confining refugees to camps making it difficult for refugees to integrate with the host community and work towards durable solution among which local integration in one.

CRRF plays a great role in changing this circumstance where Ethiopia pledged to the expansion of the "Out-of-Camp" policy to benefit 10% of the current total refugee population. As an

¹⁹⁰The Draft Revised Ethiopian Refugee Proclamation, Article 24

¹⁹¹Ibid

¹⁹²ibid [161]

example, the introduction of an ‘Out-of-Camp’ scheme in 2017 allowed Eritrean refugees who had the means to support themselves to live in urban areas.¹⁹³

Article 27 of the draft refugee Proclamation of refugees provides every recognized refugee within the national territory, the right to liberty of movement and freedom to choose his residence, as well the freedom to leave the country at any time he wishes to.¹⁹⁴

4.5.4. Refugees’ Right to Wage-Earning Employment in Ethiopia

The Ethiopian Constitution grants only Ethiopian citizens the right to work, including other labor rights.¹⁹⁵ The Ethiopian Refugee Proclamation reaffirms the state’s reservation to the right to wage-earning employment.¹⁹⁶ Refugees can only be considered for wage-earning employment when there is no suitably qualified Ethiopian national for the job.¹⁹⁷ The chances for a refugee to be employed and granted a work permit are literally not available under the current law. The main employment sectors and sources of income for the majority of refugees are small businesses, petty trading, and opportunities for casual labor provided by NGOs working in the refugee operation.¹⁹⁸

Currently, this trend is on a way to change since Ethiopia pledged to Provide of work permits to refugees and to those with permanent residence ID, provide work permits to refugees in the areas permitted for foreign workers and Build industrial parks where a percentage of jobs (30%) will be committed to refugees.¹⁹⁹

Article 25(4) and (5) of the draft Refugee Proclamation provides significant right for refugees to right of work.²⁰⁰ This article provides refugees the right to work. While it is still difficult to say

¹⁹³ *ibid*[85]

¹⁹⁴ *ibid* [190], Article 27

¹⁹⁵ FDRE Constitution, 1995, Article 41 (3)

¹⁹⁶ *ibid* [190], Article 21(3)

¹⁹⁷ *ibid*

¹⁹⁸ *ibid*[85]

¹⁹⁹ *ibid*[85]

²⁰⁰ *ibid*[85]

treating refugees in the same circumstance as the most favorable treatment accorded to foreign nationals pursuant to relevant laws will dynamically change the refugee's right to work, especially due to the absence of qualified refugees who will meet the requirement to get employment as a foreign national, the right provided under article 25(4, 5) of the draft proclamation will play significant role in the improving refugees right to work.²⁰¹

4.5.5. Benefit of CRRF for host community

A host community' refers to nationals of the country of the asylum who reside in close proximity to refugees. The CRRF aims to benefit both refugees and host communities where the refugee lives. The CRRF took full consideration in the need to assist host communities on the burden they face while hosting refugees. Especially, almost all the African situation countries, particularly Ethiopia's majority of the host community are living in extreme poverty. In sharing the burden, the CRRF is also expected to create employment opportunities for host communities through the industrial parks and irrigated agriculture.²⁰²

Since the past mechanisms were only humanitarian, refugees had no contribution to the economy of the host countries.²⁰³ CRRF, a mix of humanitarian and development approach will create a way for refugees to take part in the economic development of host states. Refugee protection under CRRF will give host community a chance to benefit from funds and services provided to refugees which used to be one cause for conflicts among refugees and host community.²⁰⁴

CRRF will also benefit the host community in providing a better quality of services, like education and medical treatments since, incorporation of refugees in the national policy will lead to the provision of a service supported by national and international funds which will be used to provide similar services unlike past times where refugees sometimes get more quality services in refugee camps than what the host community get from the government.²⁰⁵

²⁰¹ibid [190] , Article 25(4,5)

²⁰²ibid[85]

²⁰³ibid[85]

²⁰⁴ibid[85]

²⁰⁵ibid[85]

4.6. Ethiopia's progress on the implementation of CRRF

Since its announcement of the nine pledges at the leaders' summit on September 20, 2016, Ethiopia became CRRF 'roll out country'. The pledges promised by Ethiopia are currently, incorporated into a comprehensive proclamation which is conducive for the practical application of the CRRF.

The revision of Ethiopia's 2004 Refugee Proclamation is central to the implementation of the CRRF since the new proclamation is expected to be more beneficial for refugee and hosts. Ethiopia is incorporating the nine pledges in to a legally binding comprehensive proclamation in a way that gives refugees the right to stay in the country of asylum, right to work, education, free movement, owning of property, access to justice, right to gain travel and identification documents, naturalization, local integration and vital registration and other rights is also under development. Currently, the Council of Ministers has unanimously approved the draft of the revised refugee proclamation which is to be presented to the House of Peoples Representatives for ratification.²⁰⁶

The other main area of action is the changing of the encampment refuge operation approach into a village styled refugee hosting and other alternatives to camps.²⁰⁷ It is indicated in this paper how the encampment policy violates the constitution of Ethiopia and other international laws as well as its negative impact on the progress towards realizing refugee integration with host communities. Until the realization of this goal, it is also intended to train refugees to be ready for the interaction with host communities and be self-reliant.²⁰⁸

A National Comprehensive Refugee Response Strategy has been drafted to guide the implementation of the CRRF in Ethiopia.²⁰⁹ This aims to ensure refugees become self-reliant through their socio-economic integration in the country. Gradually phasing out the camp-based assistance model is also part of the strategy.

²⁰⁶ARRA, 'Revised Refugee Law got Cabinet Approval' < <https://arra.et/revised-refugee-law-got-cabinet-approval/>> accessed 2 August 2018

²⁰⁷ibid[85]

²⁰⁸ ibid[85]

²⁰⁹ ibid[85]

The continuance of Ethiopia's commitment towards CRRF by the new administration is another plausible progress. Despite different political changes made, Ethiopia's stand towards refugees and the CRRF is not changed.²¹⁰ In addition, progress made by Ethiopia in creating awareness at regional states level along with studies underway in piloting CRRF is undergoing. Following this, five regions accepted and regionally launched the CRRF.²¹¹

Ethiopia is finalizing preparations to start construction of industrial parks worth US\$500 million, benefitting refugees and host communities through funding from the European Investment Bank and UK Department for International Development (DFID). After completion of the parks, it is expected to create up to 100 000 jobs, of which 30% will be available for refugees.²¹²

4.7. Challenges on the implementation of CRRF

Ethiopia is currently experiencing an increased number of internally displaced people (IDPs). The conflict along the regional Somali-Oromia borders, which intensified in September 2017, led to the displacement of around 1 million individuals from both regions.²¹³

The conflict in the Gedeo and West Guji zones of the SNNP and Oromia Regions displaced more than 950,000 individuals, and the inter-communal conflict in the Somali region in August caused more than 140,000 persons to leave their homes.²¹⁴ In total, over 2.8 million people in Ethiopia are currently internally displaced.²¹⁵ With this current problem, the normal flow towards the achievement of the CRRF will be challenged. Especially, conflicts and displacements around regions where refugees are located will create a difficult environment for refugees and experts working towards the realization of CRRF.

²¹⁰ibid[85]

²¹¹ibid[85]

²¹²ibid[85]

²¹³UNHCR Ethiopia: 'Protection Factsheet (September 2018)' <<https://reliefweb.int/report/ethiopia/unhcr-ethiopia-protection-factsheet-september-2018>> accessed October 2018

²¹⁴ UNHCR report, 'Protection Cluster' page 1, September 2018
<<https://reliefweb.int/sites/reliefweb.int/files/resources/66625.pdf>> accessed 14 November 2018

²¹⁵UNICEF, 'Ethiopia Humanitarian Situation Report'
<<https://reliefweb.int/sites/reliefweb.int/files/resources/UNICEF%20Ethiopia%20Humanitarian%20Situation%20Report%20-%20July%202018.pdf>> accessed 14 September 2018

Even though Ethiopia is a welcoming host to refugees, with better security, significant portion of the total refugees in Ethiopia are worse off in terms of standard of living compared to host communities. Among refugee groups, Eritreans enjoy more rights compared to others, and, as a result, display a higher standard of living and much lower poverty rates.²¹⁶ Other refugees, especially refugees from South Sudan have the poorest standard of living.²¹⁷

The refugees fleeing to Ethiopia are very high in number with different causes at a different geographical location. This makes it seriously difficult for the government to address socio-economic issues of both refugees and host populations.²¹⁸ These factors coupled with the financial and economic challenge faced by the country is a challenge in meeting the CRRF goals and pledges made by Ethiopia.²¹⁹

While the intended changes and developments to be facilitated through CRRF are plausible the lack of consultations among and between refugees and host community will stay one challenge. As indicated above, Ethiopia is experiencing a high number of internal displaced persons mainly due to conflicts basing on ethnical difference. In such a case, integrating refugees in host communities will be exposing them for danger, unless, a well-organized and well-studied consultation is made with the host community.²²⁰

Along with this, the lack of awareness about the comprehensive refugee framework and its positive influence on the host community will create fear of losing their land and employment chance, among host community on the minds of host communities.

The current political and administrative restructuring has also influenced the progress of CRRF implementation in Ethiopia. As an example, the new structure which makes ARRA an independent agency rather than a unit in the NISS with a new director and deputy director has delayed progresses since the new administration will be needing time in taking further actions. In

²¹⁶ The World Bank, 'How skilled are refugees in Ethiopia' <<http://blogs.worldbank.org/african/african/how-skilled-are-refugees-in-ethiopia> > accessed 3 October 2018

²¹⁷ ibid[85]

²¹⁸ ibid[85]

²¹⁹ ibid[85]

²²⁰ ibid[85]

addition, the government's capacity is highly limited. Institutions like ARRA have been doing a very limited task which makes it difficult for the same organization to implement a multi-stakeholder wide program unless its capacity is built significantly.²²¹

The issue of financial constraint along with the fact that CRRF is implemented with a concessional loan instead of donations will create a challenge in implementing tangible signs of progress. Moreover, it will lead to decisions to reconsidering and even leaving from CRRF commitments just like the case of Tanzania.²²²

The other challenge is the delayed amended proclamation. In order to take steps in a sustainable and legal manner, the ratification of the amended proclamation is of vital importance.

²²¹ibid[86]

²²² 'European Commission's Directorate-General for European Civil Protection and Humanitarian Aid Operations, 'Tanzania – Comprehensive Refugee Response Framework Withdrawal' January 24, <<https://reliefweb.int/report/united-republic-tanzania/tanzania-comprehensive-refugee-response-framework-withdrawal-eeas-dg>> accessed 6 October 2018

CHAPTER FIVE

Conclusion and Recommendations

5.1. Conclusion

People flee from their countries in order to escape social, economic, political and environmental challenges. In the modern world, the major cause for humans to flee from their home is the existence of conflicts within or between given states.

The world have seen several conflicts that resulted in flee of men, women, elderly and infants form their homes in search of a safe place where they could stay in life. Majority of the world community, if not all, has replayed for such issue positively through recognizing and hosting refugees in their countries.

While much has been done with the cooperation of states to protect refugees, the increasing conflicts and other factors led in the increment of the refugee number in an unprecedented manner. To date, there are more than 25 million refugees worldwide. With different efforts made in different time, the world community has now come to an agreement by which the current refugee crisis is to be addressed significantly only through global cooperation and shared responsibility among states of the world. This is true because every nation is directly or indirectly affected by current refugee crises. While some are host states, others are a third state who gives asylum. And the rest provide technical and financial assistance for refugees in other states.

It is due to this understanding the world took commitment and signed the New York Declaration, incorporating the Global Compact on Refugees and Migration. The Global Compact developed on refugees lays the groundwork to improve the situation of refugees. The Declaration made important commitments such as shared global responsibility, whole society approach, supporting host countries, well-funded emergency response and enhancing durable solutions.

In addition to this, the CRRF is developed to achieve the commitments and goals indicated on the New York Declaration. The CRRF is different from past refugee responses because it provides a more systematic and sustainable response that benefits both refugees and host community instead of being a purely humanitarian lens like the past mechanisms.

CRRF is launched in different countries and refugee situations. Ethiopia, a country with a long history in hosting refugees is home to over 928,000 refugees from South Sudan, Sudan, Eritrea, Yemen, and other countries. The country signed the New York Declaration and launched the CRRF in November 2017. Previously, Ethiopia provides protection for refugees mainly based on the FDRE Constitution and the Ethiopian refugee proclamation (409/2004). While the previous protection for refugees had successes, there are gaps which contradict with the Constitution and other international laws Ethiopia signed.

CRRF plays a great role in providing better protection for refugees in Ethiopia since it serves as a vehicle to achieve the implementation of Ethiopia's nine pledges. Following the pledges made by Ethiopia, the government has taken and is still taking measures that enable refugees enjoying wider rights. Refugees can now get access to identity and civil status documentation. The previous Ethiopian legal framework reserved access to education to its citizens. However, following Ethiopia's commitment and pledges, the country is working in increasing the enrolment of refugee students in primary, secondary and tertiary education.

As to the right of movement which Ethiopia made a reservation and let refugees stay in camps for many decades, the country has now pledged and is working to the expansion of out of camp policy to benefit 10% of the current total refugee population. Along with the out of camp policy, Ethiopia is also working on the provision of a work permit to refugees on areas permitted for foreign workers and also building industrial parks which a percentage of jobs will be committed to refugees. This plays a great role in improving refugee rights which were very restricted previously.

It is not only refugees that benefit from the CRRF. Host communities in Ethiopia also benefit from opportunities created by CRRF. For example, they benefit in accessing employment in industrial parks. In addition, they will be able to benefit from infrastructures and services to be built for the implementation of pledges and protecting refugees.

The country is taking inspiring action to meet the nine pledges it made. However, the progress towards such a goal is faced with a number of challenges. Such challenges should be addressed promptly in order to achieve benefits from implementing CRRF. With shared cooperation in

international, regional and national levels, the current challenges faced by refugees can be solved.

5.2. Recommendations

Ethiopia is a home for near to a million refugees. The country's open-door policy towards refugees which saved thousands of lives should not be overlooked. However, refugees, as human being, need more than just to stay in life. It is every state's moral and legal obligation to look after refugees and provide them a chance to lead a decent life. Recent steps taken by the international communities towards better protection of refugees through the implementation of refugees will significantly change refugees' current situation.

Achieving the aims of the CRRF, particularly in Ethiopia, is to be done through the nine pledges promised by the country. It is through implementation of these nine pledges that the intended goal of becoming a more suitable refugee host country can be achieved. Most importantly, the ratification of the draft revised refugee proclamation without more delay is recommended since it will facilitate the implementation of such pledges the country made and serves as a legally binding instrument. In addition, the, CRRF should follow a whole-of-government approach, under which all government departments concerned should include the CRRF since the nine pledges are related to different branches of the government.

Indicators show that refugees completely depend on aid for their livelihood. It will take a great deal of political will to really examine how the responsibility to provide protection and assistance to refugees can be shared more equitably. Without this global approach, those countries hosting the world's largest numbers of refugees may be unable to cope especially when the resources required to support even the most basic needs of refugees are not being provided.

Increment of sustainable assistance for host states: Many refugee responses in CRRF countries are already struggling since most are less developed countries. The western countries should be committed to help the situation countries. Refugee host countries like Ethiopia needs to be well funded along with technical and skill support. In addition to this, the western world should increase its resettlement quotas and come up with innovative ways to provide legal pathways to resettlement.

Wide and thorough awareness creation : For the successful implementation of CRRF, it is mandatory to observe and understand what refugees and host community demand. More work should be done on awareness creating programs about the benefits of CRRF, not only for refugees but also for the host community. Host community should see and understand as well as experience the benefit of hosting refugees among themselves.

Implementation of CRRF without affecting smooth relationship between host and refugees: Ethiopia's socio-economic integration of refugees should follow a conflict-sensitive approach, based on conflict analysis. In implementing the CRRF, it is important to know how the program is to be implemented without negatively affecting the existing smooth relationships among refugees and the host community. Therefore, making sure that implementation of the CRRF doesn't give rise to tension on the region before going to action is mandatory.

Create a sustainable and benefiting work opportunities for refugees and hosts: While creating job opportunities is an important measure, it is necessary to make sure refugees and the host community are benefiting economically, from the jobs created. The mere fact individuals are employed will not answer basic economic questions. Therefore, salary and other benefits from employment should enable refugees and host community to live a better life in which each will be thankful and happy to have one another and not blame and go into conflicts due to a low living standard.

Restore peace and stability in the country: 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.

LEGAL INSTRUMENTS

1951 Convention Relating to the Status of Refugees

Charter of the United Nations

Ethiopian Refugee Proclamation (409/2004)

FDRE Constitution

International Covenant on Civil and Political Right

International Covenant on Economic and Cultural Right

New York declaration on Refugees and Migrants

OAU Convention Governing Specific Aspects of Refugee Problems in Africa Article, 1969

Statute of the Office of the United Nations High Commissioner for Refugees'

The Draft Revised Ethiopian Refugee Proclamation

BIBLIOGRAPHY

Arrangement with regard to the Issue of Certificates of Identity to Russian Refugees of 5 July 1922' <<http://www.refworld.org/pdfid/3dd8b5802.pdf> > accessed 8 July 2018

Briefing note: Comprehensive Refugee Response Framework (CRRF) Ethiopia' <<https://reliefweb.int/sites/reliefweb.int/files/resources/65262.pdf> > accessed 15 August 2018

Bringing the New York Declaration to Life' page 3, <<http://www.unhcr.org/593e5ce27.pdf> last visited on September 7, 2018> accessed 25 September 2018

Comprehensive Refugee Response Framework: from the New York Declaration to a global compact on refugees', December 2016 page 1 <<http://www.unhcr.org/584687b57.pdf>> accessed 26 July 2018

Hosting Refugees in Ethiopia' <<http://www.strathink.net/wp-content/uploads/2015/04/Hosting-Refugees-in-Ethiopia.pdf>> page 1, accessed 19 August 2018

Human Rights for All, International Covenant on Economic, Social and Cultural Rights' August 2015 PWESCR (Program on Women's Economic, Social and Cultural Rights)

<http://www.pwescr.org/PWESCR_Handbook_on_ESCR.pdf > accessed 17 June 2018

'UNHCR quick guide September 2018 update' page 5 <<http://www.unhcr.org/57e4f6504.pdf>> accessed 15 August 2018

Practical application of the comprehensive refugee response framework' page 2, paragraph 5 <<https://www.unhcr.org/5a2eb12b7.pdf>> accessed 18 August 2018

The 2016 New York Declaration, the CRRF, and the 2018 Global Compact on

UNHCR, 'Situational Update, April 2018' page 4

<<https://data2.unhcr.org/fr/documents/download/63711>> accessed 10 august 2018

C.O. Miranda, 'Towards a Broader Definition of Refugee: 20th Century Development Trends' (1990) 315 California Western International Law Journal 318

Canadian Association for Refugee and Forced Migration Studies 'Mandate refugees, Definition and Examples', <<http://rfmsot.apps01.yorku.ca/glossary-of-terms/mandate-refugees/>> accessed 20 July 2018

Erika Feller, 'International Refugee Protection 50 Years On' 582 <

https://www.icrc.org/en/doc/assets/files/other/attsmwjev581-606_feller.pdf> accessed 4 July 2018

European Parliamentary Research Service, 'Towards a global compact on refugees,

Strengthening international cooperation to ease the plight of refugees in the world' 2018,

<[http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI\(2018\)623550](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2018)623550)>, accessed August 12, 2018

Gareth Austin, 'African Economic Development and Colonial Legacies'

<<https://journals.openedition.org/poldev/78#ftn1> > accessed 2 August 2018

Guy S. Goodwin-Gil, 'The International Law on Refugee' Oxford Handbook of refugee and Forced Migration Studies,

<<http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199652433.001.0001/oxfordhb-9780199652433-e-021>> accessed 14 July 2018

Guy S. Goodwin-Gill, 'Entry and Exclusion of Refugees: The Obligations of States and the Protection Function of the Office of the United Nations High Commissioner for Refugees' volume 3, Issue 1

<<https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1871&context=mjil>> accessed 14 September 2018

Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees' page 12

<<https://www.unhcr.org/4d93528a9.pdf>> accessed 2 July 2018

J.C. Hathaway, '*the Law of Refugee Status*, Toronto: Butterworth 1991 Page 17

New York Declaration, Annex 1, Paragraph 2

http://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_71_1.pdf > accessed 4 September 2018

OHCHR, 'Fact Sheet No.20, Human Rights and Refugees',

<<https://www.ohchr.org/Documents/Publications/FactSheet20en.pdf>> accessed 14 July 2018

Rainer Hofmann, Refugee Law in the African Context, page 323,

http://www.zaoerv.de/52_1992/52_1992_2_a_318_333.pdf> accessed 4 July 2018

The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol,

<<http://www.unhcr.org/4ec262df9.pdf> > page accessed 28 June 2018

2018, page 2 <<https://reliefweb.int/sites/reliefweb.int/files/resources/5b3295167.pdf>> accessed 15 October 2018

The New York Declaration for Refugees and Migrants <<https://www.unhcr.org/en-my/584689257.pdf>> accessed 3 August 2018

The New York Declaration for Refugees and Migrants, <<http://undocs.org/a/res/71/1>> accessed 3 August 2018

The New York Declaration for Refugees and Migrants, <<https://www.unhcr.org/en-my/584689257.pdf>> accessed 19 September 2018

The World Bank, ‘How skilled are refugees in Ethiopia’ <<http://blogs.worldbank.org/african/african/how-skilled-are-refugees-in-ethiopia>> accessed 3 October 2018

UNHCR, ‘Thematic discussions for the global compact on refugees’ <www.unhcr.org/thematicdiscussions> accessed 6 September 2018

UNHCR ‘Developing the refugee response framework’, 2017, <<http://reporting.unhcr.org/sites/default/files/UNHCR%20Developing%20the%20Comprehensive%20Refugee%20Response%20Framework%20Special%20Appeal%202017%20--%20September%202017.pdf>> accessed 3 August 2018

UNHCR and its NGO partners ‘Protecting Refugees’ <<https://www.unhcr.org/en-ie/3bb9794e4.pdf>> accessed 12 July 2018

UNHCR Ethiopia, ‘Operational Update (September 2018)’ <<https://reliefweb.int/sites/reliefweb.int/files/resources/66333.pdf>> accessed 2 October 2018

UNHCR Ethiopia: ‘Protection Factsheet (September 2018)’ <<https://reliefweb.int/report/ethiopia/unhcr-ethiopia-protection-factsheet-september-2018>> accessed October 2018

UNHCR report, ‘Ethiopia Country Refugee Response Plan 2018: The integrated response plan for refugees from Eritrea, Sudan, South Sudan and Somalia (January - December 2018)’ <https://reliefweb.int/sites/reliefweb.int/files/resources/62986_0.pdf> accessed 24 September 2018

UNHCR report, ‘Protection Cluster’ page 1, September 2018 <<https://reliefweb.int/sites/reliefweb.int/files/resources/66625.pdf>> accessed 14 November 2018

UNHCR report, 'Update on renewed influx from Eritrea'

<<https://reliefweb.int/sites/reliefweb.int/files/resources/66092.pdf>> accessed 9 October 2018

UNHCR, 'Towards a global compact on refugees' < <https://www.unhcr.org/towards-a-global-compact-on-refugees.html>> accessed 26 July 2018

UNHCR, 'Child Protection Fact Sheet, December 2017' <

<https://data2.unhcr.org/es/documents/download/62722>> accessed 12 July 2018

UNHCR, 'FROM COMMITMENT TO ACTION' <<https://www.unhcr.org/5b8d1ad34.pdf>> accessed 6 September 2018

UNHCR, 'Global Appeal 2018 – 2019': Matching commitments with action, November 2017<

<https://reliefweb.int/report/world/unhcr-global-appeal-2018-2019>> accessed 12 August 2018

UNHCR, 'High Commissioner's Dialogue on Protection Challenges' 2017 < www.unhcr.org/hc-dialogue2017 > accessed 6 September 2018

UNHCR, 'Matching commitments with action' November 2017

UNHCR, 'Note on Non-Refoulement' <<http://www.unhcr.org/excom/scip/3ae68ccd10/note-non-refoulement-submitted-high-commissioner.html>> accessed 15 July 2018

UNHCR, 'Persons covered by the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and by the Cartagena Declaration on Refugees' 1992 Paragraph 8

<<http://www.unhcr.org/excom/scip/3ae68cd214/persons-covered-oau-convention-governing-specific-aspects-refugee-problems.html>> accessed 21 July 2018

UNHCR, 'Practical Application of the Comprehensive Refugee Response Framework'

December 2017,< <https://www.unhcr.org/5a2eb12b7.pdf> > accessed 19 August 2018

UNHCR, 'Statute of the office of the United Nations High Commissioner for Refugees' page 2<

<https://www.unhcr.org/3b66c39e1.pdf>> accessed 6 July 2018

UNHCR, ‘The Global Compact on Refugees’ August 2018 < <https://www.unhcr.org/ua/wp-content/uploads/sites/38/2018/09/The-global-compact-on-refugees-UNHCR-quick-guide-ENG.pdf>> accessed 12 September 2018

UNHCR, ‘The Global Compact on Refugees’ September 2018 < <https://www.unhcr.org/5b6d574a7.pdf>> accessed 16 October 2018

UNHCR, ‘The New York Declaration for Refugees and Migrants’ <<http://www.unhcr.org/584689257.pdf>> accessed 02 July 2018

UNHCR, ‘The New York Declaration for refugees and migrants’ page 2, February 2018 < <https://www.unhcr.org/new-york-declaration-for-refugees-and-migrants.html>> accessed 11 August 2018

UNHCR, ‘Voluntary Repatriation: International Protection’ <<https://www.unhcr.org/uk/3bfe68d32.pdf>> accessed July 23 2018

UNHCR, Comprehensive Refugee Response Framework: from the New York Declaration to a Global Compact on Refugees, December, 2016 < <https://www.unhcr.org/584687b57.pdf>> accessed 18 August 2018

UNHCR, The Global Compact on Refugees, page 3, August 2018 <<https://www.unhcr.org/ua/wp-content/uploads/sites/38/2018/09/The-global-compact-on-refugees-UNHCR-quick-guide-ENG.pdf>> accessed 4 October 2018

UNHCR, towards a Global Compact on Refugees: written contributions’ <www.unhcr.org/writtencontributions> accessed 6 September 2018

UNICEF, ‘Ethiopia Humanitarian Situation Report’ <<https://reliefweb.int/sites/reliefweb.int/files/resources/UNICEF%20Ethiopia%20Humanitarian%20Situation%20Report%20-%20July%202018.pdf>> accessed 14 September 2018

United Nations High Commissioner for Refugees, ‘A review of UNHCR’s response to border closures in situations of mass refugee influx’ Policy Development and Evaluation Service (PDES), <<https://www.unhcr.org/en-my/4c207bd59.pdf>> accessed 12 July 2018

United Nations Human Rights Office of the High Commissioner, ‘International Covenant on Civil and Political Rights’ <<https://www.ohchr.org/en/professionalinterest/pages/CCPR.aspx>> accessed 14 July 2018

Volker Türk, ‘The New York Declaration: Once-in-a-lifetime opportunity to enhance refugee protection’ <<https://www.unhcr.org/admin/dipstatements/57fe577b4/new-york-declaration-once-in-a-lifetime-opportunity-enhance-refugee-protection.html>> accessed 18 August 2018

Volker Turk and Frances Nicholson, *Refugee protection in international law: an overall Perspective* <<https://www.unhcr.org/419c73174.pdf>> accessed July 17 2018

Interview

Interview with Kaleab Zelalem, Senior CRRF Associate/General Economist- UNHCR representation in Ethiopia, (Addis Ababa, November 1, 2018)

Websites

‘The world's 5 biggest refugee crises’ <<https://www.mercycorps.org/articles/worlds-5-biggest-refugee-crises>> accessed 2 September 2018

‘The Evian Conference (1938): A Failure of Nerve’ <<https://perryjgreenbaum.blogspot.com/2015/10/the-evian-conference-1938-failure-of.html>> accessed 28 June 2018

‘UN charter and Statute of the International Court of Justice’ <<http://www.un.org/en/sections/un-charter/un-charter-full-text/>> accessed 14 July 2018

‘European Commission's Directorate-General for European Civil Protection and Humanitarian Aid Operations, ‘Tanzania – Comprehensive Refugee Response Framework Withdrawal’ January 24, <<https://reliefweb.int/report/united-republic-tanzania/tanzania-comprehensive-refugee-response-framework-withdrawal-eeas-dg>> accessed 6 October 2018

ARRA, 'Revised Refugee Law got Cabinet Approval' < <https://arra.et/revised-refugee-law-got-cabinet-approval/>> accessed 2 August 2018

Refugees' <<http://www.aalco.int/Global%20Compact%20on%20Refugees.pdf>> accessed 13 September 2018

Social Science research Council, 'Crisis in the horn of Africa' <<http://hornofafrica.ssrc.org/>> accessed 24 September 2018

UNHCR, 'Figures at Glance' < <https://www.unhcr.org/figures-at-a-glance.html> > accessed 5 July 2018

UNHCR, 'Formal consultations on the global compact on refugees' <www.unhcr.org/formalconsultations> accessed 6 September 2018